



COMMONWEALTH OF AUSTRALIA

# Proof Committee Hansard

## SENATE

ECONOMICS LEGISLATION COMMITTEE

ESTIMATES

**(Budget Estimates)**

TUESDAY, 1 JUNE 2010

CANBERRA

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Tuesday, 3 August 2010

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SENATE ECONOMICS

LEGISLATION COMMITTEE

Tuesday, 1 June 2010

32 **Members:** Senator Hurley (*Chair*), Senator Eggleston (*Deputy Chair*), Senators Bushby, Cameron,  
33 Pratt and Xenophon

34 **Participating members:** Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham,  
35 Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cash, Colbeck, Jacinta  
36 Collins, Coonan, Cormann, Crossin, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield,  
37 Fisher, Forshaw, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston,  
38 Joyce, Kroger, Ludlam, Lundy, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason,  
39 Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Ronaldson, Ryan, Scullion, Siewert,  
40 Sterle, Troeth, Trood, Williams and Wortley

41 **Senators in attendance:** Senators Abetz, Barnett, Bernardi, Birmingham, Boswell, Brandis, Bob  
42 Brown, Bushby, Cameron, Eggleston, Heffernan, Hurley, Joyce, Ludlam, Ian Macdonald,  
43 McGauran, Milne, Pratt, Ronaldson, Siewert, Sterle, Williams and Xenophon

44 **Committee met at 9.01 am**

## 45 **RESOURCES, ENERGY AND TOURISM PORTFOLIO**

### 46 **In Attendance**

47 Senator the Hon. Kim Carr, Minister for Innovation, Industry, Science and Research

### 48 **Department of Resources, Energy 49 and Tourism Executive**

50 Mr Drew Clarke, Secretary

51 Mr John Hartwell, Acting

52 Deputy Secretary **Enabling**

### 53 **Services**

54 Ms Jo-Ann Rose, Chief Financial Officer

55 Mr Robert Towner, General Manager

56 Ms Nicola Morris, Chief

57 Legal Counsel **Resources**

### 58 **Division**

59 Ms Tania Constable, Acting Head of Resources Division

60 Mr Chris Stamford, General Manager, Minerals Branch

61 Ms Sue Kruse, General Manager, International, Resources Development and Taxation Branch

62 Ms Margaret Sewell, General Manager, Low Emissions Coal and CO2 Storage Branch

63 Mr Michael Sheldrick, General Manager, Fuels and Uranium Branch

64 Mr Peter Livingston, Acting General Manager, Petroleum Regulatory Reform

65 Mr Demus King, Acting General Manager, Resources and Energy Policy

66 Ms Kristina Anastasi, Manager, Environment, Safety and Security Section, Offshore Resources  
67 Branch

68 Mr Patrick Davoren, Manager, Radioactive Waste Section, Fuels and

69 Uranium Branch **Energy and Environment Division**

70 Mr Brendan Morling, Head of Energy and Environment Division

71 Dr Chris Locke, General Manager, National Energy Market Branch

72 Mr Paul Johnson, General Manager, Industrial Energy Efficiency Branch

73 Mr Geoff Stone, General Manager, Energy Futures Branch

74 Dr Gino Grassia, Acting General Manager, Energy Security Branch

75 Mr Rick Miles, Acting General Manager, Environment Branch

76 Mr Andrew Lewis, Manager, Energy Efficiency Opportunities, Industrial Energy Efficiency  
77 Branch

78 Ms Jill McCarthy, Greenhouse Section, Environment Branch

79 Ms Catherine Zenger, Renewable Energy Section, Environment Branch

80 Ms Lisa DiPaolo, Renewable Energy Section, Environment Branch

81 Ms Sarah Clough, Deputy Chief Executive Officer, Australian Centre for Renewable Energy  
82 Mr Peter Slobodian, Manager, Renewable Programs, Australian Centre for Renewable Energy  
83 Ms Veronica Westacott, Renewable Energy Section, Environment Branch Mr Oliver Story,  
84 Demand Side Management Policy, National Energy Market Branch

85 **Tourism Division**

86 Ms Jane Madden, Head of Tourism Division  
87 Ms Kathy Harman, General Manager, Industry Development Branch  
88 Ms Helen Cox, General Manager, Market Competitiveness Branch  
89 Mr Vic Dobos, General Manager, National Tourism Policy Branch  
90 Mr Wayne Calder, General Manager, Tourism

91 Research Australia **Geoscience Australia**

92 Dr Chris Pigram, Acting Chief Executive Officer  
93 Dr Clinton Foster, Chief of Petroleum and Marine Division  
94 Dr Barry Drummond, Chief of Geospatial and Earth Monitoring Division  
95 Dr James Johnson, Chief of Onshore Energy and Minerals Division  
96 Ms Nicole Pearson, General Manager of

97 Corporate Branch **Tourism Australia**

98 Mr Andrew McEvoy, Managing Director  
99 Ms Rachel Crowley, General Manager, Corporate Communications  
100 Mr Grant Le Loux, Executive General  
101 Manager, Corporate **National Offshore**

102 **Petroleum Safety Authority**

103 Ms Jane Cutler, Chief Executive Officer

104 **Australian Solar Institute**

105 Mr Mark Twidell, Executive Director  
106 Ms Jenny Goddard, Chair  
107 Mr Eric Lemon, Company Secretary

108 **CHAIR (Senator Hurley)**—I declare open this public hearing of the Senate Economics  
109 Legislation Committee. The Senate has referred to the committee the particulars of proposed  
110 expenditure for 2010-11 and related documents for the Innovation, Industry, Science and Research  
111 portfolio, the Resources, Energy and Tourism portfolio and the Treasury portfolio. The committee  
112 must report to the Senate on 22 June 2010 and it has set 30 July 2010 as the date by which answers to  
113 questions on notice are to be returned.

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

120 *The document read as follows—*

121 **Public interest immunity claims**

122 That the Senate—

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

126 (b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers  
127 and officers with guidance as to the proper process for raising public interest immunity claims and to  
128 consolidate those past resolutions of the Senate;

129 (c) orders that the following operate as an order of continuing effect:

130 (1) If:

131 (a) a Senate committee, or a senator in the course of proceedings of a committee, requests  
132 information or a document from a Commonwealth department or agency; and

133 (b) an officer of the department or agency to whom the request is directed believes that it may  
134 not be in the public interest to disclose the information or document to the committee, the officer shall state to  
135 the committee the ground on which the officer believes that it may not be in the public interest to disclose the  
136 information or document to the committee, and specify the harm to the public interest that could result from the  
137 disclosure of the information or document.

138 (2) If, after receiving the officer's statement under paragraph (1), the committee or the senator  
139 requests the officer to refer the question of the disclosure of the information or document to a responsible  
140 minister, the officer shall refer that question to the minister.

141 (3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not  
142 be in the public interest to disclose the information or document to the committee, the minister shall provide to  
143 the committee a statement of the

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ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

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(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

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(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

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(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

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(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

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(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

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

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[9.02 am]

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### Department of Resources, Energy and Tourism

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**CHAIR**—I welcome Mr Clark and officers of the department. Would you like to make an opening statement?

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**Mr Clarke**—No, thank you.

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**Senator EGGLESTON**—By the provisions of the Henry review, one of the groups that are affected by the resource rent tax are the small prospectors and miners in Western Australia who belong to the Association of Mining and Exploration Companies. They have been pushing for a long time for a Canadian-style flowthrough share scheme. What has been offered is a rebate on the cost of exploration. Why is that better as a policy than the Canadian flowthrough shares model?

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**Mr Clarke**—You are correct about the position that that sector has advocated. It is not our position to make a comparative assessment. The government has announced its policy intent to address issues in that sector through the resource exploration rebate. That is the government's decision.

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**Senator EGGLESTON**—So you cannot, for example, compare and contrast what would have been the benefits and effects of a flowthrough share scheme versus the rebate?

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**Mr Clarke**—I do not believe that is our function in this context.

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**Senator EGGLESTON**—I might ask you some other questions then. Firstly, what advice on or input to the design of the resource rental tax was provided by your department?

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**Mr Clarke**—During the period of the Henry tax review itself, which was mostly calendar 2009, the department had regular contact with the secretariat and we made a submission to the Henry tax review. Do I take it that your question though is about after the review and the actual RSPT?

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**Senator EGGLESTON**—Yes. What advice on the design of the tax did your department provide to the government after the Henry review?

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**Mr Clarke**—From 29 March this year, three officers of the department were seconded to Treasury to work with Treasury on the response to the Henry review, which included the RSPT. The advice of those officers was provided through Treasury channels and hence I am not privy to it.

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**Senator EGGLESTON**—Was the department formally requested by Treasury to provide advice or comments for inclusion in the cabinet submission that proposed the introduction of the RSPT?

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**Mr Clarke**—Our contribution to the final policy development was through the three officers that were seconded to Treasury. That was the way in which the department was engaged and our advice was provided.

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**Senator EGGLESTON**—That is interesting. When was the department officially briefed on the government's decision to introduce an RSPT?

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**Mr Clarke**—I need to divide your question into two parts. The first is the engagement of the three officers of the department working inside Treasury, which we have covered. In terms of the final policy decision, department officers, including me, were fully briefed on that on 1 May.

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204 **Senator EGGLESTON**—That was the day before the government’s announcement.

205 **Mr Clarke**—Correct.

206 **Senator EGGLESTON**—Not a lot of time, but there we are. The RSPT applies to existing  
207 projects apart from those currently covered by the petroleum resources rental tax. Would you accept  
208 the argument that this means in effect that the RSPT is retrospective?

209 **Mr Clarke**—It is not this department’s function to provide a commentary on the implementation  
210 of that tax measure. That is a question you would need to direct to Treasury.

211 **Senator EGGLESTON**—We might well do so. Has the department provided advice to your  
212 minister and/or the government on the adverse impacts of a retrospective tax on investor perception  
213 of how new investment in Australia would stand up—in other words, how it affects sovereign risk?

214 **Senator CAMERON**—This is not a retrospective tax.

215 **Senator Carr**—You have made an assumption there. I do not recall an officer saying that that  
216 was a view which was accepted.

217 **Senator EGGLESTON**—He did not really answer.

218 **Senator Carr**—You cannot therefore go on and try and verbal officers.

219 **Senator EGGLESTON**—I just made a comment—

220 **Senator Carr**—A political comment—

221 **Senator EGGLESTON**—which seemed to fit the situation.

222 **Senator Carr**—which had no bearing whatsoever on the facts.

223 **Senator EGGLESTON**—It is an assessment.

224 **CHAIR**—Having made the comment, we will go back to questioning. Senator Eggleston, do you  
225 have further questions?

226 **Senator EGGLESTON**—I do have further questions. I would like to come back to the issue of  
227 sovereign risk. Does the department feel that this tax will have an impact on Australia’s sovereign  
228 risk? I went to a breakfast last Tuesday week in Perth held by the Australia Indonesia Business  
229 Council, where a person spoke about the mining industry in Indonesia. He said that, following the  
230 introduction of this tax proposal, the view in Jakarta was that Indonesia now had a lower sovereign  
231 risk for mining investment than Australia. Would you like to comment on the issue of sovereign  
232 risk?

233 **Mr Clarke**—No, I would not. We are as conscious of the commentary around this measure as  
234 you are. We are reading the same reports and talking to the same people, but it is not this  
235 department’s function to provide an assessment of the merits or otherwise of that measure. That is a  
236 question you would need to direct to Treasury.

237 **Senator EGGLESTON**—We have to consider the impacts on the economy and on investment in  
238 the resource sector. Would you like to comment on what information your department may have  
239 obtained about how this proposal may impact on future investment in the resources sector?

240 **Mr Clarke**—We are seeing the views of industry through two channels. One is the public  
241 channel, the media and the sorts of meetings and so on that you refer to. The other is that this  
242 department has an officer participating in the room during the consultation process that is being run  
243 through Treasury on the RSPT. So we are hearing the views of industry, we are forming our own  
244 views and we are advising our minister. I cannot say more than that at this stage.

245 **Senator EGGLESTON**—Very well. My information is, though, that it certainly seems to be  
246 having a negative impact on investment and proposed investment in the mining industry, and one  
247 would think that would be a matter of concern to you. The research report prepared by KPMG  
248 Econtech for Treasury on the tax package announced on 2 May states:

249 ... the RSPT is being phased in over time as a way of cushioning the impact of its introduction on existing  
250 projects.

251 The phased approach stops short of fully avoiding a sovereign risk event. This would require full  
252 grandfathering of existing projects so that they would continue to be taxed under existing arrangements and be  
253 fully quarantined from RSPT. However, full grandfathering would mean lower government revenue in the  
254 short term because of the wait involved before new projects reach the stage where a RSPT generates  
255 substantial revenue ...

256 That is on page 15 of the report. Do you agree with KPMG Econtech’s conclusion that, firstly,  
257 failure to fully grandfather existing projects and thus bring existing projects under the RSPT  
258 represents a sovereign risk event and, secondly, this decision by the government was taken for  
259 revenue maximisation purposes?

260 **Mr Clarke**—You are asking me to pass an opinion on government policy or a commentary on  
261 government policy. That is not the department's function.

262 **Senator EGGLESTON**—I would have thought they were fairly objective matters.

263 **Senator Carr**—No, they are not. They are political comments. You are asking the officer for an  
264 opinion. You know that is against the standing orders.

265 **Senator EGGLESTON**—It is not at all, really, beyond what is done in estimates. But if you are  
266 instructing the official not to answer then I accept that, of course.

267 **Senator Carr**—I do not have to instruct. The officer has made it perfectly clear what his position  
268 is.

269 **Senator EGGLESTON**—We are giving him the opportunity.

270 **Senator Carr**—He had the opportunity and he said that he does not want to give an opinion, and  
271 he is not required to give an opinion.

272 **Senator EGGLESTON**—That is disappointing, because he is in a position to assess these things  
273 and have a broad perspective about them. Can you explain to the committee why projects currently  
274 covered by the petroleum resource rent tax were grandfathered and therefore not covered by the  
275 resource rent tax even though the head of Treasury, Dr Henry, has described the RSPT tax as  
276 'world's best practice in charging for the exploitation of non-renewable natural resources'? That  
277 was in an address on 18 May to Australian business economists.

278 **Mr Clarke**—Taxation policy and taxation measures are administered by the Treasury. Clearly  
279 this department, as you acknowledge, has a great interest in the way in which they work out. I  
280 simply cannot—it is not our function to—provide a critique of taxation policy or a comparison of  
281 different taxation options.

282 **Senator EGGLESTON**—Can you advise the committee when this decision to grandfather  
283 projects currently covered by the PRRT regime was taken?

284 **Mr Clarke**—No, we are not aware of the processes for that decision making that were inside  
285 Treasury.

286 **Senator EGGLESTON**—Can you explain to the committee why the long-term bond rate was  
287 chosen as the allowance rate or uplift factor for the resource rental tax?

288 **Mr Clarke**—No, that is a question you would need to direct to Treasury.

289 **Senator EGGLESTON**—Thank you.

290 **Senator LUDLAM**—I wonder whether we are able to bring officers to the table who can tell us  
291 about radioactive waste management.

292 **Mr Clarke**—Certainly.

293 **Senator LUDLAM**—Last time we were here I think you were right on the verge of announcing  
294 the policy which subsequently happen. Since then we have seen the introduction of legislation. It has  
295 been through a fairly quick committee process. Can you provide us with an update of where the  
296 policy for a national radioactive waste dump stands with your department at the moment? Can you  
297 update us on your activities?

298 **Mr Davoren**—I think we are now at the stage where the government is considering its response  
299 to the Senate committee report. That response hopefully will be made in the next sittings of the  
300 Senate.

301 **Senator LUDLAM**—But that is what the minister is up to. What are you and your department up  
302 to as far as this project is concerned?

303 **Mr Davoren**—We are advising the minister on the response, so we are up to that as well. We  
304 have undertaken some consultation with traditional owners at Muckaty Station. As you are aware, at  
305 the time some traditional owners came down for the Senate hearings in March. A group was taken to  
306 Lucas Heights, where they were shown the waste at ANSTO. They were also briefed on radioactive  
307 waste management issues. On 21

308 May officers of the department attended a meeting at Renner Springs with all of the traditional  
309 owner clans at Muckaty Station.

310 **Senator LUDLAM**—Did you attend that meeting?

311 **Mr Davoren**—Yes, I did.

312 **Senator LUDLAM**—Who else from DRET was in attendance?

313 **Mr Davoren**—Another officer from my section.

314 **Senator LUDLAM**—So you and one other officer. Was there anyone else from the

315 Commonwealth—from ANSTO, ARPANSA or anybody like that?

316 **Mr Davoren**—No. There were officers of the NLC.

317 **Senator LUDLAM**—The NLC and two of you. Thank you. Were you invited to attend that

318 meeting or did you turn up of your own volition?

319 **Mr Davoren**—I certainly would not turn up uninvited. I attended at the invitation of the chair of

320 the Muckaty Land Trust.

321 **Senator LUDLAM**—That was Ms Amy Lauder at the time?

322 **Mr Davoren**—That is right.

323 **Senator LUDLAM**—Thank you. I presume you presented an update on the process of building

324 the waste dump.

325 **Mr Davoren**—Yes. It was simply on process; there were no substantive discussions.

326 **Senator LUDLAM**—I understand the Muckaty Aboriginal Corporation are the ones who hosted

327 the meeting. They are not a signatory to the site nomination deed—that obviously lies

328 elsewhere—so why did you think that it was important or appropriate to attend this meeting in

329 particular?

330 **Mr Davoren**—It was important because we had not been out there for over 2½ years. I think a

331 question that would have occurred to some of the traditional owners is what was going on with this

332 process and where the process currently was at. I think we were able to explain that.

333 **Senator LUDLAM**—Okay. There are approximately 70 members of the Muckaty Aboriginal

334 Corporation. They are not elected representatives of the TOs of the land trust, who number in excess

335 of 400-odd people. You would be aware of that.

336 **Mr Davoren**—I think questions of Aboriginal governance are questions you should direct to the

337 NLC.

338 **Senator LUDLAM**—I am assessing your state of awareness of the group that you are addressing

339 and what their status is. I presume you are aware of that.

340 **Mr Davoren**—I was aware that there were representatives of all of the estate clans there. My

341 purpose there

342 was to brief them on the process of establishing a facility.

343 **Senator LUDLAM**—Did you undertake any field trips or visits to sites while you were up there?

344 **Mr Davoren**—No.

345 **Senator LUDLAM**—You did not visit the site of the proposed waste dump?

346 **Mr Davoren**—No, we did not.

347 **Senator LUDLAM**—Or any other sites?

348 **Mr Davoren**—We did not visit any other sites.

349 **Senator LUDLAM**—Did you have any meetings with NLC staff outside attending that AGM?

350 **Mr Davoren**—No, there were no meetings.

351 **Senator LUDLAM**—Can you give us a bit of an idea of any outcomes of the meeting? Did you

352 brief and

353 leave or did you get a sense of the mood of the meeting—how your message was received?

354 **Mr Davoren**—They were interested to see me there and they were interested to know what the

355 current status of this activity was, and I was able to brief them on those issues. They asked me some

356 questions that had been raised concerning radioactive waste safety issues. I spoke to the meeting on

357 some of those points as they were raised. I went to particular pains to advise the meeting that any

358 activities under there are under the oversight of independent regulators and explained their role.

359 **Senator LUDLAM**—Do you mean ARPANSA?

360 **Mr Davoren**—ARPANSA and the Environment portfolio.

361 **Senator LUDLAM**—Are you able to table a copy of your notes or your presentation?

362 **Mr Davoren**—No, I did not have any notes.

363 **Senator LUDLAM**—It was purely off the top of your head?

364 **Mr Davoren**—That is right.

365 **Senator LUDLAM**—Did representatives of the NLC make a presentation or speak at that

366 meeting?

367 **Mr Davoren**—There were other Muckaty trust issues that they spoke about.

368 **Senator LUDLAM**—Unrelated to—  
369 **Mr Davoren**—Yes, other business; in fact that was the main business of the meeting. It was their  
370 annual  
371  
372 general meeting.  
373 **Senator LUDLAM**—So the NLC did not address the issue of the radioactive waste dump?  
374 **Mr Davoren**—They did in general terms.  
375 **Senator LUDLAM**—But it was not the thrust of their presentation?  
376 **Mr Davoren**—They introduced me, but I think that was the extent of their activity.  
377 **Senator LUDLAM**—Did you hear opposition to the dump expressed by traditional owners  
378 attending the  
379 AGM?  
380 **Mr Davoren**—There was opposition expressed by one traditional owner.  
381 **Senator LUDLAM**—By one?  
382 **Mr Davoren**—Yes.  
383 **Senator LUDLAM**—Could you tell us how many people were in attendance, roughly?  
384 **Mr Davoren**—I think there would have been at least 40 people there.  
385 **Senator LUDLAM**—One person spoke up and said that they opposed the project?  
386 **Mr Davoren**—That is right.  
387 **Senator LUDLAM**—Your take away message was that the vast majority of TOs are in support?  
388 **Mr Davoren**—No, I would not have made a judgment either way. Just because Aborigines  
389 remain quiet on  
390 something, you cannot interpret that as assent. **Senator LUDLAM**—Okay. That is quite perceptive.  
391 One person did speak up. You would be aware that a  
392 new board was elected at that meeting, as it was their AGM?  
393 **Mr Davoren**—Yes, I am.  
394 **Senator LUDLAM**—Do you have a view as to whether the majority are in support or opposed to  
395 the  
396 radioactive waste dump?  
397 **Mr Davoren**—I could not form a view on that.  
398 **Senator LUDLAM**—That is interesting. I would like to move on to a couple of other issues  
399 relating to the  
400 waste dump. At the last estimates we were talking about employment, I think, and you indicated that  
401 there might be the necessity to host or accommodate a squad of counterterrorism police on the site.  
402 **Mr Davoren**—I did not say that.  
403 **Senator LUDLAM**—Do you want to go back over what you said?  
404 **Mr Davoren**—I said that there may be a need, depending on decisions by regulators, to have  
405 people there who are trained at the level of counterterrorism first response.  
406 **Senator LUDLAM**—Sorry, I thought that was what I just said.  
407 **Mr Davoren**—No, you did not. I heard your questioning of ANSTO yesterday and you did not  
408 say that at all. You asked them whether there was a counterterrorism unit at ANSTO and they said  
409 that there was not. Had you asked them whether there were people trained at the level of  
410 counterterrorism first response, they would have said that there are.  
411 **Senator LUDLAM**—Okay, thank you. That is an important distinction. At the time, you were  
412 not able to tell us whether that was going to be necessary, which I found extremely surprising  
413 **Mr Davoren**—It is not surprising because, to reach that conclusion, you need to undertake a  
414 threat assessment, which takes into account the design of the facility and the material that will be  
415 there, and it is a lengthy process that you would not initiate unless you had actually selected a site.  
416 **Senator LUDLAM**—I do not understand how the nature of the material that is going to be there

417 and the design of the site are going to make any difference. You know what material you are hosting  
418 there.

419 **Mr Davoren**—It is an iterative process. You assess the threat and you design the building to  
420 address that threat. At this stage, we only have preliminary designs for the facility, which I pointed  
421 out to you at our last meeting, in the Parsons Brinckerhoff report. That threat assessment and that  
422 whole regulatory assessment would be part of the next phase of the project.

423 **Senator LUDLAM**—So it actually depends on the design of the building, because you know  
424 what kind of material is coming back.

425 **Mr Davoren**—We do not quite know the material that is coming back. You have alluded to the  
426 fact that the precise nature of the material coming back from the United Kingdom is yet to be  
427 finalised.

428 **Senator LUDLAM**—When did I allude to that?

429 **Mr Davoren**—You alluded to that when you mentioned the consideration of that material by the  
430 Scottish parliament.

431 **Senator LUDLAM**—Okay. There has been discussion in the press, although I do not think  
432 anything properly on the public record, about a legal challenge. Have you or the department taken  
433 legal advice about the strength of the case to host the site at Muckaty?

434 **Mr Davoren**—As we understand it, the legal challenge would be against the NLC's nomination,  
435 so really it is a matter for them to look at that.

436 **Senator LUDLAM**—So that is not something that you have taken legal advice on in the  
437 department?

438 **Mr Davoren**—No, not at all.

439 **Senator LUDLAM**—Where to from here? Are you just awaiting the outcome of the legislative  
440 process in here?

441 **Mr Davoren**—Yes.

442 **Senator LUDLAM**—Do you have any further consultations or anything along those lines  
443 planned?

444 **Mr Davoren**—Not at this stage.

445 **Senator LUDLAM**—But what about in due course? What is your work program? Assuming the  
446 legislation passes in, I guess, the June sitting, what is your work program from there?

447 **Mr Davoren**—I think we would have to go out and have substantive consultations with the  
448 communities. I think that when the Northern Land Council presented evidence to the legislative  
449 inquiry Mr Kim Hill said that they were interested in discussing the arrangement that had been  
450 negotiated under the previous government, so I imagine that we would have substantive  
451 negotiations with the Northern Land Council.

452 **Senator LUDLAM**—I know there are a lot of other questions to be asked, so I might leave it  
453 there. Thanks for your time.

454 **Senator BUSHBY**—In answer to Senator Eggleston's questions, you indicated that you were not  
455 privy to the consultation that was going on between your three officers and Treasury. Is it the fact  
456 that they were basically sent off to the Treasury consultation and did not report back to you?

457 **Mr Clarke**—That is correct. In administrative terms, we regarded it as a secondment. One of the  
458 officers did request briefing and information from this department to assist him in his role inside  
459 Treasury, but it was a secondment. They were reporting into the Treasury structure, not into the RET  
460 structure.

461 **Senator BUSHBY**—So, other than to the extent of their own personal knowledge or of that  
462 particular request for further information, the department was not able to have any input into that? It  
463 was really only what was in the heads of those three officials? There was no reporting back to you;  
464 there was no bouncing it around, using the vast resources of your department and the expertise that  
465 exists within it, as to what impact that may have on the minerals industry?

466 **Mr Clarke**—The officers had access to all of the information and resources from within this  
467 department to assist them in their task working in Treasury, and they exercised that access, but I  
468 repeat that they were not working to this department; they were seconded to Treasury during that  
469 period.

470 **Senator BUSHBY**—But there were only three of them. How many people work in your  
471 department in the minerals area?

472 **Mr Clarke**—About 30 in the onshore minerals area.

473 **Senator BUSHBY**—And these three were all from that area?  
474 **Mr Clarke**—Two were. The other was my predecessor, the former secretary of the department.  
475 **Senator BUSHBY**—So two out of those 30 were assisting Treasury and were seconded to them,  
476 working to Treasury rather than to your department?  
477 **Mr Clarke**—Correct.  
478 **Senator BUSHBY**—And the other 28, with the expertise that they collectively have, were not  
479 privy—nor were you as secretary—to the discussions or the development of the RSPT that was  
480 going on within Treasury?  
481 **Mr Clarke**—Our role was to respond to requests for information from our three seconded  
482 officers.  
483 **Senator BUSHBY**—So you provided information, which is probably factual and existing, rather  
484 than having the opportunity to analyse or assess proposals and to put that expertise back into the  
485 process?  
486 **Mr Clarke**—Correct. That analytical advisory function was executed by the three seconded  
487 officers.  
488 **Senator BUSHBY**—So you were in no position whatsoever to provide any detailed assessment  
489 of the impact of the RSPT prior to 1 May?  
490 **Mr Clarke**—Correct.  
491 **Senator BUSHBY**—Has the department undertaken any analysis of the impact of the RSPT on  
492 domestic energy prices?  
493 **Mr Clarke**—Yes, we have considered that matter.  
494 **Senator BUSHBY**—Did you find that it would have any impact?  
495 **Mr Clarke**—I will bring another officer to the table to respond.  
496 **Mr Morling**—As was stated by Treasury last week, the RSPT is a tax on super profits only. As  
497 such, it should not affect the prices at which gas and coal are sold into the domestic market,  
498 including for energy use. If those prices are not affected then you would not expect any impact on  
499 electricity prices. Our preliminary work on that issue is consistent with that position.  
500 **Senator BUSHBY**—Preliminary work, you say.  
501 **Mr Morling**—Yes.  
502 **Senator BUSHBY**—Is that based on any assumptions? What assumptions have you built into  
503 your  
504 preliminary work as part of your—  
505 **Mr Morling**—This is very much preliminary work, working with assumptions around the  
506 existing state royalties regimes, which are effectively replaced by the RSPT.  
507 **Senator BUSHBY**—For the purposes of your assessment have you included assumptions that  
508 anything in  
509 particular will remain as it is?  
510 **Mr Morling**—Do you have anything particular in mind?  
511 **Senator BUSHBY**—No, I just want to know what you have locked in. When Treasury do their  
512 modelling  
513 they always lock in a few things as fixed, some of which are probably unrealistic.  
514 **Mr Morling**—You have described it as modelling. Within the department I know—  
515 **Senator BUSHBY**—I did not use the word ‘modelling’ when I asked you that question; I  
516 deliberately said ‘assessment’. Nonetheless, I am interested in knowing whether, in doing your  
517 assessment, you assumed that anything has remained unchanged for the purposes of looking at  
518 holding some factors as fixed so that you can test what happens with the variables?  
519 **Mr Morling**—We have simply taken the position that we do not see an impact on those prices of  
520 gas and coal in the market and therefore we do not see an impact on electricity prices.  
521 **Senator BUSHBY**—You would be aware that, in the *Australian*, dated 6 May, 2010, the  
522 managing director of Origin Energy, Grant King, stated:  
523 The proposed RSPT will place additional upward pressure on coal and gas prices, increasing energy costs  
524 further ...

525 Are you aware of his statement?

526 **Mr Morling**—We are aware of those reports and some others.

527 **Senator BUSHBY**—Have you analysed it all?

528 **Mr Morling**—We do not know how Mr King and others have come to those conclusions.

529 **Senator BUSHBY**—In respect of Mr King and others, have you actually approached them to  
530 find out? Surely, if they are of that opinion it would be of value to the department to know why they  
531 are thinking that so that you can analyse that or at least explain to them the reasons why you do not  
532 think they are right?

533 **Mr Morling**—We have done our own analysis. As I said, it is still preliminary at this stage. That  
534 is the conclusion we have reached.

535 **Senator BUSHBY**—Would you be looking to discuss with energy producers their concerns in  
536 that respect?

537 **Mr Morling**—We have reasonably regular contact, not necessarily at Mr King's level, but we  
538 certainly have contact with the associations and we are aware of their views.

539 **Senator BUSHBY**—Surely, if you are doing an assessment of the impact of RSPT on energy  
540 prices it would be incumbent upon you as a department to actually go out and discuss it with those  
541 people who sell the energy?

542 **Mr Morling**—As I said, we have done some preliminary assessment. We are still working  
543 through the process of looking at this but our preliminary view is as I have stated.

544 **Senator BUSHBY**—Presumably, if you do go out and discuss it with those people in the industry  
545 who are making these claims and they make good points to you then they will be given due weight  
546 and you will take them into account in your final assessment?

547 **Mr Morling**—We will certainly look at those.

548 **Senator CAMERON**—I have a question on that point.

549 **CHAIR**—We are fairly tight on time. Perhaps we will let Senator Bushby continue and I will put  
550 you on the list.

551 **Senator BUSHBY**—According to the assumptions underpinning the government's  
552 modelling—that is, a specific assumption, not a finding; it is one of those things I was talking about  
553 before that they hold fixed—the imposition of a 40 per cent RSPT will have no impact on  
554 investment in the minerals sector. That is an assumption rather than a finding. In fact, under this  
555 assumption an RSPT set at an even higher rate than 40 per cent, say, 60 per cent, 75 per cent or even  
556 90 per cent, would have no impact on future industry investment, given that they have assumed that  
557 the 40 per cent tax will have no impact. Does the department support the proposition that an RSPT at  
558 40 per cent or 75 per cent or even 90 per cent will have no impact on investment in the sector?

559 **Mr Clarke**—I have read Treasury's testimony on that matter from last week and I have nothing  
560 further to add to Dr Henry's remarks. It would again take me into a position of commenting on  
561 another department's policy responsibility.

562 **Senator BUSHBY**—What I am interested in, though, is your expertise in the mining sector and  
563 your knowledge of the mining industry in particular. Treasury has a broad remit, which is whole of  
564 government, and you have a requirement to look at the matters that impact on the mining industry. I  
565 could ask you to go through your charter and what the aims of your department are. But I am quite  
566 sure it is to promote growth and a healthy mining sector and that would include that. In doing so you  
567 would be required to look at factors that are likely to impede or impact on that. I am just asking you,  
568 quite apart from the government's decision to put in the RSPT, what impact would a tax of this sort  
569 at 40 per cent, 75 per cent, 90 per cent, or even 99 per cent, have on investment?

570 **Mr Clarke**—In the current climate there is no hypothetical question on that nature. I am afraid  
571 your question, again, is asking me to comment on a policy position and on evidence given by  
572 another department, which is their responsibility. I am unwilling to do so.

573 **Senator CAMERON**—The mining council told him he has got to ask, so I suppose he has got to  
574 ask.

575 **Senator BUSHBY**—With respect, I can understand why you do not want to comment on what  
576 another department would say, but you are here before us today because you have expertise in the  
577 mining industry and the way that works—that is your department's responsibility. I am asking about  
578 matters that would impact on that. I have asked many departments questions. I have asked this  
579 department questions before about what impact changes or certain things would have and you have  
580 had no hesitation in answering them. In this particular case, which does actually relate in a way to a  
581 decision that the government has made, you are refusing to do it even though I am asking about

582 impact, not about the policy.

583 **CHAIR**—Senator Bushby, Senator Cameron has a point of order.

584 **Senator CAMERON**—Chair, not only is Senator Bushby asking the witness for an opinion, he  
585 is asking the witness for an opinion on a hypothetical—a hypothetical so stupid in its reference to 90  
586 per cent tax rates. It is a hypothetical and he should not pursue it.

587 **CHAIR**—What I object to in the line of questioning is the suggestion that the official refused to  
588 answer the question. In fact, as he pointed out quite correctly, he was being asked to give an opinion.  
589 It was not a refusal. Continue, Senator Bushby.

590 **Senator BUSHBY**—Okay, I will move on. Impact on prices: is the imposition of the RSPT  
591 likely to have any impact on the prices received by Australian exports on global markets?

592 **Mr Clarke**—Again, Senator, I note Dr Henry's evidence on that question last week and I have  
593 nothing to add to it.

594 **Senator BUSHBY**—Do you agree with the Prime Minister that Australia's tax regime can have a  
595 direct impact on global investment decisions and, in particular, on Australia's ability to attract  
596 investments from international business.

597 **Senator Carr**—You are asking for an opinion, once again. You cannot ask the officers to  
598 comment on government policy. If you want to ask political questions, fire away, and you will get as  
599 good as we receive.

600 Keep to the factual stuff.

601 **Senator CAMERON**—And Mitch will be disappointed.

602 **Senator BUSHBY**—Will a \$12 billion increase in the tax burden on Australia's resources sector  
603 have an  
604 impact on the ability of the Australian resources sector to attract investment?

605 **Mr Clarke**—I am sorry, I find these questions take me into an area that it is not my prerogative to  
606 respond to or, indeed, that I have an obligation to respond to. I think these are questions that should  
607 be directed to Treasury and it is their judgment as to whether they want to participate in that debate.

608 **Senator BUSHBY**—Similar questions will be directed to Treasury. Are you aware of the  
609 document

610 *Minerals and Petroleum Exploration and Development in Australia: a guide for investors?*

611 **Ms Constable**—Yes, I am aware of that particular publication.

612 **Senator BUSHBY**—Who published it?

613 **Ms Constable**—That is this department's publication.

614 **Senator BUSHBY**—That document is aimed at foreign investors—is that correct?

615 **Ms Constable**—It is, certainly.

616 **Senator BUSHBY**—Does it note that Australia has competitive taxation and royalty payments?

617 **Ms Constable**—That is correct.

618 **Senator BUSHBY**—Why would you note that in that document?

619 **Ms Constable**—That is a publication that we put forward on a regular basis. There are a whole  
620 range of

621 areas that Australia looks at in investment. A competitive taxation regime is something that every  
622 country in the world has as part of their investment regime.

623 **Senator BUSHBY**—Why would you note that Australia has a competitive taxation and royalty  
624 payment scheme in such a document? Why would you include that in there? What is the benefit of  
625 noting that?

626 **Ms Constable**—It is one of the areas that are important for investment around the world.

627 **Senator BUSHBY**—So it is important to investment.

628 **Ms Constable**—As a whole range of areas are important to investment.

629 **Senator BUSHBY**—That is part of the suite of factors that they would look at when making  
630 investment decisions.

631 **Ms Constable**—That is correct.

632 **Senator BUSHBY**—A competitive taxation and royalty payment scheme is a factor that

633 potential investors would look at when making investment decisions.

634 **Ms Constable**—Along with many other factors.

635 **Senator BUSHBY**—Along with many other factors, but that is one of them.

636 **Ms Constable**—That is one of them.

637 **Senator BUSHBY**—Would imposing an RSPT at 40 per cent make Australia more competitive  
638 taxation—

639 **Senator Carr**—And the removal of royalties, effectively, Senator, would be a factor in all of  
640 those considerations; not to mention the reduction in corporate tax and the benefits to  
641 superannuation. There will be many factors that relate to the overall decisions.

642 **Senator BUSHBY**—But it comes at a net benefit to the government of \$9 billion and, clearly, the  
643 net taxation benefit is in favour of the government.

644 **Senator Carr**—The general business environment would also be a factor. You cannot ask the  
645 officers to comment at large about—

646 **Senator BUSHBY**—I was not. I was asking them about a publication that the department put out  
647 and the reasons why they actually had the words in it.

648 **Senator Carr**—Sure, and I am happy to assist you in any way I can to explain what a terrific idea  
649 this is—

650 **Senator BUSHBY**—I am very happy that you are assisting by interrupting just at the point where  
651 it is beginning to get interesting. I would like to ask—and I take the minister's point—if a new  
652 taxation regime were implemented which provided a net benefit to the government of an additional  
653 \$9 billion through the mining sector, taking into account all the reductions as well as the new taxes,  
654 would that be likely to add to Australia's competitive taxation royalty payment system or to detract  
655 as part of an investment issue?

656 **Mr Clarke**—The question of the impact of the RSPT on investment in the mineral sector was  
657 canvassed extensively by this committee last week with Dr Henry, and he gave quite a long response  
658 to that, which is in the record. We have got nothing to add to his reply.

659 **Senator BUSHBY**—Okay, but I think we have made the point anyway or, certainly, Ms  
660 Constable has acknowledged, that competitive taxation royalty payments are a factor as part of the  
661 suite of factors that an investor would look at when investing in Australia. I do not think that we  
662 need you to answer as to whether that actually makes it less competitive or more.

663 **Senator Carr**—So why did you behave in that way, if you already had the—

664 **Senator BUSHBY**—Because we have the department here and it is the department's  
665 responsibility to actually answer factual questions and, quite clearly, whether it will make it less or  
666 more competitive is a

667 factual question.

668 **Senator Carr**—The answers they have given have been factual—

669 **Senator BUSHBY**—No, they—

670 **Senator Carr**—The officers have answered you in very factual—

671 **Senator BUSHBY**—They indicated that they were unable to answer that question, despite it  
672 being a very

673 easy and straightforward question to answer.

674 **Senator PRATT**—He is out of order!

675 **Senator BUSHBY**—You are not the Chair. If the Chair calls me out of order I may well listen to  
676 her, but I

677 am not going to take instructions from you. Does the department actually analyse or monitor relative  
678 tax rates affecting the resources sector to be able to support claims that you made in publication?

679 **Ms Constable**—No, we do not have a role in taxation in the department—

680 **Senator BUSHBY**—But if you are going to put out a publication which says that Australia has  
681 competitive taxation and royalty payments, then you would need to have information to base that  
682 statement upon.

683 **Ms Constable**—We take our advice from the Department of the Treasury in relation to taxation  
684 matters.

685 **Senator BUSHBY**—So if the Treasury tells you that Australia is competitive then you take that

686 as read and you put that in your publication?

687 **Ms Constable**—That is correct.

688 **Senator BUSHBY**—Are you aware of the effect on the valuation of mining assets in Ottawa,  
689 Canada, when in 2006 that state changed its tax laws in a way that, amongst other things, hiked rates  
690 on many resource companies to 31.5 per cent from a base of zero? It starts next year.

691 **Ms Constable**—This is a question for the Treasury portfolio; that question is more appropriately  
692 aimed at them.

693 **Senator BUSHBY**—So you do not monitor how the mining sector in other countries is going,  
694 and what impacts on that and affects its competitiveness against the Australian mining sector?

695 **Ms Constable**—We monitor other countries' competitiveness and look at a number of  
696 publications, including those of the Fraser Institute. It surveys mining countries around the world on  
697 a regular basis. However, we do not specifically look at taxation; that is a matter for the Treasury  
698 portfolio.

699 **Senator BUSHBY**—So the fact that the valuation of affected mining companies in Ottawa  
700 plummeted by 35 per cent in the two days following the announcement of that tax is not something  
701 that you would look at?

702 **Ms Constable**—We monitor a whole range of areas. We certainly look at all of the factors that  
703 are affecting countries' investment competitiveness around the world, but not specifically on  
704 taxation matters. If we have questions on taxation then we take our advice from the Treasury  
705 portfolio.

706 **Senator BUSHBY**—To what extent is private sector investment in the resource sector in  
707 Australia dependent upon an expectation of a return on capital invested?

708 **Senator Carr**—Dear, dear! Will you get to something serious? Don't be so silly—

709 **Senator BUSHBY**—I would have thought that when you were looking at investing many  
710 millions of dollars in projects—

711 **Senator Carr**—This is a super profits tax. You know what it is; you know how it involves a  
712 range of measures. But don't ask infantile questions like that!

713 **Senator CAMERON**—He has to do what Richard tells him!

714 **Senator BUSHBY**—I can assure you that these are written by me.

715 **CHAIR**—I do object, Minister, to some of the more inflammatory descriptions in that response.

716 **Senator Carr**—They were infantile.

717 **Senator BUSHBY**—On this question I said: to what extent is private sector investment in the  
718 resource sector in Australia dependent upon an expectation of a return on capital investment? I think  
719 it is a fairly basic question. It does not have any politics in it.

720 **Mr Clarke**—I am at a loss to know how I can answer that. 'To what extent'—it is a qualitative  
721 judgment. Investors make their decisions on a range of factors. No doubt return on investment is one  
722 of them.

723 **Senator BUSHBY**—Thank you. That answers my question. That is what I needed to hear. In  
724 most cases, with the private sector, would a return on investment be the primary reason for  
725 investment?

726 **Mr Clarke**—Again with this, I am not willing to put myself in the shoes of investors in the  
727 resources sector and tell you how they think. I do not believe I am in a position to do that.

728 **Senator BUSHBY**—You say you are not in a position. Your interaction with mining companies  
729 has never led you to be able to draw the conclusion that that is what they are trying to achieve?

730 **Mr Clarke**—Companies talk to us all the time. They talk to us about the range of issues that they  
731 take into account and their range of views on policies of Commonwealth and state governments and  
732 of competing countries. We are across all of that, but you are asking me to quantify that in some  
733 way, which I do not believe we can.

734 **Senator BUSHBY**—What are the other reasons why a private sector investor might choose to  
735 invest substantial funds in developing new or purchasing existing projects in the Australian resource  
736 sector?

737 **Mr Clarke**—The quality of the resources would be a good place, and the ability to export them.

738 **Senator BUSHBY**—Sorry—what was that?

739 **Mr Clarke**—The quality of the resources themselves and the markets within our region, the

740 expertise of the labour force, and the ability to get the product to the market.

741 **Senator BUSHBY**—What about security of supply. Is that another reason, possibly?

742 **Mr Clarke**—Certainly.

743 **Senator BUSHBY**—So the desirability of ensuring security of supply of resources could be a  
744 primary motivational factor in the development of new or even the purchase of existing projects?

745 **Mr Clarke**—Senator, to make sure I understand your question, it is from the perspective of a  
746 foreign investor in the Australian resources sector?

747 **Senator BUSHBY**—I was not actually confining it to that, but I imagine that most investors that  
748 have that reason probably are foreign investors.

749 **Mr Clarke**—Yes. I expect that is one of the factors that some foreign investors take into account  
750 in investing in the Australian resources sector.

751 **Senator BUSHBY**—If the valuation of mining assets were to fall from a given point, whether  
752 due to projections of lower returns as a result of the proposed RSPT or otherwise, would this make it  
753 more or less likely that a purchaser looking to secure supply of the resource would find those mining  
754 assets an attractive purchase?

755 **Mr Clarke**—Senator, again you are asking me to express an opinion regarding the views of  
756 investors in Australian resources in a particular scenario. I have already said that I am sure that—as  
757 Ms Constable has said—competitiveness of the taxation regime is one of many factors taken into  
758 account by investors. Return on investment, as we have discussed, is certainly one of them, but I am  
759 unable to give you a commentary on the balance of those factors by any particular investor in any  
760 particular resource.

761 **Senator EGGLESTON**—Can I just ask a few questions about royalties?

762 **Senator BUSHBY**—Yes, okay.

763 **CHAIR**—Senator Eggleston, we have quite a few other senators waiting.

764 **Senator EGGLESTON**—Since royalties were mentioned a couple of minutes ago, I will ask  
765 this. Royalties on production are, of course, a state tax, if you like and Western Australia proposes to  
766 increase its mineral royalties. The Premier has announced that. But I gather that in this proposal  
767 there is a cap on the level of royalty which will be rebatable. At what point will that cap be applied in  
768 effect? What will be the capping date or point for state royalties for rebates under this scheme?

769 **Ms Constable**—Not all royalties fall into that category. These are questions that really should be  
770 forwarded to the Treasury portfolio. Any matter relating to tax should be put forward to that  
771 portfolio.

772 **Senator EGGLESTON**—I see. I thought you were going to be of assistance there.

773 **Mr Clarke**—To clarify the first part of Ms Constable's answer, while the bulk of royalties are  
774 production based it is not uniform. Some jurisdictions do apply different models to their royalty  
775 regimes.

776 **Senator EGGLESTON**—I thought one of the features of this proposal new tax is that the mining  
777 companies will be rebated the cost of state royalties by the Commonwealth. I would have thought  
778 there would have to be a point in time when that royalty is capped; otherwise the states could simply  
779 increase the royalties to the equivalent of the tax.

780 **Mr Clarke**—Your question is correct in the sense that there must be a point at which that  
781 Commonwealth rebate is applied but you would need to refer the details around that to Treasury. I  
782 was simply clarifying the point that not all royalties are production based.

783 **Senator MILNE**—I would like to ask some questions about a range of grant programs, starting  
784 with the geothermal development program. In December last year there were awards granted in a  
785 grant round of \$7 million. Some companies were ruled out, even though they got high support in a  
786 whole range of areas, on the basis of financial capacity: they were not able to meet the financial  
787 capacity rules. However, it now transpires six months later that several of the grant applications that  
788 were granted have not been able to meet the financial capacity rules.

789 My concern here is fairness. Can you tell me how many applicants who were granted awards in  
790 December have not met the financial capacity rules? Is it intended that they be given an extension of  
791 time? If so, how is that fair to those who applied in the first place and were ruled out on that ground?  
792 And how are you going to now reopen the process so that all of those original applicants can apply in  
793 the same set of circumstances? It is a question of fairness.

794 **Mr Clarke**—The framing of your question is exactly right and the broad scenario that you have  
795 described is correct. I will ask my officers to give you the number you requested and then we will go  
796 to the process.

797 **Ms Clough**—The draft funding deeds have recently been issued to those successful applicants  
798 that were announced under the Geothermal Drilling Program on 13 December 2009 and a few weeks  
799 ago some draft funding agreements were issued to those successful applicants. From that point in  
800 time those applicants will have six months to provide the necessary assurances that appropriate  
801 funding can be raised for the projects to go ahead.

802 **Senator MILNE**—How is that fair? You have just released those financial deeds almost six  
803 months later, by which time they were meant to have demonstrated their financial capacity.  
804 Effectively, those who got the grants will have 12 months to demonstrate their financial capacity  
805 and the people who were ruled out in December have not got the same chance. How is that fair?

806 **Mr Clarke**—The primary question of equity in the administration of the program, which I think  
807 is at the heart of your question, goes back to the judgments that were made on the merits on the  
808 applications at the time that the program closed. Those decisions as to which companies would have  
809 the best prospects at that time were based on the financial criteria—that of course was not the only  
810 criterion; it took in all the rest, technical and management, as given. The judgment was made about  
811 the companies that had the best prospect of success at that time. From that point forward, we have to  
812 give those companies the opportunity to deliver according to the government's offer. Should they  
813 not be able to deliver that, the minister will need to make a decision as to whether or not he will  
814 agree to an extension. Our experience in other programs suggests that that is quite a plausible  
815 scenario that requests for extension will be given. They will need to be considered on the merits. The  
816 scenario that you describe where there were companies that were not offered a grant in that round  
817 that are now saying, and we have received those representations, 'We're ready; we would like an  
818 offer,' we are very conscious of, and that will need to be taken into consideration should we reach a  
819 circumstance where any of the current applicants are unable to meet their financial obligations.

820 **Senator MILNE**—I do not accept that because at the time they had to demonstrate within six  
821 months of getting the grant that they could show financial capacity. Six months is now up. How  
822 many of those have been able to demonstrate it? I know you are saying you have just offered them  
823 financial deeds et cetera, but how many people got the grants and how many of those who got the  
824 grants six months later can demonstrate financial capacity?

825 **Ms Clough**—The companies that have been offered have recently received funding deeds will  
826 have six months from that issuance of the draft funding deed to demonstrate to us that they can meet  
827 their financial obligations. When the announcement was made on 13 December 2009 regarding the  
828 successful applications under the program, there was no issuance of a draft funding deed. So  
829 companies were not able to provide any financial documentation because there was no draft deed  
830 that had been issued to them to frame what their response might be. Now that we have issued draft  
831 funding deeds, they have the ability the capacity to go to the market and look for the appropriate  
832 financial support.

833 **Senator MILNE**—I accept all that, but that is not the point. At the time they were asked to apply  
834 for the grants, they were told they had to show within six months they had the financial capacity.  
835 Other people were knocked back because they could not show it because they were honest about  
836 their financial capacity and indicated that they needed the grant to be able to go to the market and  
837 show leverage and so on. What you are saying now is that companies can second-guess the  
838 government, expect a six-month delay—and six months has turned into 12 months—and they can  
839 anticipate they will not be asked to prove financial capacity until 12 months. I think this is  
840 discriminatory and unfair. Minister, I would like you to comment on this and indicate what you are  
841 going to do about those companies that were knocked back in the first round. Other people are going  
842 to be given an extension now, effectively, of six months and those people are not going to be given  
843 the same extension. What are you going to do about it?

844 **Ms Clough**—Can I make a comment?

845 **Senator MILNE**—Minister, I asked you.

846 **Senator Carr**—From what I have heard of what you have said, the department is seeking to  
847 answer your questions. I am not certain that the administrative appeals mechanism that exists—

848 **Mr Slobodian**—Hopefully, maybe I can clarify things. I am the program manager for the GDP.  
849 Firstly, the program guidelines stipulate that recipients have six months from the date of the formal  
850 offer of funding to prove financial closure on the project. So, essentially, that commences when the  
851 draft deeds are issued to them, and that did not occur until 18 May. From now on, we have six  
852 months, until the middle of November, for them to actually prove up their financial viability. That is  
853 not to say that none of these projects are able to do that. There is no indication at this point in time  
854 that none of the projects will be able to satisfy the requirements. The period of six months is up until  
855 November. They can prove that from now.

856 **Senator MILNE**—I know all that. That is not my point.

857 **Mr Slobodian**—The issue is that the decision by the geothermal energy committee to provide  
858 those grants was based on a whole range of factors, including financial health of the company,  
859 management expertise, expertise in geothermal drilling, technical aspects of the projects and  
860 location of the projects. All those factors were also part of the consideration process. The financial  
861 viability of companies is only one small aspect, and for us to go back at this point in time would be  
862 inappropriate for a number of reasons. Firstly, it would be contrary to the program guidelines and,  
863 secondly, we would have to reopen the whole debate on these projects right from scratch.

864 **Mr Clarke**—I understand that that is not the point you are going to. The answer that Mr  
865 Slobodian has given is the proper administrative answer. I must protest at the suggestion that the  
866 companies that succeeded were dishonest, in that there is no evidence before us that information was  
867 put to the government in that grants program that was of a dishonest—which implies  
868 fraudulent—nature. I think it is very unfair on the seven companies that were successful in the  
869 process.

870 **Senator MILNE**—I take your point; I do not infer that.

871 **Mr Clarke**—I accept that the companies that were not successful in those rounds and that still  
872 have high-quality projects are very legitimate stakeholders in the administrative process that we are  
873 now going through. They are keeping in touch with us and we are keeping in touch with them. We  
874 are following the program guidelines to the letter. There is nothing else we can do at this stage.

875 **Senator MILNE**—I still put it to you, Minister, that I would like you to review this, because I  
876 consider some of those companies were ruled out. The company in particular I am talking about is  
877 KUTh Energy. In this case it sought a meeting with the government to ask why it did not get the  
878 grant. It was highly regarded in all categories except the financial capability one, so it is not as if it  
879 failed other criteria. Therefore I think there is an issue of procedural fairness and I want it looked at,  
880 please, not just for the company but also for all the others who were ruled out on this particular  
881 ground if they had covered all the others adequately.

882 **Senator Carr**—I will respond to your question in a minute, but the secretary would like to  
883 address part of your question.

884 **Mr Clarke**—Since you have named the company, I can confirm that I have met several times  
885 with senior management of that company. I am very aware of their circumstances and their  
886 representations on the matter. We are dealing with it within the administrative guidelines of the  
887 program as best we can.

888 **Senator MILNE**—I did mention the company, although it is irrelevant really which company it  
889 is. It is a point of procedural fairness. What I think you have now done is to give a very clear  
890 indication to everyone who applies for a government grant that there is likely to be a lag of six  
891 months after they get the grant before the deeds are sent out to them and therefore they are likely to  
892 have 12 months and not six to prove up things. That is actually going to clog up the grants system.

893 **Mr Clarke**—I cannot leave that observation without a response, because that is not the intent of  
894 the evidence that we have given today. The six-month delay in the issuing of the deeds was not a  
895 function of the ability of these companies to raise money. I do not want to leave on the record a  
896 suggestion that there is a six-month lag and that that is an automatic feature of these sorts of  
897 programs. That is not the intent.

898 **Senator MILNE**—It is not a criticism of the company. It is a criticism of the department. Why  
899 did it take six months from the granting of the grant to the issuing of the deeds when you had to  
900 demonstrate within six months you had financial capability?

901 **Mr Clarke**—I am happy to respond to that if that is the question.

902 **Senator MILNE**—That is the question. It is the department I am talking about here. Why did it  
903 take you six months to issue these deeds?

904 **Mr Clarke**—I will respond to that, but, as you have already been advised, the legal characteristic  
905 of the six months to demonstrate the matching funding commenced from the formal offer. Now we  
906 can go to why the formal offer was delayed. There were two primary reasons that contributed to the  
907 delay. They were around risk management in geothermal programs and around community  
908 consultation requirements. The department judged that it was necessary to strengthen our offers in  
909 both the risk management obligations on the proponents and their community consultation  
910 obligations. We consulted with the industry association and with the companies on those matters  
911 and developed additional clauses to include addressing those matters. That is the reason for the  
912 delay. It will not be a feature of future grants in this area as we have now done that work.

913 **Senator MILNE**—I put it to you: shouldn't you have done that before you issued the grant?

914 **Mr Clarke**—You can indeed put that to us. Self-evidently, we realised that we needed to do it.  
915 We judged that it was better to do it before issuing the grants than after the event.

916 **Senator MILNE**—I think Senator Bushby has a question on this.

917 **Senator BUSHBY**—Yes. Thank you, Senator Milne, for raising it. I was going to raise it as well.  
918 I agree with Senator Milne that there does seem to be a lack of equity in the process. I just wanted to  
919 ask this specific question: were any of the unsuccessful applicants actually unsuccessful specifically  
920 because they failed to meet the requirement that they would be able to demonstrate within a period  
921 of six months of being offered funding that they could fund the costs of the project?

922 **Mr Clarke**—I will ask my officers to respond to your question, but can I clarify the exact nature  
923 of the requirement.

924 **Senator BUSHBY**—That is actually from the eligibility criteria.

925 **Mr Clarke**—Yes. I just wish to confirm our understanding of what that means in practice. As is  
926 common in these sort of grants programs, the ability of the applicants to raise capital to execute the  
927 program is conditional on having the offer from the Commonwealth. During the competitive  
928 assessment process, the department, the expert committees and our financial advisers have the very  
929 difficult task of making judgments about the ability of a firm to do something in the future in the  
930 event they receive an offer from the Commonwealth. That is not scientific. That is not something  
931 you can be robust about. You look at all the factors and you make a judgment. The test is then  
932 whether or not they do it in the period. As to whether any of the companies missed out, it is a funds  
933 limited program and so anyone that got in meant that another would have been knocked out. As to  
934 whether that was a determining single criterion, I will ask my officers to respond.

935 **Ms Clough**—I do not really want to go into the specifics of each unsuccessful application.

936 **Senator BUSHBY**—No, I do not need to know that. I want to know whether anybody met all the  
937 criteria but was unsuccessful solely because of that reason.

938 **Ms Clough**—The meeting of criteria is a graduated process. A company might score relatively  
939 high marks on one criterion and lower marks on another one. It is not a binary assessment. It is not  
940 fail or pass. There were varying scales across all of the companies that applied. They might have  
941 featured strongly on the criterion of, say, technical innovation and they might have featured lower  
942 down the scale on the criterion about the capacity to raise finances to fund the project.

943 **Senator BUSHBY**—I understand that.

944 **Ms Clough**—So, overall, they would get a rating that was—

945 **Senator BUSHBY**—And on the basis of the rating some missed out and some did not.

946 **Ms Clough**—That is correct. So it is difficult to say—

947 **Senator CAMERON**—Sorry, I missed what area you are from within the department, Mr  
948 Morling.

949 **Mr Morling**—I am in the Energy and Environment Division.

950 **Senator CAMERON**—Are you a trained economist?

951 **Mr Morling**—I studied economics, but that was a long time ago.

952 **Senator CAMERON**—Going back to the questions that Senator Bushby put in relation to the  
953 effects of a super profits tax, when you were studying economics did you learn the same lesson that  
954 Dr Ken Henry learned at high school—that super profits should not affect prices?

955 **Mr Morling**—All I can say is that I have nothing to add to what Dr Henry said the other day.

956 **Senator CAMERON**—Do you agree with what Dr Henry said?

957 **Mr Morling**—Yes, I do.

958 **Senator CAMERON**—Dr Henry also went on to say—and I am not sure whether you should  
959 answer this question or Mr Clarke should—that in the wake of the global financial crisis the mining  
960 industry had shed 15  
961 per cent of jobs. Is that a correct statement?

962 **Mr Clarke**—Dr Henry provided that evidence last week, yes.

963 **Senator CAMERON**—Do you agree with that?

964 **Mr Clarke**—I believe it to be a matter of record.

965 **Senator CAMERON**—Can I also take you to Budget Paper No. 1 and statement 4, which goes to  
966 mineral  
967 resources. I assume you have made yourself aware of that statement. On page  
968 4-3 it says: Australia stands to benefit from continuing strong global demand for its  
969 abundant mineral resources. Do you agree with that statement?

970 **Mr Clarke**—Yes, Senator.

971 **Senator CAMERON**—Do you also agree with this statement on 4-24? It says: Exploration  
972 incentives, as influenced by company income tax arrangements, will also be improved through a new  
973 Resource Exploration Rebate.

974 **Mr Clarke**—Yes.

975 **Senator CAMERON**—And that the rebate ‘will provide significant cash flow benefits to small,  
976 pre-profit  
977 exploration companies’?

978 **Mr Clarke**—Yes. That is the policy that one of your colleagues raised earlier as the alternative to  
979 the flow-through share scheme.

980 **Senator CAMERON**—The budget paper goes on to say: Currently, these smaller companies face a  
981 competitive disadvantage because they have little taxable income against which to deduct their exploration  
982 expenditure. Is that a statement of fact?

983 **Mr Clarke**—Yes. We believe it to be a matter of fact.

984 **Senator CAMERON**—Also the budget paper goes on to say: Notwithstanding the greater expected  
985 net revenues, Australia will remain an attractive place for mining projects, given the  
986 economically efficient design of the RSPT, the exploration rebate, Australia’s stock of mineral resources and  
987 Australia’s  
988 stable business environment for long-term investment.  
989 Is that a correct statement?  
990

991 **Mr Clarke**—That is the Treasury analysis on the back of the RSPT announcement, and we  
992 believe that to be the appropriate forecast, yes.

993 **Senator CAMERON**—Thanks.

994 **CHAIR**—Senator Boswell.

995 **Senator HEFFERNAN**—Does that includes the anticipation of lime and phosphate?

996 **CHAIR**—Senator Heffernan, I have given the call to your colleague.

997 **Senator HEFFERNAN**—That is all right; Bozzie won’t mind.

998 **Senator CAMERON**—You are not going to stand over Bozzie again, are you?

999 **Senator HEFFERNAN**—Just one question.

1000 **Senator BOSWELL**—Okay then.

1001 **Senator HEFFERNAN**—So did it include—

1002 **CHAIR**—Senator Heffernan!

1003 **Senator HEFFERNAN**—Bozzie has given me permission. Did it include—

1004 **CHAIR**—Senator Heffernan, I am sorry—

1005 **Senator HEFFERNAN**—Too hard a question, is it?

1006 **CHAIR**—Senator Milne has questions.

1007 **Senator MILNE**—I want to ask about the Low Emissions Technology Demonstration Fund. In  
1008 Senate estimates in December last year, the department provided information on the allocation of  
1009 funding under this fund. Could you please update me on the allocation of those funds. Have any  
1010 additional funds been allocated, and do you expect any additional funds to be allocated? What is the  
1011 time line et cetera?

1012 **Mr Stone**—As indicated at past Senate estimates, there are five projects being funded under the  
1013 Low Emissions Technology Demonstration Fund. Do you want me to identify the projects?

1014 **Senator MILNE**—No, I want you to update me on the allocation of those funds since December.

1015 **Mr Stone**—There has been no expenditure since December.

1016 **Senator MILNE**—No expenditure since December?

1017 **Mr Stone**—No.

1018 **Senator MILNE**—Do you expect any additional funds to be allocated?

1019 **Mr Clarke**—Senator, can I clarify, just to make sure that we give an accurate response. Funds  
1020 have been allocated in the sense of decisions announced and funds marked against them—

1021 **Senator MILNE**—If I can just get—  
1022 **Mr Clarke**—Do you mean actually sending the cash or do you mean allocation?  
1023 **Senator MILNE**—What I am trying to get at is: have any of the Low Emissions Technology  
1024 Demonstration Fund funds been reallocated to other departmental programs—  
1025 **Mr Clarke**—No.  
1026 **Senator MILNE**—and, if so, which ones? I want to know how much of the total fund had been  
1027 allocated in December last year—not necessarily spent but allocated—and how much was left in the  
1028 fund after those funds had been allocated. If you have not allocated any of that money between the  
1029 total amount of the fund and what was allocated, I want to know when that is going to be allocated.  
1030 If it is not, has the money been reallocated to another program and, if so, which one?  
1031 **Mr Stone**—The money has not been reallocated to another program.  
1032 **Senator MILNE**—So how much is left?  
1033 **Mr Stone**—There was \$75 million granted to the Solar Systems project, which has had no  
1034 expenditure to date; \$50 million has been allocated to the International Power project at Hazelwood,  
1035 and \$3 million has been spent to date; \$100 million was allocated to the HRL project, with no  
1036 expenditure to date; \$60 million to Chevron for the Gorgon project, with no expenditure to date; and  
1037 the final project is the CS Energy project, the Callide Oxyfuel Project, where I believe \$20.8 million  
1038 has been spent to date out of a \$50 million grant.  
1039 **Senator MILNE**—What has been allocated? What is that total? Not what has been spent to date;  
1040 what has been allocated?  
1041 **Mr Stone**—\$335 million.  
1042 **Senator MILNE**—And what was the total of the Low Emissions Technology Demonstration  
1043 Fund?  
1044 **Mr Stone**—It was originally \$500 million.  
1045 **Senator MILNE**—So, if we only have \$335 million allocated and the remainder has not been  
1046 reallocated to another department, what is the time line for the allocation of the additional funding  
1047 between \$335 million and \$500 million?  
1048 **Mr Stone**—Ninety million dollars were returned to the Treasury for unallocated funds. For one  
1049 project, the Fairview project, of \$75 million, the offer was withdrawn in July 2008.  
1050 **Senator MILNE**—Which one was that?  
1051 **Mr Stone**—It was a \$75 million grant to Fairview Power to construct a 100 megawatt power  
1052 station. That offer was withdrawn on 2 July 2008 and those funds were returned to Treasury.  
1053 **Senator MILNE**—So actually money has been reallocated to other departments, namely to  
1054 Treasury— given back and not spent.  
1055 **Mr Stone**—You asked about since December. There has not been any reallocation since  
1056 December.  
1057 **Ms Rose**—Just to confirm: it is not actually returned to Treasury; it is returned to consolidated  
1058 revenue.  
1059 **Senator MILNE**—Not to be spent by Treasury. I understand that—sorry.  
1060 **Mr Clarke**—There have been those two decisions, the \$90 million and the \$75 million for  
1061 Fairview, predating December. We understood your question to be, ‘What has changed since  
1062 December?’ and the answer is, ‘Nothing.’  
1063 **Senator MILNE**—Okay. So basically that is it for the Low Emissions Technology  
1064 Demonstration Fund. It is fully allocated, given that the money has been returned or withdrawn.  
1065 **Mr Clarke**—That is correct.  
1066 **Mr Stone**—Correct.  
1067 **Senator MILNE**—The renewable energy demonstration fund established in late 2007 as a \$435  
1068 million competitive grants program—can you advise me how that money has been allocated to date?  
1069 **Mr Morling**—I will start and other officers may join in. Of the \$435 million, \$135 million was  
1070 allocated to the Solar Flagships program. Of the remaining \$300 million, I think an amount of  
1071 around \$235 million was actually awarded in grants to renewable energy demonstration programs  
1072 and an additional \$92 million was also awarded to two solar projects.  
1073 **Senator MILNE**—Doesn’t that add up to more than the total amount of grant funding?  
1074 **Ms Clough**—Can I just clarify: did you ask about the Renewable Energy Demonstration

1075 Program?

1076 **Senator MILNE**—I did.

1077 **Ms Clough**—The Renewable Energy Demonstration Program, following the 2009 budget, was  
1078 allocated \$300 million. On 6 November 2009, the minister announced four successful projects under  
1079 the Renewable Energy Demonstration Program totalling \$235 million, with the unallocated funds to  
1080 be moved to ACRE, the Australian Centre for Renewable Energy, for the purposes of ACRE. On 11  
1081 May 2010, the minister announced the two successful applicants' solar projects with a total of \$92  
1082 million drawn from ACRE funds. So there was \$65 million unspent and to be managed by ACRE,  
1083 and two demonstration projects in the solar technology field were announced on 11 May.

1084 **Senator MILNE**—Have any contracts been signed with all of the companies allocated the  
1085 renewable energy demonstration fund funding in the November funding announcement? Do we  
1086 have the contracts signed?

1087 **Ms Clough**—We have one contract signed. That is the project on King Island, an integrated  
1088 renewable energy project. We are finalising contract negotiations on the three other Renewable  
1089 Energy Demonstration Program projects: two geothermal projects and a wave demonstration  
1090 project. We are finalising our draft funding deeds for the solar projects. Those are the ones that were  
1091 announced on 11 May, so we have not yet issued those to the successful applicants; we are finalising  
1092 our draft funding agreements. So in total, of the six demonstration projects, one contract has been  
1093 signed.

1094 **Senator MILNE**—Only one contract has been signed out of that number?

1095 **Ms Clough**—The contract negotiations with the other three non-solar Renewable Energy  
1096 Demonstration Program projects are close to finalisation. We have been negotiating those over the  
1097 past few months. Again, similar to the situation that we have had with the geothermal drilling  
1098 program, we were very keen to include more rigorous clauses on risk management and community  
1099 consultation. So that has been part of the negotiations over the last few months.

1100 **Senator MILNE**—Why didn't you do that before you allocated the grants?

1101 **Ms Clough**—Before they were announced on 6 November?

1102 **Senator MILNE**—Yes.

1103 **Ms Clough**—It is something that we decided would be appropriate. This calendar year we came  
1104 to the conclusion that it would be appropriate to have stronger clauses on risk management and that  
1105 community consultation really needed to be enhanced through our contracts. So we have decided  
1106 that it would be appropriate to include those mechanisms in our funding agreements.

1107 **Senator MILNE**—When you announce or provide a grant, does the manager of that department  
1108 or does the minister sign anything in relation to that grant saying that it has been granted?

1109 **Ms Clough**—It depends on the program.

1110 **Senator MILNE**—Let us try the geothermal one and the Low Emissions Technology  
1111 Demonstration Fund or the renewable energy demonstration fund. When the grants are announced,  
1112 is there anything signed by the minister saying, 'You've got the grant?'

1113 **Mr Clarke**—Can I respond on the general point of process which you are going to. In these  
1114 programs, the program design makes clear that the minister is the final decision maker and the  
1115 minister takes advice from whatever committee or panel is put in place and from the department. So  
1116 the literal answer to your question is that the minister receives advice on the recommendations of the  
1117 grants and signs that brief if it agrees with the recommendations. From that point forward, the  
1118 administration process reverts to the department.

1119 **Senator MILNE**—I understand that. It is just that under the Commonwealth financial  
1120 regulations, as I understand it, a minister must be satisfied that there is an effective and efficient use  
1121 of public funds when they sign any successful grant nomination or whatever, after taking reasonable  
1122 assessment et cetera. My concern here is that ministers are being advised to go ahead with grants and  
1123 then, after the event, you are going back, doing the consultation, doing the more rigorous financial  
1124 assessment of deeds et cetera. So how can the minister be sure, at the time they sign off for these  
1125 grants to go ahead, that what they are entering into is an efficient and effective use of public money?

1126 **Mr Clarke**—Senator, I do not agree with your characterisation of the status of the advice that the  
1127 department and the relevant expert groups provide to the minister at that key decision point, which is  
1128 immediately prior to the announcement, and then all of the other processes follow. The advice that is  
1129 given to the minister at that point relates to the assessment of the applications against the criteria.  
1130 There is always subsequent negotiation that occurs after that announcement point. The dynamics  
1131 of that inevitably change. We require applicants during the assessment process to make statements  
1132 about their willingness to accept our model terms and conditions, so we keep as much of that inside

1133 the competitive process as we can. But inevitably—and in my experience in nearly all grants of a  
1134 substantive size such as these—there are specific details that can only be addressed once you are  
1135 into actual contract negotiation. Most import of those, as we discussed in relation to geothermal  
1136 drilling, are the other players that bring equity or debt into the project who are by definition not at  
1137 the table at the original decision point.

1138 **CHAIR**—Thank you, Mr Clarke. Sorry, Senator Milne; we will have to move on.

1139 **Senator EGGLESTON**—I would like to ask a question about aggregates, sand, rocks et cetera.  
1140 What effect do you expect through the departmental research that the RSPT will have on aggregates  
1141 and the mining of them?

1142 **Ms Constable**—The department did not take any research related to low-value minerals with  
1143 regard to the RSPT.

1144 **Senator EGGLESTON**—As I understand it, the secretary of Treasury recommended that  
1145 aggregates be excluded from the RSPT, but in fact they have been included. I just wondered what  
1146 consultation your department had had with the aggregate sector during the design and process of the  
1147 RSPT?

1148 **Ms Constable**—I think we have answered that question. The RSPT lies with the Treasury  
1149 department and any consultation that occurred, occurred with that department. We did not have  
1150 consultation with the aggregate sector in relation to the RSPT.

1151 **Mr Clarke**—Senator, to refer back to our previous discussion on this—that this department’s  
1152 perspective on those matters would have been provided through the three officers that we seconded  
1153 to Treasury during the design stage of the RSPT.

1154 **Senator EGGLESTON**—So you would not know anything about any modelling that was  
1155 conducted or what assumptions were made in relation to the sector.

1156 **Mr Clarke**—No. That is a question you would need to direct to Treasury.

1157 **Senator EGGLESTON**—Do you have any views on flow-on and downstream effects that might  
1158 occur as a result of higher costs now being faced by quarries?

1159 **Mr Clarke**—I am not in a position to go into that sort of impact analysis at this stage. Again, you  
1160 would need to refer those questions to the Treasury portfolio.

1161 **Senator EGGLESTON**—Since we have got two minutes or something before half past, the  
1162 department covers the offshore regulation authority, doesn’t it?

1163 **Mr Clarke**—Correct, and indeed they are scheduled later in this hearing.

1164 **Senator EGGLESTON**—NOPSA, yes.

1165 **Mr Clarke**—Correct.

1166 **Senator EGGLESTON**—I was going to ask you general questions about the rationale for the  
1167 proposed changes, given that the existing joint arrangements with places like Western Australia  
1168 seem to have worked very well.

1169 **Mr Hartwell**—There are ongoing processes looking at the regulatory regime. As you would be  
1170 aware there has been a petroleum regulation review by the Productivity Commission. We have an  
1171 ongoing inquiry into the incident at Montara, and there are also other reports that have come  
1172 forward. The objective of the minister and of course of us working with the minister is to ensure that  
1173 out of these processes that we do come to an end point that we have a world-class regulatory system  
1174 and essentially that the people operating are competent and professional. We do expect that over the  
1175 coming year or so there will be a number of actions taken in that area.

1176 **Senator EGGLESTON**—Montara relates more to a safety issue, I would have thought, rather  
1177 than to regulation of the offshore oil and gas industry.

1178 **Mr Hartwell**—There are safety aspects related to Montara, but there are also a number of other  
1179 issues related to it in the context of the way the operators conducted themselves—there is a whole  
1180 process. It would be inappropriate for me to comment at this point. We expect the commissioner to  
1181 report around 18 June; responses will be based on that report.

1182 **CHAIR**—Thank you.

1183 **Proceedings suspended from 10.30 am to 10.45 am**

1184 **CHAIR**—We will make a start again with the Department of Resources, Energy and Tourism.  
1185 Senator Bushby has the call.

1186 **Senator BUSHBY**—Just before the break Senator Eggleston was asking some questions about  
1187 aggregates. In response to a question about expectations of aggregates Ms Constable said that no  
1188 research had been conducted in respect of RSPT for low-value minerals.

1189 **Mr Clarke**—None by this department.

1190 **Senator BUSHBY**—Given that you qualified that in respect of low-value minerals, was any  
1191 research done in respect of the RSPT either before 1 May or since in respect of high-value minerals?

1192 **Ms Constable**—We monitor investment, our minerals industries and all the gas industries very  
1193 closely. There are a whole range of issues born out of the regime that the Department of the Treasury  
1194 is looking at. Our department will be looking at the impacts on investment in the longer term. We  
1195 cannot speculate what that may mean on low-value or high-value minerals, but we will continue to  
1196 monitor investment and the impacts in the longer term.

1197 **Senator BUSHBY**—You obviously cannot say at this point what the outcome of that is but you  
1198 have started work on assessing what impact the RSPT, along with all other factors that vary from  
1199 time to time, may have on investment in mineral resources in the longer term?

1200 **Ms Constable**—We monitor that in the longer term. We take advice from Treasury, we look at  
1201 ABARE forecasts and we do our own analysis in the department.

1202 **Senator BUSHBY**—Have you started that process in terms of monitoring—

1203 **Ms Constable**—We have started that process.

1204 **Senator BUSHBY**—Obviously, there is a lot of volatility in share prices of mining companies  
1205 and a lot of other things that are going on around that. Some companies, purportedly, have indicated  
1206 that they are putting on hold some developments and things like that. Whether that is as a result of  
1207 the RSPT I guess is the sort of thing you will be looking at at this point and currently assessing?

1208 **Ms Constable**—We monitor that as par for the course of our responsibility in the department.

1209 **Senator BUSHBY**—In response to a lot of my questions earlier and to some questions from  
1210 Senator Eggleston you indicated that Treasury had already spoken last week and we had two hours  
1211 for the first part of the macro issues last week. You said you have nothing to add. In response to  
1212 some of the questions from Senator Cameron you also indicated that you agree with some of those  
1213 things. Do you agree with all of the—

1214 **Senator CAMERON**—All of them.

1215 **Senator BUSHBY**—All the ones you asked. Do you endorse the position of Treasury in respect  
1216 of RSPT as put forward last Thursday?

1217 **Mr Clarke**—I read Dr Henry's testimony very closely and I was perfectly comfortable with it as  
1218 a clear, rational explanation of the current policy position. I have nothing to add to it. Equally, in  
1219 respect of Senator Cameron's questions about the budget statement, it was a clear, defensible  
1220 explanation of the current status of the economy and forecasts in the sector and I have nothing to add  
1221 to that.

1222 **Senator BUSHBY**—So you endorse all those comments?

1223 **Mr Clarke**—Yes.

1224 **Senator BUSHBY**—Fine. I asked a question earlier—actually I was going to direct this to the  
1225 minister, but he is not here—about a comment the Prime Minister made. I wanted the minister to  
1226 answer it given the department was unable to. I will hold off on that one just for a second. Before the  
1227 break and we moved on to other senators I was also asking some questions about the reasons why  
1228 people—foreign companies, in particular—would invest in Australia. Could a lower valuation that  
1229 is brought about by policy change, not necessarily this one but any policy change, present as an  
1230 opportunity to a purchaser looking to guarantee supply? In asking that question, I note that in  
1231 Canada falling valuations as a result of a policy decision led to complaints by mining executives that  
1232 they would become sitting ducks for foreign acquisitions, and Chinese companies subsequently  
1233 invested more than Can\$5 billion in the mining sector in that country. Would a lower valuation  
1234 present as an opportunity for a foreign company looking to guarantee supply?

1235 **Mr Clarke**—I have a few observations. It is, again, a matter of record that development of the  
1236 Australian resources sector is very much a function of foreign investment. That is a fact. On what  
1237 drives a foreign investor to make a particular decision in a particular resource in a particular  
1238 jurisdiction, I do not think we can add anything more to our previous evidence that we see a variety  
1239 of factors in play. We are unable to make an observation about the balance in any particular  
1240 circumstance.

1241 **Senator BUSHBY**—Does the department interact with foreign companies that are considering  
1242 investing in the Australian resources sector?

1243 **Mr Clarke**—First of all, we have a lot of contact with the resources sector by definition. That  
1244 obviously includes many international companies. We also have a formal advisory role in regard to  
1245 the foreign investment review board.

1246 **Senator BUSHBY**—As we discussed earlier, your publication, *Minerals and petroleum*  
1247 *exploration and development guide for investors*, is targeted at foreign investment. You do go out  
1248 there seeking to attract foreign investment in the mining sector. That is a part of your job.

1249 **Mr Clarke**—Certainly. Right now officers of this department and Geoscience Australia are  
1250 overseas, for example, with regard to recent petroleum exploration leases and re-leases.

1251 **Senator BUSHBY**—When you were interacting with those companies, particularly in recent  
1252 times, did you have any feedback from them about the RSPT?

1253 **Mr Clarke**—As I said in answer to an earlier question, we are hearing everything that you are  
1254 hearing through the media and through direct company interactions and we also have the benefit of  
1255 being inside the room during the formal Treasury led consultation processes. The opinions of the  
1256 industry are on the record and well canvassed. We are hearing them also.

1257 **Senator BUSHBY**—You are hearing them in that context as part of the process that you go  
1258 through to attract foreign investment. You mentioned that you have officers overseas currently. Is  
1259 that feedback that they are receiving as they are talking to potential investors at the moment?

1260 **Mr Clarke**—Their trip started yesterday, so I cannot give you any feedback on that at this stage.

1261 **Senator BUSHBY**—Apart from the department's interaction with potential investors, to what  
1262 extent are Chinese steel and mining companies investigating investment opportunities in Australia  
1263 at the moment? Is there a high degree of activity?

1264 **Ms Constable**—There is some activity by Chinese companies wishing to invest in Australia  
1265 across a broad range of mineral areas.

1266 **Senator BUSHBY**—Has that level of activity changed at all in recent months?

1267 **Ms Constable**—Not to my knowledge, no.

1268 **Senator BUSHBY**—Coming back to the RSPT in particular, can you explain to the committee  
1269 how the 40 per cent loss guarantee provision of the RSPT will change the manner in which banks  
1270 and other financial institutions will structure lending arrangements for resource projects?

1271 **Mr Clarke**—No. That is a question you should direct to the Treasury portfolio.

1272 **Senator BUSHBY**—In your role, when you interact with potential investors and mining  
1273 companies, both foreign and domestic, do you gain any understanding or does the department have  
1274 any expertise in the financing of mining investments?

1275 **Mr Clarke**—I would not characterise the department as having expertise in the financing of—

1276 **Senator BUSHBY**—But how about in understanding how the financing drives the ability of  
1277 investors to actually invest in the mining sector?

1278 **Mr Clarke**—We talk to all of the participants in the industry on all sorts of issues all of the time,  
1279 so, yes, we are aware, conscious, of those perspectives.

1280 **Senator BUSHBY**—As part of that level of awareness, are you aware of what factors financiers,  
1281 when looking to finance mining interests, consider as part of the process they go through of making  
1282 their determination whether to finance or not?

1283 **Mr Clarke**—Again, we have canvassed this earlier. At the end of the day it is a return on  
1284 investment. There are multiple factors that go into making those judgments.

1285 **Senator BUSHBY**—Are you aware of the sorts of issues that the bank looks at though in terms  
1286 of whether to make a decision to finance a particular entity into a mining project?

1287 **Mr Clarke**—We talk to all participants in the sector, so yes.

1288 **Senator BUSHBY**—What sorts of factors would a bank look at that might be different to what  
1289 the project or the company that was running the project might be looking at?

1290 **Ms Constable**—There are a whole range of factors that are looked at by a financial  
1291 institution—that is, the project itself, the value of the resource, the debt-equity ratio of the entity and  
1292 the risk profile of the particular project. There are a range of factors that any financial institution will  
1293 look at before they make a decision.

1294 **Senator BUSHBY**—So there are a range of factors. Would the potential return be one of those  
1295 factors?

1296 **Ms Constable**—Yes, that is correct.

1297 **Senator BUSHBY**—Are you aware whether Treasury tested with financial institutions before 2  
1298 May its proposition as to the claimed impact of the 40 per cent loss guarantee provision of the RSPT  
1299 on the approach banks and other financial institutions will take when structuring lending  
1300 arrangements for resource projects?

1301 **Mr Clarke**—We cannot respond to questions regarding what happened in other departments  
1302 where what they were doing was within their portfolio responsibility. You would need to direct that  
1303 question to Treasury.

1304 **Senator BUSHBY**—Are the three people who were seconded to Treasury back with you now?

1305 **Mr Clarke**—No. One has since left the department and the other two are still there.

1306 **Ms Constable**—The other two remain in the secretariat.

1307 **Senator BUSHBY**—While they are there, you are not able to get a report from them as to the  
1308 RSPT or to interact with them in any way that can assist you to assess what impact the RSPT might  
1309 have in the longer term?

1310 **Mr Clarke**—While our two officers are in Treasury they are seconded, so they are reporting into  
1311 the Treasury structure. They access the resources of the department, the information base and  
1312 expertise in the department, in order to fulfil their roles as—

1313 **Senator BUSHBY**—But as we established earlier it is sort of a one-way street at this point. The  
1314 information goes to Treasury from you through them, but you are not getting anything back?

1315 **Ms Constable**—We do have regular discussions with the two people that are placed in the  
1316 secretariat to absolutely understand what is occurring within the discussions being held on the RSPT  
1317 and the consultations being held on the RSPT at the moment.

1318 **Mr Clarke**—As I have already advised, we are also participating in the room during the formal  
1319 consultation process. So we are, I believe, keeping ourselves well informed and expressing our  
1320 views on the process. That is what we are doing.

1321 **Senator BUSHBY**—So you have had an opportunity, since finding out the final form of the  
1322 RSPT on 1 May, to provide the department's input from the perspective of what you are trying to  
1323 achieve as a department, which is growing the mining industry in Australia, into the RSPT  
1324 consultation process?

1325 **Mr Clarke**—Correct.

1326 **Senator BUSHBY**—You have made representations in that regard? I am not going to ask you  
1327 what they are, because I cannot.

1328 **Mr Clarke**—We are actively involved in that debate.

1329 **Senator BUSHBY**—Can you advise whether you are aware, on your analysis of the RSPT, and  
1330 the advice that you have received through your officials and others, whether the RSPT will apply to  
1331 fuels used in electricity generation, and the mining of those?

1332 **Mr Clarke**—No, I am not willing to give a response to that as that is properly the domain of the  
1333 department administering the tax—Treasury—but we have already had a discussion on the basis of,  
1334 assuming it is, what the potential impact would be. So we are certainly closely engaged on that  
1335 question as to the impact, if any, of a rent tax on electricity prices.

1336 **Senator BUSHBY**—So you are engaged in that discussion. No doubt we will ask Treasury when  
1337 they are before us later today or tomorrow—probably both—about the question of whether it does  
1338 apply. But you currently are, on that assumption, analysing what impact it might have and  
1339 discussing that with Treasury as part of the consultation process.

1340 **Mr Clarke**—Yes, what impact, if any, that it might have, on the assumption that it does apply.

1341 **Senator BUSHBY**—I understand that you are not conceding that there is an impact. But, if there  
1342 was, then you would be discussing that with Treasury.

1343 **Mr Clarke**—Correct.

1344 **Senator BUSHBY**—Presumably as part of that, on those assumptions that we have  
1345 acknowledged, you would also be discussing whether that would then flow through to higher  
1346 electricity costs to businesses and households. Those would be the sorts of things you would look at,  
1347 on that assumption.

1348 **Mr Clarke**—Correct.

1349 **Senator BUSHBY**—How many tonnes of LNG have been exported from Australian projects  
1350 operating under the PRRT regime?

1351 **Mr Hartwell**—At this stage there are no LNG exports under the PRRT regime.

1352 **Senator BUSHBY**—In view of the ongoing Gulf of Mexico oil rig blow-out disaster in deep  
1353 water, what comfort can you give the Australian public that projects in Australian waters are better  
1354 designed and managed by their operators and better supervised by government agencies?

1355 **Mr Hartwell**—Obviously we are monitoring closely what is happening in the Gulf of Mexico  
1356 and, indeed, the actions that have been taken by the US government. We do not believe that the

1357 situation in Australia is directly comparable. We have regime in Australia which in some ways the  
1358 United States is grappling towards. For example, Australia introduced discrete, stand-alone safety  
1359 regulators, such as NOPSA in 2005—a step that the US is only now implementing, following the  
1360 incident. The level of activity between the two countries is certainly very much different. For  
1361 example, there are currently close to 250 rigs in the Gulf of Mexico, compared with around 17 in all  
1362 Australian waters. There are some 7,000 active leases in the Gulf of Mexico, compared with around  
1363 400 exploration permits, production licences and retention leases in Australia. So we are dealing  
1364 with different regimes to a great extent, certainly in size. All of that being said, we are very  
1365 conscious, as I said in an earlier answer, that we need to learn from what is happening there. The  
1366 Australian community would expect, from both governments and operators, that we have a first  
1367 class regulatory regime and our operators are at best practice.

1368 **Senator EGGLESTON**—I would like to ask you a question which follows from a comment you  
1369 just made, where you said at the moment there is no resource rental tax on gas production in the  
1370 North West Shelf. Are there any plans to remove the exemption of the North West Shelf from the  
1371 petroleum resource rent tax?

1372 **Mr Hartwell**—That is a matter that has been under consideration in the context of the RSP  
1373 deliberations, and I cannot say anything more at this time.

1374 **Senator EGGLESTON**—In the same vein, will the department or the minister be  
1375 recommending the increase of the petroleum resource rent tax to match that of the proposed resource  
1376 super profits tax?

1377 **Mr Hartwell**—I am not in a position to comment on that at this point in time.

1378 **Senator EGGLESTON**—But you did a moment ago say ‘at the moment’.

1379 **Mr Hartwell**—Sorry?

1380 **Senator EGGLESTON**—A moment ago you said words to the effect of ‘at the moment’ in  
1381 response to a question from Senator Bushby, which makes me wonder whether or not there is some  
1382 consideration being given to these points.

1383 **Mr Hartwell**—No, I just said that issues have arisen in the context of the RSP deliberations, as  
1384 you would be aware, and they are ongoing processes. That was the tenor of my reply.

1385 **Senator EGGLESTON**—There is also some suggestion from BHP that the new tax on  
1386 superprofits will apply to black and brown coalmines and that this will have to be passed on. That  
1387 may engender higher electricity prices because of—

1388 **Senator Carr**—We are constantly asked the same questions. At least listen to your colleagues.

1389 **Senator EGGLESTON**—It is suggested the higher costs will have to be passed on and that will  
1390 add \$3 to \$4 per megawatt hour to the average industrial or commercial user’s power bill, lifting  
1391 Australia’s manufacturing cost base by between \$800 million and \$1 billion.

1392 **Senator CAMERON**—More scare campaigns.

1393 **Senator EGGLESTON**—That is a view held by a very important and reliable company in the  
1394 Australian minerals sector.

1395 **Mr Clarke**—We have already provided evidence to the effect that we do not see any reason at  
1396 this stage why there should be an increase in electricity prices as a result of this tax.

1397 **Senator EGGLESTON**—If it is going to add to the costs of black and brown coal production—

1398 **Senator Carr**—That is not true.

1399 **Senator PRATT**—It will not add to the cost.

1400 **Senator EGGLESTON**—It certainly will.

1401 **Mr Clarke**—We do not accept that it will add to the price of fuel for electricity generators.

1402 **Senator CAMERON**—High school economics for this lot on the other side.

1403 **Senator SIEWERT**—With regard to the Montara spill, a number of reviews were put in place at  
1404 the time that the inquiry was set up. I wonder where they are up to. I realise they are not all your  
1405 responsibility— DEEWR was doing one. I wonder where they are up to and whether your  
1406 department is responsible for the overall coordination of those.

1407 **Mr Hartwell**—As you correctly point out, there are a number of inquiries related to the Montara  
1408 incident, the prime one being, obviously, the commission report, which I referred to earlier, which  
1409 will be delivered in June.

1410 **Senator SIEWERT**—Is it still planned to be 18 June?

1411 **Mr Hartwell**—That is the intention at this point in time, yes. But there are other inquiries going  
1412 on, in particular the National Offshore Petroleum Safety Authority has been looking at some of the

1413 safety issues around that. The department of the environment has been looking at the environmental  
1414 impacts. As well the Australian Maritime Safety Authority has been looking at some of the issues  
1415 that they have faced and addressed as part of Montara. I cannot answer where all of those inquiries  
1416 are. They are outside our particular jurisdiction, but essentially you are quite right: there are a  
1417 number of inquiries going forward.

1418 **Senator SIEWERT**—I can ask NOPSA their questions shortly and I chased up the national plan  
1419 with AMSA last week. Is your agency responsible for the overall coordination once those various  
1420 reviews are done? I will come to the compliance regs in a minute. Are you responsible for pulling all  
1421 those together and providing advice on the whole?

1422 **Mr Hartwell**—In relation to the legal and regulatory issues, some of the operating procedures  
1423 and some of the broader legal and regulatory requirements on offshore operators, that will certainly  
1424 be the responsibility of our minister and the department. In relation to those other issues, of course  
1425 NOPSA has responsibility for safety. They will be responsible for addressing any of the issues that  
1426 arise from their own investigation into what happened at Montara, and likewise the other agencies  
1427 involved. In terms of overall coordination, when we were responding to the Montara incident,  
1428 indeed there was a coordinated response; all agencies were involved. Going forward, depending on  
1429 the outcome of all those inquiries there may be some coordinated effort, but we do all have our own  
1430 responsibilities in this area.

1431 **Senator SIEWERT**—When your minister announced the Montara inquiry, he also announced  
1432 those other reviews. Am I to understand that that is the extent of the coordination of the review  
1433 process?

1434 **Mr Hartwell**—He mentioned those other reviews. There are other reviews going forward in  
1435 relation to some of the operational aspects of NOPSA, as well some issues arising from Veranus  
1436 Island. The government has just recently put up its response to that on the departmental website. So  
1437 there is a whole range of activity. Admittedly, the final objective is to make sure that our legal and  
1438 regulatory regime is the best it possibly could be.

1439 **Senator SIEWERT**—Are you the agency responsible—I presume you are—for the review of  
1440 compliance with regulations that was going on, particularly by the NT department? I know that a  
1441 submission was put in to the inquiry. Is that the extent of the review or is there more work being  
1442 done by the agency? If there is, where is that up to and when will it be released?

1443 **Mr Hartwell**—Following the Montara incident the NT government agreed to a voluntary peer  
1444 review. That was undertaken by this department, but it also included a representative from  
1445 Geoscience Australia and another designated authority, in this case Victoria. Certainly we think that  
1446 going forward a number of issues will come out of that, but at the moment that is work in progress  
1447 and it is with the Northern Territory at this point in time.

1448 **Senator SIEWERT**—It has not been completed, you said.

1449 **Mr Hartwell**—It has been sent to the Northern Territory government for their consideration  
1450 prior to finalisation.

1451 **Senator SIEWERT**—Is it likely to be publicly released? Who would be releasing it?

1452 **Mr Hartwell**—That is a matter we will have to give consideration to with the minister.

1453 **Senator SIEWERT**—Okay. In terms of the process with the review of the national response  
1454 plan that AMSA is undertaking, will they be releasing that separately, not through your  
1455 agency?

1456 **Mr Hartwell**—I would expect that to be the case, but you would have to ask the question.

1457 **Senator SIEWERT**—Can I quickly move on to the issue of the disposal of the West Atlas rig,  
1458 which was destroyed in the fire. What is the normal process for dealing with that? What is the  
1459 process that is going to be undertaken for that particular rig?

1460 **Mr Hartwell**—Basically that is an ongoing process. Essentially, PTTEP are seeking the  
1461 appropriate regulatory approvals to dispose of the rig, including from NOPSA as the safety  
1462 authority, and that process is going forward.

1463 **Senator SIEWERT**—What is the time line for that? Why is it PTTEP rather than Seadrill,  
1464 because the West Atlas rig is not owned by PTTEP.

1465 **Mr Hartwell**—The PTTEP had contracted Seadrill. They have taken responsibility for that and,  
1466 as I said to you, it is a process going forward.

1467 **Senator SIEWERT**—When will that be completed? Where is it likely to be—

1468 **Mr Hartwell**—Timing is uncertain, but certainly they are trying to do that as quickly as possible,  
1469 obviously.

1470 **Senator SIEWERT**—Sorry, I am not trying to be provocative. Is it within the next six months?  
1471 Is it within the next two months?

1472 **Mr Hartwell**—I would have to take that on notice. My advice is that it would be in the next six to  
1473 12 months.

1474 **Senator SIEWERT**—Can you tell me where they are applying to dispose of it?

1475 **Mr Hartwell**—I cannot answer that question at this stage.

1476 **Senator SIEWERT**—You cannot because you do not know or because— **Mr Hartwell**—We  
1477 have not been informed.

1478 **Senator SIEWERT**—Who would I ask to find out that information?

1479 **Mr Hartwell**—We can take that on notice and be in contact with PTTEP. They are yet to submit  
1480 their final plans on that.

1481 **Senator SIEWERT**—Thank you for that. Do you have an indication of when they are likely to?  
1482 Is there a process that you have set out for when they have to meet that?

1483 **Mr Hartwell**—Obviously we would like these issues attended to as soon as possible, but there  
1484 are appropriate regulatory processes that have to be gone through, including the safety aspect, in  
1485 going onto the rig, dismantling it appropriately and decommissioning it in the appropriate manner.

1486 **Senator SIEWERT**—When you talk about decommissioning, I presume that involves making  
1487 sure it is clean and does not have contaminants.

1488 **Mr Hartwell**—Yes.

1489 **CHAIR**—We have to move on now.

1490 **Senator SIEWERT**—Can I have one more question?

1491 **CHAIR**—One more.

1492 **Senator SIEWERT**—In terms of the release of the acreage program, is there a process that is  
1493 going to be put in place for reviewing that program in light of what has been going on in the Gulf of  
1494 Mexico, particularly the deepwater issues?

1495 **Mr Hartwell**—Obviously we would always take into account some of the issues that emerge in  
1496 the Gulf of Mexico and indeed in Australia, but that is no reason to suggest that we should not  
1497 continue with the acreage program. We need to ensure that we do that in an appropriate manner. The  
1498 minister has expressed that publicly many times, and the department is working with the state and  
1499 territory governments and the industry. There are a whole range of processes that would need to be  
1500 gone through once we award some of the release of acreage to ensure that, again, we address some  
1501 of the issues. We would be the first to admit—and the minister has admitted—that some issues have  
1502 come forward in relation to the offshore petroleum industry over the last two years or so, but we are  
1503 working very assiduously to make sure that they are addressed.

1504 **Senator PRATT**—For the record, there is no evidence to suggest that the RSPT will impact in  
1505 any way on energy prices in this country. Is that correct?

1506 **Mr Clarke**—That is our analysis.

1507 **Senator PRATT**—To turn to what is impacting on energy prices in this country, is it true to say  
1508 that electricity prices currently reflect the growing cost of delivering supply reliability? What is the  
1509 state of our electricity infrastructure? What are the cost pressures on consumers that are coming  
1510 from the historic underinvestment?

1511 **Mr Clarke**—Let me give a broad overview. I will then ask my colleague to fill in the details. It is  
1512 correct that prices for electricity are rising at the moment. Electricity prices are made up of a number  
1513 of components. One is generation. Behind that are capital, operating and fuel costs. We have just  
1514 had a discussion about potential impact on the fuel cost. There are the transmission system, the  
1515 distribution system and the retail operators themselves. Transmission and distribution are regulated  
1516 entities. The impact of their costs on final prices are, therefore, a function of regulatory  
1517 determinations. The generation and retail sectors are competitive. I will ask my colleagues to  
1518 broadly break down the components and the drivers of price increases inside them.

1519 **Mr Morling**—As a rule of thumb, wholesale energy costs are about 40 per cent of a final retail  
1520 bill, network costs are about 50 per cent of a retail bill and retail operating costs and margins are  
1521 around 10 per cent of a retail bill. Yes, prices have been rising and to a large degree these prices have  
1522 been driven by investment in network infrastructure to meet both reliability issues and increasing  
1523 demand. If you like I can give you a brief overview of recent price increases in the jurisdictions,  
1524 noting that the jurisdictions have their own processes for setting these prices and these are retail  
1525 capped prices. It is always up to consumers to undertake a market contract if they so wish—except  
1526 in Victoria, which has deregulated prices.

1527 **Senator PRATT**—I think that would be useful, but what I am interested in is how most states  
1528 have had considerable increases in energy prices. I think that is widely on the record. Is the real  
1529 driver behind that because the networks are regulated? Does that mean that, historically, the  
1530 regulation has meant that there has been an underinvestment that now needs to be passed on to  
1531 consumers?

1532 **Mr Morling**—It could be that. There are a number of reasons behind setting reliability standards,  
1533 and that is an issue for each jurisdiction. It also can be because of increased demand, population  
1534 growth and other issues, but it is certainly true to say that network charges have basically been the  
1535 driver behind the majority of price increases.

1536 **Senator PRATT**—So it is a question of both demand and ageing infrastructure as key drivers on  
1537 current electricity prices.

1538 **Mr Morling**—Yes. It is not always ageing infrastructure. It can be, but in particular areas or  
1539 regions particular jurisdictions might decide to have higher reliability standards than they had  
1540 previously, and that requires an increase in network expenditure.

1541 **Senator PRATT**—Thank you. If you would like to comment on recent price increases in various  
1542 states, I would be pleased for you to do so, but as I understand it this is a question for the  
1543 Commonwealth by virtue of trying to hold the states to account through assisting in the development  
1544 of a National Energy Customer Framework. How will such a framework go about improving  
1545 protections for vulnerable customers?

1546 **Mr Morling**—Sure. There are a couple of concepts mixed in. Perhaps I will put some of the price  
1547 increases that we are aware of on notice and turn to the vulnerable customer issue.

1548 **Senator PRATT**—Thank you.

1549 **Mr Morling**—I note that this has been worked up through officials. The package itself has had  
1550 two major consultation sessions. It will also be the subject of discussion at the ministerial council on  
1551 energy. I note that the final policy positions have not been taken. Broadly speaking, the regime that  
1552 is in the current customer framework provides a number of things. It provides access to an offer of  
1553 supply to all small customers. It provides an accessible framework for customers, including those  
1554 wishing to connect small generators such as photovoltaic systems, to arrange new connections. It  
1555 provides for mandatory minimum terms and conditions for all retail contracts, including such things  
1556 as how and when a security deposit can be obtained and the maximum amount of that security  
1557 deposit. It also deals with frequency and contents of bills and types of payment methods that must be  
1558 available to consumers. It also provides for limitations on disconnection, including the processes to  
1559 follow before a customer, including those experiencing financial hardship, can be disconnected.

1560 The customer hardship regime requires retailers to develop a range of programs to assist those  
1561 customers in financial hardship, particularly including residential customers experiencing longer  
1562 term payment difficulties. All retailers must have a hardship policy and the programs underneath  
1563 that, and those hardship policies must be pre-approved by the Australian Energy Regulator.

1564 **Senator PRATT**—So is it envisaged that those measures will be in greater demand because of  
1565 the increasing electricity prices? Does that underpin the importance of developing this framework?

1566 **Mr Morling**—The framework, as I understand it, is put together on the basis of dealing with  
1567 those customers. It is not making judgments about whether there will be more or less of them.

1568 **Senator LUDLAM**—I understand the uranium council was a successor to the Uranium Industry  
1569 Framework. Can you tell us what its budget is?

1570 **Mr Sheldrick**—The framework process a number of years ago was allocated about \$10 million.

1571 **Senator LUDLAM**—What is it worth this year?

1572 **Mr Sheldrick**—We have a program of work for the council spreading over a number of years. I  
1573 will need to check the actual number for this year's budget.

1574 **Senator LUDLAM**—We are here in budget estimates. Is that not something that you have in  
1575 front of you?

1576 **Mr Sheldrick**—I do.

1577 **Senator LUDLAM**—While you are at it, can you tell us how many public servants work full  
1578 time or part time—or maybe express it as FTEs—for the council?

1579 **Ms Constable**—There is no-one working directly for the council. We have a secretariat within  
1580 the department which works on a whole range of uranium issues. Depending on the work of the  
1581 council at any one time, it may be one person or it may be half a person. It really depends on the  
1582 work at the time.

1583 **Senator LUDLAM**—Is that Mark Chalmers? Is that your secretary?

1584 **Ms Constable**—No, he is the chair of the council.  
1585 **Senator LUDLAM**—How much is he paid for his work?

1586 **Mr Sheldrick**—Until recently Mark was undertaking that role without cost to us. More recently  
1587 he has moved onto a small contract. I will need to take that on notice.

1588 **Senator LUDLAM**—That is two budget questions you have taken on notice.

1589 **Mr Sheldrick**—With respect to the earlier one on the UIF projects, the costing that I have for the  
1590 period 2009-11 has a budget of about \$3.1 million.

1591 **Senator LUDLAM**—The council has been characterised by the uranium industry as a leading  
1592 advocacy group. Can you explain to me why a group dedicated to increasing the exploitation of  
1593 uranium should be funded by the Commonwealth? Why does this particular sector deserve  
1594 Commonwealth support to do its advocacy for it?

1595 **Mr Sheldrick**—The council is an industry led council with most of the members on it coming  
1596 from industry. A lot of the work and effort that is put into the output of the uranium council is  
1597 provided by the industry representatives in kind. There is Commonwealth funding, but there is also  
1598 in-kind funding from the industry.

1599 **Senator LUDLAM**—There are two of the largest resource companies in the world exploiting  
1600 uranium in Australia, and a host of others, but the Commonwealth still thinks it is worth \$3 million  
1601 of taxpayers' money to do its advocacy for it.

1602 **Ms Constable**—Can I correct that?

1603 **Senator LUDLAM**—Sure.

1604 **Ms Constable**—You made the point that it is an advocacy group.

1605 **Senator LUDLAM**—I am just repeating what the industry says.

1606 **Ms Constable**—We do not fund advocacy in the Commonwealth. We fund specific projects that  
1607 are undertaken and that are for the good of the industry and for the good of the Australian  
1608 community.

1609 **Senator LUDLAM**—Mr Chalmers is the founder of a uranium investment and services advisory  
1610 firm, Uranium Associates Pty Ltd in Adelaide. Does he have a really clear conflict of interests in  
1611 holding this position for the Commonwealth?

1612 **Ms Constable**—There is no conflict of interests in holding this position. When Mr Chalmers was  
1613 made the chair of the council, it was very clear about his interests. As with any group that is formed,  
1614 where there is a conflict of interests that conflict of interests is declared at the time and then the  
1615 council as a whole would seek to remove the individual from particular discussions. But the issues  
1616 that are considered within this council are very broad in nature, apply to the whole industry, and  
1617 every member would have an interest in what is discussed.

1618 **Senator LUDLAM**—Do other commodities get their own taxpayer funded advocacy groups or  
1619 is uranium a special case?

1620 **Ms Constable**—I want to make it very clear that we do not consider this as an advocacy group.  
1621 This is a council and there are many councils that the Commonwealth is part of and is interested in  
1622 from an industry perspective. This uranium council is one of those.

1623 **Senator LUDLAM**—You need to let the industry know that it is not an advocacy group, because  
1624 that is how they are phrasing it.

1625 **Mr Clarke**—Ms Constable did not say that the group does not undertake advocacy. What she  
1626 was clarifying was that the work that the Commonwealth commissions from the group is not  
1627 advocacy work. We often contract industry associations and industry groups to do project work in  
1628 policy development and regulatory development for the department. That is a normal practice in  
1629 how we access that sort of expertise.

1630 **Senator LUDLAM**—I think that is an extraordinary blurring of the boundaries, but I know other  
1631 senators have questions, so I will leave it there.

1632 **Senator BUSHBY**—The Hawke-Keating government specifically acknowledged the adverse  
1633 impact of the PRRT on Victorian domestic gas prices and provided substantial cash offsets as a  
1634 result. If it transpires that the super profits tax results in increased electricity prices—and I know we  
1635 have discussed that—would it be appropriate to do the same and provides substantial cash offsets to  
1636 offset the increased cost?

1637 **Mr Clarke**—First of all, your question is premised on what I would regard as a hypothetical  
1638 scenario and, second, it is a matter on which, while this department would provide advice, the  
1639 decision-making would be through the responsible department, Treasury.

1640 **Senator BUSHBY**—Thank you. When he was in opposition, now Minister Ferguson, in respect

1641 of the PRRT threshold rate, called for a consideration of a higher rate. If he could make that  
1642 statement when he was in opposition, what has changed that would make a threshold rate roughly  
1643 five per cent lower than that applicable to the PRRT adequate under the RSPT just a few years later?  
1644 This is probably a question for the minister.

1645 **Senator Carr**—I am not aware of that statement by Minister Ferguson.

1646 **Senator BUSHBY**—We will move on from there then. In a statement you might be aware of, the  
1647 Prime

1648 Minister was reported in the *Sydney Morning Herald* on 25 July last year as saying:

1649 As a capital importing country, we need to be mindful of the impact domestic tax laws have on global  
1650 investment

1651 decisions and our ability to attract investment and international business.

1652

1653 Minister, do you agree with the Prime Minister that Australia's tax regime can have a direct impact  
1654 on global investment decisions and in particular on Australia's ability to attract investment and  
1655 international business?

1656 **Senator Carr**—What I am aware of is Australia is a good place to do business.

1657 **Senator BUSHBY**—It certainly has been.

1658 **Senator Carr**—I am also aware that KPMG's report on the overall taxation regime, which was  
1659 given from my own department, put Australia in an extremely strong position.

1660 **Senator BUSHBY**—Was that before the RSPT? Does it take account of it?

1661 **Senator Carr**—That was a report recently given to me. I am also aware that the new initiatives  
1662 that the government is pursuing in regard to the RSPT are for non-renewable resources and are  
1663 provided in the context of a suite of measures. These include a resource exploration rebate,  
1664 substantive investments in infrastructure and a substantial reduction in company taxes for all  
1665 businesses in Australia. It also includes provisions for enhanced superannuation benefits for all  
1666 Australians.

1667 Regarding the overall impact of this proposal, the modelling suggested that economic activity  
1668 will increase, that the benefits to Australia will increase and that what we are hearing is a lot of  
1669 hysterical nonsense from the mouthpieces of some—

1670 **Senator BUSHBY**—A lot of it is historical in the sense that it is based on a lot of facts.

1671 **Senator CARR**—We have heard this before. This is not the first time. It is historical in the sense  
1672 that it is not the first time we have heard these interests demand to not pay a fair share of what are the  
1673 people's resources. This is the people's property. You are prepared to argue this case on behalf of  
1674 sectional interests. We are saying that the people of this country are entitled to a fair share.

1675 **Senator BUSHBY**—Chair, I think he is way off the question.

1676 **CHAIR**—I think you are right to draw my attention. We are now due to move to Geoscience. I  
1677 thank the resources and energy section of the department for coming in this morning.

1678 [11.32 am]

1679 **Geoscience Australia CHAIR**—I welcome

1680 Geoscience Australia. Is there an opening statement you would like to make? **Dr Pigram**—No,

1681 thanks. **Senator BUSHBY**—When was the last edition of your publication, *Oil and gas*

1682 *resources of Australia*,

1683 published?

1684 **Dr Pigram**—I will just ask my colleague.

1685 **Dr Foster**—You will find that it is now an online publication and the figures for 2007-08 will be  
1686 on the

1687 website now.

1688 **Senator BUSHBY**—You say it is an online publication. Are you saying then that it is sort of a  
1689 work in progress and that it is constantly updated?

1690 **Dr Foster**—It is updated annually.

1691 **Senator BUSHBY**—So it is still an annual update? So it is not kept up to date haphazardly and  
1692 regularly. It is still a once-a-year type thing?

1693 **Dr Foster**—Yes.

1694 **Senator BUSHBY**—Last year before Senate Select Committee on Fuel and Energy, I think you  
1695 indicated that Australia remains lightly explored for oil and conventional gas. Has anything changed  
1696 in that time? Are there any changes in the levels of exploration for oil and gas?

1697 **Dr Foster**—I have to rely on the department to give us the actual numbers of the uptake of  
1698 acreage but in general the answer is yes—we do remain lightly explored, particularly in the offshore,  
1699 for oil and gas.

1700 **Senator BUSHBY**—How does Geoscience Australia go about identifying prospective  
1701 geological basins?

1702 **Dr Foster**—We use existing data, which has occurred, for example, in the Continental Margins  
1703 Program, which was shot in the 1970s. We look at that data. We consider the architecture of the  
1704 offshore basins. We consult with the industry through APIA. For the Offshore Energy Security  
1705 Program we produced a portfolio of opportunities, which we discussed with APIA and the industry  
1706 and then selected our project areas.

1707 **Senator BUSHBY**—Are ‘project areas’ different to ‘prospective areas’?

1708 **Dr Foster**—There are areas in which we require information. We look at the prospectivity and  
1709 then provide that regional information for companies to work at a finer scale.

1710 **Senator BUSHBY**—Is ‘prospective geological basin’ a term that you use? Do you actually  
1711 identify areas as ‘prospective’?

1712 **Dr Foster**—Yes, they can be prospective. They can have the elements, the thickness and the  
1713 architecture but of course they require much finer scale research.

1714 **Senator BUSHBY**—Absolutely. When you identify it as ‘prospective’ the area has a greater  
1715 likelihood of  
1716 containing oil and gas resources than other areas on the basis of the sort of analysis you mentioned  
1717 earlier?

1718 **Dr Foster**—Yes.

1719 **Senator BUSHBY**—What percentage of prospective geological basins have been explored?

1720 **Dr Foster**—I would have to take that on notice.

1721 **Senator BUSHBY**—What percentage are under exploration licence?

1722 **Dr Foster**—Approximately 17 to 20 per cent of the offshore areas are under licence.

1723 **Senator BUSHBY**—So 80 per cent of the prospective geological areas are not even under  
1724 licence and  
1725 nevertheless are being explored?

1726 **Dr Foster**—Yes.

1727 **Senator BUSHBY**—How much of the 20 per cent would be actively explored?

1728 **Dr Foster**—All of it, because they are under permit.

1729 **Senator BUSHBY**—And they are required to be under that permit?

1730 **Dr Foster**—Yes.

1731 **Senator BUSHBY**—In your opinion is it likely that the prospective areas could deliver more  
1732 known  
1733 reserves of oil and gas capable of economic extraction if they were properly explored?

1734 **Dr Foster**—Yes.

1735 **Senator BUSHBY**—Are there any prospective areas that have not been explored at all? I take it  
1736 from your  
1737 earlier answer, that that would be the 80 per cent. There may have been pre-existing—

1738 **Dr Foster**—Yes, there are areas that have been looked at in the past. There are areas that need to  
1739 be relooked at.

1740 **Senator BUSHBY**—Would it be roughly equivalent to the 80 per cent? The prospective areas  
1741 that have  
1742 never been explored would be less than 80 per cent?

1743 **Dr Foster**—I think it would be best to take that question on notice.

1744 **Senator BUSHBY**—How does the level of exploration of prospective areas in Australia in terms  
1745 of their

1746 level of activity of exploration compare with that of similarly prospective areas elsewhere in the  
1747 world?

1748 **Dr Foster**—I am not sure of the answer to that question, because the level of exploration relates  
1749 to perhaps success in an area.

1750 **Senator BUSHBY**—How many test drills are there in prospective areas in Australia compared to  
1751 test drills that are undertaken in similar areas elsewhere? I do not want an exact answer, but are we  
1752 comparable or are we way behind?

1753 **Dr Foster**—We are well underexplored in relation to wells. We have less than 10,000 wells on  
1754 and off shore.

1755 **Mr Hartwell**—Basically, we believe that Australia is relatively underexplored compared with  
1756 the rest of the world. In answer to a previous question I talked about the number of rigs and the  
1757 number of leases that existed in the Gulf of Mexico compared with the totality in Australia. Broadly,  
1758 we suggest we are underexplored in a comparative international sense.

1759 **Senator BUSHBY**—Is there anything about prospective geological basins in Australia that  
1760 makes them less attractive for exploration than elsewhere which would explain why we are  
1761 underexplored?

1762 **Mr Hartwell**—I think our exploration effort over the years initially was driven by attempts to  
1763 find another Bass Strait and significant exploration was undertaken. That did not occur. We  
1764 certainly found a lot of gas. Gas was not such a strategic commodity as it is these days. We have  
1765 found recently that there is increased exploration effort in Australia. The acreage release gets more  
1766 aggressive bidding. It is work program bidding that we operate under. You bid for acreage on the  
1767 basis of the work you are prepared to do in terms of both seismic activity and drilling wells.

1768 **Senator BUSHBY**—You mentioned that we are trying to find another Bass Strait. Given that we  
1769 are underexplored, the potential still exist that there is another Bass Strait out there?

1770 **Mr Hartwell**—If you talk to petroleum geologists and given we are underexplored and not a lot  
1771 of work has been done on what we would call ‘frontier basins’ then there is that possibility.

1772 **Senator BUSHBY**—How effective was the initiative of the previous government to provide  
1773 geoscience Australia with \$61 million over four years from 2003-07 to fund a new petroleum  
1774 program? Was it an effective program?

1775 **Dr Foster**—As an effective program, it can be measured by the uptake of areas which prior to  
1776 that work were not considered or not taken up in acreage release—in other words, we focused on  
1777 areas that had not received attention, we provided regional information and they were in fact taken  
1778 up.

1779 **Senator BUSHBY**—Thank you.

1780 **Senator EGGLESTON**—What involvement has Geoscience Australia had in the search and  
1781 investigation of the Mentelle Basin off the south-west Australian coast, off Margaret River?

1782 **Dr Foster**—We have taken seismic across there. In the \$61 million program, we shot some  
1783 seismic across that area. In 2008 and 2009, we then completed a further seismic study. As you will  
1784 be aware, it was released this year as an acreage release block in the Mentelle Basin. You can find  
1785 that on the departmental website.

1786 **Senator EGGLESTON**—Are there any companies interested in drilling that basin? Is that being  
1787 developed?

1788 **Dr Foster**—The acreage was released last month.

1789 **Senator EGGLESTON**—That is what releasing the acreage means?

1790 **Dr Foster**—Yes. That stays open until 12 May next year—12 months.

1791 **Senator EGGLESTON**—In other words, the acreage is available and companies are applying,  
1792 but you cannot detail who?

1793 **Dr Pigram**—There is no industry activity in the area at this time. They will consider the acreage  
1794 that has been put forward and they will make their own judgments around whether it has potential  
1795 for hydrocarbons. Then they will design a work program and make a bid if they think there is  
1796 potential in that space.

1797 **Dr Foster**—As noted, the work program bidding closes on 12 May 2011.

1798 **Senator EGGLESTON**—Thank you.

1799 **Senator LUDLAM**—You might want to take this on notice. I have been sent a paper by a  
1800 geophysicist who is investigating a link between very large open pit mines and seismic activity—the  
1801 super pit being one example and the Newcastle earthquake another and so on. Has Geoscience done

1802 any recent research into that  
1803 area and can you provide us with a backgrounder or table any research on induced earthquakes  
1804 around large open pits?  
1805 **Dr Pigram**—No.  
1806 **Senator LUDLAM**—No to everything?  
1807 **Dr Pigram**—We have not done any research in the research between open pit mining and  
1808 earthquake activity.  
1809 **Senator LUDLAM**—Do you think that is maybe a worthwhile line of inquiry? Concerns have  
1810 been raised around the Olympic Dam open pit as well. A fault runs right through where the mine  
1811 void will be. I wonder whether that is something that you are interested in.  
1812 **Dr Pigram**—It is not part of our work program, but I am happy to take it on notice.  
1813 **Senator LUDLAM**—I am not allowed to put something onto your work program, am I?  
1814 **Dr Pigram**—If you put some dollars in anything is possible!  
1815 **Senator LUDLAM**—Okay.  
1816 **Dr Pigram**—Sorry, I should withdraw that!  
1817 **Mr Clarke**—We have noted your interest in research in that area.  
1818 **Senator LUDLAM**—Thank you. If anything comes of that, I would be interested to hear it.  
1819 Seismogram  
1820 graphs around the Tennant Creek area are not posted on your website's recent earthquake link. Has  
1821 there been a lapse in data or in recording from Warramunga seismic array station?  
1822 **Dr Pigram**—Are these recent earthquakes or historical ones?  
1823 **Senator LUDLAM**—Yes, I believe so. Five or six Tennant Creek quakes since October 2009.  
1824 Most of the graphs are not on your website and you get a message that says, 'Insufficient data to  
1825 generate a wave form.' I find that odd given you have an array station not that far away.  
1826 **Dr Pigram**—I will ask Dr Drummond to address that question.  
1827 **Dr Drummond**—The Warramunga Array is operated by the Australian National University, not  
1828 by Geoscience Australia. We take wave forms from there for the purposes of nuclear monitoring and  
1829 earthquake detection throughout Australia. We have an application on our website that allows you to  
1830 plot seismograms. That is currently being redeveloped and, in that redevelopment, we will bring  
1831 back any traces that have been lost. It is quite possible, in the case of Tennant Creek, that the  
1832 seismometer within the array that we are using  
1833 has dropped out, and it would be up to the ANU to fix that.  
1834 **Senator LUDLAM**—When is that site expected to be redeveloped and have that data back up  
1835 online?  
1836 **Dr Drummond**—The website redevelopment is underway right now and should be up—that  
1837 element—  
1838 within the next 12 months.  
1839 **Senator LUDLAM**—Are there other seismic recording stations in that area? I know it is a bit of  
1840 a hotspot. I think that one of the maps that you published notes Tennant Creek as one of the areas.  
1841 **Dr Drummond**—We operate a national network, where the distance between stations is  
1842 typically 300 to 400 kilometres, for the purposes of detecting earthquakes above about magnitude  
1843 3½ throughout Australia. So  
1844 we do not have the capacity throughout Australia to go below that magnitude everywhere.  
1845 **Senator LUDLAM**—But below three is not even really perceptible to a human being at the  
1846 surface, is it?  
1847 **Dr Drummond**—You would feel it but it would not break anything.  
1848 **Senator LUDLAM**—Can you provide us, within reason—so not every tiny little tremor—with  
1849 an earthquake or tremor summary for the Tennant Creek area for the past 25 years or so? How  
1850 difficult would that be to produce?  
1851 **Dr Drummond**—You would be able to do that by simply querying the earthquakes on our  
1852 website by putting in a latitude-longitude range, and it would return to you all of the earthquakes that  
1853 we have recorded and noted in our system.  
1854 **Senator LUDLAM**—All right, but the reason I am asking this is that recent data, at least, has not

1855 been returned to the website. So there have been a couple of moderately serious quakes in the area  
1856 for which you do not have the data up online.

1857 **Dr Drummond**—It is possible that people would feel earthquakes but we would not record them.

1858 **Senator LUDLAM**—I mean ones that made the news.

1859 **Dr Drummond**—It is quite possible that people would feel them, and they would be reported in  
1860 the news,

1861

1862 but we would not record them on sufficient stations to be able to get an accurate location and  
1863 magnitude. You need to record them on at least three to four stations to get an accurate location and  
1864 magnitude.

1865 **Senator LUDLAM**—So do we have to wait 12 months for that site to be redeveloped before I  
1866 would be able to obtain the sorts of records that I am asking for?

1867 **Dr Drummond**—You can get that information, that table of earthquakes, now. It is the ‘Plot a  
1868 seismogram’ that is being redeveloped.

1869 **Senator LUDLAM**—Finally, I want to ask you briefly about the ISL best practice guide, which  
1870 I have here: Australia’s *National In Situ Leach Uranium Mining Best Practice Guide*. Can you just  
1871 tell us when this was commissioned and how much it cost to produce.

1872 **Mr Clarke**—I think that is a matter for the department rather than for Geoscience Australia.

1873 **Senator LUDLAM**—Okay. Your name is on the front cover, so—

1874 **Mr Clarke**—But it is for the department; we will respond to your question.

1875 **Senator LUDLAM**—All right; that is fine. It looks like there are actually four agencies listed  
1876 here; can you

1877 just quickly sketch for us what Geoscience’s role was in the production of the report.

1878 **Dr Pigram**—Sure. We would have provided the geoscience component of the report. We have  
1879 people who are expert in uranium mining, and in situ leach mining in particular, and we provide  
1880 advice to the department in relation to those practices, both within Australia and through monitoring  
1881 what happens globally. So we would have provided to the department the geoscience component of  
1882 that report.

1883 **Senator LUDLAM**—So you were not actually the lead agency responsible for the publication of  
1884 that  
1885 report?

1886 **Dr Pigram**—I think we were.

1887 **Senator LUDLAM**—You were?

1888 **Mr Hartwell**—But Geoscience Australia was the lead agency.

1889 **Senator LUDLAM**—Then I guess that is probably appropriate. Has it been peer reviewed?

1890 **Mr Hartwell**—The report was prepared in consultation with a wide range of interested  
1891 stakeholders, including the industry and a number of people with research capacity in this area. It  
1892 was coordinated by Geoscience Australia, but it had input from a very wide range of people who  
1893 could bring expertise to the table.

1894 **Senator LUDLAM**—I have run the clock down and I know there are other folk wanting to come  
1895 to the table, so, on notice, could you provide for me the names of those independent experts and  
1896 academics who you drew on, who you mentioned there?

1897 **Mr Hartwell**—Sure.

1898 **Senator LUDLAM**—That would be much appreciated.

1899 **Senator MILNE**—I want to ask some questions about the mapping and what work you have  
1900 done on

1901 geosequestration. Where are you up to with that? What has actually been produced in terms of the  
1902 mapping you have done?

1903 **Dr Pigram**—I will ask Dr Foster to answer that question for you.

1904 **Dr Foster**—As you know, we have produced the offshore acreage release documentation for the

1905 greenhouse gas mapping. Geoscience has contributed to the National Carbon Storage Taskforce in  
1906 assessing basins for their suitability for storage across Australia, and that document is published.

1907 **Senator MILNE**—What is your analysis of that document in terms of volume capacity of  
1908 storage sites across Australia with good storage capacity—safe and good?

1909 **Dr Foster**—We have adequate storage capacity.

1910 **Senator MILNE**—We have adequate storage capacity for what?

1911 **Dr Foster**—For the emissions that Australia generates, we have something in the order of 70 to  
1912 150 years of capacity.

1913 **Senator MILNE**—Where is the best storage capacity?

1914 **Dr Foster**—There are 12 ranked basins. As you will see in the report, the basin with the highest  
1915 capacity is

1916

1917 the offshore Gippsland basin.

1918 **Senator MILNE**—What about for the Hunter Valley?

1919 **Dr Foster**—In New South Wales—not the Hunter Valley per se but the Sydney basin and the  
1920 Darling

1921 basin—there is work being undertaken by the New South Wales government to look at storage  
1922 capacity.

1923 **Senator MILNE**—In terms of the maps that you have provided and the advice to date, is the  
1924 Sydney basin or the Darling basin one of the identified sites?

1925 **Dr Foster**—The capacity of the Sydney basin as is currently known is not great—and I stress ‘as  
1926 is currently known’. The same answer is for the Darling basin, simply because there has not been  
1927 enough wells drilled out there. The New South Wales government is undertaking a program to look  
1928 at rocks—to look at their capacity. So there is not enough knowledge at the moment to rule it in or  
1929 out.

1930 **Senator MILNE**—What additional work are you now doing in terms of geosequestration, and  
1931 who is paying for that?

1932 **Dr Foster**—There was a recommendation for, as I recall, \$50 million from the federal  
1933 government to assist in that work. The New South Wales government and other state governments  
1934 are undertaking their own

1935 studies. The Queensland government is also undertaking onshore work.

1936 **Senator MILNE**—So that \$50 million is in effect a subsidy to coal fired generation? Is that  
1937 right?

1938 **Dr Foster**—I could not comment on that, Senator. It is to look at the technical capacity of the  
1939 rocks to hold  
1940 carbon dioxide.

1941 **Senator MILNE**—My second question is in relation to oil, drilling and reserves et cetera. Given  
1942 the oil spills that we have had and the one that we are currently experiencing in the Gulf of Mexico,  
1943 what analysis

1944 have you done about the risks of deep water drilling around Australia’s coast?

1945 **Dr Pigram**—I think that is a question for the department. We are not involved in that aspect of  
1946 the business.

1947 **Senator MILNE**—So Geoscience Australia does not do that kind of analysis?

1948 **Dr Pigram**—No.

1949 **Senator CAMERON**—Dr Pigram, what is the total employment level of your department?

1950 **Dr Pigram**—Currently we are about 740 in total. Of those, about 150 are non-ongoing.

1951 **Senator CAMERON**—What is your annual turnover?

1952 **Dr Pigram**—In staffing numbers?

1953 **Senator CAMERON**—Yes.

1954 **Dr Pigram**—It is around six to eight per cent or below.

1955 **Senator CAMERON**—What would be the implications of a freeze on employment for two years  
1956 in your  
1957 department?  
1958 **Dr Pigram**—A freeze in employment for two years? If we were to lose staff of that sort of order,  
1959 it would have an impact in terms of potentially losing some specialists or some experts. If they were  
1960 to go and we were not able to replace them, that could potentially have a significant impact.  
1961 **Senator CAMERON**—What would be the figure on six per cent of your total number—what  
1962 would that  
1963 body count be?  
1964 **Dr Pigram**—It is about 40-odd, I guess.  
1965 **Senator CAMERON**—A year?  
1966 **Dr Pigram**—Yes.  
1967 **Senator CAMERON**—So 80 would go, including some specialist capacity. What would the  
1968 implications  
1969 be for your capacity to carry out the important work you are carrying out?  
1970 **Dr Pigram**—It is hypothetical in the sense that, as you appreciate, some of the attrition depends  
1971 on personal circumstances. Sometimes it is because of opportunities in the industry; sometimes it is  
1972 because people are ready to retire. It is very hard to predict which of the potential specialists you  
1973 might lose and which you would retain. It is very hard to say whether or not we could cover that. It  
1974 would depend very much on where those skills were, who left and under what circumstances.  
1975 **Senator CAMERON**—What about your earthquake monitoring—if you lost key personnel  
1976 there?  
1977 **Dr Pigram**—We have a bit of capacity. We are not down to one or two people with expertise in  
1978 seismology. We have a range of staff who could manage that, so we are quite robust in that space at  
1979 this time.  
1980 **Senator MILNE**—Further to the questions I was asking about the areas you have identified as  
1981 being suitable repositories for carbon storage, what level of risk is there associated with that in terms  
1982 of leakage, since the community is to take on the liability for those sites after 20 years? How do you  
1983 categorise the risk of leakage in your assessment that we have suitable capacity for 75 to 100 years?  
1984 **Dr Foster**—The initial study of the national Carbon Storage Task Force was to look at regional  
1985 areas to see whether we had the capacity in a regional sense in particular basins. When we come to  
1986 injection sites and areas such as that, a very detailed risk analysis is done. That is not the job of  
1987 Geoscience Australia. But clearly in the recommendation of the offshore acreage we are not  
1988 recommending areas which have perhaps major faults through them or so on. Geoscience  
1989 Australia—and we worked with the rest of the state geological surveys when we did the national  
1990 survey—looks at the regional capacity of a particular basin and then it is worked at the injection  
1991 level, which has a different set of criteria.  
1992 **Senator MILNE**—So, really, you cannot say that we have adequate capacity for 75 to 100 years.  
1993 What you can say is that we have got storage capacity according to the geology but, as to whether it  
1994 will store, you cannot say, can you?  
1995 **Dr Foster**—In certain areas in relation to basins which already hold oil and gas, we know the  
1996 capacity of those traps. We can say with confidence that we do have the capacity to store. Your  
1997 question relates—  
1998 **Senator MILNE**—To permanent.  
1999 **Dr Foster**—to risk analysis at a particular injection site level.  
2000 **Senator MILNE**—So you think you can confidently say you could permanently store without  
2001 leakage in those basins?  
2002 **Dr Foster**—Yes.  
2003 **Senator MILNE**—Excellent; we will hold you to it.  
2004 **CHAIR**—I thank Geoscience Australia for coming in today.  
2005 [11.58 am]  
2006 **National Offshore Petroleum Safety Authority**  
2007 **CHAIR**—Welcome, Ms Cutler. Do you have an opening statement you would like to make? Ms

2008 **Cutler**—No, I do not. **Senator EGGLESTON**—I understand that NOPSA has recently been  
2009 involved in the reporting of the  
2010 Veranus Island incident in Western Australia—is that the case? **Ms Cutler**—Yes, there have been  
2011 two preliminary reports released. One of them pertains to NOPSA. We  
2012 are unaware of the content of the final report.  
2013 **Senator EGGLESTON**—You are unaware?  
2014 **Ms Cutler**—Of the content of the final report. It is currently with the West Australian minister as  
2015 I  
2016 understand it. **Senator EGGLESTON**—Thank you very much for that information. There is no  
2017 point in my asking you  
2018 about recommendations that might be put in place to prevent a similar occurrence if that is the case.  
2019 **Ms Cutler**—The full report is with the West Australian minister.  
2020 **Senator EGGLESTON**—Are you also involved in the offshore regulation authority.  
2021 **Ms Cutler**—We are the safety regulator for the offshore area.  
2022 **Senator EGGLESTON**—But not in NOPSA itself.  
2023 **Ms Cutler**—That is a matter for the department.  
2024 **Senator EGGLESTON**—I did ask some questions about that earlier. Thank you.  
2025 **Senator MILNE**—Senator Siewert had some questions, but she has been in another committee  
2026 and is on her way here I am told. Following up from Senator Eggleston on the Western Australian  
2027 Montara spill you are saying that in relation to safety issues you have not analysed the reports.  
2028 Where are we up to with that?  
2029 **Ms Cutler**—Senator Eggleston was talking about the Veranus Island fire off the coast of West  
2030 Australia. The Montara spill was in Commonwealth waters in the Ashmore Cartier area which is in  
2031 the jurisdiction of the Northern Territory designated authority. We have jurisdiction over the safety  
2032 of the facilities in that area. Subsequent to the incident we have conducted an investigation which  
2033 has focused on determining whether or not there have been breaches of applicable occupational  
2034 health and safety laws. Those investigations are still continuing. We hope to draw them to a  
2035 conclusion in the coming weeks. If there have been breaches identified we will submit briefs of  
2036 evidence to the Commonwealth Director of Public Prosecutions for their consideration as to whether  
2037 to take prosecution action.  
2038 **Senator MILNE**—At what point will the public be informed? Presumably it will be after the  
2039 DPP's decisions—is that correct?  
2040 **Ms Cutler**—That is my understanding.  
2041 **Senator MILNE**—I will hand over to Senator Siewert in a moment but I just wanted to ask in  
2042 view of the oil spill in the Gulf of Mexico are you reviewing the safety procedures and standards that  
2043 we have? Given we will be doing more deep-water drilling if we are going to try to continue to  
2044 access oil in that way, are you considering reviewing the Australian standards or the standards to  
2045 which you adhere?  
2046 **Ms Cutler**—We currently have 15 drill rigs either operating or about to operate in the waters  
2047 where NOPSA has responsibility for safety. Each of those facilities has a safety case that we assess  
2048 and then go out and inspect to verify that the operators are in fact doing what they said they would  
2049 do. We are looking at the focus areas for our inspections and also the focus areas for the assessment  
2050 of the safety cases in the light of new information such as what is coming through from the  
2051 Deepwater Horizon spill in the Gulf of Mexico, what may come through from the Montara  
2052 commission of inquiry when it reports in June and other industry and regulatory experience around  
2053 the world. We are continually challenging ourselves and the industry as to whether we have  
2054 appropriate standards and approaches.  
2055 **Senator MILNE**—Thank you.  
2056 **Senator SIEWERT**—I want to follow up on Montara. I think you were in the room when I was  
2057 asking earlier questions or you would have heard them. In terms of where you are up to with your  
2058 specific review if it is not already completed when is it likely to be completed? Will you be releasing  
2059 it?  
2060 **Ms Cutler**—The investigation we are undertaking is focusing on potential breaches of  
2061 legislation. We are drawing close to the end of that review, so unless there is new information

2062 coming forwards in the coming weeks we would hope to have a brief of evidence prepared for  
2063 submission to the Commonwealth Director of Public Prosecutions in the coming weeks.

2064 **Senator SIEWERT**—If you are going through that process it is not likely that your report will be  
2065 publicly released. Is that right?

2066 **Ms Cutler**—That is correct. It then lies in the hands of the DPP to determination whether and  
2067 how they will move that forward to prosecution; they may require more information and may  
2068 request us to gather more evidence if necessary.

2069 **Senator SIEWERT**—Thank you. Are you saying you think that is going to happen in a number  
2070 of weeks.

2071 **Ms Cutler**—I said ‘weeks’; I did not specify a number. Weeks as opposed to months or years.

2072 **Senator SIEWERT**—Okay. I appreciate that prosecutions may arise from this particular  
2073 incident but I am looking at broader issues. Coming out of your investigation, are there likely to be  
2074 learnings for changing regulatory or compliance processes? I am trying to separate the general  
2075 learning about the safety planning process, for example, from the specific. I do not want to explore  
2076 the company issues because I appreciate that there could be proceedings out of that.

2077 **Ms Cutler**—The Montara commission of inquiry set up by the minister with Commissioner  
2078 Borthwick in charge has a much broader terms of reference. My colleagues from the department  
2079 over here are the appropriate people to ask the question, ‘When will that be reported?’

2080 **Senator SIEWERT**—We did explore that and I do know that one. My question is: are you doing  
2081 further work outside of your submission and the work that you have put into the inquiry? I may have  
2082 misinterpreted the minister’s announcement about the inquiry and further work that NOPSA and a  
2083 couple of other agencies were doing. You are not providing extra information on potential  
2084 regulatory changes or those sorts of issues outside of the prosecution approach and the work that you  
2085 have already put into the commission of inquiry?

2086 **Ms Cutler**—No, we are exactly focusing on those two areas.

2087 **Senator SIEWERT**—Thank you.

2088 **Senator PRATT**—How are negotiations regarding jurisdictional issues going? I know that,  
2089 between state and federal responsibilities in this field, there is a lot of overlap. Where do you think  
2090 the status of that is up to?

2091 **Ms Cutler**—I will refer that to the department. At NOPSA we basically focus on implementing  
2092 the legislation as it stands today in the geographic areas that we have responsibility for. We also  
2093 focus on facilities, not on other areas such as well integrity.

2094 **Mr Hartwell**—I assume, Senator, that you are referring to the minister’s announcement that he  
2095 was moving forward on having a national regulatory authority, and has been engaged for some time  
2096 in discussions with his state and territory counterparts to bring that about. This results from the  
2097 Productivity Commission review into offshore petroleum regulation. That process is ongoing. The  
2098 minister has publicly announced that he has put those negotiations on hold until the Montara  
2099 commission reports because some of the issues that might come out in the report would be relevant  
2100 to taking forward a proposed national regulatory authority.

2101 **CHAIR**—We will have to draw it to a close. I am afraid we have only a short time for the  
2102 Australian Solar Institute. Thank you to NOPSA for coming along today.

2103 [12.10 pm]

2104 **Australian Solar Institute**

2105 **CHAIR**—I welcome the officers from the Australian Solar Institute. Would any of you like to  
2106 make an opening statement?

2107 **Ms Goddard**—No, thank you.

2108 **Senator EGGLESTON**—I have a couple of questions. We had a large solar array, did we not,  
2109 near Mildura? I believe that is no longer operating. Is that the case?

2110 **Mr Clarke**—I will start, but I will ask Mr Stone, if he is listening, to join us at the table. There  
2111 have been a number of project announcements and there is a demonstration project in the Mildura  
2112 vicinity. I am not aware of the status of those Mildura projects.

2113 **Mr Stone**—Are you referring to the solar systems project?

2114 **Senator EGGLESTON**—I thought there was a very large experimental solar power station near  
2115 Mildura, and that that had ceased operating.

2116 **Mr Clarke**—There is a small demonstration project in the region that was related to the company  
2117 Solar Systems. The department is not aware of its current operating status. A number of projects

2118 have been proposed for the area, including some in our current solar flagships program. For the sake  
2119 of surety I will take your question on notice.

2120 **Senator EGGLESTON**—My information is a bit vague. What other areas are being investigated  
2121 for future solar power stations? I believe CSIRO is about to build a new research solar power station  
2122 at its National Solar Energy Centre in Newcastle that uses just the sun's energy and heated air in a  
2123 Breyton Cycle turbine to produce electricity.

2124 **Mr Clarke**—I will draw a distinction between research projects that are placed at research  
2125 facilities such as Newcastle and sites for the potential deployment of commercially operating solar  
2126 power stations. The most recent announcement in that area was when Minister Ferguson announced  
2127 the eight projects that have been short listed for the Solar Flagships program, four being  
2128 photovoltaic projects and four solar-thermal. I will ask Mr Stone to give you an outline of the  
2129 geography of those projects.

2130 **Mr Stone**—The are four photovoltaic projects. The first is AGL in collaboration with First Solar  
2131 Bovis Lend Lease. They are developing a PV up to 200 megawatts over five different sites. AGL has  
2132 not finalised specific locations for the projects, but expects the location to depend on a combination  
2133 of land availability, transmission capacity, connectivity, solar resource and support from state and  
2134 local governments.

2135 BP Solar is looking at developing a 150-megawatt PV project in the New South Wales tablelands  
2136 using crystalline silicon technology. There is a Infogen-Suntech project, which is project with a  
2137 capacity of between 150 megawatts and 195 megawatts at up to three sites in Victoria and New  
2138 South Wales. Tru Energy is proposing to build a 180-megawatt solar power plant near Mildura in  
2139 Victoria using First Solar thin film photovoltaic modules. On solar thermal, Acciona Energy  
2140 proposes to generate up to 200 megawatts using parabolic trough technology in either Queensland  
2141 or South Australia. Parson Brinckerhoff is proposing to develop a 150 megawatt solar thermal  
2142 parabolic trough located near the existing Kogan Creek power station close to Chinchilla in  
2143 Queensland.

2144 The third one is the Transfield Holdings proposal to convert the existing coal-fired power station  
2145 at Collinsville in North Queensland to a 150-megawatt solar thermal power station using linear  
2146 Fresnel technology. Finally, Wind Prospect has formed a consortium with CS Energy, AREVA  
2147 Solar and Mitsui to develop a stand-alone 250-megawatt solar power plant at Kogan Creek, again  
2148 near Chinchilla in Queensland.

2149 **Senator EGGLESTON**—That is very interesting, especially the ones in Queensland. Some time  
2150 ago, BHP had some demonstration solar houses in South Hedland where the roofs were covered  
2151 with solar panels. Do we know if BHP has progressed that program to use solar energy as a means of  
2152 powering residences in the northwest?

2153 **Mr Clarke**—The remit of this department is on the larger scale renewable energy, power station  
2154 scale. Household-scale technologies and deployment issues should be directed to the Department of  
2155 Climate Change and Energy Efficiency. I regret I am unable to advise you on that particular project.

2156 **Senator EGGLESTON**—Thank you, but I suppose the potential is huge if the mining  
2157 companies were to adopt that kind of power generation.

2158 **Senator MILNE**—Could you start by informing us about how all of these programs fit together  
2159 because I must say it is rather hard to understand who is administering what and how they fit  
2160 together. How does the Australian Solar Institute fit with the Solar Flagships program, the  
2161 Renewable Energy Future Fund and the current funds that were allocated previously, like the  
2162 research grant that went to Griffith University as a head consortium before the last election? Perhaps  
2163 you could begin by explaining to me, for people who want navigate this whole area of solar, how it  
2164 all fits together.

2165 **Mr Clarke**—Certainly. The programs administered by this department are best grouped into  
2166 three components. The first is Solar Flagships, which we are administering as a stand-alone  
2167 program. It is very high cost, high value and it is separate. The second is the Australian Solar  
2168 Institute, which is here at the table this afternoon. ASI's remit is in the research and development  
2169 area. As you are aware, the institute was formed through a partnership, with CSIRO, ANU and  
2170 UNSW as the core members, and is working more broadly. Its focus is more towards the R&D end,  
2171 and I am sure they could advise you on where their funding is going at present. The third is the  
2172 Australian Centre for Renewable Energy. As you are aware, the ACRE legislation has recently been  
2173 established. All of what I would call the legacy programs, all of the renewables like geothermal  
2174 drilling, REDP, electricity storage et cetera, will now be administered under the remit of ACRE.  
2175 And ACRE has other funding not yet committed at the project level, but advice will come forward in  
2176 due course.

2177 The last part of your question was about the Renewable Energy Future Fund, REFF, that was

2178 announced in the budget last month. REFF is appropriated to the Department of Climate Change and  
2179 Energy Efficiency but, as you would have read in the budget announcement, the scope of activities  
2180 that the government envisages it will be applied to includes activities that are delivered by this  
2181 department in the larger scale renewables. So the government will determine the allocation of those  
2182 REFF moneys between those things that are delivered by DCCEE and those that are delivered by  
2183 RET.

2184 **Senator MILNE**—In the negotiation of this Renewable Energy Future Fund, how will I be able  
2185 to establish—or can you tell me now—whether any of that funding is going to come from unspent  
2186 REDP funding?

2187 **Mr Clarke**—The appropriation is to DCCEE so your question is best directed there, but because  
2188 you have made the specific link to one of our programs I can assure you that there were no offsets in  
2189 the Resources, Energy and Tourism programs to contribute to the appropriation for REFF.

2190 **Senator MILNE**—For the assistance of the Senate committees for the next Senate estimates,  
2191 could you provide a road map of where all of these grants fit under the various programs so that we  
2192 can call the right groups at the right time.

2193 **Mr Clarke**—I would be pleased to do that.

2194 **CHAIR**—While we are on that subject, thank you for the road map we did get, Mr Clarke,  
2195 describing all the sections under outcomes 1 and 2. I think it was very useful for the committee and  
2196 this would be a good extension.

2197 **Mr Clarke**—I do understand. There is of the order of a dozen things out there with program  
2198 brands and I would be more than happy to provide you a map of where they all fit in the current  
2199 structure. But they can all be mapped to those three things: flagships, ASI and ACRE.

2200 **Senator MILNE**—So flagships does not come under the Solar Institute—it is a parallel  
2201 program?

2202 **Mr Clarke**—Correct.

2203 **Senator MILNE**—Okay. I will now come particularly to the Solar Institute. I am concerned that  
2204 the focus to date of what I have seen of the short-listed programs et cetera for solar has been solar  
2205 thermal as an ancillary to coal fired generation where the remit of the Australian Solar Institute is to  
2206 accelerate market innovation in photovoltaics and concentrating solar would have the potential to  
2207 significantly reduce the cost of solar energy compared with other resources—so it is not as an  
2208 adjunct to coal but in its own right. Can you tell me how you are intending to drive that outcome?

2209 **Ms Goddard**—The ASI started in August last year. We have had one funding round since then  
2210 that we announced in two tranches in December and then in May this year, and we currently have a  
2211 second funding round open which is a little bit more targeted in its approach. In both rounds  
2212 applications have been open to both universities and industry partners across all of those  
2213 technologies. We did receive a number of solar thermal related applications in the first round but a  
2214 number of them did not really come up to scratch in terms of the merit criteria that we apply quite  
2215 rigorously in assessing applications. Since then we have done a fair bit of work, and workshopping  
2216 with the solar thermal research community, to map out a bit of a roadmap for solar thermal research  
2217 in Australia, and we are expecting a number of revised applications to come forward in the second  
2218 funding round that is currently open. They are not limited just to an adjunct to coal, and I will pass to  
2219 my colleague Mark Twidell to elaborate on that aspect.

2220 **Mr Twidell**—We are currently funding four projects in the solar thermal area. There is a  
2221 foundation project which was announced in January 2009, which is the development of a solar tower  
2222 facility in Newcastle to develop technologies for the generation of what is called the Brighton Cycle  
2223 to avoid steam cycle—so that is approving efficiency of stand-alone solar. We recently announced  
2224 another project for the development of advanced solar thermal energy storage technologies for  
2225 Entech, which is again the Australian National University, and CSIRO are also looking at how the  
2226 thermal energy of the sun can be stored for dispatch later in the day. We are also funding a project at  
2227 the University of Newcastle in what is called thermionics, which is the generation of electricity from  
2228 heat, and that is how you can actually improve the efficiencies of thermal cycles.

2229 I would just make one point on what we call hybrid technologies. A big part of reducing the cost  
2230 of solar energy is going to be about deployment and about repetitive experience. The advantage of  
2231 having a hybrid solar/fossil fuel generating facility is that it is not necessary to duplicate the steam  
2232 generation technology so one can deploy and demonstrate the solar aspects more cost effectively. So  
2233 in our recent funding round we have actually encouraged the sectors to collaborate to look for  
2234 opportunities where we can increase the pace of commercial deployment.

2235 **Senator MILNE**—Okay. I did ask before about the legacy program that I am thinking about and  
2236 I hear that it is coming under ACRE. I am concerned about that because I thought your job was to

2237 coordinate all of the research and maximise the research funding for photovoltaics and solar  
2238 thermal. That grant that I am talking about was the one that I am told came under the Department of  
2239 the Environment and Heritage before the last election. It was actually recommended to the  
2240 government that it go to the ANU consortium.

2241 That was a ministerial decision by Minister Turnbull—to cross that out and give it to the Griffith  
2242 University consortium, which now continues to operate that program. After the election, the Labor  
2243 Party agreed to leave it with Griffith. What I am trying to get at is: how do you now incorporate the  
2244 work they are doing so that we get a seamless view, if you like, of the research across Australia?  
2245 How do you make sure that there is oversight of all the solar, thermal and photovoltaic research,  
2246 make sure that you are not getting duplication—a legacy program here and then new money over  
2247 here—and make sure that there is learning or whatever happening between the two?

2248 **Ms Goddard**—I am not aware of that particular project that you are referring to, but certainly it is  
2249 the ASI's intention to be working very closely with the whole solar research community and  
2250 industry to coordinate research effort across Australia and to coordinate Australia's international  
2251 linkages in this area. As I mentioned before, we have already coordinated a couple of workshops to  
2252 that end that are sort of providing road maps going ahead for R&D in this area. When it comes to  
2253 programs that might be further up the innovation chain, if you like, at the commercialisation end or  
2254 the demonstration end, that is where we start moving into the remit of ACRE and the Solar Flagships  
2255 program—and, I think, one of the legacy programs you mentioned, the REDP, that now comes  
2256 under ACRE. But ASI is very much about a national coordinated approach, and we are working very  
2257 closely with state governments in that regard as well.

2258 **Senator MILNE**—Okay. I will come back to you after I go and have a another look at that  
2259 particular thing, because my concern here is to make sure that there is one oversight body and  
2260 coordinated research across all of these grants.

2261 **Ms Goddard**—Absolutely. That is the intention.

2262 **Mr Clark**—We agree. That is what we are driving towards. We have narrowed it down to these  
2263 three entities: the two bodies, ACRE and ASI, and the big Solar Flagships program. One of the  
2264 things this has done is ensure that there is appropriate cross-membership between the boards and  
2265 bodies involved. My department is providing the support to all of them, but we actually have senior  
2266 people—like Mr Trudell, who is on the solar flagship panel that is advising the minister on that  
2267 program—and it is for that very reason that we have done that.

2268 **Senator MILNE**—I actually do have quite a lot of questions about the Solar Flagships program  
2269 but it came under an earlier program. So we might have to rejig the times next time, because there is  
2270 a lot in all this.

2271 **CHAIR**—Yes. We will certainly deal with that. As there are no further questions on this area, I  
2272 thank the Australian Solar Institute for coming along today.

2273 **Proceedings suspended from 12.28 pm to 1.33 pm**

2274 **Tourism Australia**

2275 **CHAIR**—The committee will resume with the tourism section of the Department of Resources,  
2276 Energy and Tourism and Tourism Australia. Is there an opening statement from either one?

2277 **Mr Clarke**—No, from neither.

2278 **Senator BUSHBY**—Thank you for coming along to help us today. I take it we can ask questions  
2279 of Tourism Australia or the department?

2280 **CHAIR**—Yes.

2281 **Senator BUSHBY**—These questions are probably directed to Tourism Australia. What  
2282 proportion of expenditure for each of the years 2009-10 to 2013-14—I am talking about actual and  
2283 estimated— was or is planned to be spent on domestic marketing activities versus international  
2284 marketing activities?

2285 **Mr McEvoy**—It is about \$9 million annually, which is about eight per cent to nine per cent of  
2286 budget.

2287 **Senator BUSHBY**—Which one—domestic or—

2288 **Mr McEvoy**—Domestic.

2289 **Senator BUSHBY**—Domestic is \$9 million. What percentage did you say that was? About eight  
2290 per cent?

2291 **Mr McEvoy**—Yes. The appropriation is \$122 million this year so whatever percentage of that it  
2292 is.

2293 **Senator BUSHBY**—And that is constant throughout each of those years?

2294 **Mr McEvoy**—Yes.

2295 **Senator BUSHBY**—Regarding the \$15.2 million reduction in program 1.3 funding, what will  
2296 Tourism Australia no longer do in 2010-11 that it did do in 2009-10?

2297 **Mr McEvoy**—We will continue to run programs nationally and globally. That money—\$9  
2298 million—was brought forward into this year’s appropriation. We got another \$11 million from the  
2299 industry to run programs that were really necessary now, based on the end of the global financial  
2300 crisis. We have been running about 58 campaigns with partners, airlines, states and territories and  
2301 regions. All we have really done is bring some activity forward. We are very confident that will run  
2302 a very good full program globally. The other thing is that with the new campaign ‘There is nothing  
2303 like Australia’ we already have a lot of commitments from airlines and others who want to work  
2304 with us. We think we are going to more than make up for the money in cooperative effort. We signed  
2305 an agreement yesterday with Qantas—\$44 million for the next three years. We are quite positive  
2306 that we will run a great program and that we will get more industry dollars behind what we do.

2307 **Senator BUSHBY**—You have brought the money forward to this current financial year to run 58  
2308 campaigns. Presumably that money would have been spent—if you had not brought it forward—in  
2309 the following financial year and, so that I can get it straight in my mind, you are relying on  
2310 partnerships with private enterprise to plug the gap?

2311 **Mr McEvoy**—Partly, yes. We know that, because we have got some agreements, not just with  
2312 the one with Qantas. We signed a great agreement yesterday with China Southern Airlines and we  
2313 have got good agreements with Singapore Airlines and Emirates. The industry has really come to  
2314 the party with this new campaign so we know there is better support than there has ever been. We  
2315 think that we will make up the—

2316 **Senator BUSHBY**—The agreements that you have reached with private sector partners so far  
2317 have provided sufficient additional money to cover the money that has been brought forward?

2318 **Mr McEvoy**—Not yet. We have got to work it through. It is to be negotiated.

2319 **Senator BUSHBY**—How much would you still be short, so to speak?

2320 **Mr McEvoy**—I honestly do not think we will be short.

2321 **Senator BUSHBY**—But at this stage, on the assumption that we know what we know and not  
2322 what we do not?

2323 **Mr McEvoy**—I do not know the answer to that. All I can say is that we are positive and confident  
2324 that we will run a fantastic, full program globally and we are not cutting back in any markets. We  
2325 will do a good job next year.

2326 **Senator BUSHBY**—At the additional estimates hearings in February, Mr McEvoy, you said that  
2327 Tourism Australia expected to make an additional \$9 million on currency gains in the 2010-11  
2328 financial year. Does this forecast still hold?

2329 **Mr McEvoy**—Yes, that still holds.

2330 **Senator BUSHBY**—Regarding the Tourism Australia annual report of 2008-09, at page 57 was  
2331 a map of  
2332 North Korea shown on the original copy?

2333 **Mr McEvoy**—Yes.

2334 **Senator BUSHBY**—How many copies of that report were produced?

2335 **Mr McEvoy**—Five hundred copies.

2336 **Senator BUSHBY**—That map of North Korea was shown against South Korea—is that correct?

2337 **Mr McEvoy**—Correct. It was a mistake.

2338 **Senator BUSHBY**—What was the cost of these copies?

2339 **Mr McEvoy**—It was about \$9,000.

2340 **Senator BUSHBY**—How many copies were pulped as a result of the error?

2341 **Mr McEvoy**—I believe around 400 copies—every copy that we held onshore and had delivered  
2342 offshore  
2343 was pulped.

2344 **Senator BUSHBY**—Did you take steps to recall the ones that you had already sent out?

2345 **Mr McEvoy**—Yes, we did. Our chairman wrote a letter of apology to the South Korean  
2346 ambassador. As

2347 soon as we saw the mistake we corrected the mistake. It was unfortunate.

2348 **Senator BUSHBY**—How many and what overseas offices of the Australian government  
2349 received a copy of the original annual report?

2350 **Mr McEvoy**—Just the Tourism Australia offices. We have 13 offices overseas. The Tourism  
2351 Australia

2352 offices offshore would receive copies.

2353 **Senator BUSHBY**—So all Tourism Australia offices overseas would have received copies.

2354 **Mr McEvoy**—Yes.

2355 **Senator BUSHBY**—The No Leave, No Life campaign was announced by the minister on 4  
2356 December 2008. Has domestic tourism measured by domestic visitor nights increased since the No  
2357 Leave, No Life campaign began?

2358 **Mr McEvoy**—No Leave, No Life is a really good initiative that is working on a number of  
2359 measures. Domestic tourism has been flat. We just got some new figures. Last year 123 million days  
2360 of untaken leave were on the books of the public and private sector in Australia. That has actually  
2361 been reduced to 118 million days of leave. We would say that there is a global financial crisis impact  
2362 on that and we are not taking full credit. The other measure for us is that 44 per cent of Australians  
2363 now say that they understand the issue of leave-taking for productivity, and I think 22 per cent of  
2364 Australians have done something about that.

2365 **Senator BUSHBY**—Has that figure changed?

2366 **Mr McEvoy**—It is the first time that we have measured it, and we will keep measuring it. We  
2367 have something like 700 or 800 employer companies now—843 Australian employers—with a  
2368 potential reach 910,000 employees who are part of the program. I know your question, Senator, but  
2369 at the moment I would be loath to judge it on visitor nights in the Australian tourism economy.  
2370 Ultimately, that is what it has got to be judged on, but it is a long-term program and one that  
2371 employees have really got to take up for it to be successful, and we are quite confident that they are  
2372 taking it up.

2373 **Senator BUSHBY**—We will move on to some questions with the department. I want to go  
2374 through some areas of initiatives and management and try to get some ideas about how the budget is  
2375 actually broken up with those for this year and for the coming four years after that. The first one is  
2376 about the implementation of the Australian government's National Long-Term Tourism Strategy.  
2377 Do you have figures that tell us how much is spent by the department in that area for this financial  
2378 year and following four years?

2379 **Ms Madden**—As you would be aware, the National Long-Term Tourism Strategy is the  
2380 government's key policy for the tourism industry. It is therefore natural that it is the core focus of the  
2381 division's work and also, importantly, a focus of Tourism Australia. Under the Tourism Ministers  
2382 Council all state and territory governments have endorsed the strategy and the associated work plan.

2383 In terms of budget, at the last ministerial council since the last estimates, on 30 April, the tourism  
2384 ministers announced \$2.2 million in collective action for implementing the strategy. That is on a  
2385 COAG typical sharing arrangement where the Commonwealth has 50 per cent of the costs—

2386 **Senator BUSHBY**—So that is \$1.1 million.

2387 **Ms Madden**—That is additional to the specific budget. Of course there is some in-work being  
2388 done in the division, in state and territory governments, in Tourism Australia, and working with  
2389 industry partners, that is over and above that \$2.2 million. But a specific initiative of the \$2.2 billion  
2390 as announced by the tourism ministers in April—

2391 **Senator BUSHBY**—Does the division allocate internally in a budgetary sense how much time is  
2392 done in kind by its officers for each of the various activities it undertakes?

2393 **Ms Madden**—We are able on notice to give you an estimate of that—

2394 **Senator BUSHBY**—That would be good, and the same will apply to all of the others areas of  
2395 activity of the division that I am about to go through as well. That \$1.1 million, is that for this  
2396 financial year?

2397 **Ms Madden**—No, that is over 2009-10 and 2010-11.

2398 **Senator BUSHBY**—So over two years. Is there any money allocated for the following three  
2399 years at this point?

2400 **Ms Madden**—Up until 2010-11, yes. The ministers will be meeting again in September. We  
2401 have a range of officials' meetings prior to that time where the future budget and work program will  
2402 be assessed, reviewed and checked against a progress made and whether additional budget  
2403 allocation is required to meet the ministers' objectives.

2404 **Senator BUSHBY**—What about program support funding for strategic support for the  
2405 Australian Standing Committee on Tourism and the TMC?

2406 **Ms Madden**—That is done at the Commonwealth level. Yes, in my division there is a dedicated  
2407 team and the section responsible for supporting both the Tourism Ministers Council and the  
2408 Australian Standing Committee on Tourism.

2409 **Senator BUSHBY**—And the program support funding? How much do you spend—

2410 **Ms Madden**—It is a departmental expense. It includes secretariat support to those two councils,  
2411 the Tourism Ministers Council and the Standing Committee on Tourism.

2412 **Senator BUSHBY**—Okay, so my question before about how much of the department's  
2413 resources are actually spent in support of that program—

2414 **Ms Madden**—Yes, that would be picked up in that.

2415 **Senator BUSHBY**—But you cannot tell me today?

2416 **Ms Madden**—I do not have the exact breakdown here but I can provide that to you on notice.

2417 **Senator BUSHBY**—Okay. Once again, what about the program support funding for the  
2418 implementation of a national tourism accreditation framework?

2419 **Ms Madden**—That was an announcement in the budget. The government has committed \$5.5  
2420 million over the next four years for the implementation of the national accreditation framework. It is  
2421 being done collectively with an industry council called the Tourism Quality Council. There is a  
2422 representative of our department, a representative of Tourism Australia and a representative of the  
2423 states and territories on that council. They have oversight of the implementation. As you may recall  
2424 from previous meetings, we have briefed the committee previously on the joint working group that  
2425 set up all the governance arrangements behind this national accreditation framework. We are  
2426 pleased that it has now moved to the next stage and we have some funding to implement the  
2427 accreditation framework.

2428 **Senator BUSHBY**—Do you have a breakdown of that funding over each of the years?

2429 **Ms Madden**—The Tourism Quality Council held their first meeting on 19 May, including a  
2430 handover session with that joint working group. The question of the budget was addressed at that  
2431 meeting and the Tourism Quality Council is just taking some further consideration, working on the  
2432 overall budget of four years, to plan what actions will be taken. I do not have a detailed breakdown  
2433 yet. It is still being considered by the members but they have \$5.5 million and there are some  
2434 indicative allocations that are being determined over coming weeks.

2435 **Senator BUSHBY**—What about the program support funding for the delivery of an enhanced  
2436 Approved Destination Status scheme for China?

2437 **Ms Madden**—The Approved Destination Status scheme was also an announcement in the  
2438 budget. The government has committed over \$4 million over the next four years to continue the  
2439 Approved Destination Scheme. This is a memorandum of understanding we have with the Chinese  
2440 government and it allows Australia to market Tourism Australia's activities in country. Very  
2441 importantly, it allows some quality assurance and monitoring of group tours that form the backbone  
2442 of Chinese visitation to Australia.

2443 **Senator BUSHBY**—Do you have a breakdown of the budget?

2444 **Ms Madden**—Yes, we can provide a breakdown of that budget.

2445 **Senator BUSHBY**—Not today, though?

2446 **Ms Madden**—I will just check my notes. I have some ADS expenditure breakdown here. One of  
2447 the important elements of that budget is a compliance monitoring agency contract. We have some  
2448 indicative details of that for this financial year. Because we are still in the process of negotiating that  
2449 contract and other aspects it is only in projected budget terms but we can provide some further  
2450 details to you on notice.

2451 **Senator BUSHBY**—What about program support funding for improved access by overseas  
2452 visitors to Australian consumer protection?

2453 **Ms Madden**—Sorry, could you elaborate?

2454 **Senator BUSHBY**—Improved access by overseas visitors to Australian consumer protection is  
2455 something I understand the government has undertaken to deliver.

2456 **Ms Madden**—The tourism consumer protection fund is administered by the Australian  
2457 government but the Treasury is actually doing a review of that at this point in time. We are involved  
2458 with that. We do not have any new budget allocation. It is met through departmental running costs. I  
2459 can include it in what in-kind support we have in the supplementary material we will provide to you  
2460 on notice.

2461 **Senator BUSHBY**—What about the delivery of the TQUAL grants program and other tourism  
2462 related programs as required?

2463 **Ms Madden**—Regarding the TQUAL grants program, the minister announced the final grants  
2464 under this scheme on 15 December, if my memory serves me correctly. There were 70 successful  
2465 projects with a total

2466 value of \$8.283 million. This is a program allocation running until 30 June 2010. We are in the  
2467 process of rolling out all those projects at the moment and that will take us up to 30 June 2010.

2468 **Senator BUSHBY**—And as with all of these programs—

2469 **Ms Madden**—I apologise. It is the 2010-11 financial year, so it is actually up to 30 June 2011.  
2470 Apologies.

2471 **Senator BUSHBY**—Okay. As with all of these programs, if you could outline as well the  
2472 proportion of departmental resources used to support them. What about program support funding for  
2473 the enhanced national tourism research agenda, informing policy development and industry  
2474 investment decisions?

2475 **Ms Madden**—Yes, I can provide that in detail.

2476 **Senator BUSHBY**—Production and dissemination of tourism forecasts and surveys for inbound  
2477 domestic and outbound markets?

2478 **Ms Madden**—Yes, there is a range of work undertaken there, including jointly with Tourism  
2479 Australia and

2480 the Tourism Forecasting Council, so we can provide the detailed breakdown—

2481 **Senator BUSHBY**—Of the costing of support for that?

2482 **Ms Madden**—of the costs associated with that, yes, under the program for deliverables.

2483 **Senator BUSHBY**—Development of policy initiatives to support Indigenous tourism and  
2484 engagement with

2485 relevant partners?

2486 **Ms Madden**—Yes, likewise.

2487 **Senator BUSHBY**—The same way. What about engagement with key stakeholders? You do not  
2488 have any

2489 of these figures with you, I presume.

2490 **Mr Clarke**—Senator, we see that you are tracking down the statement of deliverables in the  
2491 portfolio budget statement. We are happy to provide you the allocation of the funding and staff  
2492 resources in the tourism division against each of those deliverables and to identify, where they have  
2493 separate program funding, the

2494 quantum of that. It is not a structure that we use for internal accounting—

2495 **Senator BUSHBY**—No, I understand that.

2496 **Mr Clarke**—but we are happy to map the internal structure against this list of deliverables for  
2497 you.

2498 **Senator BUSHBY**—That would assist us in understanding how it works.

2499 **Mr Clarke**—Certainly.

2500 **Senator BUSHBY**—Also for the current year and the estimates for each of the out years, to the  
2501 extent that

2502 you have them?

2503 **Ms Madden**—Yes.

2504 **Mr Clarke**—Certainly.

2505 **Senator EGGLESTON**—I am interested in this new tourism program, ‘There’s Nothing Like  
2506 Australia.’ Obviously that replaces the program which was built around the movie *Australia*. I just  
2507 wondered what your retrospective assessment was of the success of the program around the film  
2508 *Australia*.

2509 **Mr McEvoy**—I think *Australia* the movie and the following promotion were pretty good. Last  
2510 year in world terms tourism declined by four per cent globally and Australia held its own at 5.6  
2511 million visitors. If campaigns are an indicator of success, Australia performed better than most

2512 countries on earth, so you would have to say it had an element of that success. It was a good  
2513 campaign for its time and, in my view—I was not at Tourism Australia when that was done—I think  
2514 Tourism Australia was clever to try and capitalise on the publicity around *Australia* the movie and  
2515 Baz Luhrmann.

2516 **Senator EGGLESTON**—Where did the tourists come from? Were there changes in the patterns  
2517 of people coming into Australia?

2518 **Mr McEvoy**—We had general growth. The more difficult regions were places like Japan and  
2519 Korea last year and our business tourism. Business events struggled a bit, but pretty much every  
2520 other region had growth. So it was a good year in world terms but we still would love to do better.  
2521 Our industry, as we do, want to see growth and we are seeing a good start to this year, actually. Up  
2522 until the March quarter we saw some growth.

2523 **Senator EGGLESTON**—When you say ‘a good start’, what does that mean? Does it mean there  
2524 are more people coming from, say, Japan and Korea, or where are they coming from?

2525 **Mr McEvoy**—Yes, Korea has returned to growth and Japan has returned to growth for the first  
2526 time in many, many years—small growth but two or three per cent growth. I have the numbers here.  
2527 Also, we are up three per cent overall in terms of visitor numbers and we are up five per cent in total  
2528 visitor expenditure through to the end of the March quarter. So these are better signs. There are  
2529 always worries on the horizon— volcanic ash, the European economy—but within all of that  
2530 framework tourism and Tourism Australia are doing better than a lot of other destinations.

2531 **Senator EGGLESTON**—That is an interesting comment. How are we doing with visitors from  
2532 North American countries like the United States and Canada?

2533 **Mr McEvoy**—The USA has been one of the stars for us. I think we had something like 10 per  
2534 cent growth out of the US last year. We had 488,000 visitors and in the March quarter we saw  
2535 another seven per cent growth. So the US has been a real success based around price competition,  
2536 with both Delta and V entering the market last year alongside United and Qantas. We have had more  
2537 capacity, better fares and all that great pent-up demand is coming, so the USA is one of the big  
2538 success stories.

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2540 the market last year alongside United and Qantas. We have had more capacity, better fares and all  
2541 that great pent-up demand coming, so the USA is one of the big success stories.

2542 **Senator McGAURAN**—Where are they going? Do you know that?

2543 **Mr McEvoy**—Yes. The American visitor is pretty good at dispersing travel. They do all of the  
2544 great icons of Australia but they also go to other parts. I know from experience that Kangaroo Island  
2545 in South Australia is a big one for the islands. They do get in amongst our regions, so the US visitor  
2546 is a very good visitor. They are a pretty good disperser. I could get you some specific numbers if you  
2547 are interested.

2548 **Senator McGAURAN**—Please.

2549 **Senator EGGLESTON**—That is interesting. I would be interested in that as well. You  
2550 mentioned fares across the Pacific as an issue. There was this duopoly between Qantas and United. I  
2551 believe the per-kilometre fares across the Pacific were the highest in the Qantas schedule. Obviously  
2552 the introduction of competition has reduced the fares and improved our tourist inflow. Is that a fair  
2553 assessment?

2554 **Mr McEvoy**—Yes. That is logic that I think everyone understands. There is a lot of aspiration in  
2555 a lot of markets to come to our country, and when the fares are better there is clearly more uptake of  
2556 that aspiration. Price competition in many industries generates more business. The same is true in  
2557 tourism and, with the entry of V and Delta along with United and Qantas, who do a great job in the  
2558 Pacific, we have seen great growth.

2559 **Senator EGGLESTON**—And what about Asian tourism from both East and West Asia?

2560 **Mr McEvoy**—Asian tourism last year was fantastic. It kept our tourism economy going very  
2561 well. We had some terrific markets such as Malaysia and Singapore. Malaysia at the year ending  
2562 March is up 21 per cent on the previous year. China is more subdued—H1N1 hit China a bit last  
2563 year—but still up two per cent for the year ending last year. It is up seven per cent to the March  
2564 quarter. Singapore is up eight per cent for the year ending March and up 10 per cent for the month of  
2565 March. All of those markets are doing well and, again, there is some good new capacity, better fares  
2566 and, hopefully, some great promotion. Australia stands up as a great destination.

2567 **Senator EGGLESTON**—What would be the volume of tourists coming from China?

2568 **Mr McEvoy**—We are up around 355,000 now. I think it is No. 4 in our world. If you look at the  
2569 tourism forecasts, in the next seven to 10 years it will become second only to New Zealand in terms

2570 of volume and probably our highest value market in terms of economic impact. This year we are  
2571 seeing a fantastic return to growth. Last year was a bit subdued but still plus seven per cent through  
2572 to the March quarter. Yesterday at the Australian Tourism Exchange in Adelaide we signed a  
2573 strategic partnership agreement with China Southern Airlines, the world's fourth-largest airline, to  
2574 cooperatively work with them to growth the market alongside partners like Qantas and Air China. It  
2575 is a good question. It is one of the great opportunities for Australian tourism.

2576 **Senator EGGLESTON**—Thank you. Where does Tourism Australia spend its funds overseas?  
2577 How much is spent in each area in dollar and percentage terms?

2578 **Mr McEvoy**—If it is okay with the Senate, we will take that on notice and give you the complete  
2579 breakdown.

2580 **Senator EGGLESTON**—Thank you very much. I was in Korea earlier this year and I think I  
2581 was told that something like 70,000 Koreans come to Australia. I was quite impressed with that.  
2582 They thought there was scope for growth in bilateral tourism.

2583 **Mr McEvoy**—Yes. They want to see more of us going there. The numbers are actually almost  
2584 190,000 Koreans coming here. You are right: probably not enough Australians have discovered  
2585 Korea. They are very active in their promotion; when you travel through Asia you see a lot of their  
2586 promotion. They are a good destination inbound to Australia.

2587 **Senator EGGLESTON**—Perhaps the 70,000 was the number of students.

2588 **Mr McEvoy**—Perhaps. It is a good youth market for Australia.

2589 **Senator EGGLESTON**—So how does our expenditure in Asia compare to other regions in the  
2590 world? Are we focusing fairly heavily on Asia?

2591 **Mr McEvoy**—Definitely. They are very important near-neighbour markets for us. We have good  
2592 airline capacity. I know, for example, that we will increase our effort in China this year. One of the  
2593 big things with us at the moment is that the digital technology that the world is embracing is good for  
2594 tourism because we can go further with our messaging. Asia is one of the bigger consumers of  
2595 digital technology. It is a very important market with good air capacity, and we invest significantly.

2596 **Senator EGGLESTON**—When you talk about digital technology, are you talking about social  
2597 networking, like Facebook and Twitter and those sorts of sites?

2598 **Mr McEvoy**—All of that, yes. Definitely. We do a lot of online marketing. It is a very good,  
2599 affordable way to get great reach. But, to the senator's point, social advocacy is a big part of travel  
2600 and tourism. People recommending destinations to their friends is very important. The Australia  
2601 Facebook is the largest destination Facebook site in the world now, with almost 400,000 members  
2602 from all around the world. We have a number of Twitter followers and in Asia there are specific  
2603 social advocacy sites where we are involved as well. So it is a very good, powerful marketing tool.

2604 **Senator EGGLESTON**—My other question is about regional tourism. Where are your tourists  
2605 coming into and are they going to regional destinations like the north-west, which is my particular  
2606 interest? I am sure Senator Macdonald will ask you about North Queensland. Where are they  
2607 essentially coming into?

2608 **Mr McEvoy**—Clearly, being an island nation, it is where there are capital city gateways to bring  
2609 them in. Cruise shipping has been a great opportunity for regional Australia, but there are many  
2610 markets that are fantastic at getting amongst regional Australia—the UK and Europe in particular,  
2611 and the Americas. More and more of our Asian visitors are starting to venture out as FITs—fully  
2612 independent travellers. Depending on which market, I could give you the breakdown of who  
2613 disperses beyond the four major gateways. Brisbane, Sydney, Melbourne and Perth are considered  
2614 major gateways. Then Adelaide, Cairns and Broome are considered regional gateways. We know  
2615 those numbers. As a rule of thumb, the Europeans are the best dispersers—that is, the French, the  
2616 Italians, the Germans, the Scandinavians and the Swiss really get in amongst it. I think they see more  
2617 of Australia than Australians do.

2618 **Senator EGGLESTON**—Probably they do. I would be very interested if you could provide  
2619 those figures on notice. I would be grateful for that.

2620 **Mr McEvoy**—Sure. Absolutely.

2621 **Senator IAN MACDONALD**—Thanks for the answers to questions on notice from last time  
2622 about visitors in North Queensland. To a degree, I want to follow on from Senator Eggleston's  
2623 questions. Do you have any intelligence on who the tourists are who go to Broome and Darwin, and  
2624 why?

2625 **Mr McEvoy**—I think the international visitor survey would give us some guide. We will take  
2626 that on notice and give you some facts on Darwin, Cairns and Townsville.

2627 **Senator IAN MACDONALD**—I said Darwin and Broome, but you could include tropical North

2628 Queensland, plus the Whitsundays, if you would. I think the PBS says you have noticed a bit of a  
2629 falling off in business events tourism due to the global financial crisis. Do you have any sorts of  
2630 statistics on that or is it just a feeling?

2631 **Mr McEvoy**—It is definitely statistics.

2632 **Ms Madden**—Tourism Research Australia, under the department, is working up a fact sheet at  
2633 the moment on business events. You may be aware that the business events industry have developed  
2634 a strategy, sitting alongside the national long-term tourism strategy, with a range of things to support  
2635 business events. One of those actions was to do some more research and data collection on business  
2636 events. So Tourism Research Australia has been working with Business Events Australia, under  
2637 Tourism Australia, to develop some further facts. I think some work is expected in coming weeks on  
2638 that. They are waiting for the outcome of the next IVS, the international visitor survey, which, as we  
2639 were just mentioning, is one of the key surveys that shows not just the overall level of visitation but  
2640 the breakdown by detailed region. That will be fed also into the business events report that is coming  
2641 out shortly.

2642 **Senator IAN MACDONALD**—If you could make a copy of that available to the committee  
2643 when it comes, that would be great.

2644 **Ms Madden**—Certainly.

2645 **Senator IAN MACDONALD**—In your role in helping the industry, you alerted to the fact that  
2646 new mining tax may well have an impact on business events tourism, particularly in Northern  
2647 Australia so far as the mining industry is concerned. Is that something that has come across your  
2648 radar at all?

2649 **Mr Clarke**—No.

2650 **Senator IAN MACDONALD**—It is an important part of the business events tourism associated  
2651 with the mining industry, which, if the tax goes ahead, would seem to be the area where they would  
2652 be economising, one might say. I am just wondering if the department or perhaps the bureau of  
2653 research intends to do any work on just what impact that big new mining tax might have on business  
2654 events tourism.

2655 **Mr Clarke**—The question of the impact on the policy of the RSPT is clearly one that is still  
2656 playing out. The committee asked us many questions this this morning during the resources and  
2657 energy sector part of this hearing. We referred all those questions to Treasury as the department  
2658 responsible for the tax. I do not see any case at the moment within the tourism area for specific  
2659 research on that.

2660 **Senator IAN MACDONALD**—Are you able to give me details on notice over the last two or  
2661 three years of what part of the business events tourism related to mining?

2662 **Mr Clarke**—Certainly if that information is available, we would be pleased to provide that to  
2663 you on notice.

2664 **Senator IAN MACDONALD**—Thank you. That would be helpful. I noticed Indigenous  
2665 tourism on page 110 of your PBS. Is that spent in localities or is it a generic spend or a generic  
2666 program?

2667 **Ms Madden**—Indigenous tourism is one of the nine working groups under the national  
2668 long-term tourism strategy. A number of projects are being brought forward, including some that are  
2669 specific to localities and some that are more general.

2670 **Senator IAN MACDONALD**—You say you are looking at that, so you could not tell me about  
2671 localities at this time?

2672 **Ms Madden**—As I mentioned, the ministerial council identified the need for some priority work  
2673 on this matter. The working group—and my colleague Helen Cox is a member of that—is doing  
2674 some work with regard to some possible locations. At this point in time, I cannot tell you exactly  
2675 where they will be, but that view is that they will be reporting to ministers on this issue in  
2676 September.

2677 **Mr McEvoy**—We established an Indigenous champions program, where we are introducing 20  
2678 of the best tourism operators we are introducing to the distribution system globally. In fact, at the  
2679 Australian Tourism Exchange in Adelaide, where there are 2,200 delegates from 40 countries,  
2680 tonight we are having an Indigenous dinner which has been sold out. We have no more room there  
2681 are that many international wholesalers who want to meet these guys. I think those initiatives are  
2682 very good and practical and are helping to highlight Indigenous tourism globally.

2683 **Senator IAN MACDONALD**—I do not want to be parochial about this, but would it be correct  
2684 to assume that most of the Indigenous tourism activity would be in the north of Australia?

2685 **Mr McEvoy**—It is a national spread actually. Western Australia is very strong, as is Queensland

2686 and the Northern Territory. But the Koori heritage of Victoria is well represented, as are the  
2687 Indigenous people of South Australia and New South Wales. There is even a Tasmanian presence. It  
2688 is a national thing. But, to your point, North Queensland is very strong, as is the Northern Territory.  
2689 And Western Australia as a state is very strong.

2690 **Senator IAN MACDONALD**—If you have them now, or if you are about to get them, can you  
2691 let me have any statistics you might have and any locations of what is being done and what it is that  
2692 is being done in those locations. Senator Eggleston mentioned the movie *Australia*. I wonder if the  
2693 movie *One fine day* has figured. It was a great movie.

2694 **Mr McEvoy**—Isn't it great? *Bran Nue Dae*.

2695 **Senator IAN MACDONALD**—Yes. *Bran Nue Dae*.

2696 **Mr McEvoy**—I could sing a bit of it.

2697 **Senator IAN MACDONALD**—It is a great movie, but—

2698 **CHAIR**—The *Hansard* would not do it justice!

2699 **Senator IAN MACDONALD**—Airlie Beach and the cyclone: was the Australian tourism  
2700 organisation involved in any emergency action to try and address the erroneous, I might say,  
2701 impression given by the tourist industry and I am sure well-meaning media outlets, who would have  
2702 had you believe that Airlie Beach was a disaster area zone when, quite frankly, except for a couple  
2703 of areas, it was hardly impacted. When you are involved in any sort of emergency work?

2704 **Mr McEvoy**—We have definitely done something PR and media work every time there is any  
2705 sort of natural disaster in Australia, and North Queensland have had their fair share of them. We  
2706 have been very involved in two ways: one is cooperatively marketing with them to bring some  
2707 business back, and the second is to get to the issue about media perception, so we do a lot of PR  
2708 work with them about the positivity of the return and how quick that is.

2709 **Senator IAN MACDONALD**—Are you in a position to impose upon, beg, plead or otherwise  
2710 deal with the media in reporting natural disasters? I know they mean well but really if there is one  
2711 house in the whole area blown down that is the one you see on the national news every night, and  
2712 people get the impression that every house is like that when it really is one out of 10,000.

2713 **Ms Madden**—You correctly note the importance of communication when it comes to natural  
2714 disaster management. For that reason, working cooperatively with Tourism Australia, the  
2715 department coordinates the national tourism incident response planning framework. That is, as  
2716 previously mentioned to the committee, a framework which has a number of levels depending on the  
2717 degree of emergency. For example, in the Victorian bushfires it was activated to quite a high extent.  
2718 In the case of the Airlie Beach incident there was only monitoring required, some minor  
2719 communication rectification so that real expectations were managed about the degree of damage. As  
2720 you say, there were some perceptions that it was much worse, much harsher, than it really was. The  
2721 department working with Tourism Australia, and it also involves industry and our state and territory  
2722 partners, has this framework in mind and in place precisely to get out the right communication  
2723 messages depending on the circumstances that actually occur on the ground.

2724 **Senator IAN MACDONALD**—At last estimates we were talking about Far North Queensland,  
2725 based on Cairns, which is pretty tragic at the moment. I see some figures have come out that the  
2726 international visitors have fallen by 106,000 to 651,000, a 14 per cent drop, the biggest in  
2727 Queensland. You indicated to me, in answers to questions that you provided in writing, that some  
2728 money is being spent that would impact on that. Is it too early yet to indicate what response you have  
2729 got to that? It is 870,000 for tactical consumer marketing activity across five campaigns in  
2730 partnership with TTNQ and 280,000 marketing support for charters and supplementary services  
2731 from China, four hundred went to the whole of state marketing, which I guess, knowing Queensland,  
2732 would have gone to the south-east, and two million to assist TTNQ to respond to reduction in airline  
2733 capacity. Is it too early to indicate what the impact has been of that campaigning?

2734 **Mr McEvoy**—It is probably a bit too early to get the full numbers. I think the IVS numbers come  
2735 out in the next few weeks for the March quarter, so you will get some indication. We do know,  
2736 because we work very closely with them, that together we worked to bring 15 charter aircraft from  
2737 Taiwan, China and Hong Kong that delivered more than 7,200 passengers in that really good peak  
2738 Chinese new year period. The hotels were full and did well, so we know as a very good tangible  
2739 more than anecdotal bit of feedback.

2740 In talking to the operators at the Australian Tourism Exchange, they have certainly had a better  
2741 first quarter than they did last year, but we will wait and see when the international visitors survey  
2742 comes out. Some of the campaigns you described are still running now, so there is a lot more  
2743 activity. I think it has been a very successful partnership and a good model.

2744 **Senator IAN MACDONALD**—The charter activity from China and Taiwan: is there any

2745 program to make that situation permanent?

2746 **Mr McEvoy**—Yes. I have spoken with Stephen Gregg, who runs the airport up there, and they  
2747 are constantly pitching commercially to get new carriers to come on a regular basis. I think there is  
2748 huge opportunity. I mentioned earlier that we have got a strategic partnership agreement with China  
2749 Southern Airlines, and they are certainly looking at the potential of Australia generally, and I know  
2750 Cairns is on their list as an example. If we can prove the value of these charters it more logically  
2751 leads to the opportunity for regular services. So that is being worked on.

2752 **Senator IAN MACDONALD**—Finally on Far North Queensland, you mentioned Cairns  
2753 airport. Would you get any feedback on, or is it on your radar, the interminable building activity at  
2754 Cairns airport? To my way of thinking, it has been going on for five years. I am sure it is not that  
2755 long, it just seems like it. It is worse than Canberra airport, and it is an absolute turnoff to domestic  
2756 visitors. Has that ever come across your radar at all?

2757 **Mr McEvoy**—No. We do not get that feedback.

2758 **Senator IAN MACDONALD**—Finally, in relation to Far North Queensland generally, is there  
2759 anything more recent than the programs which you advised me of—or the spend which you advised  
2760 me of in writing— that is addressing the very serious issue of unemployment in Far North  
2761 Queensland? Strangely, it exceeds the national average, and a lot of that is due to issues not related  
2762 to tourism—like the shutting down of a once-viable shipbuilding industry. Are there any sorts of  
2763 warning lights flashing in your area that need to be addressed?

2764 **Mr McEvoy**—The North Queensland tourism operators are, as you well know, very active,  
2765 aggressive, competitive and very good, and we work with them a lot. The opportunity lies perhaps in  
2766 this new campaign, There's Nothing Like Australia. I think the digital map which sits at the heart of  
2767 it allows a lot of great detail and inspiration about all parts of our country, including North  
2768 Queensland. Through the build-up of that campaign, when we had almost 30,000 entries, North  
2769 Queensland featured quite prominently. So I think that is a big opportunity. And I do think that the  
2770 ongoing charter work and other work that we can do collectively with Tourism Tropical North  
2771 Queensland and the operators is an ongoing program. I would be interested see, when we get the  
2772 March IVS, how they are tracking. I would suggest that they are pretty hopeful that they have had a  
2773 better first quarter and it augers well for a better 2010.

2774 **Senator IAN MACDONALD**—Thank you very much.

2775 **Senator BIRMINGHAM**—I know Senator Bushby touched on the \$9 million bring-forward of  
2776 stimulus spending a bit, and I think you indicated that there were some 58 programs that that  
2777 spending supported. In general terms, did the bulk of it go into a particular direction?

2778 **Mr McEvoy**—I will give you some facts, Senator. There were 58 projects. We had 27 different  
2779 charter aircraft come down as part of that and we generated an additional \$11.4 million in revenue.  
2780 That took the \$9 million up to \$19.4 million. Pretty much most states and territories participated.  
2781 The senator indicated a couple of the figures we have for North Queensland, but all states and  
2782 territories got involved, and the campaigns were generally run in what we would call short- or  
2783 medium-haul markets, so there were a lot of campaigns in Asia, particularly China, and in New  
2784 Zealand. The whole idea was: how do we tactically support the industry, coming out of the global  
2785 financial crisis? If you would like, I could give you the exact breakdown of the 58 different  
2786 campaigns, a lot of which are running right now and generating a lot of good business.

2787 **Senator BIRMINGHAM**—Certainly, if you could, on notice, provide a detailed breakdown for  
2788 that stimulus spend, that would be most helpful. Turning to its current impact, obviously you are in  
2789 the throes now of launching a new campaign. Tourism Australia would have spent a reasonable  
2790 amount of this year's budget, I imagine, on their campaign development and launch costs. Are you  
2791 able to detail those development and launch costs for us, please?

2792 **Mr McEvoy**—The production of the campaign is about \$4 million. We have also done a lot of  
2793 promotional work in Australia with another \$2 million to build the campaign. So we would suggest  
2794 it is about a \$6 million campaign, including production and advertising within Australia, to get the  
2795 competition and other things going, and we have said that we will spend—I think,  
2796 conservatively—\$150 million over the next three years running it. I do think it has got a life well  
2797 beyond that, but let us just focus on the next three years.

2798 **Senator BIRMINGHAM**—Okay. In terms of the year-on-year international spend for  
2799 advertising buy, how will the current financial year compare with next financial year?

2800 **Mr McEvoy**—I will take that one on notice, if that is okay. We will give you that figure.

2801 **Senator BIRMINGHAM**—If you could. Obviously, there is a little bit of positive movement for  
2802 your buy, at least, in the shift in the dollar.

2803 **Mr McEvoy**—That is correct, yes. So we just want to have a look at that, given our exchange rate

2804 and what we can buy. We will get those numbers.

2805 **Senator BIRMINGHAM**—Thank you. Looking at a couple of the other program areas, I see the  
2806 reduction from the 2009-10 to 2010-11 has been shared across each of your program classes. In 1.2,  
2807 I note that you appear to be maintaining the Aussie Specialist Program. What impact will it have on  
2808 your familiarisation visits in 1.2?

2809 **Mr McEvoy**—I do not think it will have a big impact on familiarisation visits. We will probably  
2810 just continue to work with airline partners and the states and territories to make sure we can host  
2811 those. I do not think there is any material impact on the Visiting Journalist Program.

2812 **Senator BIRMINGHAM**—Again, if there are any numbers that you can provide now or on  
2813 notice, that would be appreciated—in a year-on-year comparison.

2814 **Mr McEvoy**—Sure.

2815 **Senator BIRMINGHAM**—In relation to participation in trade events, will there be an impact on  
2816 the events that Australia can be represented at and/or the support that is provided to industry for their  
2817 attendance at events?

2818 **Mr McEvoy**—No impact.

2819 **Senator BIRMINGHAM**—No impact in those areas. It is a pretty clever re-budgeting exercise,  
2820 \$2 million out of that program area. Where will the impact be?

2821 **Mr McEvoy**—I think the impact, generally, will be more than made up for from two main areas.  
2822 First, as I think I said earlier, the new campaign is well regarded by industry and they are being a lot  
2823 more supportive than ever in terms of cooperative money. So I think that is one big area. The second  
2824 one, which is the point you made, Senator, is that we will buy better in foreign currency next year,  
2825 which will also offset some of that.

2826 **Senator BIRMINGHAM**—There is obviously an opportunity forgone, to some extent. You  
2827 would have hoped for that industry buy-in, regardless of what Tourism Australia's funding was,  
2828 though.

2829 **Mr McEvoy**—Yes. All departments, I am sure, always want to do more, and we can do better  
2830 with more, but I am suggesting to this estimates committee that Tourism Australia will run a good,  
2831 full program and be as effective as possible with its current budget.

2832 **Senator BIRMINGHAM**—Okay. The National Tourism Accreditation Framework, I see, is  
2833 highlighted for launch this year. What type of funding goes into that, and how much involvement  
2834 and direction of that is from the department versus from TA? I think I saw that in both your  
2835 deliverables.

2836 **Ms Madden**—Previously I did mention that the government had committed 5.5 million over the  
2837 next four years from 1 July 2010 to implement the accreditation framework. I mentioned that at the  
2838 inaugural meeting of the quality council which is an industry council but with representation from  
2839 Tourism Australia, the department and state and territory governments, there was discussion of the  
2840 budget. Exactly what the breakdown will be is still being finalised. Certainly, it is mentioned under  
2841 both indicators because TA, in marketing and promoting the quality mark, and the department, in its  
2842 oversight and governance and support for the accreditation framework, have a role to play in  
2843 supporting it. As for the detailed budget breakdown, although it is just being worked through at the  
2844 present time, we are happy to provide on notice further details to you.

2845 **Senator BIRMINGHAM**—Is TA's role largely limited to how you promote the recognition of  
2846 the branding of accreditation?

2847 **Mr McEvoy**—Yes it is absolutely so. With the department we have worked on a branding  
2848 moniker or a device to make it obvious to consumers. Then, because of what we do, we will make  
2849 sure it pervades all the things we do and the online publications. There is a commitment from the  
2850 states and territories to do the same. It is probably about bringing that brand to life, asking  
2851 consumers to look for that moniker.

2852 **Senator BIRMINGHAM**—This is not exactly the first time that the industry has been through  
2853 an accreditation framework development process. What will be different about making this one  
2854 succeed?

2855 **Ms Madden**—In my view this accreditation framework has taken all the multitude of other  
2856 frameworks and accreditation schemes with it on the journey. As you may recall there has been a  
2857 two-year intensive joint industry-government working group to get us to this stage. That working  
2858 group has prepared all the governance documentation and a lot of the framework settings, if you  
2859 like, for how to roll out the accreditation scheme. I think that is a defining characteristic compared to  
2860 previous attempts. This includes the 20-plus program managers and also the major industry groups  
2861 which cover a large proportion of the industry that have not been accredited but want to be so now.

2862 What we have tried to do is to have a much more collaborative and cooperative approach than ever  
2863 before. We have a strong industry council that can now take that forward but with representation as  
2864 I mentioned from key government partners too.

2865 **Senator BIRMINGHAM**—That addresses the back end of it—the industry participation and so  
2866 on and accreditation. That will only be of value though if there is genuine consumer recognition of  
2867 the benefits and engagement in that side of it. What research has been undertaken and what  
2868 assurance is there that consumers will see some benefit in taking an accredited product and therefore  
2869 of course providing a benefit back to those who actually do participate?

2870 **Ms Madden**—There has been, as I said, a lot of work undertaken to get to the stage including  
2871 much feedback that unless it is aligned with the major national marketing efforts it will not be  
2872 successful. Thus there is the role of Tourism Australia and the integration of the national quality  
2873 mark in all the TA campaign processes, also in Aussie Specialists, in Australia.com and in using the  
2874 Australian Tourism Data Warehouse which has I think approximately 19,000 tourism businesses.  
2875 That is the supporting framework so that we can go forward with a consumer awareness and pickup  
2876 which is so critical to the success of the scheme.

2877 **Senator BIRMINGHAM**—Is TA involved or has TA been involved in the marketing and  
2878 planning around Australia's participation in Shanghai at the expo?

2879 **Mr McEvoy**—We have certainly been involved. We have four key dates for tourism in Shanghai  
2880 and Johnny Nee and May Tang our operatives up there are working very hard and there are a mix of  
2881 leisure tourism promotion and also business events, the first of which was on the second main day of  
2882 the expo and I think there are three more to come. We have a strong involvement.

2883 **Ms Madden**—We will also be holding annual consultations with China's national tourism  
2884 authority at the Australian expo pavilion on 31 July which will involve Tourism Australia, the  
2885 department and the Department of Immigration and Citizenship. As we have discussed earlier that  
2886 consultation forms the backbone of the Approved Destination Status scheme which allows our  
2887 marketing in China to proceed.

2888 **Senator BIRMINGHAM**—Thank you all very much.

2889 **Senator McGAURAN**—The Victorian Bushfire Tourism Industry Support Package, for which  
2890 \$10 million was allocated, was to finish in June 2011. Can I have a report card on the expenditure of  
2891 that money: how much has been distributed, who is receiving it and what it has been spent on—and  
2892 who is on the task force, too?

2893 **Ms Madden**—Yes. I am happy to answer all those questions and, if you wish, provide some  
2894 detailed background to you. It is a \$10 million package, as you are aware, comprising \$5 million  
2895 from the State of Victoria and \$5 million from Australian government. The key purpose, of course,  
2896 was to get tourists back to the region economically affected by the bushfires. It covers both of  
2897 Victoria's high country, Gippsland, Yarra Valley and the Dandenong Ranges.

2898 In brief, the package provides \$6 million towards a cooperative marketing and brand-rebuilding  
2899 campaign; \$1 million to bring forward postponed events and marketing of some of the existing  
2900 events in the region; and \$3 million is actually helping to enhance and redevelop some of the  
2901 tourism infrastructure, including visitor facilities. Work is progressing very well against the task  
2902 force. I am happy to note that as at 31 March \$4.4 million of the marketing and events funding had  
2903 been already spent; \$800,000 of the infrastructure spending had been spent; and we are on track to  
2904 complete the entire project by June of next year—June 2011.

2905 **Senator McGAURAN**—Does that mean you are going through the councils?

2906 **Ms Madden**—Yes, the councils are involved. The task force is formally made up of Tourism  
2907 Victoria, as a co-chair with a representative from my department—the Department of Resources,  
2908 Energy and Tourism—we have Tourism Australia on board, Parks Australia, Parks Victoria and an  
2909 industry representative who at this point is the Falls Creek resort management. But that task force,  
2910 which is planning and over citing the package, is liaising very closely with councils, other industry  
2911 members in going forward with regard to the disbursement of funds.

2912 **Senator McGAURAN**—You would have more detail of the actual expenditure on events. I  
2913 would be happy to receive that.

2914 **Ms Madden**—Yes, I can give you that.

2915 **Senator McGAURAN**—Senator Eggleston raised the subject of the 'There's nothing like  
2916 Australia' campaign centred on the *Australia* movie. I think we all understand that any sort of  
2917 tourism campaign is susceptible to many variables. It is often subjective, if not risky. But I thought  
2918 the answer given by Mr McEvoy was not enough, quite frankly, given what most of us would assess  
2919 was a flop. You simply attach the promotion to the general health of the tourism industry and said,  
2920 'Therefore it must be a success.' Let us drill a little deeper. You must have done better with you

2921 dollar and sought market research on feedback on that particular promotion. Do you have such  
2922 market research?

2923 **Mr McEvoy**—Yes, we do. We do check and test all of our campaigns and do a brand health  
2924 check in the key markets across the world.

2925 **Ms Crowley**—We can certainly take on notice that question and get you the actual details and  
2926 metrics. But just by way of some more background and information, that campaign, which was  
2927 related to the film *Australia*, was our largest ever in terms of the number of commercial partners. We  
2928 had over 130 commercial partners around the world with that. The focus of it was predominately not  
2929 so much on the box office of the movie. Whatever that was would largely be a bonus. It was largely  
2930 based on the fact that we were going to ride on the back of a roughly US\$100 million promotional  
2931 push by the movie studio to promote the film. We knew that they would be spending those sorts of  
2932 dollars promoting the word ‘Australia’ and the concept of Australia and that to link to that  
2933 promotion—

2934 **Senator McGAURAN**—But they didn’t—

2935 **Ms Crowley**—That was their marketing budget.

2936 **Senator McGAURAN**—But they did not spend that.

2937 **Ms Crowley**—Globally they did.

2938 **Senator McGAURAN**—Can you show me that?

2939 **Ms Crowley**—Sure, absolutely.

2940 **Senator McGAURAN**—Because in your own brief you say—not you; who says this? Yes, it is  
2941 Tourism

2942 Australia:

2943 The challenge was always going to be how to ride the power of the movie.

2944 The movie was a flop. It was pulled pretty quickly from American cinemas, so I am amazed to think  
2945 they spent

2946

2947 US\$100 million promoting it. **Senator Wong**—Chair, if the senator is going to quote from a  
2948 document it might be useful if we could have

2949 the document so that we could reference the answer appropriately.

2950 **CHAIR**—Would you like to table the document, Senator McGauran?

2951 **Senator McGAURAN**—Sure—though it is my only copy. But I will, yes.

2952 **Senator Wong**—Do you want us to not read your notes?

2953 **Mr McEvoy**—To answer your question, Senator: we do do metrics on how our ads go, and we  
2954 would be

2955 happy to provide you with a breakdown.

2956 **Senator McGAURAN**—When you answer the question in regard to the market research you  
2957 undertook to assess the success or otherwise of the promotion, could you also give me the break-up  
2958 of the budget for it all,

2959 which I think was more than \$40 million; the production costs that went to Buzz Loman—

2960 **Senator Wong**—Who is Buzz Loman?

2961 **Senator McGAURAN**—Oh, what’s his name?

2962 **Senator Wong**—Baz Luhrmann?

2963 **Senator McGAURAN**—Baz Loman.

2964 **Senator Wong**—Baz Luhrmann. Thank you; just checking who we are talking about.

2965 **Senator McGAURAN**—A great Australian—Baz Loman, and his production company.

2966 **Senator Wong**—I think it is ‘L-U’, Senator, not ‘L-O’.

2967 **Senator McGAURAN**—Baz! Okay! How much was allocated to showing the advertisement  
2968 itself? Are you able to just answer: was it predominantly shown in the United States? I would think  
2969 so, but is that true?

2970 **Mr McEvoy**—It was before my time. But, as I understand it, it would have been shown in our  
2971 key markets, and our key markets are the five big ones: the UK, the USA, China, Japan and New

2972 Zealand. So it would have been across the board. Again, it was before my time so I cannot answer  
2973 with great confidence. Why don't we give you the breakdown.

2974 **Senator McGAURAN**—So the breakdown would be: not just the countries, but where within  
2975 those you have targeted it—is it the lounge room television set, the cinemas or just general billboard  
2976 promotion? Would it be that sort of breakdown of the whole budget? I would be really interested to  
2977 confirm that whoever released the movie—20th Century Fox, wasn't it?—really did spend \$100  
2978 million promoting this movie. That would be very interesting. Fox Studios I think it was. Anyway,  
2979 we will get a bit of an idea whether it was a success or not. On face value, it was not—and how could  
2980 it be, if you linked it with the movie itself?

2981 Also, as to the target audience: even here you say, in this document: 'a new sophisticated  
2982 destination campaign'. Indeed it was, as whoever saw the advertisement—which I did—would  
2983 know. It was hugely sophisticated. It could only ever have targeted some sort of up-market New  
2984 York person. In fact, I think that is what one of the advertisements was about—some New York  
2985 executive dreaming about coming out to Australia. So it was a very targeted market. Again, I know  
2986 it is subjective but it looked like a big waste to me. Good for Buzz and his movie—Baz and his  
2987 movie!

2988 **Senator Wong**—Was there a question in that, Chair, or just a diatribe?

2989 **Senator McGAURAN**—Yes: what was the target market?

2990 **Mr McEvoy**—I think we have said we would give the senator some breakdowns.

2991 **Senator Wong**—It is the same question.

2992 **Senator McGAURAN**—No. I have asked for the countries, where the movie has been located,  
2993 and what demographic, if you like, saw the movies. Who saw the advertisements? Several were of  
2994 some high-powered female New York executive dreaming about coming out to Australia. So  
2995 obviously they had decided just to target a particular, sophisticated market, as they say in their brief.

2996 **Mr McEvoy**—A target audience for—

2997 **Senator McGAURAN**—Is that what we are really after?

2998 **Mr McEvoy**—Australia is the target audience we call the experience seekers. They are a mix of  
2999 people who have the ability to travel—long to medium haul, predominantly. That means they have a  
3000 passport, they are digitally savvy, they have done reasonably well in life, and they like what we have  
3001 to offer. We can reach them because we know what they read, what they watch, what they listen to,  
3002 and how they research, plan and book a holiday. So we are happy to provide the senator with some  
3003 detail because I think we have information on the target audience.

3004 **Senator McGAURAN**—When such budget allocations are allotted, do you come back to the  
3005 minister in charge—I see the nodding of the head. So it is the minister who has ticked off this  
3006 particular program?

3007 **Mr McEvoy**—I have not nodded to anything.

3008 **Senator McGAURAN**—The minister was the final person to tick off?

3009 **Mr McEvoy**—We have an independent board that reports through to the minister. We as  
3010 management report through to the board of Tourism Australia.

3011 **Senator McGAURAN**—So the board does not consult the minister at all?

3012 **Mr Clarke**—The design and conduct and professional expertise of the campaign is through the  
3013 statutory authority, TA, and its board. The minister is not a decision maker on that sort of detail.

3014 **Senator McGAURAN**—He does not approve it one way or the other?

3015 **Mr Clarke**—No.

3016 **Senator BUSHBY**—What is the budget of Tourism Australia for the current financial year?

3017 **Mr McEvoy**—Current—this year we are in now?

3018 **Senator BUSHBY**—Yes.

3019 **Mr McEvoy**—It is \$142 million.

3020 **Senator BUSHBY**—What is it for the coming financial year?

3021 **Mr McEvoy**—\$123 million.

3022 **Senator BUSHBY**—What was it for last financial year?

3023 **Mr McEvoy**—For 2008-09?

3024 **Senator BUSHBY**—Yes.

3025 **Mr McEvoy**—\$137,559,000.

3026 **Senator BUSHBY**—I have had a quick look through all of this, and my cursory glance over your  
3027 budgets

3028  
3029 over the last few years indicates that—apart from next year, which I will get to—they have remained  
3030 basically steady in nominal terms and so appear to be going down in real terms. Is that an accurate  
3031 summation of your budgetary position? From a look over the last decade or so, it seems that the  
3032 current budget is the lowest since 2003 in real terms.

3033 **Mr Clarke**—If you are looking for a profile of the budget I will ask my chief financial officer to  
3034 take you through that.

3035 **Senator BUSHBY**—Thank you. I am aware that we are running out of time so I do not want a lot  
3036 of detail. I just want to know whether my cursory examination of the budget that TA has had is  
3037 correct in pointing to the current budget being in real terms the lowest since 2003.

3038 **Ms Rose**—I do not have a great deal of historical information. Between 2009-10 and 2010-11,  
3039 once the transition of TRA from Tourism Australia to the department—

3040 **Senator BUSHBY**—I was going to get to that in a minute; that is a separate issue. I am talking  
3041 about what has happened over the last few years in terms of real increases in TA's budget. It appears  
3042 to me it is having a real decrease and it is really only managing to cover its position in nominal  
3043 terms.

3044 **Ms Rose**—We will have to take it on notice.

3045 **Senator BUSHBY**—That is fine.

3046 **Mr Clarke**—We have to take out the effect of the \$9 million bring forward, the stimulus  
3047 spending to bring forward the marketing that Mr McEvoy has talked about, and the transfer of  
3048 Tourism Research Australia. Is your question: what does the budget profile look like after adjusting  
3049 for those one-off events?

3050 **Senator BUSHBY**—No. I understand about the shift of TRA back to the department and the  
3051 impact that will have on the budget. I am more interested in whether over the last few years the  
3052 Tourism Australia budget has been at least maintained in real terms or it has lost ground in real  
3053 terms.

3054 **Mr Clarke**—I have not done the calculation in terms of the proper Treasury real term discount in  
3055 that, but the order of magnitude of around \$160 million per year has been maintained.

3056 **Senator BUSHBY**—We have got \$142 million this year and 137.5 last year.

3057 **Mr Clarke**—That is after—

3058 **Senator Wong**—That is taking into account the issue that Mr Clarke just explained to you,  
3059 Senator.

3060 **Senator BUSHBY**—But TRA next year takes it down to 123, which is some 19 million below  
3061 what it is this year. Is it 160 or 140?

3062 **Ms Rose**—The 140 is the appropriation from government, and Tourism Australia has historically  
3063 been supplemented by revenue from other sources.

3064 **Senator BUSHBY**—I am really interested in the government's input and the degree to which  
3065 that has been maintained in real terms after taking account of these extraneous factors.

3066 **Mr Clarke**—Okay.

3067 **Senator BUSHBY**—Thank you. Moving on to the issue of Tourism Research Australia, I note  
3068 that Tourism Australia was not subject to the efficiency dividend but the department was and that  
3069 Tourism Research Australia has been moved back into the department from TA. What impact on the  
3070 finances of the department has moving TRA back had? Have you been fully recompensed for the  
3071 cost of TRA? Also, how are you dealing with the efficiency dividend?

3072 **Mr Clarke**—The transfer of the TRA function back from TA into the department was obviously  
3073 negotiated between the two entities and is essentially like for like, so it is neutral as a cost.

3074 **Senator BUSHBY**—It is a straight transfer of funds?

3075 **Mr Clarke**—Yes. In terms of the efficiency dividend on the department, we deal with that on a  
3076 whole-of-

3077

3078 department basis, so I cannot attribute any part of that to TRA.

3079 **Senator BUSHBY**—On a whole-of-department basis, what does it cost the department?

3080 **Ms Rose**—It is an incremental cost. We have not done the calculation to say, ‘This is what the  
3081 impact is,’ because it is incremental and it is built into our baseline estimates. Because we have only  
3082 existed for a couple of years, we did not have the money to start with. We have only had the bucket  
3083 of money we had to start with. It has not resulted in cuts to us.

3084 **Senator BUSHBY**—Are you saying that you have just operated on what you started with, which  
3085 was already cut by the efficiency dividend?

3086 **Ms Rose**—Correct.

3087 **Senator BUSHBY**—Can you outline, just in terms of what has been handed back to you, how  
3088 much TRA actually costs to run? What is the figure there?

3089 **Ms Rose**—The transfer was detailed in the portfolio additional estimates statements. The  
3090 part-year effect in 2009-10—because the transfer did not occur on 1 July—was just over \$4 million,  
3091 and then it is just over \$5½ million a year going forward.

3092 **Senator BUSHBY**—So there is a cost—and that was how much was transferred across?

3093 **Ms Rose**—Sorry, that is how much the transfer was: \$5½ million per annum.

3094 **Senator BUSHBY**—Is that an accurate reflection of how much it costs to run TRA?

3095 **Ms Rose**—TRA also has revenue from other sources.

3096 **Senator BUSHBY**—So it costs more to run than that—

3097 **Ms Rose**—Yes, because there is—

3098 **Senator BUSHBY**—because there is income other than what the government puts into it?

3099 **Ms Rose**—Correct.

3100 **Senator BUSHBY**—How much does it cost to run, all up?

3101 **Ms Rose**—From memory, the revenue from other sources is about \$2 million a year. If you bear  
3102 with me, I

3103 will see if I can find a more accurate figure. **Senator BUSHBY**—Okay. While you are looking, in  
3104 case it is somewhere nearby, are you able to tell me

3105 how many people are employed by Tourism Research Australia?

3106 **Ms Rose**—Twenty-one.

3107 **Senator BUSHBY**—Are there any current plans to change either the level of expenditure  
3108 involved with

3109 TRA or the numbers employed by it?

3110 **Ms Rose**—No, Senator.

3111 **Senator BUSHBY**—You are just looking up that figure?

3112 **Ms Rose**—I will have to take it on notice; my apologies.

3113 **Senator BUSHBY**—Okay, that is fine. Moving on to the new tourism campaign ‘There’s  
3114 nothing like

3115 Australia’, what is that projected to cost Tourism Australia this year and in the coming years?

3116 **Mr McEvoy**—We have previously answered a question similar to that. In terms of costs of  
3117 production and beginning the campaign in Australia, we spent \$6 million this year, or thereabouts.  
3118 Into the future we are

3119 saying that we will spend at least \$150 million over the next three years running it.

3120 **Senator BUSHBY**—That is \$150 million from all sources that you have?

3121 **Mr McEvoy**—Yes.

3122 **Senator BUSHBY**—And that is over what period?

3123 **Mr McEvoy**—Three years.

3124 **Senator BUSHBY**—How is that spend broken up over those three years?

3125 **Mr McEvoy**—It is really \$50 million a year over the next three years, running the advertising.

3126 **Senator BUSHBY**—I went the launch last week and it was very interesting. It looks like it is  
3127 quite a good campaign—

3128 **Mr McEvoy**—Thank you.

3129 **Senator BUSHBY**—It seems to be very good, and I like the way you have all those photos from

3130 everybody around the country.

3131 **Mr McEvoy**—Yes, it has been good.

3132 **Senator BUSHBY**—In developing the concept and ensuring that it works, did you go through all  
3133 the normal marketing processes of focus group testing and all those sorts of things when working  
3134 that through? Can you lead us through what you did to establish that it will work?

3135 **Mr McEvoy**—Yes. We did some initial work with Roy Morgan Research that asked Australians  
3136 how they would like to be involved. More than eight in 10 Australians said that they think they know  
3137 what makes our country great, and also more than eight in 10 Australians said that they would love  
3138 to be involved with Tourism Australia or the promotion of Australia globally. That was one great  
3139 insight that we took, and that is why we built the campaign that we did, getting Australians to upload  
3140 an image and say in 25 words what they think is a great part of Australia. We had just under 30,000  
3141 entries. I think it is the largest consumer promotion of its kind ever run in Australia, so it was a great  
3142 beginning. On your point, though: as we went through, we also tested some advertising concepts  
3143 with Australians and also overseas.

3144 **Senator BUSHBY**—In what markets did you do it overseas?

3145 **Mr McEvoy**—We tested really with our marketing people globally. We have a lot of foreign  
3146 nationals who work for us, so it was a low-cost way to test things that you would understand around,  
3147 ‘Does the line translate?’ and, ‘What sort of imagery should we use?’ et cetera. It was probably less  
3148 of a consumer research exercise and more of an exercise in talking to people who know, who  
3149 understand the trade and the industry, and are of that nationality and asking what they think. We  
3150 pretty much did it in all of the markets where we operate and have people. Then, just before we  
3151 launched, we also checked it with Australians again. The numbers are more than 80-odd per cent of  
3152 people—

3153 **Senator BUSHBY**—That was a proper focus group type of—

3154 **Mr McEvoy**—Yes. A group of 50 people telling us in a quantitative way and a group of eight  
3155 people telling us in a qualitative way what they think, and it was overwhelmingly positive, well  
3156 above the norm.

3157 **Senator BUSHBY**—You would have been pretty relieved about that, wouldn’t you, just before  
3158 you were launching?

3159 **Mr McEvoy**—Yes, definitely. You always hold your breath when you watch those things. But  
3160 Australians are by and large very, very positive. It makes people proud to be an Australian. Most  
3161 importantly for us, people think and know it will play well overseas. There is a really interesting  
3162 statistic. It is not necessarily intended to run heavily in Australia, but 44 per cent of the Australians  
3163 surveyed said it made them rethink the idea that they should take an Australian holiday, which is  
3164 probably a bit of added value.

3165 **Senator BUSHBY**—In terms of where you are spending the money, how is that being broken up  
3166 into domestic and foreign, and which markets will you be spending it in?

3167 **Mr McEvoy**—As I think we mentioned earlier, our total budget for domestic markets is just  
3168 around the \$9 million mark. The remainder—

3169 **Senator BUSHBY**—All of that will be put into this particular campaign?

3170 **Mr McEvoy**—We have two programs that run in Australia. One, ‘No leave, no life’, is about the  
3171 untaken leave, and also we will run elements of this. The big success in Australia, as you alluded to,  
3172 was the competition and the consumer generated stuff, so you will see that we will put focus on that  
3173 again. We will reopen that up for Australians to upload their imagery et cetera, but we will also  
3174 focus on ‘No leave, no life’, which has—

3175 **Senator BUSHBY**—How would you break up the domestic spend between those two programs?

3176 **Mr McEvoy**—If I can take that on notice, I will give you the breakdown.

3177 **Senator BUSHBY**—Okay. And foreign markets?

3178 **Mr McEvoy**—Similarly, I will give you a breakdown of where we invest, market by market.

3179 **Senator BUSHBY**—Are there any key outcomes that you are trying to achieve in terms of where  
3180 you are hoping that it will be successful and what sorts of numbers coming to Australia it will  
3181 actually result in?

3182 **Mr McEvoy**—Yes, sure. We do not resile from the fact that the industry and we want to see  
3183 general growth in numbers but particularly in dollars spent. Without putting a number on it, we  
3184 would hope to see a return to growth in 2010 and beyond. These things take a while to see. You will  
3185 start to see some immediate results from tactical type work, but over time the message will pervade.  
3186 Probably the better measures for us are the ones we were mentioning earlier around: do people see

3187 the ad and understand it, and does it create some intention for them to do something about it? The  
3188 other big measure for us will be around whether we can grow cooperative marketing dollars behind  
3189 it—are there more partners who will come on board? They are the measures.

3190 **Senator BUSHBY**—I have one more question which is going to take a long time, so I will just  
3191 read it into *Hansard* to take on notice, if that is okay.

3192 **CHAIR**—I think we have a mechanism for taking on notice which does not require reading into  
3193 *Hansard*, so you can just put it on notice in that form.

3194 **Senator BUSHBY**—Okay, fine. Thank you.

3195 **Senator BIRMINGHAM**—Mr McEvoy and colleagues, I will just take you quickly to table 2.1  
3196 on page 108 of the portfolio budget statement. In each of your program areas ‘Revenues from  
3197 industry sources’ is listed. Obviously at 1.3 the big spending area that includes marketing and so on  
3198 is the largest area of your investment and also the largest area of revenue from industry sources.  
3199 Does that include funding in things like cooperative advertising campaigns?

3200 **Mr McEvoy**—Yes.

3201 **Senator BIRMINGHAM**—I note that in each of those three program areas the revenue from  
3202 industry sources is forecast to diminish slightly in the year ahead. What is the reason behind that  
3203 and, given the discussions we have had about how you hope to make up the \$9 million gap this year,  
3204 what impact is that going to have?

3205 **Mr McEvoy**—It is an accounting thing. There are two measures of revenue. One is direct  
3206 revenue and the other is indirect revenue. Direct revenue is where we act as the banker—our money,  
3207 their money—and we take control, and the other is indirect. So I guess it is about that. We expect to  
3208 have at least as much, if not more, revenue but we only account for the direct revenue in those  
3209 budget estimates. The other thing is that you begin with the best of intentions and you forecast as  
3210 best you can but there is opportunity there to grow it. Again, just based on the last few days with the  
3211 launch and the way that people have taken it up, we would be optimistic that we could do a bit better  
3212 than the revenue forecast there. This reflects an accounting measure of direct versus indirect.

3213 **Senator BIRMINGHAM**—Noting the time, if you could for each of those three program areas  
3214 provide some breakdown of what the revenue from industry sources is for the 2009-10 year and  
3215 what your expectation is for the 2010-11 year. Also, how does that compare with indirect revenue,  
3216 which I realise is probably more than an estimate in some sense. And if you keep a measure of any of  
3217 those in-kind contributions, that would be useful. Was any of the \$9 million stimulus funding spent  
3218 on activities either in industry development or strengthening the travel distribution system program  
3219 areas?

3220 **Mr McEvoy**—I am just going to have quick look, but I believe it was all spent directly in tactical  
3221 advertising. So the answer would be no.

3222 **Senator BIRMINGHAM**—Obviously, those areas are having to share the cost-share for this  
3223 year.

3224 **Mr McEvoy**—Yes. Back to your original question on that, I have had a chat with my colleague  
3225 and one of those things is that we are becoming more efficient at running things like the Aussie  
3226 Specialist Program. That is one of the reasons that you will see a reduction in that line item.

3227 **Senator BIRMINGHAM**—Thank you, Chair.

3228 **Senator PRATT**—I want to ask a question about the tourism campaign that is currently being  
3229 run. We had some discussion earlier about social media and the new campaign. How are the two  
3230 connected and what is Tourism Australia doing to stay on top of those trends, particularly as people  
3231 are getting more and more of their tourism information online and are in fact sharing that  
3232 information with each other rather than getting it from official sources?

3233 **Mr McEvoy**—It is a great question. It is a real core part of what we do and the way we have to go  
3234 forward. There are two things: it is still worth running traditional media to gain some inspiration and  
3235 get some new people interested in it and then we aim to see people become advocates and tell their  
3236 friends, and there is no better way in the tourism and travel space to do that than by using  
3237 imagery—that is a great way to do it. So we are very heavy advocates of social networking through  
3238 the key sites—Twitter and Facebook. In markets like Japan and China, they are different sites but  
3239 they have the same sort of concept. In answer to your question, Senator, we place it at the core of  
3240 what we do. We still use traditional advertising to stimulate interest and then we allow the consumer  
3241 to talk about it. It is a new world. You have got to be brave enough to let the consumer take a bit of  
3242 control of your message, but I do think that Australia as a destination stands up so well that the  
3243 positive will far outweigh any sort of negative.

3244 **Senator PRATT**—What about applications like Foursquare, where people visit a destination or  
3245 a location—it could be a restaurant? They talk about their experience and then other people who are

3246 visiting that area can see what is around it, what people have participated in and what they thought  
3247 of it. Is Tourism Australia staying on top of those kinds of applications?

3248 **Mr McEvoy**—It is called ‘augmented reality’. With these devices, you will be able to look at  
3249 places and it will tell you a little bit about each place. It is quite amazing. We have done an iPhone  
3250 application which is mapped, so when you look out over a region it will tell you what restaurants are  
3251 around as well. It is a good question, Senator. Again, we are on top of and into that. That is the way  
3252 of today and tomorrow.

3253 **Senator PRATT**—That is good to know. Thank you.

3254 **CHAIR**—As it is 3 pm we will have the afternoon tea break and resume at 3.15 with the Treasury  
3255 portfolio. Thank you to the officers of the Department of Resources, Energy and Tourism for  
3256 appearing at estimates today and thank you to Tourism Australia.

3257 **Proceedings suspended from 2.59 pm to 3.18 pm**  
3258 **TREASURY PORTFOLIO**

3259 **In Attendance**

3260 Senator Nick Sherry, Assistant Treasurer

3261 **Executive**

3262 Dr Ken Henry, Secretary **Outcome 1—Sound Macroeconomic Environment Output Group**

3263 **1.1 Macroeconomic Group**

3264 Dr David Gruen, Executive Director

3265 Mr Tony McDonald, General Manager, Macroeconomic Policy Division

3266 Dr Steve Morling, General Manager, Domestic Economy Division

3267 Mr Adam McKissack, Principal Adviser, Forecasting, Domestic Economy Division

3268 Mr Paul Flanagan, General Manager, International Finance Division

3269 Mr Mike Kooymans, Senior Adviser, International Finance Division

3270 Mr Bill Brummitt, General Manager, International and G20 Division

3271 Mr Liangyue Cao, Senior Adviser, Macroeconomic Modelling Division

3272

3273 **Outcome 2—Effective Government Spending Arrangements**

3274 **Output Group 2.1 Fiscal Group**

3275 Mr Nigel Ray, Executive Director

3276 Ms Peta Furnell, General Manager, Social Policy Division

3277 Mr Peter Robinson, Principal Adviser, Social Policy Division

3278 Mr Chris Foster, Principal Adviser, Social Policy Division

3279 Mr Damien White, Manager, Social Policy Division

3280 Mr Steve French, General Manager, Industry, Environment and Defence Division

3281 Mr Russ Campbell, Principal Adviser, Industry, Environment and Defence Division

3282 Ms Natalie Horvat, Manager, Industry, Environment and Defence Division

3283 Ms Jan Harris, General Manager, Budget Policy Division

3284 Ms Luise McCulloch, Principal Adviser, Budget Policy Division

3285 Mr Jason Allford, Principal Adviser, Budget Policy Division

3286 Ms Sue Vroombout, General Manager, Commonwealth-State Relations Division

3287

3288 **Outcome 3—Effective taxation and retirement income arrangements**

3289 **Output Group 3.1 Revenue Group**

3290 Mr David Parker, Executive Director Mr Mike Rawstron, General Manager, International Tax

3291 and Treaties Division Mr William Potts, Manager, International Tax and Treaties Division Mr

3292 Greg Wood, Manager, International Tax and Treaties Division Ms Brenda Berkeley, Secretary,

3293 Board of Taxation and General Manager, Indirect Tax Division Ms Maryanne Mrakovcic,

3294 General Manager, Tax Analysis Division Mr Phil Gallagher, Manager, Tax Analysis Division Mr

3295 Colin Brown, Manager, Tax Analysis Division Mr John Clark, Manager, Tax Analysis Division

3296 Mr Anthony King, Tax Analysis Division Mr Marty Robinson, Manager, Tax Analysis Division

3297 Mr Paul McCullough, General Manager, Business Tax Division Mr Graeme Davis, Manager,

3298 Resource Tax Unit, Business Tax Division Mr Michael Willcock, General Manager, Personal and

3299 Retirement Income Division Mr Tony Coles, Manager, Personal and Retirement Income Division

3300 Mr Trevor Thomas, Principal Adviser, Personal and Retirement Income Division Mr Nigel

3301 Murray, Manager, Personal and Retirement Income Division Ms Christine Barron, General

3302 Manager, Tax System Division Mr Jason McDonald, Principal Adviser, Tax System Division Ms

3303 Mary Balzary, Principal Communications Adviser, Tax System Division Mr Brant Pridmore,

3304 Manager, Tax System Division

3305 **Outcome 4—Well**

3306 **Functioning Markets Output**

3307 **Group 4.1 Markets Group**  
3308 Mr Jim Murphy, Executive Director  
3309 Mr Richard Murray, Executive Director, Policy Coordination and Governance  
3310 Mr Geoff Miller, General Manager, Corporations and Financial Services Division  
3311 Ms Vicki Wilkinson, Principal Adviser, Corporations and Financial Services Division  
3312 Mr Mark Sewell, Manager, Corporations and Financial Services Division  
3313 Mr Daniel McAuliffe, Acting Manager, Corporations and Financial Services Division  
3314 Ms Marian Kljakovic, Manager, Corporations and Financial Services Division  
3315 Ms Alix Gallo, Manager, Corporations and Financial Services Division  
3316 Dr Richard Sandlant, Manager, Financial Services Taskforce  
3317 Ms Lorraine Allen, Senior Adviser, Australian Financial Centre Forum  
3318 Mr Patrick Colmer, General Manager, Foreign Investment and Trade Policy Division  
3319 Mr John Lonsdale, General Manager, Financial System Division  
3320 Ms Jacky Rowbotham, Manager, Financial System Division  
3321 Mr Justin Douglas, Manager, Financial System Division  
3322 Mr Roger Brake, Manager, Financial System Division  
3323 Dr Steven Kennedy, General Manager, Infrastructure, Competition and Consumer Division  
3324 Mr Brad Archer, Principal Adviser, Infrastructure, Infrastructure, Competition and Consumer  
3325 Division  
3326 Mr Bruce Paine, Principal Adviser, Competition Infrastructure, Competition and Consumer  
3327 Division  
3328 Mr Andrew Deitz, Manager, Infrastructure, Competition and Consumer Division  
3329 Mr Paul McBride, Principal Adviser, Cities and Housing, Infrastructure, Competition and  
3330 Consumer Divi  
3331 sion  
3332 Mr Simon Writer, Manager, Infrastructure, Competition and Consumer Division  
3333 Mr Paul Madden, Program Director, Standard Business Reporting Management Group  
3334 Mr Greg Divall, Program Manager, Standard Business Reporting Management Group  
3335 Mr Peter Martin, General Manager, Australian  
3336 Government Actuary **Australian Bureau of Statistics**  
3337 Mr Brian Pink, Australian Statistician  
3338 Mr Trevor Sutton, Deputy Australian Statistician, Social Statistics Group  
3339 Ms Gillian Nicoll, Assistant Statistician, Office of the Statistician  
3340 Mr Paul Lowe, Assistant Statistician, Population Census Branch  
3341 Mr Michael Belcher, Chief Financial Officer  
3342 Mr Denis Farrell, Deputy Australian Statistician, Population, Labour, Industry and Environment  
3343 Statistics  
3344 Group  
3345 Mr Ian Ewing, Deputy Australian Statistician, Macroeconomics and Integration Division  
3346 Ms Sue Phillips, Acting Assistant Statistician, Corporate Services Division  
3347 Mr Peter Harper, Chief Operating Officer  
3348 Mr Vince Lazzaro, Assistant Statistician, Human Resources Branch  
3349 Mr Garth Bode, First Assistant Statistician, Social  
3350 Statistics Group **Australian Competition and Consumer**  
3351 **Commission**  
3352 Mr Graeme Samuel AO, Chairman  
3353 Mr Brian Cassidy, Chief Executive Officer  
3354 Mr Marcus Bezzi, Executive General Manager, Enforcement and Compliance Division  
3355 Mr Tim Grimwade, Executive General Manager, Mergers and Acquisitions Group  
3356 Mr Mark Pearson, Executive General Manager, Regulatory Affairs Division  
3357 Mr Jo Schumann, Executive General Manager, Corporate Division  
3358 Ms Michelle Groves, Chief Executive Officer, Australian Energy Regulator  
3359 Mr Scott Gregson, Group General Manager, Enforcement Operations  
3360 Mr Nigel Ridgway, Group General Manager, Compliance, Research, Outreach and Product  
3361 Safety  
3362 Mr Adrian Brocklehurst, Chief Finance Officer  
3363 Mr Richard Chadwick, General Manager, Adjudication Branch  
3364 Ms Gail Neumann, Acting General Manager, People Services and Management Branch  
3365 Mr Sebastian Roberts, General Manager, Water Branch  
3366 Mr Sean Riordan, General Manager, NBN Engagement and Industry Compliance Branch  
3367  
3368 **Australian Office of Financial Management**

3369 Mr Neil Hyden, Chief Executive Officer  
3370 Mr Michael Bath, Director, Financial Risk  
3371 Mr Gerald Dodgson, Head of Treasury Services  
3372 Mr Andrew Johnson, Head of Compliance and Reporting  
3373 Mr Pat Raccosta, Chief Finance  
3374 Officer **Australian Prudential**  
3375 **Regulation Authority**  
3376 Dr John Laker, Chairman  
3377 Mr John Trowbridge, Member  
3378 Mr Keith Chapman, Executive General Manager  
3379 Mr Senthamangalam Venkatramani,  
3380 General Manager **Australian Taxation**  
3381 **Office**  
3382 Mr Michael D'Ascenzo, Commissioner of Taxation  
3383 Mr David Butler, Second Commissioner  
3384 Mr Bruce Quigley, Second Commissioner  
3385 Ms Jennie Granger, Second Commissioner  
3386 Mr Mark Konza, Deputy Commissioner, Small and Medium Enterprises  
3387 Ms Raelene Vivian, Chief Operating Officer  
3388 Mr Neil Olesen, Deputy Commissioner, Superannuation  
3389 Mr Robert Ravello, Chief Finance

3390 Officer **Australian Securities and**  
3391 **Investment Commission**  
3392 Mr Tony D'Aloisio, Chairman  
3393 Ms Belinda Gibson, Deputy Commissioner  
3394 Mr Michael Dwyer, Commissioner  
3395 Mr Justin Owen, Manager, Government Relations  
3396 Mr Matthew Abbott, Senior Executive Leader,  
3397 Corporate Affairs **Productivity Commission**  
3398 Mr Gary Bank AO, Chairman  
3399 Dr Michael Kirby, Acting Head of Office  
3400 Ms Lisa Gropp, Principal Adviser, Research  
3401 Mr Terry O'Brien, First Assistant Commissioner

3402 **CHAIR (Senator Hurley)**—Welcome to Minister Sherry and the officers of Department of  
3403 Treasury. I declare open this public hearing of the Senate Economics Legislation Committee. The  
3404 Senate has referred to the committee the particulars of proposed expenditure for 2010-11 and related  
3405 documents for the Innovation, Industry, Science and Research portfolio, the Resources, Energy and  
3406 Tourism portfolio and the Treasury portfolio. The committee must report to the Senate on 22 June  
3407 2010 and it has set 30 July 2010 as the date by which answers to questions on notice are to be  
3408 returned. Under standing order 26 the committee must take all evidence in public session. This  
3409 includes answers to questions on notice. Officers and senators are familiar with the rules of the  
3410 Senate governing estimates hearings. I particularly draw the attention of witnesses to an order of the  
3411 Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should  
3412 be raised, and which I now incorporate in *Hansard*.

3413 *The extract read as follows—*

3414 **Public interest immunity claims**

3415 That the Senate—

3416 (a) notes that ministers and officers have continued to refuse to provide information to Senate  
3417 committees without properly raising claims of public interest immunity as required by past resolutions of the  
3418 Senate;

3419 (b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers  
3420 and officers with guidance as to the proper process for raising public interest immunity claims and to  
3421 consolidate those past resolutions of the Senate;

3422 (c) orders that the following operate as an order of continuing effect:

3423 (1) If:

3424 (a) a Senate committee, or a senator in the course of proceedings of a committee, requests  
3425 information or a document from a Commonwealth department or agency; and

3426 (b) an officer of the department or agency to whom the request is directed believes that it may  
3427 not be in the public interest to disclose the information or document to the committee, the officer shall state to  
3428 the committee the

3429  
3430 ground on which the officer believes that it may not be in the public interest to disclose the  
3431 information or document to the committee, and specify the harm to the public interest that could

3432 result from the disclosure of the information or document.

3433 (2) If, after receiving the officer's statement under paragraph (1), the committee or the senator  
3434 requests the officer to refer the question of the disclosure of the information or document to a responsible  
3435 minister, the officer shall refer that question to the minister.

3436 (3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not  
3437 be in the public interest to disclose the information or document to the committee, the minister shall provide to  
3438 the committee a statement of the ground for that conclusion, specifying the harm to the public interest that  
3439 could result from the disclosure of the information or document.

3440 (4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public  
3441 interest that could result from the disclosure of the information or document to the committee could result only  
3442 from the publication of the information or document by the committee, or could result, equally or in part, from  
3443 the disclosure of the information or document to the committee as in camera evidence.

3444 (5) If, after considering a statement by a minister provided under paragraph (3), the committee  
3445 concludes that the statement does not sufficiently justify the withholding of the information or document from  
3446 the committee, the committee shall report the matter to the Senate.

3447 (6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not  
3448 prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

3449 (7) A statement that information or a document is not published, or is confidential, or consists  
3450 of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public  
3451 interest that could result from the disclosure of the information or document, is not a statement that meets the  
3452 requirements of paragraph (I) or (4).

3453 (8) If a minister concludes that a statement under paragraph (3) should more appropriately be  
3454 made by the head of an agency, by reason of the independence of that agency from ministerial direction or  
3455 control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall  
3456 refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with  
3457 paragraph (3).

3458 (Extract, Senate Standing Orders, pp 124-125)  
3459 [3.19 pm]

3460

3461

#### Australian Taxation Office

3462 **CHAIR**—The committee will begin consideration of the Treasury portfolio with the  
3463 superannuation questions for the Australian Tax Office and Treasury Revenue Group and will then  
3464 follow the order set out in the circulated program. Before I ask whether you would like to make an  
3465 opening statement, could you explain how we are going to have the superannuation questions and  
3466 whether officers will go at a particular time. Could you elaborate on that for us, Minister.

3467 **Senator Sherry**—What we have done in the past, both in government and in opposition, is that,  
3468 with any superannuation administration or policy questions, we got officers from Treasury policy  
3469 and ATO—for the operation and administration of the superannuation—here together. I know Mr  
3470 D'Ascenzo wants to make an opening statement, but it does not relate to superannuation, so perhaps  
3471 if we deal with the superannuation issues first those officers can then go and, when we go to other  
3472 tax matters, Mr D'Ascenzo can make an opening statement which does not relate to superannuation.

3473 **CHAIR**—So if we have follow-up superannuation questions we will have to place them on  
3474 notice after that block of questions. Senator Ronaldson needs to ask some questions before he goes.  
3475 They are not related to superannuation but he will ask them first and then we will get onto the  
3476 superannuation issue. Is there an opening statement?

3477 **Senator Sherry**—We have officers here for superannuation and we are more than happy to deal  
3478 with whatever Senator Ronaldson has got to ask about, but we will have to shuffle officers in and out  
3479 if it is a non-super area.

3480 **CHAIR**—I am afraid that will have to be the case.

3481 **Senator RONALDSON**—Minister, I want to ask you some questions about the Treasurer's  
3482 letter to Cabinet Secretary Ludwig dated 10 May.

3483 **Senator Sherry**—I will just get a copy of the letter.

3484 **Mr Parker**—I do not have an opening statement, but I just wanted to inform the committee that I  
3485 am not feeling particularly well at the moment and I probably ought to be in bed, but nevertheless I  
3486 wanted to do the Senate the courtesy of appearing here today. That does mean I am a little more  
3487 fuzzy than usual and, as a

3488 matter of practice, it means I will be directing traffic perhaps rather than answering all the questions  
3489 myself. Thank you.

3490 **Senator JOYCE**—I insist in that case that you go no further than where you are there! You are to  
3491 stay there and breathe backwards!

3492 **Senator RONALDSON**—If it is of any assistance, Mr Parker, you look spectacular.

3493 **Mr Parker**—Thank you.

3494 **Senator Sherry**—And you look even more spectacular, Senator Ronaldson, with your new  
3495 health regime.

3496 **Senator RONALDSON**—I am very grateful you mentioned that, Minister, because I think there  
3497 are some obvious benefits that flow from my 3½ weeks in the gym. Thank you very much for that.  
3498 Very impressive it is. Minister, I take you to the Independent Communications Committee, which,  
3499 according to the Treasurer, reviewed the communications strategy. Can you provide the committee  
3500 with a copy of that strategy, please?

3501 **Senator Sherry**—As I am sure you are aware, this is in Senator Ludwig's area. I would have to  
3502 take that on notice.

3503 **Senator RONALDSON**—It is not in Senator Ludwig's area because this is a strategy that was  
3504 given by your department to the ICC. It is not actually a question for Senator Ludwig. This is your  
3505 department's communications program presented to the ICC.

3506 **Senator Sherry**—Let me see if we can provide you with any details.

3507 **Senator RONALDSON**—What date was the ICC presented with this strategy?

3508 **Ms Balzary**—The strategy was tabled on 21 April for the ICC.

3509 **Senator RONALDSON**—The strategy was given to the ICC on 21 April?

3510 **Ms Balzary**—Yes. That is right.

3511 **Senator RONALDSON**—That was the day after the SPBC met. Is that right?

3512 **Ms Balzary**—That is correct.

3513 **Senator RONALDSON**—You do not have the strategy here?

3514 **Ms Balzary**—No.

3515 **Senator RONALDSON**—What was the substance of the strategy that the ICC was presented  
3516 with?

3517 **Ms Balzary**—The strategy was drawn from some developmental research that was conducted in  
3518 March-April this year. The substance was essentially looking at that research, identifying  
3519 communication needs around the tax reform announcement and the usual things in strategies around  
3520 key messages et cetera and also identifying potential communications mix drawn from that market  
3521 research.

3522 **Mr Parker**—I would just flag that the government's guidelines require departments who are  
3523 assisting in the preparation of advertising to do that market research and, on the basis of feedback  
3524 from the public, to test what the issues are that the public need to be informed on and then,  
3525 ultimately, to craft messages and test them with the ICC to the effect that one meshes with the other.  
3526 The 21 April meeting was the first in that process—that is, the presentation of the research and the  
3527 strategy.

3528 **Senator RONALDSON**—What did they test in March and April?

3529 **Ms Balzary**—In March and April a number of issues were being canvassed in the media around  
3530 tax reform. They looked at the sorts of issues that the government might have in any announcement  
3531 about tax reform as well as looking at current community attitudes and understand and awareness of  
3532 the current tax and  
3533 superannuation systems.

3534 **Senator RONALDSON**—Was this in relation to the mining tax, amongst other things?

3535 **Ms Balzary**—Yes. That was one.

3536 **Senator RONALDSON**—So the government had already proposed or thought about  
3537 introducing a new  
3538 mining tax in March or April and that was subsequently tested?

3539 **Mr Parker**—That was one of the recommendations of the Henry review. Obviously in the  
3540 government's consideration of that, it had to come to a view about an advertising campaign around  
3541 the overall response to the Henry review, and the mining tax, so-called, was one of the elements of  
3542 that.

3543 **Senator RONALDSON**—When was the Henry review released?

3544 **Mr Parker**—It was released on 2 May.

3545 **Senator RONALDSON**—So back in March or April the government had been considering a  
3546 mining tax and went into the marketplace to have a look at that. On 20 April, what did the  
3547 SPBC—the Strategic Priorities and Budget Committee—investigate? What did they look at?

3548 **Ms Balzary**—I would like to make a correction. The research was not looking at and seeking a  
3549 view on the mining tax; it was looking at issues that were raised in the media around the entire tax  
3550 reform issue.

3551 **Mr Parker**—So it is probably fair to say that, to the extent that the mining tax was raised in those  
3552 consultations and that research, it would not have been consultations and research around the  
3553 specific form of the tax as announced on 2 May but at a higher level about the appropriateness of  
3554 increasing the tax burden on the mining sector.

3555 **Senator RONALDSON**—Mr Parker, I asked a very specific question about whether the March  
3556 and April  
3557 developmental research included a mining tax, and the answer to that was a very clear yes.

3558 **Mr Parker**—And I have come back and clarified that answer.

3559 **Senator RONALDSON**—You are clarifying that there was no developmental research around  
3560 an increase

3561 in taxation on the mining industry? **Ms Balzary**—The research was based on issues that were being  
3562 canvassed in the media in relation to

3563 potential reforms and the mining tax was one of those.

3564 **Mr Parker**—But the specific—

3565 **Senator RONALDSON**—It included the mining tax?

3566 **Mr Parker**—Yes, but not the specific structure of the mining tax.

3567 **Ms Balzary**—That is correct.

3568 **Senator RONALDSON**—Come on, Mr Parker! Are you telling me—

3569 **Mr Parker**—I am just trying to be clear, Senator.

3570 **Senator RONALDSON**—Hang on. Were the specifics of the actual announced mining tax  
3571 tested? No, I  
3572 accept that that is not right, but a mining tax in some form was tested in March or April. That is  
3573 correct, isn't it?

3574 **Ms Balzary**—Yes.

3575 **Senator RONALDSON**—Thank you. So the government was already considering a potential  
3576 tax on the mining industry in March or April. I presume that that was following receipt of the Henry  
3577 review by government. Was it?

3578 **Mr Parker**—In December. That is correct.

3579 **Senator RONALDSON**—What was the nature and extent of that developmental research? What  
3580 did it say?

3581 **Ms Balzary**—The high-level findings of the research were that there was a relatively low level of  
3582 engagement in the community around issues relating to tax. Around a quarter of people were less  
3583 likely to engage on information around taxation, so it was pretty clear that it would be quite a  
3584 challenge, but it was an important challenge to be able to ensure that people actually understood  
3585 what the government was proposing.

3586 **Senator RONALDSON**—Presumably this also tested community reaction to an increase in  
3587 mining taxes, in whatever form that might be.

3588 **Ms Balzary**—I do not think it went into that sort of detail.

3589 **Mr Parker**—That is the formal one?

3590 **Ms Balzary**—That is right.

3591 **Mr Parker**—I think Ms Balzary is just repeating the previous point: that the consultations did  
3592 not go to the specific form of the taxation as announced.

3593 **Senator RONALDSON**—No, and I think we have moved on from that, but certainly it was part  
3594 of the developmental research, including testing, through focus groups or whatever, their views in  
3595 relation to taxation on mining and potential increases in taxation on mining, as was going to be, in

3596 due course, recommended by the release of the Henry review.

3597 **Ms Balzary**—To the extent that the issues were canvassed in the media.

3598 **Senator RONALDSON**—Yes, but you are saying that the tax on mining and an increase in tax  
3599 on mining were canvassed as part of this developmental research. Do we agree on that?

3600 **Ms Balzary**—I think that is the same question as before.

3601 **Mr Parker**—Mary has already answered yes.

3602 **Senator RONALDSON**—So the answer is yes. Okay. Thank you. I presume that on 20 April the  
3603 SPBC was presented with the outcomes of this research, which presumably showed that the  
3604 community would be supportive of an increase in taxation.

3605 **Senator Sherry**—Issues of advice to the SPBC, which is a policy arm of government, are matters  
3606 of determining government policy. It is policy advice to government.

3607 **Senator RONALDSON**—It is accepted that it was tested and we have accepted that on 20 April  
3608 the SPBC approved an allocation of nearly \$40 million for an advertising campaign, so I would  
3609 presume that it was on the back of positive feedback from their developmental research people that  
3610 they were led to make that decision.

3611 **Ms Balzary**—It was more in relation to the fact that the research showed that there was a clear  
3612 need in the community to be told about the details of the reforms.

3613 **Senator RONALDSON**—What you are saying is that the public needed to be told more about it  
3614 before they would accept it. Was that the outcome of the developmental research?

3615 **Ms Balzary**—No.

3616 **Senator RONALDSON**—What was the outcome of the developmental research?

3617 **Ms Balzary**—In order for them to have a good understanding of what the government is  
3618 proposing, there was a clear finding of the research that these sorts of communications would assist  
3619 in addressing that.

3620 **Senator RONALDSON**—On 20 April, the SPBC approved an allocation of funding. When was  
3621 the brief prepared for the ICC?

3622 **Ms Balzary**—I do not have that with me.

3623 **Senator RONALDSON**—There must be someone who knows the answer.

3624 **Ms Balzary**—It would be me that knows the answer. It was in the days preceding, but I would  
3625 have to take on notice the exact day.

3626 **Senator RONALDSON**—Days preceding 21 April?

3627 **Ms Balzary**—Yes.

3628 **Senator RONALDSON**—You will take that on notice?

3629 **Ms Balzary**—Yes.

3630 **Senator RONALDSON**—What was the nature and extent of that brief?

3631 **Ms Balzary**—The usual requirement is to provide the ICC with a statement against the  
3632 guidelines. So the brief, to the extent that we could at that point because it was the first time that we  
3633 had before them, provided a statement against the guidelines as to the nature of the proposed content  
3634 of materials et cetera.

3635 **Senator RONALDSON**—Did Treasury officials provide any briefing to the Treasurer before 7  
3636 May or as part of this ICC brief about possible third party advertising campaigns on the tax issue?

3637 **Senator Sherry**—That goes to policy advice to the government.

3638 **Senator RONALDSON**—I was not asking for the details; I was asking whether it included that  
3639 advice.

3640 **Mr Parker**—Your question, if I have understood it, is: was there any communication between  
3641 the department and the Treasurer prior to 7 May on this matter?

3642 **Senator RONALDSON**—In relation to the possibility of third party advertising campaigns on  
3643 the mining tax issue.

3644 **Mr Parker**—Yes, of course, because the SPBC considered it on 20 April.

3645 **Senator RONALDSON**—The SPBC considered whether there would be third party  
3646 commentary about a new mining tax?

3647 **Ms Balzary**—No. Sorry, I thought that you were talking about whether there was any  
3648 communications on the development of a campaign. There was no communication about third party  
3649 commentary prior to 6 May.

3650 **Senator RONALDSON**—My question was about 7 May. Have you chosen 6 May for any  
3651 reason other than that was what you thought I had said?

3652 **Ms Balzary**—No.

3653 **Senator RONALDSON**—In that brief prepared for the ICC and the SPBC, you are saying there  
3654 was no reference at all to possible third party campaigns in relation to a change to mining taxes?

3655 **Senator Sherry**—Anything that goes to the SPBC is cabinet in confidence. We will not  
3656 providing details of advice that goes to the SPBC.

3657 **Senator RONALDSON**—With the greatest respect, Minister, I think the cabinet confidence has  
3658 been waived with the release of the Treasurer's letter in relation to this issue. Indeed, the copy of the  
3659 letter that I have got has cabinet in confidence written on it with a very large black line through it. I  
3660 think any cabinet confidence has been waived.

3661 **Senator Sherry**—I do not accept your interpretation. Yes, there is a letter that has been released.  
3662 I have a copy of that letter from the Treasurer to Senator Ludwig that you have been referring to, but  
3663 the actual details of advice that went to the SPBC are cabinet in confidence.

3664 **Senator RONALDSON**—The ICC was provided with this material on 21 April?

3665 **Mr Parker**—That was when the meeting occurred.

3666 **Senator RONALDSON**—So there was a meeting on the 21st?

3667 **Ms Balzary**—Yes, there was a meeting on the 21st.

3668 **Senator RONALDSON**—When was the committee provided with the material for the meeting?

3669 **Ms Balzary**—That is the date I am unsure of, but as I mentioned before—

3670 **Senator RONALDSON**—It was prior to 20 April, though—prior to SPBC?

3671 **Ms Balzary**—That is the process.

3672 **Senator RONALDSON**—What was the extent of the brief given to the ICC? Was it just, if you  
3673 like, the

3674 macro briefing: 'This is generally where it was going to go'? Or was it more involved than that?

3675 What was the nature and extent of it?

3676 **Ms Balzary**—The ICC were presented with the statement against the guidelines, which was very  
3677 brief, but along with the campaign communication strategy and the developmental research.

3678 **Senator RONALDSON**—So, at that stage, no indication was given to the committee either in  
3679 the material provided prior to the 20th or at the meeting of 21 April that an exemption would be  
3680 sought?

3681 **Ms Balzary**—No.

3682 **Senator RONALDSON**—The ICC met on the 21st and the Treasurer said it received a positive  
3683 review. It is an interesting turn of phrase. Was it accepted or was it just viewed positively but they  
3684 wanted more questions answered?

3685 **Ms Balzary**—The ICC provided a review against the guidelines at the stage the campaign was at,  
3686 which was obviously the communication strategy stage. The ICC's role is not to take a decision one  
3687 way or the other, but the review was that the committee at that stage was satisfied that the campaign  
3688 was in compliance with the guidelines.

3689 **Senator RONALDSON**—You said there was no indication of a national emergency or extreme  
3690 urgency in relation to exemptions?

3691 **Ms Balzary**—No.

3692 **Senator RONALDSON**—Before 7 May were any concerns raised in any of these processes, in  
3693 any form, with the Treasurer about any possible third-party advertising campaigns? Were any  
3694 concerns raised by the Treasurer about that?

3695 **Senator Sherry**—It goes to policy advice.

3696 **CHAIR**—Before you go on, Senator Ronaldson, is there any problem with photographers being  
3697 present? As there are no problems go ahead if you need to, just not behind the senators.

3698 **Senator RONALDSON**—I ask you again: Minister, you are claiming cabinet-in-confidence in  
3699 relation to the mining tax issue?

3700 **Senator Sherry**—In respect to policy advice to a minister.

3701 **Senator RONALDSON**—I do not know how this could possibly be called policy advice. It was  
3702 just whether—

3703 **Senator Sherry**—That is what you asked for.

3704 **Senator RONALDSON**—No, I said were any concerns raised with the Treasurer about possible  
3705 third-party advertising campaigns on the mining tax issue?

3706 **Senator Sherry**—You have asked for concerns; that is a policy view that you are seeking.

3707 **Senator RONALDSON**—Can I now take you to the letter written by the Treasurer, on 10 May,  
3708 which was a Monday. Are you happy to accept 10 May was a Monday?

3709 **Ms Balzary**—Yes.

3710 **Senator RONALDSON**—My understanding is that the first advertisement that appeared from  
3711 the Minerals Council of Australia is this one, which was on the Friday. I will just read it to you:  
3712 The minerals resources industry paid \$80 billion in taxes and royalties in the past decade. The resources sector  
3713 pays Australia's highest tax rate. That's a fair share.

3714 There was another ad the next day—

3715 **Senator Sherry**—What date was that again?

3716 **Senator RONALDSON**—This was on 7 May. Then again in the *West Australian* there was  
3717 another full-page ad. That was the only paper, I understand, where there had been any advertising at  
3718 all from the mining industry about this tax. On what basis was the letter from the Treasurer then  
3719 written claiming that there was a national emergency or extreme urgency? I do not think you could  
3720 say that any of those ads would indicate that there was a national emergency or extreme urgency.

3721 **Senator Sherry**—The two ads to which you refer were only part of a much more significant  
3722 public debate that was occurring—and misinformation campaign, I might say—over that week  
3723 following the announcement of the RSPT.

3724 **Senator RONALDSON**—Any greater debate than you would normally get from the community  
3725 or an industry in relation to a massive new tax on mining?

3726 **Senator Sherry**—As I have said, following the announcement on 2 May of the tax  
3727 package—mind you, I have to say there was some considerable public debate from time to time in  
3728 the 18 months or so while the independent tax review was conducting its investigations; there was  
3729 public debate and discussion of this issue over the preceding 18 months as they conducted their  
3730 consultation, so it is not correct to say there was not consultation or indeed debate and speculation in  
3731 the media about taxation of resources—there was very clearly very significant public debate taking  
3732 place. I do not have copies of the media articles or transcripts here with me, but I am more than  
3733 happy to get them for you. Included in that public debate were the two ads to which you have  
3734 referred.

3735 **Senator RONALDSON**—This is the first advertisement appearing in any newspaper anywhere.  
3736 Were there radio ads prior to this? The answer is no. Had there been any television commercials  
3737 prior to this? No. The Henry review was released on the Sunday, wasn't it?

3738 **Senator Sherry**—Yes.

3739 **Senator RONALDSON**—That was the 2nd. Five days later this appeared. Over the weekend the  
3740 Treasurer apparently decided that this was a national emergency and something that required  
3741 extreme urgency. There had been no discussion with the ICC, the Independent Communications  
3742 Committee, at all about a likely exemption. The reality is that the Treasurer hit the panic button, did  
3743 he not?

3744 **Senator Sherry**—Your question is?

3745 **Senator RONALDSON**—Did the Treasurer hit the panic button?

3746 **Senator Sherry**—You just made a general rhetorical statement full of polemics and political  
3747 debating points, but your question is?

3748 **Senator RONALDSON**—Did the Treasurer hit the panic button and remove from the  
3749 Independent Communications Committee the right to continue their involvement in this process on  
3750 the back of them having been briefed on this and given it a tick off on 21 April with no potential  
3751 issues about exemptions raised with them whatsoever? After a very minor campaign are you  
3752 claiming that that advertisement was an indication of a national emergency or extreme urgency?

3753 **Senator Sherry**—Again, amongst that—

3754 **Senator RONALDSON**—Have a look at it—

3755 **CHAIR**—Senator Ronaldson, you have made a long statement/question. Can you now allow the  
3756 minister to respond.

3757 **Senator Sherry**—Thank you, Chair. To the extent that there was actually a question there  
3758 amongst the polemic, political points, debating points et cetera that Senator Ronaldson has made, as

3759 I have indicated, there was extensive public debate taking place. It started on Sunday the 2nd.  
3760 Senator Ronaldson has referred to two advertisements, but that was just part of the very extensive  
3761 debate that occurred in the first week and has continued since the release of the report on the 2nd.

3762 **Senator RONALDSON**—Minister, I put it to you that, with this big new mining tax, the  
3763 government got some developmental research work which showed that they might be onto a good  
3764 thing. Within four days of it being announced, the Treasurer has hit the panic button and removed  
3765 the independent communications committee from this process as a result. The basis on which he did  
3766 that was an alleged matter of national emergency or extreme urgency.

3767 **Senator Sherry**—I do not accept your characterisation that the Treasurer hit the panic button.  
3768 From everything I know from my dealings with the Treasurer he is a very considered and effective  
3769 man in the carrying out of his duties. Beyond that, if you want further views from the Treasurer as to  
3770 his analysis of the debate that was occurring at that time, I am more than happy to take it on notice  
3771 and get you a response.

3772 **Senator RONALDSON**—Madam Chair, I thank my colleagues for their indulgence. I have a  
3773 large number of matters that I will put on notice.

3774 **CHAIR**—Thank you, Senator Ronaldson. We will now move to the superannuation area.  
3775 Senator Bushby.

3776 **Senator BUSHBY**—I have quite a few questions on superannuation. I am going to put a lot of  
3777 them on notice because I know we are pressed for time today. Firstly, I want to explore some of the  
3778 effects of an increase in the superannuation guarantee from nine per cent to 12 per cent. Last week at  
3779 estimates Dr Henry concerned that an increase in the superannuation guarantee will in the long run  
3780 cause take-home wages to be lower than they otherwise would. Do you agree that in the long run the  
3781 whole incidence of the increase falls on wages?

3782 **Mr Willcock**—You referred to the evidence that Dr Henry gave us week. Indeed, I can read out  
3783 again what he said: ‘With respect to past increases in SG, over time those increases have essentially  
3784 come out of wages rather than profits’. I think we would say that what happened in the past is likely  
3785 to also occur in relation to this increase.

3786 **Senator Sherry**—There is obviously significant historical experience in a relatively recent time  
3787 period under both the former Labor government and the former Liberal government. The  
3788 superannuation guarantee was introduced at a base rate of three per cent—I think the original  
3789 decision by the then Arbitration Commission was in 1987 and it was gradually implemented in  
3790 1988. The SG was phased in and I think it reached nine per cent on 1 July 2002. So we do have a  
3791 significant historical experience of the phase in of the SG both up till the defeat of the Keating  
3792 government in 1996 and then the further increase to nine per cent under the Howard government.

3793 **Mr Gallagher**—I would like to add to the minister’s answer. In *Security in retirement*, a  
3794 document released by the Hon. John Dawkins before the introduction of the superannuation  
3795 guarantee—

3796 **Senator BUSHBY**—I have got to admit I do not have a copy of that with me.

3797 **Senator Sherry**—I have got a copy in my office. You might care to remind us of the date though,  
3798 Mr Gallagher.

3799 **Mr Gallagher**—It was 30 June 1992. It said, ‘Real take-home pay will continue to increase but at  
3800 a correspondingly lower rate than would otherwise be the case’. The assumption for the  
3801 superannuation guarantee in 1982 and the productivity agreement superannuation back in 1986 was  
3802 that eventually the increases in the superannuation would be paid by productivity wage rises.

3803 In fact, during the 1990s, when the superannuation guarantee was phased in, real labour  
3804 productivity was rising at 2.2 per cent. Given that the SG itself was only rising at half a per cent a  
3805 year—one per cent every two years—it meant that there was on average 1.7 per cent that could be  
3806 allocated to real wage increases during the period, as well as the payment.

3807 **Senator BUSHBY**—But the key point is that the increase in the superannuation guarantee would  
3808 offset part of that, which would otherwise have been available for wage rises.

3809 **Mr Gallagher**—Yes.

3810 **Senator BUSHBY**—So it effectively ended up as a shift in the way that remuneration is received  
3811 by the workers, rather than a cost to business.

3812 **Senator Sherry**—The increase in real wages that was occurring was slightly less as a  
3813 consequence of the SG.

3814 **Senator BUSHBY**—That is right, but it shifted some of the remuneration that they might  
3815 otherwise have received from take-home pay to superannuation, and ultimately the business did not  
3816 actually wear it. It resulted in a shift in the way that remuneration was paid.

3817 **Mr Parker**—That is what you would expect from the underlying economics of it. Clearly, the  
3818 legal incidence of the SG falls on employers. Just hypothetically, were the government to announce  
3819 an increase in the SG applying from, say, tomorrow, then nominal wages are effectively fixed by  
3820 whatever agreements are in place—

3821 **Senator BUSHBY**—That was going to be my next question.

3822 **Mr Parker**—and that would mean that the legal incidence and probably the economic incidence  
3823 of that first increase would fall on capital rather than labour—

3824 **Senator BUSHBY**—Which means, in layman's terms, that the employers are paying—

3825 **Mr Parker**—Correct, yes.

3826 **Senator BUSHBY**—in the short term.

3827 **Mr Parker**—With the increase in the SG announced recently, the timing of the first increase,  
3828 which is one-quarter of one per cent, happens on 1 July 2013. So that is in three years time, and there  
3829 is clearly the opportunity within that time period for wage arrangements under bargaining and other  
3830 things to, in effect, turn once. So you would expect that bargaining to take account of the increase in  
3831 SG.

3832 **Senator BUSHBY**—So you are saying that, because of the way the timing of the proposal has  
3833 been set up, in most cases you would expect business to be able, in the normal course of events, to  
3834 build that into remuneration rather than wear the cost directly.

3835 **Mr Parker**—And obviously that will also depend on the overall macroeconomic story.

3836 **Senator BUSHBY**—It also depends on whether there are improvements in productivity at the  
3837 time, in terms of what Mr Gallagher was saying, as to how well that is actually absorbed.

3838 **Mr Parker**—That is right.

3839 **Senator BUSHBY**—Has Treasury analysed the effects of a higher superannuation guarantee on  
3840 the size of retirement benefits relevant to earnings during one's lifetime?

3841 **Mr Gallagher**—We have looked at the effect on benefits using cameos. We take someone on  
3842 average wages or three-quarters of average wages, which is about the median wage, and look at  
3843 what effect the increase would have on their benefits from different starting ages. That is what we  
3844 have done. The ones that have been included in the tax package release material were generally for a  
3845 person who is 30 now and showed what the effect would be on their final benefits.

3846 **Senator BUSHBY**—In any of your cameos, with a 12 per cent superannuation guarantee, have  
3847 any of the results shown that there might be some people who would end up with—although I  
3848 hesitate to use the word— too much superannuation or savings for them, in the sense that they would  
3849 have more than they desired for retirement or even more than they actually had while they were  
3850 working?

3851 **Mr Gallagher**—We have replacement rates in some cases for very low income people which  
3852 exceed 100 per cent if we measure it by deflating the retirement benefit by the consumer price index.  
3853 So there are quite high replacement rates at low incomes.

3854 **Senator BUSHBY**—So in some cases that is possible—

3855 **Mr Gallagher**—That is possible.

3856 **Senator BUSHBY**—to have more income in retirement than—

3857 **Mr Gallagher**—Yes. That includes the age pension effect as well, because for a low-income  
3858 person the age pension, which was increased in the 2009 budget, can offer a significant replacement  
3859 rate.

3860 **Senator BUSHBY**—Has Treasury analysed the behavioural response to an increase in the  
3861 superannuation guarantee in the sense that a higher rate of superannuation guarantee may reduce the  
3862 private savings that some people would otherwise make—effectively a form of moral hazard, in a  
3863 sense?

3864 **Mr Gallagher**—There is literature in Australia which goes back to the issue of the private  
3865 savings offset for superannuation. I was a participant back in the 1990s, but most of the recent work  
3866 has been done by Ellis Connolly of the Reserve Bank. In this research discussion paper, which I am  
3867 happy to table—

3868 **Senator BUSHBY**—I would appreciate it if you would do that.

3869 **Mr Gallagher**—Ellis Connolly is suggesting that the private savings offset for the  
3870 superannuation guarantee is of the order of 30 per cent, so people will decrease other savings by 30  
3871 per cent of the contributions that have been compulsory under the superannuation guarantee.

3872 **Senator BUSHBY**—Is that an across-the-board average?

3873 **Mr Parker**—That is an average.

3874 **Mr Gallagher**—That is an across-the-board average. It is an argument here based on aggregate  
3875 data. In the package itself, and also in the budget papers, there is mention of a national savings  
3876 analysis, where private saving goes up 0.7 of one per cent and national saving goes up 0.4 of one per  
3877 cent. In that national savings analysis we use these savings offset factors as part of that analysis, and  
3878 the final result has been reported in the budget papers.

3879 **Senator BUSHBY**—So that has been factored into the overall results of the proposed tax  
3880 changes?

3881 **Mr Gallagher**—Yes.

3882 **Senator BUSHBY**—In terms of that effect, whereby people relax a bit because they know they  
3883 have 12 per cent superannuation going in and do not make as much provision personally—which is,  
3884 I guess, what we are talking about—does that analysis you referred to show that it is more prevalent  
3885 in any particular income group or likely to be more prevalent in any income group?

3886 **Mr Gallagher**—The savings offset is likely to be higher in higher income groups, because the  
3887 lower income groups have fewer savings to offset. Also, their capacity for credit is more  
3888 constrained. So, for a high-income group, there is likely to be a higher savings offset. The thing  
3889 about the superannuation guarantee is that it particularly impacts on people who are not  
3890 high-income workers, because those high-income workers are more likely to have pre-existing  
3891 generous superannuation schemes. When the superannuation guarantee was introduced, 40 per cent  
3892 of employees had pre-existing superannuation schemes. Those schemes were probably more  
3893 generous than the superannuation guarantee itself, and it did not change their savings behaviour. It  
3894 is still the case that 20 per cent of employees are salary sacrificing. They are higher income groups  
3895 and, again, you would not expect it to change their savings behaviour.

3896 **Senator BUSHBY**—I am not sure whether you mentioned this earlier, but with regard to these  
3897 behavioural responses you have mentioned—the 30 per cent—are they reflected in Treasury's  
3898 estimates of future savings?

3899 **Mr Gallagher**—Yes, they are certainly reflected in the national savings analysis that I have  
3900 referred to.

3901 **Senator BUSHBY**—What about the size of superannuation assets under management?

3902 **Mr Gallagher**—The offset is outside of superannuation rather than in superannuation, so it is not  
3903 shown there. It is shown in our national savings analysis, which has not been published in full. It is  
3904 shown in the offset account. The presentation of the analysis is the same as it was in my 1996, which  
3905 is available on the Treasury website.

3906 **Senator Sherry**—In terms of your question, you asked specifically about additional savings in  
3907 superannuation. Obviously there is an impact, and I do believe we gave an estimate of the figure.  
3908 The officers might—

3909 **Mr Gallagher**—We said \$85 billion in funds under management after 10 years, and \$500 billion  
3910 in funds under management by 2035.

3911 **Senator BUSHBY**—And that is the additional funds?

3912 **Mr Gallagher**—That is the additional superannuation funds under management.

3913 **Senator BUSHBY**—With the increase of three per cent?

3914 **Mr Gallagher**—Yes.

3915 **Senator BUSHBY**—Does that include a figure allowing for the offset where people may put less  
3916 in involuntarily.

3917 **Mr Gallagher**—No, because that is outside of superannuation, and it could be in housing; it  
3918 could be in other savings.

3919 **Senator BUSHBY**—It could be in superannuation, though. Some people may well put less in at  
3920 the end of the financial year.

3921 **Senator Sherry**—Mr Gallagher has given you the net figure. He has already provided details  
3922 about how there would be a shift. Some would reduce their super saving as a consequence of the SG  
3923 going up.

3924 **Senator BUSHBY**—What I want to know is whether that estimate of additional funds under  
3925 management by superannuation funds takes into account that potential reduction of voluntary  
3926 contributions.

3927 **Mr Gallagher**—Technically, no; it is outside of the superannuation funds.

3928 **Senator BUSHBY**—It is a gross figure in the sense of the additional funds.

3929 **Mr Gallagher**—The funds under management figure is a gross figure.

3930 **Senator BUSHBY**—The Henry review claims that savings will be 20 per cent higher  
3931 consistently were its recommendations applied. How much higher would national savings be in the  
3932 long run if the superannuation guarantee is increased in the manner the government proposes?

3933 **Mr Gallagher**—The national savings effects, which are reported in the budget papers, are 0.7 of  
3934 one per cent of GDP for private saving and 0.4 per cent of GDP for public saving. The reason that  
3935 the public saving is lower is a number of the measures in the package, particularly the contribution  
3936 caps measure, have a cost to public revenue and lead to public dissaving, which is accounted for in  
3937 the national savings analysis.

3938 **Senator BUSHBY**—That is the percentage of GDP, but the Henry review actually talks about a  
3939 20 per cent increase in savings.

3940 **Senator Sherry**—But the independent tax review's recommendations on superannuation are not  
3941 the same in some areas as the ultimate policy announcement of the government.

3942 **Senator BUSHBY**—Absolutely, which is why I am asking the question. The recommendation of  
3943 the independent review was that it would result in a 20 per cent increase in savings. I am interested  
3944 in doing a direct comparison with what the government chose.

3945 **Mr Gallagher**—In the tax review report, there is a presentation of the national savings analysis  
3946 which compares a superannuation guarantee increase with the panel's recommendation for  
3947 superannuation to be taxed in personal tax at marginal rates and a flat 20 per cent concession. That  
3948 analysis will talk about the increase in national savings. On page 115, chart A2-10 it does a  
3949 comparison. The reason that the AFTS proposal was more significant is that involved a considerable  
3950 increase in concessions for low-income workers because of the flat 20 per cent concession that  
3951 would be given to everyone. In part, the increased tax revenue from high-income earners was moved  
3952 into the superannuation accounts of low-income workers by virtue of the fact that contributions tax  
3953 was abolished. In the government's current proposals, contributions tax is not abolished and so you  
3954 do not get the same effect.

3955 **Senator BUSHBY**—Can you draw a comparison at all?

3956 **Mr Gallagher**—I think the closest comparison we have is that chart on page 115 of the Henry  
3957 report.

3958 **Senator BUSHBY**—Which part?

3959 **Mr Gallagher**—That is part 2, detailed analysis. The difference here is it is only an increase in  
3960 the SG to 12 per cent. It does not include the government's superannuation contributions rebate for  
3961 low-income earners. That rebate is worth 15 per cent. So it is not a direct comparison of the two  
3962 things. We could do it.

3963 **Senator BUSHBY**—I am interested. If you can do it and it is not an overly onerous task.

3964 **Mr Gallagher**—I will take that on notice.

3965 **Senator BUSHBY**—The Henry review's recommendations Nos 18 and 19 relate to the taxation  
3966 of superannuation contributions and earnings. These measures would presumably have revenue and  
3967 cost implications for the government budget if they were implemented. What is the separate cost or  
3968 revenue of implementing each of these recommendations over the forward estimates? Has that been  
3969 looked at?

3970 **Mr Gallagher**—There are costings of the Henry recommendations. I do not have those with me  
3971 because I thought we would be discussing the budget estimates. I will take that on notice.

3972 **Senator Sherry**—I think it is reasonable expectation, on past performance of this committee  
3973 going back many, many years, as you know, Mr Gallagher, that there are all manner of questions on  
3974 research, outcomes and costings.

3975 **Senator BUSHBY**—I imagine the minister has probably been guilty of a few of those himself.

3976 **Senator Sherry**—I plead guilty.

3977 **Senator BUSHBY**—If you could take that on notice it would be much appreciated. In doing so,  
3978 would you also take on notice how much these two measures, if they were implemented, would  
3979 increase national savings.

3980 **Mr Gallagher**—Yes.

3981 **Senator BUSHBY**—In evidence to the finance and public administration committee, Mr Crafter,  
3982 who is the chief executive officer of ARIA, was asked about his discussions with investment  
3983 managers about the proposed changes to mining taxes. He answered yes, and the feedback he had  
3984 received on the tax is that 'the impact on net present value of the minerals sector is on average in the  
3985 order of 10 per cent'. Has Treasury received any advice or conducted any analysis of the likely

3986 impact of the proposed mining tax on company value and therefore on share prices, and what would  
3987 be the effect in turn on retirement income through superannuation?

3988 **Senator Sherry**—Just before the officers respond to that, to put that in context, they were the  
3989 claims made by some fund managers not specified to Mr Crafter. They were not Mr Crafter's  
3990 analysis. I was there and I know the context in which he made the comment.

3991 **Senator BUSHBY**—As I said, it was the feedback he had received, it was not his conclusion.

3992 **Senator Sherry**—Claims made by some fund managers that he referred to in previous  
3993 commentary.

3994 **Senator BUSHBY**—I am interested in what analysis Treasury has conducted into the  
3995 likely impact.

3996 **Mr Gallagher**—I think there are two parts to the question. One is the issue of the longer term,  
3997 and that is why you have mentioned a net present value calculation. On the economic advice that  
3998 Treasury has, the replacement of an inefficient tax with the more efficient tax and the  
3999 implementation of the package is likely to lead to a growth in GDP. If there was a growth in GDP,  
4000 overall the Australian share market should be worth more, not less. We have not actually factored  
4001 that into the analysis but, because it appeared on the basis of the analysis we had that it would be on  
4002 the upside, to be conservative we have left to doubt. In the shorter term we have also had a look, and  
4003 I think it is interesting to do the comparison. Since 30 April, which is the close of the stock market  
4004 before the package was released, to 28 May, the ASX 200 has fallen 7.3 per cent. The materials  
4005 sector has fallen less than that; it has fallen 4.8 per cent. In the ASX 200 the big mining companies  
4006 are in actual fact reflected in the materials sector. If we remove from the ASX 200 index the  
4007 materials sector, the fall would be 8.1 per cent. What this reflects is that the big four is for financial  
4008 corporations and that is having a marked effect on the index. What we know is that of the ASX 200  
4009 24 per cent is in the materials sector. For a balanced superannuation fund, an overall superannuation  
4010 fund, the best estimate we can get is that 30 per cent of superannuation fund assets are held in shares.  
4011 If you then put in the 4.8 per cent, what you get is a change in value of a superannuation portfolio of  
4012 0.35 per cent.

4013 **Senator BUSHBY**—At one particular point in time.

4014 **Mr Gallagher**—So far to 28 May. In the longer run, for a balanced portfolio, the analysis we  
4015 have suggests that growth should return. In the shorter term, we have had a look at what has  
4016 happened in terms of what the effects on superannuation balances will be. So those are the two bits  
4017 of analysis.

4018 **Senator BUSHBY**—This is my final question before we move on to some other stuff. You  
4019 mentioned then and highlighted that when the shares started falling the materials sector, including  
4020 mining stocks, fell less than some of the other things. What I am interested in is when did the ASX  
4021 start falling.

4022 **Mr Gallagher**—My recollections from looking at the series is that they began falling on about 15  
4023 April. The high point of the market was not close to 30 April; it was already falling.

4024 **Senator BUSHBY**—It may well have been, but there was a marked increase in the level of that  
4025 fall—and I do not have the dates in front of me—around mid-May when there were problems in  
4026 Greece which led to—

4027 **Mr Gallagher**—I do not want to speculate on causes. What we saw was the drama over Greece's  
4028 debt getting higher and higher at the same time as the package was released.

4029 **Senator BUSHBY**—I think there may well be some questions later for Revenue which address  
4030 the timing of these falls and the variance between—

4031 **Senator Sherry**—Perhaps Markets Group would be more appropriate. Macro are here tomorrow  
4032 and Markets on Thursday, but I am more than happy to get comparative share market index  
4033 movements over whatever time frames you want, both in Australia and internationally.

4034 **Senator BUSHBY**—You might put them on notice that we will be looking at that.

4035 **Mr Gallagher**—I can take that on notice and perhaps provide them to my colleagues.

4036 **Senator BUSHBY**—My rough analysis of it indicates that mining shares started falling some  
4037 days before the dramatic fall that was seen in the rest of the stock market and immediately following  
4038 the announcement of the RSPT. I will hand over to someone else to ask questions.

4039 **CHAIR**—Senator Joyce, do you have questions on superannuation?

4040 **Senator JOYCE**—I have a couple. The government claims and continues to assert that one of  
4041 the reasons for the supertax is to pay for superannuation. Do you agree with that statement?

4042 **Senator Sherry**—Yes, it is part of the package that was announced. There are four

4043 superannuation measures, not just the superannuation guarantee. There is the change in the cap and  
4044 the rebate of up to \$500 for low-income earners. The fourth change is the extension of the SG. The  
4045 SG at the moment stops if you are aged 70 and if you continue to work beyond the age of 70 you do  
4046 not receive the SG, or it is not legally required. That age is being extended to 75. It is a package of  
4047 four measures.

4048 **Senator JOYCE**—Let us go through them. If it is there to pay for it, is any money from the  
4049 government going to go to the businesses to pay for their employees' superannuation, for instance,  
4050 when we increase the levy to 12 per cent? Is the government sending any of these businesses money  
4051 and saying, 'Here is money from the supertax; you can now pay your employees' superannuation  
4052 because we have increased the levy on it'?

4053 **Mr Gallagher**—Not for that purpose. There are also a couple of tax cuts as part of the package,  
4054 but that is a separate purpose.

4055 **Senator JOYCE**—If I were a partnership or a sole trader would the government send me any  
4056 money to pay for my employees' super? No.

4057 **Mr Gallagher**—I think this comes back to an earlier question from Senator Bushby about the  
4058 economic concerns.

4059 **Senator JOYCE**—The answer is no.

4060 **Senator Sherry**—In terms of the SG and its operation, the initial three per cent was not part of  
4061 the SG, it was a decision of the Arbitration Commission back in, I think, '86 or '87, as Mr Gallagher  
4062 referred to.

4063 **Mr Gallagher**—It was 1986.

4064 **Senator Sherry**—Then the SG effectively moved super contributions from the employer from  
4065 three to nine per cent by 1 July 2002. With respect to the SG, the super guarantee, no government  
4066 has made any contribution to the employer at any time.

4067 **Senator JOYCE**—I understand that and neither has this government.

4068 **Senator Sherry**—Correct.

4069 **Senator JOYCE**—This government is not paying any money to the employer to pay for their  
4070 employees' superannuation. So why does the government keep on asserting that one of the benefits  
4071 of the mining super tax is that it pays for employees' super when, quite obviously and even by your  
4072 own admission, it does not?

4073 **Senator Sherry**—Can I answer the question, because it gives me an opportunity to clear up yet  
4074 another piece of misinformation.

4075 **Senator JOYCE**—So that is why you put it in there?

4076 **CHAIR**—Senator Joyce, can you allow Senator Sherry to answer?

4077 **Senator Sherry**—If you look at the costings of the government's tax package—and it is in the  
4078 table at the back of the document that was released—it points out the cost of each of the  
4079 superannuation measures, including the cost to government revenue of the proposed increase in the  
4080 SG in that first year, which is a not insignificant \$245 million. So there is a cost to government, and  
4081 it is in part paid for by government, because there is a cost to government revenue of an increase in  
4082 the SG.

4083 **Senator JOYCE**—I will ask the question to you, then. I am an employer, I have an employee and  
4084 their superannuation contribution goes from nine to 12 per cent; can I expect a cheque from the  
4085 government to help pay for that?

4086 **Senator Sherry**—No, but that was not the question you just asked me.

4087 **Senator JOYCE**—No, it is the assertion that is made by the government over and over again. Is  
4088 it going to assist paying for people's superannuation if they are over the age of 70?

4089 **Senator Sherry**—No, that is not right. You misunderstand the measure. I thought I explained it.

4090 **Senator JOYCE**—I do not misunderstand it at all.

4091 **Senator CAMERON**—That's a big call, coming from you!

4092 **Senator JOYCE**—Dougie's been sent to protect you!

4093 **CHAIR**—Can we allow the minister to answer please.

4094 **Senator Sherry**—Thank you. I did think I well outlined the fourth measure. Let me repeat the  
4095 answer I gave earlier. The fourth measure relates to the cut-off age for the payment of super  
4096 guarantee to employees, which is currently age 70. If you are over the age of 70 and employed,  
4097 currently the employer is not legally required to pay the SG. That cut-off age has been increased to  
4098 75. So if you are working—and I think about 33,000 was the estimate—past the age of 70, up to the

4099 age of 75 you will continue to receive your super guarantee.

4100 **Senator JOYCE**—And the employer will be paying for it, not the government. That is correct,  
4101 isn't it?

4102 **Mr Gallagher**—I draw Senator Joyce's attention to page 42 of Budget Paper No. 2, where it  
4103 gives the cost of the superannuation guarantee measure in 2019-20 at \$3.6 billion. That is an  
4104 appreciable sum of money, and I suspect other measures have been taken in order to pay for the  
4105 effect on revenue of increasing the SG.

4106 **Senator Sherry**—There is no doubt, Senator Joyce—we have said this over and over again; the  
4107 package says this—if there is no resource super profits tax, there will be no cut in company tax from  
4108 30c to 28c, those four measures I have outlined will not go forward under this government, there  
4109 will be no increase in the write-offs for small business from \$1,000 to \$5,000 and there will be no  
4110 introduction of a standard deduction, which will benefit over six million taxpayers. Those things  
4111 that I have just referred to will not go ahead if the resource super profits tax does not go ahead. It is  
4112 a package of measures.

4113 **Senator JOYCE**—That is more a threat than logic.

4114 **Senator Sherry**—No, it is not. That is our announcement.

4115 **Senator JOYCE**—What is the cost to Treasury of increasing the superannuation that the  
4116 employers pay from nine to 12 per cent?

4117 **Senator Sherry**—I have given you the figure—

4118 **Senator JOYCE**—No, what is the answer?

4119 **Senator Sherry**—Can I answer the question?

4120 **Senator JOYCE**—Okay.

4121 **Senator Sherry**—I have given you the figure for that first year, which I think is about \$245  
4122 million. We may have to take on notice the cost to government revenue. It is a quarter of one per cent  
4123 in the first two financial years and then, I think, half a per cent. So there is clearly an additional cost  
4124 to government revenue.

4125 **Senator JOYCE**—And the cost to revenue by the increase of the deduction is really the cost,  
4126 isn't it?

4127 **Mr Willcock**—It is because all of the super measures which Senator Sherry mentioned earlier  
4128 involve arrangements which either directly compulsorily, through SG, involve money being  
4129 transferred into super or provide incentives for people to put more money into super. That money is  
4130 taxed more concessionally than it

4131 would otherwise be if it was taken as labour income.

4132 **Senator JOYCE**—That is the cost.

4133 **Mr Willcock**—It is forgone revenue from what would be the revenue inflows if that money were  
4134 taxed at  
4135 marginal rates.

4136 **Senator JOYCE**—I acknowledge that. That it is the cost. The cost is the forgone revenue.

4137 **Mr Willcock**—And in the absence of some other measures, this would result—

4138 **Senator JOYCE**—And what is that cost?

4139 **Mr Willcock**—Mr Gallagher indicated, for example, in relation to SG that out to 2019-20, when  
4140 the SG

4141 will fully mature at 12 per cent, the cost at that stage will be \$3.6 billion to 2019-20 for that  
4142 particular measure alone.

4143 **Senator JOYCE**—What about just the forward projections in the next four years.

4144 **Senator SHERRY**—I have given you the figure. The first year is \$240-5 million.

4145 **Mr Gallagher**—Yes, that is correct.

4146 **Senator SHERRY**—If you look at the back as of the package that we released, the figure is  
4147 detailed there along with the costs of the other tax package measures.

4148 **Senator JOYCE**—So about \$245 million in the forward projections.

4149 **Senator SHERRY**—Let me just go to the back—I'm sure it is.

4150 **Mr Gallagher**—It is \$240 million if we ignore the unrelated expenses for the Australian Tax

4151 Office. The revenue cost is \$240 million; the tax rebate for low-income earners is \$830 million in  
4152 that year.

4153 **Senator JOYCE**—I am just interested in the super.

4154 **Senator Sherry**—The SG.

4155 **Mr Gallagher**—Yes, that is part of the super. In that year, the contribution caps measure is  
4156 estimated to cost \$785 million. So in total for the 2013-14 year, the package cost is \$1.84 billion.

4157 **Senator JOYCE**—How much have we brought in from the Resource Super Profits Tax?

4158 **Senator SHERRY**—In 2013-14 the projection is \$9 billion.

4159 **Senator JOYCE**—So you have brought in \$9 billion and you have sent out—you have forgone  
4160 revenue.

4161 **Senator SHERRY**—Correct. There are a range of other measures that are listed at the back of  
4162 the package.

4163 **Senator JOYCE**—I am just giving the Australian people the proportionality of what actually  
4164 being collected and what is actually being paid out. In fact, the employer does not get any  
4165 subsidisation whatsoever. You could bring in an increase in the superannuation guarantee levy, if  
4166 you wish to—it is not reliant so much on the tax; it is just a decision that you have made to link the  
4167 two together.

4168 **Senator SHERRY**—There is a cost to revenue, just as there is a cost to revenue of increasing the  
4169 concessional cap for super balances. The government has been very open and honest about this. We  
4170 have not indicated that the Resource Super Profits Tax is purely for the purposes of superannuation;  
4171 there are a whole range of other tax cuts and tax measures that are part of the package, Senator  
4172 Joyce.

4173 **Senator JOYCE**—It is all marvellous stuff! Do you have the Henry tax review there?

4174 **Mr Gallagher**—Yes.

4175 **Senator JOYCE**—Can you go to the graph on page 115. There you will see a graph on the  
4176 projected

4177 increases in

4178 national

4179 savings. **Mr**

4180 **Gallagher**—

4181 Yes.

4182 **Senator JOYCE**—In that graph, is the offset incorporated in that graph?

4183 **Mr Gallagher**—Yes, the offset is in the national savings analysis. These two lines are for  
4184 national saving. It is both private and public.

4185 **Senator JOYCE**—Is it affected by salary sacrificing?

4186 **Mr Gallagher**—There is an effect of salary sacrifice inasmuch as people with high contribution  
4187 rates are not taken to increase their superannuation contributions in total as part of the  
4188 superannuation guarantee. So there is an effect in the national savings analysis done in RIM Group  
4189 from that source

4190 **Senator JOYCE**—And it is in that graph?

4191 **Mr Gallagher**—Yes. It underlies both those graphs.

4192 **Senator JOYCE**—If Senator Eggleston's further questions are on super, I will defer to him,  
4193 because my next issue is revenue.

4194 **Senator EGGLESTON**—No, I think we will put my questions on notice and move on into  
4195 revenue.

4196 **CHAIR**—Senator Pratt has questions on superannuation.

4197 **Senator PRATT**—Thank you very much. I want to ask the significance of measures announced  
4198 recently that improve equity in superannuation, particularly for those who are likely to have low  
4199 balances.

4200 **Mr Gallagher**—The most significant measure in terms of equity is the 15 per cent low-income  
4201 contributions tax rebate, which is payable to people with incomes below \$37,000. That addresses  
4202 issues identified in the tax review concerning people who were not paying any tax and had to pay 15  
4203 per cent tax in the fund or were paying 15 per cent or 16.5 per cent and therefore getting very little

4204 concession from superannuation. Because that is a low-income measure, it predominantly favours  
4205 women. My recollection is that more than 60 per cent of the beneficiaries of that measure will be  
4206 women, because they are more likely to be working part time and on lower incomes.

4207 **Senator PRATT**—How many beneficiaries are we talking about in your estimation?

4208 **Mr Gallagher**—In total, it is 3.5 million people when the measure is introduced.

4209 **Senator PRATT**—Secondly, how important is it for us to move from nine per cent to 12 per cent  
4210 in the super guarantee, particularly when we look at some of the intergenerational issues that will  
4211 confront the country as people move into retirement?

4212 **Senator Sherry**—I think that is a policy decision that the government has made. Clearly the  
4213 government believes that, particularly for low or lower middle income earners, there should be  
4214 higher retirement income, which is a composite of the age pension, which of course we increased  
4215 significantly, and higher superannuation savings. There are a variety of cameos—I will not go to  
4216 them for time reasons—that show the outcomes for a range of income earners. But clearly the  
4217 government was primarily—not totally but primarily—motivated by delivering a better deal for low  
4218 and lower middle income earners via the rebate that Mr Gallagher has referred to, which addresses  
4219 the equity issues around taxation, and secondly by the higher SG. As Mr Gallagher has mentioned,  
4220 the people in those two groups that are the major beneficiaries, though not the sole beneficiaries, are  
4221 women—the considerable majority are women, whatever the ultimate figure may be—and those  
4222 people who have low wages or salaries and/or broken work patterns. Again, I think that the  
4223 characteristics of that group are that the majority are women.

4224 **Senator PRATT**—What is the importance of the change in the superannuation guarantee being  
4225 extended to older workers?

4226 **Senator Sherry**—I will relate a personal story. I, over many years, was concerned that there was  
4227 a group of workers who continued employment past the age of 70. Believe it or not, there are 33,000  
4228 of them, and obviously they are increasing in number. I received a complaint, interestingly, at the  
4229 Burnie Show about six or seven years ago. A timber worker—somewhat surprisingly, I suppose,  
4230 given the physical demands of the profession—was still working in a sawmill at the age of 71 and  
4231 not receiving any superannuation guarantee contributions. Certainly, from a personal point of view,  
4232 that drew my attention to that inequity in the system. Why should a person who is obviously paying  
4233 taxes and continuing to work—and it was his choice to continue to work—not receive  
4234 superannuation contributions in those circumstances? That is just a personal reflection that I think  
4235 highlights the disadvantage of that group of 33,000 people. We can obviously, I think, expect that  
4236 group of people to increase over time, for very obvious reasons.

4237 **Senator JOYCE**—Did you offer that the government might be able to pick up the tab for it?

4238 **Senator Sherry**—He wanted to know why other employees at the same sawmill were receiving  
4239 superannuation guarantee contributions and he was not.

4240 **Senator JOYCE**—Did you inform him that you had changed the laws so that his employer  
4241 would have to pick up—

4242 **Senator Sherry**—I thanked him for alerting me to the issue. We were not in government at that  
4243 time.

4244 **Senator PRATT**—What is the significance of not squandering the finite resources that would be  
4245 taxed under the RSPT to the future retirement savings of this nation?

4246 **Senator Sherry**—I think that is probably more of an issue for the macroeconomic group. Some  
4247 officers might have—

4248 **Senator PRATT**—I suppose in a sense it is the intergenerational question that I know you have  
4249 to deal with in being able to afford our superannuation.

4250 **Senator Sherry**—In the case of the part of the resource super profits tax which is funding higher  
4251 superannuation savings it is being utilised to fund both higher personal savings for increased  
4252 retirement incomes as well as—in the aggregate—providing a higher level of private sector saving,  
4253 which in turn is invested through superannuation into the broader economy to add to jobs. Mr  
4254 Gallagher has referred to the savings impact in his earlier evidence.

4255 **Senator JOYCE**—I was very interested when you started telling me about what the  
4256 superannuation guarantee or this new cost was going to be in 2020? You said \$3.2 billion, is that  
4257 correct?

4258 **Mr Gallagher**—\$3.6 billion.

4259 **Senator JOYCE**—That is interesting. What is the tax going to bring in 2020? How do you know  
4260 how much?

4261 **Mr Gallagher**—The people behind me may know.

4262 **Senator JOYCE**—Is there anyone behind you who knows how much it is going to bring in

4263 2020?

4264 **Senator Sherry**—We will get to that when we get to—

4265 **Senator JOYCE**—So how do I know that you might not have been collecting enough from the

4266 tax?

4267 **Mr Parker**—It is certainly the case that projecting the revenue from the RSPT over that length of

4268 time is very dependent on the assumptions that one makes in the projections for commodity prices,

4269 the exchange rate and the terms of trade. Those numbers have been done. The government has

4270 published them.

4271 **Senator JOYCE**—They have been done?

4272 **Mr Parker**—Yes.

4273 **Senator JOYCE**—Who did them?

4274 **Mr Parker**—Treasury did them.

4275 **Senator JOYCE**—Would you be able to table them?

4276 **Senator Sherry**—We will take it on notice. In accordance with past practice, those figures are

4277 not normally published. We publish estimates and projections over the four years. When I was

4278 sitting in your place, Senator Joyce, I can recall on numerous occasions asking for figures and

4279 estimates—including to Mr Gallagher and I think he has got a wry smile on his face here—beyond

4280 the four years. It was invariably taken on notice and depending on the issue a response was given or

4281 not given.

4282 **Senator JOYCE**—I think it is crucial that we get this because you have given as one of your

4283 answers ‘\$3.6 billion’ or what was it?

4284 **Mr Gallagher**—It is \$3.6 billion. As I said, it is on page 43 of budget paper No. 2.

4285 **Senator JOYCE**—So it is \$3.6 billion in 2020 and they are the forward years. You have

4286 acknowledged that you have actually done the figures out to 2020. You have acknowledged the

4287 concerns that are there in discovering the terms of trade. So I think it is crucially important that we

4288 find out in the figures that you have done what exactly the tax is bringing in and whether we are

4289 going to be able to cover all of this generosity we are seeing from the government.

4290 **Senator Sherry**—We will take it on notice.

4291 **Senator BUSHBY**—I thought I would ask the ATO some questions about superannuation. Since

4292 coming to office the Rudd government has lowered the concessional contribution caps and now in

4293 the latest budget it proposes to increase them again. To date, how many Australians have been

4294 caught out and pushed into a higher tax bracket by the government measure in the 2009-10 budget to

4295 cut the cap to \$50,000 for those over 50 and \$25,000 for those under 50?

4296 **Mr Olesen**—We have not raised any assessments in respect of the new caps yet. It is too early for

4297 us to have the information in relation to that period. For us to detect whether an individual has

4298 contributed more than the caps that they are allowed to, we need to get reporting from funds of the

4299 contributions that are made. They come in in October, after the close of the year. So, as you can see,

4300 it is too early for us to have identified for that period. We are currently focusing on the transitional

4301 year, which was 2007, and the first ongoing year of the caps, which was 2007-08. We are in the

4302 process of raising assessments primarily for the 2007-08 year at the moment.

4303 **Senator BUSHBY**—So you are yet to be able to see how the reduction in the caps goes. But if

4304 what the government is trying to do gets passed, they will be increased again and there may well be

4305 a group of people who are subject to the lower cap for one year and fall foul of that. There may be

4306 people who may well be breaking the law who 12 month later would not be if they undertake the

4307 same activity.

4308 **Mr Olesen**—Treasury may wish to respond, but the measure that was recently announced was in

4309 relation to maintaining the transitional cap for over 50s at \$50,000. So that transitional reduction,

4310 that \$50,000 cap that is available for people over 50 for concessional contributions, will continue

4311 after 1 July 2012. So there will not be a reduction for one year.

4312 **Senator BUSHBY**—Do you have any current estimates of how much additional revenue will be

4313 raised, or do you have further information from when the measure was first announced as to how

4314 much additional revenue will be raised in this and coming financial years from the change that has

4315 been implemented?

4316 **Mr Olesen**—In relation to the most recent reductions in the cap?

4317 **Senator BUSHBY**—Yes.

4318 **Mr Olesen**—No, because, as I said before, we do not have the information.

4319 **Senator BUSHBY**—You do not have any additional information that points to that?

4320 **Mr Olesen**—It is too early for us to have that yet.

4321 **Senator BUSHBY**—If you or Treasury could confirm what the predictions are for that year  
4322 currently then I would appreciate that.

4323 **Mr Gallagher**—Which year was that?

4324 **Senator BUSHBY**—This current financial year and then next year as well.

4325 **Senator EGGLESTON**—I would like to ask you some quick questions on the superannuation  
4326 clearing house. Registration opened for the government's superannuation clearing house, through  
4327 Medicare, on 24 May. I wondered how many registrations have been made in the first week or so of  
4328 the registration period and to date?

4329 **Senator Sherry**—These questions would need to go to Medicare because they are doing the  
4330 clearing house activity. The ATO cannot help you.

4331 **Senator EGGLESTON**—Okay. I accept that. Thank you.

4332 **CHAIR**—Is that all we have in the superannuation section of Revenue Group in the ATO?

4333 **Senator EGGLESTON**—There are other questions which do relate to Treasury in the same  
4334 area, such as how many businesses are Treasury expecting to register for the clearing house  
4335 services? I would have thought that would be a matter of Treasury modelling.

4336 **Mr Willcock**—I would have to take that on notice, I think. We certainly were working on some  
4337 sort of estimate as to the take-up rate. I cannot remember off the top of my head just what those  
4338 estimates were, so I would have to take that on notice.

4339 **Senator EGGLESTON**—Superannuation funds can also register for the clearing house. How  
4340 many superannuation funds have registered and how many superannuation funds is Treasury  
4341 expecting to register for the clearing house?

4342 **Senator Sherry**—The question on actual numbers that have registered would have to go to  
4343 Medicare. I do not know whether Treasury can help you with an estimate.

4344 **Senator EGGLESTON**—Can Treasury detail all the expenditure on the government clearing  
4345 house since 2007, broken down into years, and the costs of continuing to operate the clearing house  
4346 over the forward estimates? You might have to take that on notice.

4347 **Mr Willcock**—We would have to take that on notice.

4348 **Senator EGGLESTON**—The clearing house is only available to employers with less than 20  
4349 employees. What is the procedure when an employer reaches over 20 employees if it is already  
4350 registered as having under 20 employees? How will Treasury ensure that all employers registered  
4351 have less than 20 employees? How will you police this scheme, in other words?

4352 **Mr Willcock**—I understand that there are some business rules that Medicare has developed in  
4353 consultation with the industry, but I will have to take that on notice to provide you with details.

4354 **Senator Sherry**—For convenience, the questions which you have asked that should go to  
4355 Medicare, we will transmit to the appropriate committee and try to give you a composite response.

4356 **Senator EGGLESTON**—I am grateful for that. Thank you.

4357 **CHAIR**—I thank the officials from the superannuation section of the ATO and revenue and we  
4358 will now move on to more general areas.

4359 **Senator Sherry**—I indicated that once we had left superannuation, Mr D'Ascenzo wanted to  
4360 make an opening statement to address particularly one issue. Could he make that now please?

4361 **CHAIR**—That would be appropriate.

4362 **Mr D'Ascenzo**—There has been a lot of talk in the press about the implementation of the ATO  
4363 change program. I would like to put on record a few facts. The new income tax system implemented  
4364 in February this year was the largest information technology system ever implemented by the ATO.  
4365 Our independent expert advisers have told us that the new system was possibly the largest ever  
4366 implemented in Australia for both the government and private sectors. The data transferred to the  
4367 new system at the end of January 2010 was 27 million taxpayer records, 32 million accounts and 282  
4368 million forms. Returns could not be processed during January 2010 as we prepared for the transfer  
4369 of data from our old systems to the new system.

4370 After implementing the system and in the first two weeks in February 2010 we ran a pilot where  
4371 we put a very small number of income tax forms into our new income tax system to further test that

4372 it was working as planned. Overall, we took a very careful and cautious approach to processing  
4373 returns in the new system as we checked the accuracy of the calculations. Delays in processing  
4374 income tax returns were foreshadowed and unavoidable. We communicated this to the taxpayer  
4375 community and asked them to lodge returns early before mid-December 2009 to avoid the delays.  
4376 There was a dip in our service standards up to 1 April 2010 much of which was unavoidable. Two  
4377 glitches with the system delayed some returns and refunds in March 2010.

4378 Since February 2010 we have processed 7,200 requests for priority processing for taxpayers.  
4379 Since the beginning of April 2010 we have been processing all the lodged income tax returns in  
4380 accordance with our service standards—94 per cent of electronic returns within 14 days and 80 per  
4381 cent of paper returns within 42 days. Since 1 February 2010 the new system has processed 3.4  
4382 million income tax forms, issued over 2 million notices of assessment, issued over 1.7 million  
4383 statement of accounts and issued 1.55 million refunds worth 7.6 billion. As at 30 May 2010 we have  
4384 92,000 income tax forms on hand which staff are scrutinising the vast majority of which have only  
4385 recently been lodged. This compares with 166,000 income tax forms held at May 2009.

4386 The most common reasons for a form requiring ATO staff's scrutiny are: the taxpayer identity  
4387 information provided on the tax return does not match our taxpayer register details, for example  
4388 name, address or date of birth mismatch; the income tax return information is incomplete or  
4389 incorrect, for example missing label information or necessary codes or calculation errors; a pre-issue  
4390 review is required to address a potential compliance or fraud risk, for example as at 30 May 2010 we  
4391 have 3,500 returns older than 50 days under review for incorrect or fraudulent claims; and to  
4392 intervene in the processing of a return where a debt exists on one of the taxpayer's accounts whether  
4393 it be insolvency or other debts. Thank you.

4394 **CHAIR**—Would you be able to table that?

4395 **Mr D'Ascenzo**—Yes, I have three copies.

4396 **Senator JOYCE**—As you are aware, we have received myriad complaints from accountants, my  
4397 old profession, asking where the refunds were because they want to collect their fees. Have those  
4398 refunds basically been cleared through now? There were some accountants writing me letters saying  
4399 that they were \$70,000 or \$40,000 out and there was a big hold up with the funds. Has that resolved  
4400 itself?

4401 **Mr D'Ascenzo**—As I said, from 1 April we were back on normal processing times. There are  
4402 always some returns that are outstanding. I have indicated that and some of the reasons why some of  
4403 those returns are outstanding. It is not a question of the system not working. As of 1 April the system  
4404 has been working to specification.

4405 **Senator JOYCE**—And it will be all right for the end of the financial year?

4406 **Mr D'Ascenzo**—I think that will be the next testing time for the system. One of the reasons why  
4407 we had to say either go or no-go as at 22 January was that any further delay would put at risk tax  
4408 time 2010.

4409 **Senator JOYCE**—And is the old system in parallel in case something goes wrong?

4410 **Mr D'Ascenzo**—Once you convert the data to the new system you virtually have moved onto a  
4411 new platform and there is no contingency of going back to the old system.

4412 **Senator JOYCE**—There are a lot of very concerned accountants hoping this will resolve itself.  
4413 They believe it will, but there will be a huge noise if it does not work out.

4414 **Mr D'Ascenzo**—Again, we are doing everything we can to minimise the risk.

4415 **Senator XENOPHON**—Mr Butler, when you gave evidence to the joint standing committee on  
4416 22 April, in answer to a question from Ms Ley in relation to the backlog, you stated:

4417 We normally would see about 100,000 going through that process, so we have got about 88,000 more than we  
4418 would normally have. By Friday of next week, we will be absolutely on top of that and that will not be there.

4419 That would have been Friday, 30 April. Can you indicate whether that was the case?

4420 **Mr Butler**—My recollection is we did meet those expectations, but I would need to take on  
4421 notice to specifically check the numbers. As the commissioner said, since 1 April we have met all of  
4422 our service standards in processing returns and as of the end of May we had many fewer returns on  
4423 hand being scrutinised than in May last year or May the year before. So we did have the two glitches  
4424 that the commissioner referred to, but essentially we foreshadowed a delay, had a delay and caught  
4425 up. Since 1 April all new returns have been processed in accordance with the service standards.

4426 **Senator XENOPHON**—Could you indicate in relation to that how many extra staff the tax  
4427 office is using to deal with the backlog and to deal with the change to the new system? When giving  
4428 evidence on 22 April Ms Vivian stated:

4429 In terms of processing our returns, normally we would have around 300; we have about 960 people doing the

4430 work at the moment and we are bringing in another 380.

4431 How many extra staff are dealing with returns to try to catch up?

4432 **Mr Butler**—We have had additional staff on board. What actually occurred was that during  
4433 April, as the commissioner said, we could not process any returns. In the first two weeks in February  
4434 we could not process any—or only very few—returns. We still had returns coming in. Then we had  
4435 a two-week delay during March. We had a glitch in the system, as the commissioner noted. So we  
4436 had eight weeks in total where we could not process returns.

4437 **Senator XENOPHON**—The glitch you are referring to was the 140,000 returns that went out  
4438 without checks—is that right?

4439 **Mr Butler**—No. Two main things went wrong. We send 50,000 to 100,000 pieces of information  
4440 every day to Centrelink. When we send that information across, it is all automated, as you would  
4441 expect. Our new system, when someone has a loss, will show the loss as, for example, minus \$5,000.  
4442 When that went to Centrelink, the Centrelink system could not cope with that because it could not  
4443 cope with a negative figure. So we had to put a fix in, a change to the system, to turn that to a nil  
4444 assessment, so it would show zero rather than negative amounts. When we put that fix in place, there  
4445 were some returns in flight through the system, so to speak. Unfortunately it turned them to nil as  
4446 well, and it should not have. So we backed those returns out. Nothing went outside the office. We  
4447 backed those returns out and we had to then rectify that situation. That took us approximately two  
4448 weeks to resolve. That occurred from 6 March through to about 20 March.

4449 **Senator XENOPHON**—Going back to one of the questions I just put to you, in terms of the  
4450 number of staff that are dealing with this—

4451 **Mr Butler**—In essence we had eight weeks when we could not process returns and returns came  
4452 in. So we have had four months worth of work to do in two months. Naturally we had to put a lot  
4453 more people on board to do that.

4454 **Senator XENOPHON**—In terms of the cost blow-outs with the changed program, I think it went  
4455 from \$445 million to \$879 million. Is that correct?

4456 **Mr Butler**—That is correct, but that is noted in that report you have before you. The cost  
4457 increases were mostly because of law change. The program started in 2004. Every year there has  
4458 been legislation change going through—quite significant changes around superannuation  
4459 simplification. Approximately \$200 million of that increase related to superannuation changes.

4460 **Mr D'Ascenzo**—Was that \$879 million or was it \$824 million?

4461 **Senator XENOPHON**—I am just reading from the ANAO's document which said that the total  
4462 forecast expenditure has gone to \$879 million.

4463 **Mr D'Ascenzo**—That is the forecast. The actual expenditure to 30 June will be \$820 million.

4464 **Senator XENOPHON**—Does that include the additional staff that are now processing returns  
4465 manually?

4466 **Mr Butler**—No.

4467 **Senator XENOPHON**—What is the cost of that?

4468 **Mr Butler**—We have numbers here we can give you. I am not sure we can give you the dollars.

4469 **Senator XENOPHON**—Perhaps to make it easier, how many extra staff are now being  
4470 employed by the tax office or have been seconded to deal with the backlog of returns in respect of  
4471 the change program?

4472 **Mr Butler**—There is no backlog of returns because we have fewer returns on hand being  
4473 scrutinised, as I said before, than at this time last year or the year before. We have not had returns  
4474 sitting around waiting to go into the system to be processed since early March and we have met all  
4475 our service standards since 1 April. So there is no backlog of returns right now. Of the returns we  
4476 have on hand, some would be older than we normally would have at this time of year. But we are  
4477 down now to individual tax returns. The number that were filed before early April that have not been  
4478 processed is 6,000 returns. Of that, 3,500 returns are suspected fraud cases or other areas where we  
4479 will not issue an assessment. So there are 2,500 turns on hand for individuals filed before the end of  
4480 April that we cannot process. Largely we are waiting for more information from tax agents and  
4481 accountants to finalise them. So there are very small numbers of returns on hand.

4482 **Senator XENOPHON**—You have got some additional temporary staff at the moment.

4483 **Mr Butler**—Yes.

4484 **Senator XENOPHON**—How many staff are there approximately?

4485 **Mr Butler**—There are 1,400 additional staff, some permanent, some temporary.

4486 **Senator XENOPHON**—Is this a seasonal thing? How does this compare to the same time last  
4487 year?

4488 **Mr Butler**—We are now gearing up for tax time. We start recruiting staff well before 1 July. We  
4489 bring in temporary staff. We outsource some of our work. We need to train them. There are changes  
4490 every year, so we are now into the gearing up for tax time this year.

4491 **Senator XENOPHON**—When will these temporary staff cease to be temporary? Normally at  
4492 tax time you would have temporary staff and then they come back the following year.

4493 **Mr Butler**—That is right.

4494 **Senator XENOPHON**—Will these temporary staff be around longer than in previous years?

4495 **Mr Butler**—In addition to the current temporary staff we are looking at increasing the normal  
4496 number of people we would have for tax time because this is a major new system. We want to make  
4497 sure that tax time is a success, so we are going to do what we term ‘internally overengineer’ our  
4498 capacity to deliver tax time successfully. We are looking at having a tax time increase of a further  
4499 330 staff processing returns, in addition to the 1,400 I mentioned before. At tax time this year for  
4500 processing return we will have 1,676 staff.

4501 **Ms Vivian**—Last year at tax time we would have had about 1,600 staff that we would have been  
4502 gearing up. Staffing is a complicated mix. We have permanent staff but we bring on casuals and  
4503 nonongoings. One of the things we are doing is extending the shift hours, plus we also put some  
4504 work out to some outsource suppliers as well. It is about getting a balance. As Mr Butler said, we are  
4505 very much gearing up for tax time to make sure that we can deal with any performance issues and  
4506 provide a good service.

4507 **Senator XENOPHON**—So you are saying there are not any additional staff as a result of the  
4508 change program?

4509 **Ms Vivian**—In preparation for going into tax time, it is not just the change program, there are a  
4510 number of changes have been made to our infrastructure. We are quite conscious that tax time is  
4511 very important to the community. In going into tax time we normally gear up. One of the things we  
4512 are doing is we are actually keeping on staff. We normally would not have as many staff on board  
4513 during tax time that we have got at the moment but we are going to keep these staff on for the start of  
4514 tax time and just make sure we are providing a good service to the community.

4515 **Senator XENOPHON**—There is the \$879 million cost that the ANAO refers to. I think it is  
4516 \$829 million for this financial year. Is that likely to be a greater amount because of additional staff  
4517 requirements?

4518 **Mr Butler**—The cost the ANAO refers to is the business case cost, as it is called, for building the  
4519 new applications; it is not the staff to run systems. Once we bed them in, we are expecting quite  
4520 significant efficiencies for the ATO internally from these new systems. The ATO self-funded  
4521 almost all this program of work based on the efficiencies that will be produced by these new  
4522 systems. Undoubtedly there is a period when you bed them down and go through a transition that  
4523 issues will come up.

4524 **Senator XENOPHON**—Clearly there were significant transitional issues or glitches in the  
4525 system from the Australia Day weekend, weren't there?

4526 **Mr Butler**—There were two main things that went wrong. We told the community in the last six  
4527 months of last year, particularly leading up to Christmas, that we could not process returns till  
4528 January and that we expected delays all through February. We actually had largely caught up with  
4529 putting returns into the new system by the end of February. We had the two glitches in March that  
4530 added a two-week delay. The second one was when the cheques did not print for some people.

4531 **Senator XENOPHON**—And I think there was one weekend, the Anzac Day long weekend,  
4532 when there were about 153 e-fixes to the system, weren't there?

4533 **Mr Butler**—Just to understand the size and scale of this, we are now up to over 500 fixes in the  
4534 system, which is not unusual for a system this size. What we did on the Anzac Day weekend was  
4535 that we had a major deployment. We actually retested the whole system on the Anzac Day weekend  
4536 as part of preparing ourselves for tax time this year. We have got independent experts involved in all  
4537 this. We have got them involved in all our meetings and providing professional advice going  
4538 through this.

4539 **Senator XENOPHON**—Are the independent experts the QA, the quality assurance, people?

4540 **Mr Butler**—Yes.

4541 **Senator XENOPHON**—That is Capgemini and Aquitaine?

4542 **Mr Butler**—That is correct.

4543 **Senator XENOPHON**—Have they given advice as to what stage the system should be rolled  
4544 out?

4545 **Mr Butler**—They absolutely gave advice leading up to the decision in late January on whether to  
4546 deploy the system or not.

4547 **Senator XENOPHON**—And they both gave advice that the system should be deployed or the  
4548 next stage should be deployed?

4549 **Mr Butler**—With any system this size there are always risks, and they said that there are always  
4550 risks. There are new mitigation practices around those risks. The vice-president of Capgemini  
4551 signed that letter off, and both Capgemini and Aquitaine—whose principal, Richard Tait, has been  
4552 attending all of our meetings— provide monthly reports, and they provide separate sign-off letters to  
4553 say that, in their professional opinion, the risks were able to be mitigated through the practices the  
4554 ATO is putting in a place.

4555 **Senator XENOPHON**—Are you in a position to provide those documents?

4556 **Mr Butler**—Yes.

4557 **Senator XENOPHON**—I would be grateful for that. In terms of the number of complaints that  
4558 the tax office has dealt with, with the implementation of the Change Program, and I appreciate that it  
4559 is a massive  
4560 program, what complaints were there on a monthly basis, for instance, the first four months of this  
4561 year compared—

4562 **Mr Butler**—I can tell you the total number. We are now up to 17,000 complaints—

4563 **Senator XENOPHON**—And they are complaints from tax agents?

4564 **Mr Butler**—And taxpayers.

4565 **Senator XENOPHON**—So some of those complaints represent a number of taxpayers who have  
4566 a complaint.

4567 **Mr Butler**—Yes, that is correct. And we put through 3.4 million returns, so out of 3.4 million  
4568 returns we had 17,000 complaints.

4569 **Senator XENOPHON**—So those 17,000 complaints might reflect the concerns of 100,000  
4570 taxpayers?

4571 **Mr Butler**—No, if it is a taxpayer complaint it is about their own personal return. I would need to  
4572 check how we count it. An agent could have checked on five returns, for example, and would count  
4573 that as one or five. I believe we would count that as five. I will need to check.

4574 **Senator XENOPHON**—Sorry, I could not hear you very well. In terms of the number of  
4575 complaints, some of the 17,000 complaints would reflect multiple complaints. Is that correct?

4576 **Mr Butler**—I would need to confirm that.

4577 **Senator XENOPHON**—If you could.

4578 **Mr Butler**—It would also be fair to say that people would have contacted us through our call  
4579 centre and they might be going to put in a complaint and they talk that through. We might say, ‘The  
4580 assessment is scheduled to issue in two days time’ and they might choose not to go ahead.

4581 **Senator XENOPHON**—At its peak, how many complaints was the ATO receiving daily from  
4582 taxpayers and tax agents about the delayed cheques, for instance.

4583 **Mr Butler**—I would need to confirm that number.

4584 **Senator XENOPHON**—Would it be in the hundreds?

4585 **Mr Butler**—Yes. We had 17,000 in total, but that is since 1 February.

4586 **Senator XENOPHON**—How does that compare with the same period last year?

4587 **Mr Butler**—It is much higher than last year.

4588 **Senator XENOPHON**—Is it twice as high? How much higher would it be?

4589 **Mr Butler**—We were around the 2,500 mark in the same period last year, compared with 17,000.

4590 **Senator XENOPHON**—So it is about a five-fold increase.

4591 **Mr Butler**—Yes, but it is 17,000 out of 3.4 million returns.

4592 **Senator XENOPHON**—I suppose another way of looking at it is, in terms of the number of  
4593 complaints, there is an issue.

4594 **Mr Butler**—Undoubtedly there is an issue. There were lots of complaints, there was lots of  
4595 concern, because we had unfortunately two glitches that caused delays for some people for their  
4596 refunds. We very much apologised for that. We did our absolute best to avoid that happening, but we  
4597 had two particular things that went wrong. We have governed this extremely closely all the way

4598 through, but unfortunately two things went wrong.

4599 **Senator XENOPHON**—Can you guarantee that the system will be able to cope with the  
4600 forthcoming tax year? Are you confident that there will not be any further glitches?

4601 **Mr Butler**—I cannot guarantee that. Things happen all the time in these sorts of systems, but our  
4602 independent assurers are certainly giving us ongoing advice about that. We have separately asked  
4603 another person, who is our IT expert, Peter Wright, who works for CPT Global, to do a quick review  
4604 of our governance, the way we approach things, and he is going to produce a report for us which will  
4605 give us an indication of what more we could do in addition to what we have already been doing to  
4606 govern this.

4607 **Senator XENOPHON**—Does that mean that there is concern about the standard of advice or  
4608 service that has been provided by Accenture?

4609 **Mr Butler**—No, this is actually an independent person looking at our governance and practices.  
4610 We have got two independent assurers. Capgemini have been involved since 2004, so we wanted  
4611 someone else to give us another ‘belt and braces’, in a sense, to check that there are not any other  
4612 practices that we could put in place to better govern this going forward. He has started that work. It  
4613 is just a three-week period of work he is looking at. It is not to do with Accenture at all.

4614 **Senator XENOPHON**—The processing of BAS has not been transferred yet to the new system;  
4615 is that right?

4616 **Mr Butler**—Business activity statements?

4617 **Senator XENOPHON**—Yes.

4618 **Mr Butler**—No, and they have not been affected by this at all.

4619 **Senator XENOPHON**—I understand that. When was the processing of BAS supposed to be  
4620 transferred to the new system?

4621 **Mr Butler**—We have not built the application yet to put the business activity statements into this  
4622 integrated system.

4623 **Senator XENOPHON**—Was it not scheduled to take place in July this year?

4624 **Mr Butler**—No. Some time ago it may have been July of this year. There was perhaps—

4625 **Senator XENOPHON**—Can we just go back a step? At some stage there was a proposal for the  
4626 business activity statements to be brought within the new system from July this year?

4627 **Mr Butler**—I would need to check that date, but going back to 2004 there were plans to have this  
4628 integrated system for everything. Now in a much shorter time frame than that there has been time  
4629 and costs added because of the significant law changes that I mentioned before.

4630 **Senator XENOPHON**—Yes, but can you just clarify this for me: there was at some stage—and  
4631 could you indicate at which stage—a proposal for BAS to be included or to be transferred over to the  
4632 new system. Was that considered a few months ago, for instance?

4633 **Mr Butler**—No. We have not had a plan to do the business activity statement. I have been with  
4634 the tax office for less than two years and during that time we have not had firm plans to do the  
4635 business activity statement. I would need to check if that has changed. We are not planning to do the  
4636 business activity statement in this coming year either. It is a major piece of work. I will need to  
4637 check when this happened but some months ago the ATO decided that, given the likely direction of  
4638 what might come out of the Henry review and what may come out of other reviews that the  
4639 government had under way, we could not take that work on hand.

4640 **Senator XENOPHON**—Mr Butler, the Henry review would not have anything to do with  
4641 business activity statements being transferred to the new system.

4642 **Mr Butler**—No, but other changes in the Henry review could require an IT build, which means  
4643 the people we have available to do the IT work may be tied up on work on the Henry review.

4644 **Senator XENOPHON**—What parts of the Henry review will tie up tax office resources?

4645 **Mr Butler**—What I am saying is that the decision made some months ago to not proceed with  
4646 business activity statements was based on giving us the space to pick up any recommendations that  
4647 the government agrees to around a review of the tax system, the Cooper review of superannuation  
4648 and whatever else might come out of that. We just needed to position ourselves. We have also—and  
4649 the commissioner has announced this internally—drawn a close to the Change Program contract  
4650 with Accenture, and that finishes on 30 June this year. We are saying that we have negotiated with  
4651 Accenture a completion to the current contract and any further work we do with Accenture will be  
4652 on the basis of the new contract. So we are not planning to do business activity statement work at  
4653 this stage to integrate that into the core processing system.

4654 **Senator XENOPHON**—Okay, but the whole idea of this new system is to transfer all of the tax

4655 office's processing to this new system; correct?

4656 **Mr Butler**—That was the vision back in 2004. We are doing some work to test that this is still  
4657 what we want to do. Our integrated core processing system has a platform in place with many of our  
4658 core processes there. We have business activity statements in our accounting system, so we are now  
4659 rethinking whether or not we still want to put the activity statements into this core system.

4660 **Senator XENOPHON**—Mr Butler, is it fair to say that when this was proposed a number of  
4661 years ago the whole idea—and I have got statements from the ATO saying this—was to transfer  
4662 everything to this new computer system?

4663 **Mr Butler**—That is right, yes.

4664 **Senator XENOPHON**—You are now saying that you are reconsidering whether all aspects of  
4665 tax be transferred to this new system?

4666 **Mr Butler**—What I am saying is that we definitely had those plans back in 2004. We are not able  
4667 to do the business activity statement work now. We are not sure when we can do that, so we are now  
4668 exploring the options. One option clearly is to—at the right time—build a business activity  
4669 statement application into the core processing system. Another option is to smooth the interfaces  
4670 between the two systems so that they can work more efficiently together. It is just a reality that IT  
4671 staff are hard to find and are valuable. We need to make sure that we have capacity to do the work  
4672 that the government sees as a high priority.

4673 **Senator XENOPHON**—Is it fair to say that what was initially planned was for a complete  
4674 transfer of all tax processing to the new system?

4675 **Mr Butler**—That is correct.

4676 **Senator XENOPHON**—And that is no longer the case?

4677 **Mr Butler**—At the moment we are not planning to do the business activity statements in the core  
4678 system because we do not have the capacity to do it. We are looking at the various options around  
4679 that. As I mentioned, one of them would be to build that into the integrated core system and that is  
4680 absolutely still on the table. But IT thinking has changed over this period of time, too. There was a  
4681 big push a few years ago to integrate everything, but now the literature or information is more to  
4682 interface and integrate—how do you make the two work together?

4683 **Senator XENOPHON**—Does that mean that the thinking since the time this new system was  
4684 being considered has changed so that it may be that we will still be running the 30-year-old  
4685 computer system in parallel with this system insofar as business activity statements are concerned?

4686 **Mr Butler**—The business activity statement is not 30 years old; it was built for the tax reform. It  
4687 is only about 10 years old. The 30-year old system we replaced. The national tax payers system is  
4688 the one we had in place for 30 years. What we have on the table to do, and what we want to progress  
4689 this coming year, is to build what is called pay-as-you-go instalments. That will allow us to  
4690 completely retire the 30-year-old system. At the end of July 2011 we will be able to retire the old  
4691 system completely.

4692 **Senator XENOPHON**—Further to that, are there any other parts of tax processing not being  
4693 transferred over to the new system?

4694 **Mr Butler**—There are no major things. The world has changed since 2004; we do different work  
4695 than we did back then. Certainly things have been added and taken out. The essential objective was  
4696 to put the core systems into one integrated system. We are there; we have delivered all that except  
4697 for the business activity statements, as you alluded to.

4698 **Senator XENOPHON**—That is the only one?

4699 **Mr Butler**—That is only one that is part of the core system.

4700 **Senator XENOPHON**—Are superannuation returns under the new system?

4701 **Mr Butler**—That is correct.

4702 **Senator XENOPHON**—Are any of those being processed manually at the moment?

4703 **Mr Butler**—There are some aspects of superannuation being processed manually. I should  
4704 clarify my earlier point. Superannuation guarantee as a separate system is not built into the new  
4705 system as yet.

4706 **Senator XENOPHON**—In terms of those parts of the superannuation system that were  
4707 supposed to be running under the change program, are any of those returns being processed  
4708 manually because of difficulties of transferring it over?

4709 **Mr Butler**—Take the co-contribution example. With this new system, co-contribution relies on  
4710 income tax information and because we had some delays—the two-month period when we could not  
4711 process—we were not able to process the co-contribution but we have now caught up completely

4712 and we are back to normal processing.  
4713 **Senator XENOPHON**—I am constrained by time; I will keep moving on. How much  
4714 compensation has been paid in terms of additional interest payments in the last few months of this  
4715 year, compared with, say, last year?

4716 **Mr Butler**—I am unable to answer that today.

4717 **Senator XENOPHON**—Can you give me a ball park figure?

4718 **Mr Butler**—No, I cannot, I am sorry. We would need to run that through our data warehouse,  
4719 and we have not done that work yet.

4720 **Senator XENOPHON**—In what time frame could I expect a response on that?

4721 **Mr Butler**—Later in June. We want to make sure that any older returns have now gone through.

4722 **Senator XENOPHON**—Would it be fair to say that the tax office is paying a significantly  
4723 greater amount because of the delays in the processing of returns in terms of interest payments.

4724 **Mr Butler**—I am not sure I could attach that adjective to that description. Since 1 April we have  
4725 meet all our service standards.

4726 **Mr D'Ascenzo**—You have to take into account that the system was switched off while we  
4727 converted. That was always going to happen. From the end of December until mid February the  
4728 system was off. It is not a question of choice; when you change a system there is no alternative. We  
4729 do, as Mr Butler has indicated many times, apologise for the two-week delay in March from the  
4730 glitch that Mr Butler clarified here, and there was the cheques that were involved around the same  
4731 time. There has really not been a lot of delay in this process at all, other than what you would expect  
4732 from major implementation.

4733 **Senator XENOPHON**—Thank you. Commissioner, before the joint committee you said:  
4734 ... when you close a road to improve it for the future and you say to people, 'Look, there's going to be some  
4735 delays.'  
4736 Are you confident that we have a better road?

4737 **Mr D'Ascenzo**—Yes I am. The old system was very expensive to maintain over a long period of  
4738 time. We have committed the organisation to harvest efficiencies from the new system, and we still  
4739 believe those efficiencies are there.

4740 **Mr Butler**—To add to that, the Audit Office report that you referred to earlier clearly  
4741 acknowledged that the ATO had no choice other than to replace the 30-year system.

4742 **Senator XENOPHON**—If there were any delays, did people lose their superannuation  
4743 co-contribution because their income tax returns were not processed on time?

4744 **Mr Butler**—They did not lose it, they just did not receive the amount as early as they would  
4745 otherwise have received it.

4746 **Senator XENOPHON**—I will just go to the ancillary issue of the hardship fund. I think it says  
4747 on your website that you can apply for hardship; how many people have applied for hardship in the  
4748 last six months compared to the same period last year?

4749 **Mr Butler**—Normally, if someone applies for hardship they need to produce information about  
4750 their assets, liabilities and financial circumstances—that sort of thing. We have taken a very open  
4751 approach with this; if someone says, 'We are under hardship', and they need the money, we just  
4752 accept that and process the return very quickly. The number of clients who have requested hardship  
4753 priority processing is 5,233 out of 3.4 million.

4754 **Senator XENOPHON**—How does that compare to, say, a year ago?

4755 **Mr Butler**—I do not have that number from last year.

4756 **Senator XENOPHON**—Would it be significantly—

4757 **Mr Butler**—It would be higher, but we have taken a quite different approach as well.

4758 **Senator XENOPHON**—A different approach because of the changed program?

4759 **Mr Butler**—No, a different approach in saying that we have not made people go through the  
4760 rigour of producing assets, liabilities and financial statements. We have said, 'If you need the money  
4761 we will process it quickly.' It is probably fair to say as well that when people ring the call centre and  
4762 say that they want to apply for hardship, and we say to them, 'The refund schedule will issue in three  
4763 days,' they might say, 'Don't worry about it then.'

4764 **Senator XENOPHON**—In terms of the short rollout, to what extent was the ANAO's report on  
4765 the release to implementation considered before release 3?

4766 **Mr Butler**—Very extensively. The ANAO audit took some time, as you would expect. We were

4767 certainly very much engaged with that. They raised issues about testing, for example, and we did  
4768 strengthen and change our testing procedures. We did unprecedented levels of testing of the system,  
4769 as you would appreciate.

4770 **Senator XENOPHON**—Would it be fair to say that the testing did reflect what occurred in  
4771 reality?

4772 **Mr Butler**—No, there are two things that happened. Our people were putting a fix in the system,  
4773 which happens—you need to do that—and did not anticipate the full consequences. That has been  
4774 described as a human error in some media. It was not the system creating wrong assessments. We  
4775 have, as I mentioned several times, 3.4 million returns going through the system. We are not hearing  
4776 that there are calculation errors in assessments. In really difficult areas like averaging of income,  
4777 eligible termination payments and foreign source income, agents are not saying to us that they are  
4778 wrong. That has been a clear focus all the time, to make sure that we have got the assessments right,  
4779 and that is what we have achieved. There were some delays, and the commissioner mentioned in his  
4780 opening comments that we took a cautious and careful approach here to make sure that we got it  
4781 right.

4782 **Senator XENOPHON**—Some tax agents have complained to me that there have been problems  
4783 with the accuracy of returns, but you are saying that the level of inaccuracy is about the same as  
4784 previous years.

4785 **Mr Butler**—It depends on what you mean by inaccuracy. I am not saying that liabilities and  
4786 debts and things may be different, but I am saying that we are not having issues raised with us about  
4787 the way the system calculates the taxable income and the tax payable on that taxable income. We  
4788 had one issue raised at the meeting I was at on 23 April, which concerned a very small number of  
4789 taxpayers—11,000 altogether. That issue has been fixed and resolved. That was a key driver for us  
4790 all along.

4791 **Senator XENOPHON**—I will go to the question of occupational health and safety. Was the  
4792 ATO aware that the font size of the computer application did not mean the minimum height  
4793 requirements specified in Australian and New Zealand standards?

4794 **Mr Butler**—I presume that relates to the Seybold case management system, not the system  
4795 delivered in January this year?

4796 **Senator XENOPHON**—Yes.

4797 **Mr Butler**—We have one case management system across the whole of the ATO. The ATO was  
4798 aware of that particular issue, and we had some choices that we made in full consultation with  
4799 people. The choice was that we have larger font, and people would need to scroll and click a lot  
4800 more, which would produce a different type of occupational health and safety issue; so we made a  
4801 trade-off choice, and Comcare has been investigating some of these issues.

4802 **Senator XENOPHON**—Okay, and can you answer on notice how many claims there have been  
4803 in relation to the new system compared to last year?

4804 **Mr D'Ascenzo**, in relation to your internal tax office newsletter, in the issue of 10 May, issue 17,  
4805 you made reference in the commissioner's section to a leak of the external readiness intelligence and  
4806 knowledge dashboard. You stated, 'It is not clear to me what agenda was in the mind of the person  
4807 that leaked it. It inflamed an already sensitive situation with claims that were later found to be  
4808 exaggerated.' Are you saying that the statements in the tax office's own ERC report were inaccurate  
4809 or exaggerated?

4810 **Mr D'Ascenzo**—I was saying that what we had was a situation where in-house confidential  
4811 information was leaked in breach of all our guidelines. But on the actual content, Mr Butler can fill  
4812 you in more fully.

4813 **Mr Butler**—Would you like me to explain the particular document?

4814 **Senator XENOPHON**—Very briefly, because I am running out of time.

4815 **Mr Butler**—There are two cases there. We had a document in which we just captured what  
4816 people said to us when they rang at a call centre or contacted us in some other way. When we  
4817 actually looked into those two cases, the facts were different to the way they were presented by the  
4818 person initially.

4819 **Senator XENOPHON**—Does that mean that the tax office is trying to find who was responsible  
4820 for leaking the document to prosecute them under section 70 of the Crimes Act—is that what is  
4821 happening?

4822 **Mr Butler**—As one would expect, we did an investigation of that particular leak and were unable  
4823 to find any evidence of who had leaked that document. That investigation has finished.

4824 **Senator XENOPHON**—Finally, Mr D'Ascenzo, you wrote an email to all tax office employees

4825 in relation to the inspector-general's investigation. You are familiar with that document?

4826 **Mr D'Ascenzo**—Yes, I am.

4827 **Senator XENOPHON**—I think you said in that document that if anyone had a query or there  
4828 were any issues in relation to that they should go to their manager or to, I think, Corporate Relations.

4829 **Mr D'Ascenzo**—We have ATO Concern, which is actually a unique feature of our organisation.  
4830 It allows people to raise issues with it so they can be explored and put on the corporate table. Also, I  
4831 do encourage people to talk to their managers, because it is important that they have a good team  
4832 environment.

4833 **Senator XENOPHON**—But in terms of that document, you said: 'Tax officers have to be  
4834 mindful not to disclose any private and personal information to the inspector-general.'

4835 **Mr D'Ascenzo**—Otherwise they would be in breach of the law.

4836 **Senator XENOPHON**—But if they were issued with a notice from the inspector-general, they  
4837 would not be in breach of the law, would they?

4838 **Mr D'Ascenzo**—No, that is right, and I think the wording suggested that it was unless they were  
4839 asked by the inspector-general.

4840 **Senator XENOPHON**—Yes, but your letter has a whole range of warnings not to give any  
4841 personal information. Isn't that inherently misleading in the sense that if the inspector-general issues  
4842 a notice, I think under section 17, there is complete protection to that tax officer to give—

4843 **Mr D'Ascenzo**—No, because I think it also says in my paper 'unless the inspector-general  
4844 requests you'. I know and remember it—I put it in myself.

4845 **Mr Butler**—There is a distinction made that if you are requested by the inspector-general to  
4846 provide information you are protected, but if someone chooses to put their own submission in they  
4847 do not have the same protection. We thought it was important that our staff understood that.

4848 **Senator XENOPHON**—Will you clarify that your staff, if given and served a notice by the  
4849 inspector-general, can give information of a personal nature to illustrate the difficulties with the new  
4850 system.

4851 **Mr D'Ascenzo**—That is why we just put 'unless you are requested to'. Basically, that—

4852 **Senator XENOPHON**—You do not see your letter as being slightly misleading?

4853 **Mr D'Ascenzo**—I think it says if you are requested you can give it to them. That is the tenor: do  
4854 not give it to them unless you are requested.

4855 **Senator XENOPHON**—I think some would say that the tenor was 'be very careful what  
4856 evidence you do give' and there is a throwaway line at the end.

4857 **Mr D'Ascenzo**—I think we need to put caution here because they could be risking criminal  
4858 prosecutions if they did not listen to what you regard as a throwaway line; what I regard as a very  
4859 important piece of information.

4860 **Senator XENOPHON**—I will leave it there.

4861 **Senator ABETZ**—Is the ATO gearing up for the potentiality of the RSPT?

4862 **Mr D'Ascenzo**—At the moment we are looking out for what is coming out of the consultation  
4863 processes. Ms Granger is closely involved with that.

4864 **Senator ABETZ**—Ms Granger, are you gearing up for the potentiality of the RSPT?

4865 **Ms Granger**—As we do with any new policy announcement, we work with Treasury in relation  
4866 to administrative aspects of design. I personally have been part of the consultation panel, for  
4867 example. I would not call it 'gearing up'. We do have a small number of people we have taken  
4868 offline to support both myself in that process and the Treasury interns of the consultation and design  
4869 process. But they are very small numbers—a handful—at this stage.

4870 **Senator ABETZ**—A handful. Is it correct that a second commissioner of the ATO has now been  
4871 tasked already to deal with the potentiality of the RSPT?

4872 **Mr D'Ascenzo**—There are a lot of other activities and tasks.

4873 **Ms Granger**—It is part of the role of Second Commissioner, Law to manage the policy  
4874 implementation issues for the Tax Office. So it is actually part of my day job, Senator.

4875 **Senator ABETZ**—Is there any move underway to get a deputy commissioner or a second  
4876 commissioner within the ATO to be responsible specifically for the RSPT?

4877 **Ms Granger**—As I said, as part of my duties as Second Commissioner, Law I have overall  
4878 responsibility for coordinating policy implementation for the Tax Office. We have taken a deputy

4879 commissioner offline to support me in that process.

4880 **Senator ABETZ**—So we have already got a deputy commissioner offline to support you in the  
4881 RSPT proposal?

4882 **Ms Granger**—To help me with consultation and other implementation issues as they arise.

4883 **Senator ABETZ**—So this is all being done in anticipation of this tax being passed.

4884 **Ms Granger**—It is not unusual for the ATO to contribute to advice on the administrative impacts  
4885 of new policy as it is being shaped and before it is law. It is actually quite routine for us to be doing  
4886 that.

4887 **Senator ABETZ**—So we have got a second commissioner working on the RSPT and a deputy  
4888 commissioner seconded to working on the RSPT. I do not need to know the names, but what other  
4889 designations are there? We have got a second commissioner and a deputy commissioner. What are  
4890 the other designations for this handful people that you described?

4891 **Ms Granger**—I would have to get the detail for you. But can I clarify again—

4892 **Senator ABETZ**—It is pretty high level, though, isn't it?

4893 **Ms Granger**—Can I clarify for you that my job is, as the commissioner said, much broader than  
4894 this. It is not solely devoted to the RSPT. There is always a range of legislative proposals and a range  
4895 of legal advice. I also have responsibility for the Tax Office's governance processes, its people and  
4896 its finances. So there is actually a range of responsibilities that I have.

4897 **Senator ABETZ**—That might explain your position, but a full deputy commissioner has been  
4898 seconded for this particular task.

4899 **Ms Granger**—That is correct.

4900 **Senator ABETZ**—And that deputy commissioner's task is fully to be engaged in relation to the  
4901 RSPT.

4902 **Ms Granger**—To support me; that is correct.

4903 **Senator ABETZ**—In relation to the RSPT?

4904 **Ms Granger**—That is correct.

4905 **Senator ABETZ**—Whilst it stands to reason that you might have other obligations, we have a  
4906 deputy commissioner fully tasked to deal with this issue before it even becomes law. If it is only a  
4907 handful of other people, you would have a fair idea, would you not, as to the designations?

4908 **Ms Granger**—No, I do not.

4909 **Senator ABETZ**—Senior as opposed to junior?

4910 **Ms Granger**—I need to take that on notice.

4911 **Senator ABETZ**—You would have a fair idea of the names of the five people involved, would  
4912 you not?

4913 **Senator Sherry**—If I can just answer as is my right: in taking that on notice, I do recall before the  
4914 GST was introduced into law—and, frankly, before a whole range of taxes were introduced into law  
4915 but particularly the GST—a very substantial amount of work from officers, budget et cetera done on  
4916 the GST, much more than in this case today.

4917 **Senator ABETZ**—Stop being so defensive; I have just asked questions.

4918 **Senator Sherry**—And I am giving you an answer.

4919 **Senator ABETZ**—No, you are not. You are giving us a lecture.

4920 **CHAIR**—Senator Sherry, I think you have the call.

4921 **Senator Sherry**—My answers have actually been a good deal shorter than some of the questions  
4922 Senator Abetz proposed. But I do recall in the context of the GST that, well before it passed into law,  
4923 there was significant preparatory work done by Treasury and the ATO.

4924 **Senator CAMERON**—Ms Granger, I was going to ask the question that the minister has just  
4925 outlined. Is there anything you need to add to the minister's response to outline what happened prior  
4926 to the GST? Were there senior ATO officers seconded prior to the legislation being passed?

4927 **Ms Granger**—I can give you a very broad answer, as I was actually a deputy myself at the time  
4928 of that implementation in another area of the Tax Office.

4929 **Senator JOYCE**—This is budget estimates and we are supposed to be talking about the budget.  
4930 I understand the debating point about going back into the GST but how much time are we going to  
4931 waste on this?

4932 **CHAIR**—Senator Joyce, I think we have canvassed this before when people from your side

4933 asked questions that were not on the budget estimates, and we agreed that we are fairly  
4934 broad-ranging on this committee. So I will ask Ms Granger to—

4935 **Senator EGGLESTON**—On a point of order, Madam Chair: I support Senator Joyce. This is  
4936 totally irrelevant.

4937 **Senator CAMERON**—There's a surprise!

4938 **CHAIR**—If the coalition want me to be tough about this, I can be, but—

4939 **Senator CAMERON**—Did you get the email from Mitch Hooke, did you?

4940 **CHAIR**—Senator Cameron! I am trying to get order here.

4941 **Senator JOYCE**—How long is Senator Cameron going to talk about the GST or whatever?

4942 **CHAIR**—I do not know, Senator Joyce, but—

4943 **Senator JOYCE**—If you could ask Senator Cameron, we could all make a cup of tea.

4944 **CHAIR**—Can I have order here, please! Ms Granger, would you continue, please.

4945 **Ms Granger**—I am aware that then Deputy Commissioner Rick Matthews was taken offline to  
4946 head the GST project, but I actually have here one of the original project members, Second  
4947 Commissioner Bruce Quigley, who might be able to give you a little more detail.

4948 **Mr Quigley**—Upon the tax office being advised that the government was contemplating  
4949 introducing a goods and services tax, there certainly were some people taken offline, including a  
4950 deputy commissioner; me, as a senior assistant commissioner at the time; and two other assistant  
4951 commissioners.

4952 **Senator CAMERON**—Were you taken offline so that you could understand the legislative  
4953 process and the outcome of the legislation, so that you could explain to people—those who had  
4954 questions, or vested interests or parties involved—how the legislation would operate in practice?

4955 **Mr Quigley**—Not really, because we do not give interpretation or advice prior to the legislation  
4956 going through. But a very important part of the implementation and development of taxation law is  
4957 to make sure that it has that administrative input. So that is the role that is played; we work with  
4958 Treasury on making sure that it has that administrative input: the experience that we have on the  
4959 ground of how our particular piece of legislation will impact on the community, and whether in fact  
4960 we could handle it administratively, including our systems and what sort of lead time would be  
4961 needed. So it is that whole administrative angle that we add to the process.

4962 **Senator CAMERON**—Thanks.

4963 **Senator JOYCE**—I want to go through a range of things but before that I have one question.  
4964 What portion of the money you collect from the Petroleum Resource Rent Tax is used for the  
4965 administration of the Petroleum Resource Rent Tax?

4966 **Ms Granger**—It might be none, as far as I am aware.

4967 **Senator JOYCE**—That is fine if you do not know. I want to go forward to a range of things,  
4968 more on general revenue. You can take that one on notice, Ms Granger, if you like.

4969 **Ms Granger**—Yes.

4970 **Senator JOYCE**—During Dr Henry's appearance before this committee last Thursday,  
4971 questions were asked concerning the Treasurer's *Economic note* of 9 May 2010 which had been  
4972 tabled in the House of Representatives. Dr Henry was asked if he could provide the statistics behind  
4973 the charts. Dr Henry was unable

4974 to do so at the time. For the purpose of this I will just take you to this graph here—do you remember  
4975 that?—a pie chart.

4976 **Senator Sherry**—Yes.

4977 **Senator JOYCE**—Very good. The pie chart is on page 4. Those statistics were requested to be  
4978 given to this committee no later than today's session. Do you have those numbers?

4979 **Ms Granger**—No, I do not. I think this question—without knowing the content—may be better  
4980 directed to Treasury.

4981 **Senator Sherry**—This is the ATO to my right and the Treasury to my left.

4982 **Senator JOYCE**—I did actually say at the start that these were questions for revenue.

4983 **Senator Sherry**—You see, last week, Senator, we had macro; I do not think we had anyone from  
4984 the ATO. So, just for the purposes of questions in reference to last week, I do not think the ATO are  
4985 able to help.

4986 **Senator JOYCE**—That is why it is a question to revenue.

4987 **Senator Sherry**—It went to the ATO. To my right are sitting the ATO officials and to my left are  
4988 the revenue officials.

4989 **Senator JOYCE**—Revenue is sitting beside you, to your left-hand side. The question to revenue  
4990 is: do you have any details on the information that was requested for today?

4991 **Ms Mrakovcic**—That question was taken on notice by the secretary and we have not got those  
4992 figures as yet.

4993 **Senator JOYCE**—Ms Mrakovcic, may I ask why it is so hard to get those figures? We have two  
4994 pie charts. It cannot be that complicated. I imagine that even in the notes in the greater elaboration of  
4995 the document they would be there; there would be a footnote there somewhere, surely. I presume  
4996 that it would be something that would take half an hour to get, not days.

4997 **CHAIR**—It has been taken on notice, Senator Joyce. I wonder indeed if it is that relevant to  
4998 budget estimates. It has been taken on notice and that is the answer to your question.

4999 **Senator JOYCE**—I note that Treasury has had several days of notice of this issue. The charts are  
5000 in the public domain. They have been relied on. It is a simple matter of clicking on the charts to view  
5001 the numbers underlying it. Why then are you unable to provide the numbers and, if you cannot  
5002 provide the numbers, how can we believe in the accuracy of the charts?

5003 **Ms Mrakovcic**—Just to go back to the point that was made: essentially the question was taken on  
5004 notice. We are actually looking into it and preparing an answer to that question on notice. There is a  
5005 process that will see the answer to that question and it will make its way back to the committee,  
5006 hopefully. We are undertaking a comprehensive answer to the question that was asked in terms of  
5007 the numbers underlying that chart. I am happy to speak in methodological terms to some of the  
5008 numbers underlying that, such as what the concepts used in it are to the extent that I can help the  
5009 committee with any of the questions it asks.

5010 **Senator JOYCE**—Are these charts correct?

5011 **Ms Mrakovcic**—As far as we know.

5012 **Senator JOYCE**—As far as you know they are correct, especially these two?

5013 **Senator Sherry**—I think to be fair to the witness, she would want to have the document in front  
5014 of her.

5015 **Senator JOYCE**—Do you want me to table it?

5016 **Senator Sherry**—If you can, yes, so that we can verify the document you have got is the same—

5017 **Senator JOYCE**—We can table it again.

5018 **Senator Sherry**—not that I am suggesting that you are being misleading, but we can be looking  
5019 at different

5020 pie charts. Let us just verify that we are dealing with the same document.

5021 **Senator JOYCE**—You are aware of it. It has been pumped around for a few days. Was anybody  
5022 here part of producing that document?

5023 **Ms Mrakovcic**—As far as we are aware, the data underlying the charts would have been  
5024 provided by Treasury.

5025 **Senator JOYCE**—Is anybody here—and we always have a whole retinue of wise people  
5026 here—who was part of the effort of producing that pie chart?

5027 **Ms Mrakovcic**—All I can state is that officers in my division provided the underlying data to  
5028 those charts.

5029 **Senator JOYCE**—How many people from your division are here with you tonight?

5030 **Ms Mrakovcic**—A few.

5031 **Senator JOYCE**—Five?

5032 **Senator Sherry**—Senator, you have asked the question. If there is anyone here—

5033 **Senator JOYCE**—Is there anyone here who was part of producing that pie chart?

5034 **CHAIR**—Senator Joyce, I think we need to come to order. We are waiting on the tabled  
5035 document to go around. Ms Mrakovcic has said that she will take it on notice, and we will follow it  
5036 through.

5037 **Senator JOYCE**—Ms Mrakovcic, the issue is that we think you have made a mistake.

5038 **Senator CAMERON**—She's done a 'barnaby'!

5039 **Senator JOYCE**—We want you to prove to us that you did not.

5040 **CHAIR**—The question has been taken on notice, Senator Joyce, and will be provided to you,  
5041 hopefully, within the time allowed.

5042 **Senator CAMERON**—Do you reckon she has done a ‘barnaby’, Barnaby?

5043 **Senator JOYCE**—We usually get interference like this when the government knows they have  
5044 made a mistake and they are trying to cover up for it.

5045 **Mr Parker**—Our intention is to provide you with an answer to the question. As Ms Mrakovcic  
5046 has said, we provided the data which is underlying that. She is happy to talk about the measurement  
5047 issues in that, but we will need to have the answer cleared through the treasurers.

5048 **Senator JOYCE**—Wouldn’t you think it was a fair statement that 14 plus 27 looks awfully close  
5049 to what the right answer should be, rather than 14 and 27 being exclusive of one another?

5050 **Mr Parker**—No, I think you went—

5051 **Senator JOYCE**—It looked like a fair representation—

5052 **Senator Sherry**—Chair, Senator Joyce asked a question. An answer is started and then he  
5053 interrupts. Please, I would ask that the witnesses be given a chance to complete the answer. He had  
5054 been going only about one or two seconds before Senator Joyce cut in again.

5055 **Senator JOYCE**—That is fair enough, Madam Chair, as long as Senator Cameron abides by the  
5056 same ruling.

5057 **Senator CAMERON**—Why are picking on me, Barnaby?

5058 **Mr Parker**—I will begin to make a start to the answer and then Ms Mrakovcic may be able to fill  
5059 in additional detail. Let me firstly say that the measurement of the tax rate sounds simple but is  
5060 actually methodologically complicated. That is true for any particular project. There is also a table  
5061 on the previous page of the Treasurer’s economic note. It produces some numbers which show the  
5062 effective tax rate. It compares royalties and company tax with the effective rate under RSPT plus 28  
5063 per cent company tax rate. It is quite clear from that that you cannot simply add tax rates together;  
5064 you have to take account of essentially two things when you are looking at the tax burden which  
5065 arises under the new proposed arrangements—in fact, three things. The first thing that you have to  
5066 do—and this is obvious; I will just state it and pass on—is that these two taxes interact. One is  
5067 deductible. RSPT is deductible for company tax purposes. The second thing is that you can do the  
5068 simple arithmetic which comes up with a 56.8 per cent marginal tax rate for a project. I think, as Dr  
5069 Henry indicted last Thursday, that tax rate arises in respect of a project which effectively has no risk  
5070 and infinite return.

5071 For any project which is less than an infinite return, you get a lower tax rate, as is indicated in that  
5072 table. For any project which is also not certain then you also get a lower tax rate, because for a  
5073 project which is not certain there is a non-zero probability that the project will fail or will not earn  
5074 the rate of return expected. In that event, one of the design features of the RSPT can come into play,  
5075 which is the refunding of losses at the end of the project. That is true for a project as a whole, taken  
5076 by itself. It is also true when you add up all projects. You do not get the result when you look at the  
5077 mining sector as a whole. You simply end up with a tax rate of 56.8 per cent. If you look at the ADS  
5078 data, for example, of the return to the mining sector—this is some information that was released last  
5079 week—the average profit in the mining sector is about 37.1 per cent. That compares with an average  
5080 rate for the economy as a whole, which I think is about 11.4 per cent, so if you wanted to plug the 37  
5081 per cent number into that table then you could pop out the result for an overall project.

5082 Of course, that relates to average tax rates and, as we know, this industry is a highly skewed  
5083 industry. There are some projects which make extraordinarily high returns. Let me just illustrate that  
5084 very quickly. In some of the projects which we have looked at while we have been going through the  
5085 resource tax consultation panel process, there are projects out there which have—and I am sure you  
5086 will appreciate these numbers, Senator—

5087 **Senator JOYCE**—This is a very long answer.

5088 **Mr Parker**—It is a very complicated question. There are projects which have a payback period  
5089 of less than six months—that is, they return all their capital in less than six months—and they have  
5090 an internal rate of return in excess of 400 per cent. So it is certainly the case that, if you look across  
5091 different projects, some of them will have a high tax rate and some of them will have a low tax rate.

5092 That is the issue taken at the project level. Looking at this at the industry level, as we are all  
5093 aware, there has been a furious debate about this matter and the Treasury has provided a thorough  
5094 analytical piece on this matter which has been released by the Treasurer, and that is in the process of  
5095 being updated and is due to be published quite soon.

5096 **Senator JOYCE**—Can I just interrupt there for one second, because we have the taxation  
5097 department here and I have Mr D’Ascenzo to the right-hand side of the minister. Mr D’Ascenzo, in

5098 your document, what are the royalties, resource and company taxes paid by the mining industry?

5099 **Mr D'Ascenzo**—We have that, but I am not sure I have the figures in front of me.

5100 **Ms Granger**—We can give you the last two years and year to date for the petroleum resource  
5101 rent tax, and I will see if my colleagues can come up with the others as well, if you would like those.  
5102 For 2007-08, 57 taxpayers paid \$1.9 billion. These are from tax stats.

5103 **Senator JOYCE**—Yes, and what is the percentage? You have that table. What is your  
5104 percentage on that table?

5105 **Ms Granger**—There is not a percentage on this table.

5106 **Senator Sherry**—Sorry, percentage of what?

5107 **Ms Granger**—Sorry, I thought you asked for taxable profit.

5108 **Senator JOYCE**—You are going through the petroleum resource rent tax there, aren't you? I  
5109 want to know what the mining sector paid in taxes and royalties.

5110 **Ms Granger**—We will not have royalties, because they are collected by states and territories.

5111 **Senator JOYCE**—Tell me what they pay just in taxes then.

5112 **Ms Granger**—I will see if we can get that information for you. Hopefully someone has the  
5113 annual report here.

5114 **Senator JOYCE**—You would be aware, because we have all been aware because it has been in  
5115 the media, that your figures on that side are different to their figures on their side.

5116 **Mr Parker**—That is because they are measuring different things.

5117 **Ms Granger**—You are talking about effective tax rates.

5118 **Mr Parker**—This goes to the point: a percentage of what? If you look at tax paid as a percentage  
5119 of taxable income—surprise, surprise—out pops a number which is close to the tax rate. There is  
5120 essentially no information in that, from a tax system perspective.

5121 **Senator JOYCE**—Otherwise, we would have some serious questions for those people on that  
5122 side, wouldn't we?

5123 **Mr Parker**—Precisely. What this form of analysis does, and what the analysis which has been  
5124 published by Treasury does—and it has been released by the minister's office and is in the process  
5125 of being updated for publication in the next Treasury roundup, which puts further years onto the end  
5126 of the analysis—is basically to say, 'We need to answer this question: this tax is a percentage of  
5127 what?' That is the issue.

5128 **Senator JOYCE**—We tried to find out what 'what' is. We wanted you to tell us what 'what' is in  
5129 this.

5130 **Mr Parker**—My understanding is that is the measure of the excess return in the mining  
5131 sector—is that right?

5132 **Ms Mrakovic**—That is correct.

5133 **Mr Parker**—So it is not full economic income. It depends on the degree of investment in the  
5134 mining sector and the degree of acceleration of depreciation, which tends to reduce the taxable  
5135 income compared to other—

5136 **Senator JOYCE**—I understand all that, but it is accelerated depreciation on the capital that has  
5137 been expended. It is nothing more than the accelerated depreciation for other people using the same  
5138 plant in other places.

5139 **Mr Parker**—Yes and no. Yes, accelerated depreciation is a feature of the tax system and there is  
5140 effective life in the commissioner's safe harbours. I am not aware of an analysis—I would be  
5141 interested in seeing this done, personally—of whether or not the degree of acceleration in plant and  
5142 equipment which is particular to the mining sector is faster or slower than in other sectors. But it is  
5143 certainly the case that the mining sector tends to be more capital intensive than other industries. As a  
5144 result of that, any tax benefit which applies to accelerated depreciation will tend to  
5145 disproportionately benefit those industries which are capital intensive. That is one of the reasons  
5146 why you get the results from the Treasury analysis.

5147 **Ms Mrakovic**—If I could add to that, essentially what you have is, on the one hand, company  
5148 taxes—they can be expressed as a ratio of many different things, including the taxable income; it is  
5149 essentially the statutory tax rate, or you can have a discussion around different effective tax  
5150 rates—and, on the other hand, things like the royalties and resources, and they, in the sort of chart  
5151 that was prepared for ABS and then reprinted in the government's response to ABS, were expressed  
5152 as a proportion of resource rents. So essentially you have, on the one hand, company tax being  
5153 expressed as a proportion of taxable income or whatever other denominator is being used by various

5154 commentators out there, and, on the other hand, this concept of what is being paid in royalties,  
5155 PRRT et cetera, and that has been expressed as a fraction of these resource rents. The problem  
5156 comes when you try to express it over a common denominator.

5157 **Senator JOYCE**—I understand completely what you are saying. You are just saying that, if you  
5158 start with a different denominator, you come up with different fractions, basically.

5159 **Ms Mrakovic**—Then, if you try to unite them over a common denominator, as Mr Parker said,  
5160 the issue is what denominator you actually use.

5161 **Senator JOYCE**—But there is somehow a belief that—

5162 **Mr Parker**—The question is: what is the right denominator?

5163 **Senator JOYCE**—This is an art form in which it all depends on who is painting the picture. The  
5164 question the Australian public want answered through this obscurity is: what were the colours that  
5165 painted that pastel in that picture? If we cannot have it tonight, can we get it tomorrow?

5166 **Senator CAMERON**—Colours do not paint pictures; artists paint pictures.

5167 **Senator Sherry**—This matter was taken on notice, along with a couple of others.

5168 **Senator JOYCE**—Yes, and they said they would have it back to us today.

5169 **Senator Sherry**—No, that is not right. Do not try to verbal the witnesses. I have been around a bit  
5170 longer than you.

5171 **Senator JOYCE**—Are you going to be able to table this for us tomorrow?

5172 **Senator Sherry**—We took this issue on notice last Thursday morning, along with a number of  
5173 other matters. We gave no undertaking as to a precise time.

5174 **Senator EGGLESTON**—But that was the understanding. Can you have it for us tomorrow?

5175 **Senator Sherry**—Senator Eggleston chose to interject with another question. Maybe I should  
5176 ignore him. There was no undertaking. I was there.

5177 **Senator EGGLESTON**—I know you were, and that is why I am surprised.

5178 **Senator Sherry**—You were there, and we both know we took it on notice.

5179 **Senator JOYCE**—I was there. I asked a question.

5180 **Senator Sherry**—Yes, there were a number of questions asked. This is in large part, so far—and  
5181 this is your right, but you should not complain about the detail of—

5182 **Senator JOYCE**—Senator—

5183 **Senator Sherry**—Can I finish.

5184 **CHAIR**—Senator Joyce, can you let the minister finish, please.

5185 **Senator Sherry**—This is in large part a repetition of the questions and answers we went through  
5186 last Thursday. If you want to do that, that is your call, but it is your time. If you want to keep asking  
5187 similar or the same—

5188 **Senator JOYCE**—So you are burning the time up, are you, Minister, because you do not want to  
5189 answer the question?

5190 **Senator Sherry**—We are perfectly happy to answer whatever you ask.

5191 **Senator JOYCE**—We know what you are doing: it is a tactic called avoiding answering  
5192 questions.

5193 **CHAIR**—Senator Joyce, I am afraid your time has expired. We have a number of other senators.

5194 **Senator JOYCE**—Hang on, Madam Chair. There was a question asked: are you going to be able  
5195 to table the details for this tomorrow?

5196 **Senator Sherry**—I cannot give you any undertaking.

5197 **CHAIR**—That is what Senator Sherry was attempting to answer when you interrupted him.

5198 **Senator JOYCE**—You used the tactic of burning up time because you cannot answer.

5199 **Senator Sherry**—I did not burn up time; I barely said a word.

5200 **CHAIR**—We will go now to Senator Cameron.

5201 **Senator JOYCE**—That is pathetic. You guys have become an absolute joke.

5202 **Senator CAMERON**—Mr Parker, can you outline what effect replacing royalties with the  
5203 RSPT profit based tax and cutting the company tax to 28 per cent will have on GDP, long-run  
5204 investment and consumer prices?

5205 **Mr Parker**—We may be able to provide further details if you want it. We commissioned some

5206 modelling from KPMG Econtech's, Chris Murphy. Chris is one of the pre-eminent modellers in  
5207 Australia.

5208 **Senator Sherry**—Chair, I am sitting next to the witness, and he is trying to answer a legitimate  
5209 question and we keep getting noise from Senator Joyce—at least five or six times. It is very difficult  
5210 to provide answers.

5211 **Senator JOYCE**—Because you have a tactic to try and avoid the question.

5212 **CHAIR**—Senator Joyce, could you have some water, please. I was being distracted. Mr Parker,  
5213 you were answering.

5214 **Mr Parker**—The economic effects of this tax and the overall tax package are obviously quite  
5215 important. They go ultimately to policy questions as to the desirability or otherwise of this. It is not  
5216 surprising therefore that there has been substantial debate around this matter.

5217 We commissioned KPMG Econtech's Chris Murphy, as I said one of the pre-eminent general  
5218 equilibrium modellers in Australia, to do two stages of work: firstly, for the AFTS review and,  
5219 secondly, in respect to the government's response. It occurred to us very early in the AFTS review  
5220 process that there was not a set of models out there that we could use to necessarily answer all the  
5221 questions that we wanted to ask about the economic effects of various tax packages. Chris Murphy  
5222 was commissioned to update his model and to embed into that model a much finer degree of detail  
5223 about the different taxes. For example, in most general equilibrium models the taxation of alcohol is  
5224 treated as a homogenous rate of tax. What we asked him to do, which plays off one of the things that  
5225 is in the AFTS report, was model the actual taxes that apply to alcohol. That is an example. It applies  
5226 across the board. I am happy to give you any amount of detail that you would like about that. Let me  
5227 hasten to shorten the answer, though, just by saying that the modelling which has been done for this  
5228 has been released on the KPMG website.

5229 That first stage of the modelling was used through the AFTS process and it was used effectively  
5230 to ask the question: what are the economic costs from different tax bases? You may have seen this  
5231 chart. It essentially says that taxes on capital tend to be more distorting; taxes on consumption tend  
5232 to be less distorting; and taxes on rent are the least distorting of all. That is a summary of the overall  
5233 table. That work was used to inform the work of the panel in looking at the prioritisation. Where are  
5234 the benefits from reform? That then informed the government's consideration of which of the  
5235 recommendations in the Henry report it was to take up. The second piece of analysis done by KPMG  
5236 Econtech was in the lead-up to the finalisation of the government's package where we asked them to  
5237 model specific elements of the package.

5238 Before giving you the precise numbers, which you asked for, let me make it quite clear that we  
5239 did not influence Chris Murphy in terms of his modelling or in terms of how to assess the impact of  
5240 the tax within his model. That was his call. Equally, KPMG Econtech did not play a role in the  
5241 determination of the government's package.

5242 So the model was built, it was specified and Chris Murphy ran the announced tax package  
5243 through it and it produced the following results: the reduction in the tax rate for companies was  
5244 estimated to lift the level of GDP by 0.4 of a percentage point. That is a one-off shift in level. There  
5245 is no timing dimension to that, there is no path dimension to that; it is a long-run analysis. The  
5246 estimate—and this has been said—is 10 years is close enough to the long run that we will not argue  
5247 about that. So the expectation was that the reduction in the corporate tax rate would lift the level of  
5248 GDP, say, over a 10-year period, by 0.4 of a percentage point.

5249 Now we come to the RSPT and the removal of royalties. There has been a bit of confusion about  
5250 this in the public debate. What happens when you—

5251 **Senator CAMERON**—Mr Parker, I do not want to interrupt you unnecessarily, but I do want to  
5252 come to royalties separately. I asked about long-run GDP, long-run investment and consumer  
5253 prices.

5254 **Mr Parker**—Well there are essentially three things which are relevant there, and I was going to  
5255 run through them. I will ask my colleagues to pick up the investment and price impact. The three  
5256 relevant taxes are company tax, the RSPT and royalties. The number of 0.3 of a percentage point has  
5257 been talked about in the context of the RSPT package. Let me make it quite clear that that arises  
5258 because of the removal of royalties; it does not arise because of the application of RSPT. It is the  
5259 royalties which are the distorting tax. As modelled by Chris, and this was his choice—we happen to  
5260 agree with it, but it was his choice—that the best way to model the RSPT is as a neutral tax so it does  
5261 not adversely affect investment. Let me pass my colleague Graeme Davis to pick up the investment  
5262 side and the price side.

5263 **Ms Mrakovic**—I might add a few comments.

5264 **Mr Parker**—I beg your pardon. I will pass to Ms Mrakovic.

5265 **Ms Mrakovcic**—Just on the overall investment effect in terms of the combined policy of all three  
5266 components, it was modelled to be an increase of 2.1 per cent. Essentially that was split between a  
5267 one per cent increase in the RSPT and the reduction in royalties—and specifically from the  
5268 reduction in royalties—and  
5269 1.1 per cent from the company tax cut. That was in the scenario that assumed perfect capital  
5270 mobility.

5271 The other result that you asked for was the price impacts. Essentially the overall result was a  
5272 decline in prices of 1.1 per cent. The contribution that was made by the reduction in company taxes  
5273 was around 0.5 per cent. For the resource taxes—again the combination of the RSPT and  
5274 specifically the reduction in royalties; again I go to Mr Parker's point that it is the reduction in  
5275 royalties that is playing a key part here—you get a 0.6 per cent contribution.

5276 **Senator CAMERON**—This contradicts claims by those opposed to the RSPT that consumer  
5277 prices will go up. Can you detail how consumer prices will go down from the government's tax  
5278 changes?

5279 **Mr Parker**—I think there are two things to note there. One is that Australia is largely a price  
5280 taker in global markets. That is where the price of the basic inputs used in the economy gets set for  
5281 steel, energy and so forth. What the RSPT will do in that circumstance is reduce the rate of return to  
5282 people involved in that industry, it will tax away some of the rent, but to the extent that they are price  
5283 takers they will not be in a position to pass those costs on to the local markets.

5284 A similar issue arises in the context of low-value commodities, such as sand, gravel, building  
5285 materials and so forth. In large measure they are set in competitive markets. You would not expect  
5286 there to be substantial rents in that. There is no great shortage of supply. As a result of that, the view  
5287 taken was that there was unlikely to be any substantial amount of RSPT levied in those sectors.

5288 You may be aware that the AFTS panel proposed that a range of low-value commodities would  
5289 not be subject to the tax. The government said, 'As a starting point for consultation, let's take it that  
5290 they are in, but we are happy to consult on the basis that they would drop out if the administrative  
5291 issues outweighed the social benefit.' Some of those commodities would actually be better off under  
5292 the proposed arrangements because they pay royalties and they would get refunded and they would  
5293 not pay very much RSPT. That is the overall story.

5294 A lot of work has been and is being done by the Department of Resources, Energy and Tourism  
5295 on the specific issue of electricity prices. I think they mentioned that to this committee yesterday.  
5296 Their advice is that they do not expect there to be a significant effect there. There are a couple of  
5297 things relevant to that. We would not expect there to be substantial rent in brown coal. Much of the  
5298 black coal that is burnt in electricity plants is so-called run of mine material. It tends to be of a lower  
5299 grade than the export quality material. It is in one sense a segmented market. There is no shortage of  
5300 it at all. You would not expect there to be significant rents.

5301 **Senator JOYCE**—On a point of order, Madam Chair: are we now going to have government  
5302 senators asking dorothy dixers of the department?

5303 **CHAIR**—I certainly would not take this as a dorothy dixer. All senators on this committee do  
5304 have a right to expect some time on questions—

5305 **Senator CAMERON**—You can be sure of one thing—

5306 **Senator JOYCE**—Madam Chair, this would have to be the dodgiest estimates I have ever  
5307 participated in. This is the dodgiest show in town.

5308 **Senator CAMERON**—Was it Godwin Grech that—

5309 **CHAIR**—Senator Cameron, I do not need your assistance. Please continue, Mr Parker.

5310 **Mr Parker**—I think I have effectively finished my overall answer.

5311 **Senator JOYCE**—This is the dodgiest show in town. I have never seen something so disgusting  
5312 in my time at estimates.

5313 **Ms Mrakovcic**—Just to add a couple of observations to the ones Mr Parker has already made:  
5314 one of the key results from the modelling is that the mining sector is a beneficiary of both the  
5315 reduction in the company tax rate and the effective removal of the royalties. As a result you get an  
5316 increase in investment in the mining sector and, as we noted, benefits more broadly. Essentially,  
5317 given the increase in investment and the increase in mining production, you also get an appreciation  
5318 of the exchange rate. That is one of the channels through which it works. You can actually expect  
5319 that to lower pressures on inflation. The appreciating exchange rate essentially makes imports  
5320 cheaper and that feeds into lower prices.

5321 The other observation I would make is that the removal of the royalties essentially acts to reduce  
5322 production costs, for example. Therefore, you would expect to see that in lower prices as well. There

5323 are a number of channels through the modelling in which you could actually expect downward  
5324 pressure on prices to be flowing through.

5325 **Senator CAMERON**—So the ‘Australia’s future tax system’ review found that royalties and  
5326 company taxes are amongst Australia’s worst taxes for economic growth and resource rent tax is one  
5327 of the best. Is that correct?

5328 **Mr Parker**—Yes.

5329 **Senator CAMERON**—In the same way, am I correct in saying increasing the company tax rate  
5330 is bad for growth, investment and prices?

5331 **Mr Parker**—You would expect the result to be broadly symmetrical for a decrease and an  
5332 increase, yes.

5333 **Senator CAMERON**—So an alternative tax plan announced by the opposition to increase tax on  
5334 companies with an income over \$5 million is not a profit based tax and therefore is bad for growth,  
5335 investment and consumer prices?

5336 **Senator JOYCE**—These taxes would be nothing but contempt.

5337 **Senator EGGLESTON**—Madam Chair, I would like to make a point of order. I think Senator  
5338 Joyce has made a valid point. Estimates really are for the opposition, not the government. I think that  
5339 is a longstanding practice in the Senate.

5340 **CHAIR**—Senator Eggleston, we have been going for 3¼ hours now.

5341 **Senator EGGLESTON**—That is why I am making the point—because the opposition is not  
5342 getting much of a chance.

5343 **CHAIR**—Senator Cameron has been going for just under 15 minutes.

5344 **Senator EGGLESTON**—It always seems longer.

5345 **Senator CAMERON**—Because you do not like it.

5346 **CHAIR**—Can I go through this, please.

5347 **Senator JOYCE**—You are not allowing the Australia people to get to the bottom of this issue.

5348 You are

5349

5350 being evasive. You are dodgy. It is disgusting! **CHAIR**—Senator Joyce, can I just point out that the  
5351 coalition has had the lion’s share of this. I will adjourn

5352 this committee now unless I can hear myself across the table.

5353 **Senator BUSHBY**—On a point of order: Senator Sterle was accusing members of the public of  
5354 being liars.

5355 **CHAIR**—I did not hear that.

5356 **Senator STERLE**—Yes, it is true. That is correct. Total liars—and you know it. You know  
5357 damn well it is

5358 lies.

5359 **Senator BUSHBY**—Did you hear that?

5360 **CHAIR**—Members of the public?

5361 **Senator BUSHBY**—Yes.

5362 **Senator JOYCE**—Do you want to withdraw that, Senator Sterle?

5363 **Senator EGGLESTON**—Chair, you should ask him to withdraw it. That is completely—

5364 **CHAIR**—It was an interjection when I was speaking.

5365 **Senator JOYCE**—So you are letting the comment stand?

5366 **CHAIR**—I did not hear the comment.

5367 **Senator JOYCE**—You did not hear the comment? It just gets worse!

5368 **CHAIR**—Senator Joyce, part of the reason I am not hearing anything is because you and others  
5369 at the table are interjecting. I am saying I will adjourn this committee early unless we get back to the  
5370 questions you complain you are not having. Senator Cameron.

5371 **Senator CAMERON**—Do you want me to repeat the question? You have answered the  
5372 question? Hasn’t the Treasury analysis of the opposition’s proposed tax indicated that a 1.7 per cent

5373 increase in company tax for income over \$5 million would reduce GDP and long-run investment and  
5374 increase consumer prices? Can you confirm by what amount these would be affected?

5375 **Ms Mrakovic**—We did undertake some analysis. I think what you are referring to is two  
5376 separate issues. Firstly, we have observed that the 1.7 per cent increase in the levy on companies  
5377 with a turnover of \$5 million would in revenue terms be equivalent to around a one per cent increase  
5378 in the company tax rate. We have also made the observation that with a one per cent increase in the  
5379 company tax rate—assuming that the impacts would work symmetrically with the results that would  
5380 be obtained with the KPMG modelling of the two per cent decline in the company tax rate—you  
5381 would expect the results, as Mr Parker said, to be symmetrical and linear in the opposite direction.

5382 **Senator CAMERON**—How many employees are there in your department?

5383 **Mr Parker**—I do not have the number off the top of my head. We can take a question on notice.

5384 **Senator CAMERON**—Are you likely to have someone who can answer this question  
5385 tomorrow?

5386 **Mr Parker**—It should be a pretty easy question to answer, so we will get you the answer  
5387 tomorrow.

5388 **Senator CAMERON**—I have got a couple of questions following that, so I will leave it there  
5389 and ask the

5390 questions tomorrow.

5391 **Senator EGGLESTON**—I would like to ask some questions about minerals. The Henry review  
5392 recommended against applying the resource rental tax to lower value minerals, for which it can be  
5393 expected to generate no net benefits. The government is recommending extending the application of  
5394 the tax to all nonrenewable minerals. I wonder what the rationale for that is. Can you enlighten us?

5395 **Mr Parker**—I have already traversed that territory. Very quickly, some of those minerals pay  
5396 royalties. We would not expect low-value—

5397 **Senator EGGLESTON**—Some of those minerals are?

5398 **Mr Parker**—Brown coal pays a royalty. We can take that question on notice. A number of them  
5399 do. Putting aside the compliance cost issue, you would expect them to be better off in than out. But  
5400 it is one of the issues which the government has out for consultation whether or not those who are in  
5401 that business would prefer to be in or out. Let me put it this way: the government has not expressed  
5402 a determined view on the matter.

5403 **Senator EGGLESTON**—I would also like to ask about the resources exploration rebate and  
5404 question whether this would tend to increase the amount of exploration for minerals in Australia in  
5405 fact, given that the Henry review explicitly recommended against providing exploration incentives.  
5406 So is there a concern that the rebate will actually encourage too much exploration and be counter to  
5407 the Henry review's point of view?

5408 **Mr Parker**—I think the premise of your question is not correct. The Henry review recommended  
5409 a rebate in substantially the same form as the announced rebate. The policy development that was  
5410 done during the Henry process was to look at the relative merits of a proposed rebate or a  
5411 flow-through share scheme, and for the reasons set out in the Henry review proposed to go to a  
5412 rebate, which effectively puts companies that are exploring for minerals in the same tax position  
5413 irrespective of whether they are earning profits or are in a loss position. The present arrangements  
5414 mean that if you are in a loss position you do not get the value of an immediate deduction for  
5415 exploration expenditure, which is one of the features of the income tax. The announcement by the  
5416 government was somewhat wider than the suggestion by the Henry panel.

5417 **Senator EGGLESTON**—That is an interesting answer. Recommendation 46 in the Henry  
5418 review says:

5419 The resource rent tax should not provide concessions to encourage exploration or production activity at a faster  
5420 rate than the commercial rate ...

5421 So there appears to be a bit of an inconsistency there.

5422 **Mr Parker**—Can you take me to the relevant recommendation.

5423 **Senator EGGLESTON**—It is 46. That is what it says. It goes on to say:

5424 ... or in particular geographical areas...

5425 **Mr Davis**—Which page are you referring to, Senator?

5426 **Senator EGGLESTON**—Page 89. It says:

5427 ... and should not allow deductions above acquisition costs to stimulate investment.

5428 **Mr Parker**—Yes. Let me take you to recommendation 32. That is on page 177 of the substantive  
5429 report, volume 1 of part 2.

5430 **Senator EGGLESTON**—Perhaps you could read it to me. I do not actually have it here.

5431 **Mr Parker**—Yes, all right. It says:

5432 If earlier access to tax benefits from exploration expenses (relative to other expenses) is to be provided, it  
5433 should take the form of a refundable tax offset at the company level for exploration expenses incurred by  
5434 Australian small listed exploration companies, with the offset set at the company income tax rate.

5435 So that is in the income tax system, not in the RSPT system.

5436 **Senator EGGLESTON**—You referred to the Canadian flow-through share schemes, and the  
5437 view of AMEC, which is the Association of Mining Exploration Companies—the small mining  
5438 companies which carry out a lot of the prospecting work in Australia and are very active in Western  
5439 Australia—is that they would prefer to have a flow-through share scheme. I wonder how much  
5440 consultation was carried out with that segment of the mining industry.

5441 **Mr Parker**—I would have to take that question on notice, as to the amount of consultation  
5442 specifically over the exploration rebate. But, for the purposes of the analytical story, if you read  
5443 through pages 176 to the bottom of 177 it makes the case for doing it as a rebate as opposed to a  
5444 flow-through share design.

5445 **Senator EGGLESTON**—And yet, strangely, the industry prefer the flow-through share scheme,  
5446 according to the briefing they gave to a group of Western Australian senators. We will just leave that  
5447 there, because it is—

5448 **Senator Sherry**—I do not think there is a contradiction. You say the industry prefer it; well, the  
5449 tax panel did not prefer it.

5450 **Senator EGGLESTON**—I am just making the point that the industry obviously felt that the  
5451 Canadian system would encourage more exploration than this would. My question really was, as I  
5452 said: would this tend to increase the amount of exploration for minerals in Australia? It appears from  
5453 the AMEC briefing that the people in the industry do not think it will, but that is another matter. The  
5454 other question I want to ask in this bracket is to do with state royalties. Firstly, how much will be  
5455 paid in royalties to the states, by way of a rebate, I gather, by the mining companies in the forward  
5456 estimates? In other words, what quantum are you going to rebate?

5457 **Mr Parker**—We can provide the detailed answer on notice. The level of state royalties is  
5458 presently around \$8 billion a year.

5459 **Senator EGGLESTON**—The level of state royalties is about \$8 billion. If I can do the basic  
5460 arithmetic, that leaves \$1 billion between the rebatable state royalties and the income you are hoping  
5461 to generate, doesn't it?

5462 **Mr Parker**—No. The number which was published as the revenue from the RSPT package is a  
5463 net figure.

5464 **Senator EGGLESTON**—And that includes royalty rebates; is that what you are saying?

5465 **Mr Parker**—It includes royalty rebates. It includes loss offsets and so forth.

5466 **Senator EGGLESTON**—Very well. So what happens if the states increase their royalties or  
5467 other resource

5468 taxes after the introduction of the RSPT? How do you decide what the rebate level will be?

5469 **Mr Parker**—Let me answer the question in two parts. The second is to suggest that you also ask  
5470 the question to my colleagues from Fiscal Group because there is an intergovernmental finance  
5471 issue embedded in this. The answer to the first part of the question is that the government has  
5472 announced that it will refund up to the existing rates of royalties plus scheduled increases plus  
5473 indexation in the case of fixed-value royalties. As announced, that means that were the states to  
5474 increase their royalties above that, the Commonwealth would not refund them. I think you can take  
5475 it that the Commonwealth would not be particularly happy about that outcome, given that one of the  
5476 design features of this reform package is to remove the economic distortions of  
5477 the royalty regime.

5478 **Senator EGGLESTON**—I have heard that, but I would just like to finish that.

5479 **CHAIR**—You can continue after the dinner break, Senator Eggleston.

5480 **Proceedings suspended**

5481 **from 6.30 pm to 7.30 pm CHAIR**—We will

5482 resume with the Department of the Treasury

5483 Revenue Group and the Australian Taxation Office.  
5484 **Senator Sherry**—Sorry, Chair, but I will be  
5485 excusing myself in about five to 10 minutes for five  
5486 minutes to  
5487 say goodnight to my children.  
5488 **CHAIR**—That is perfectly permissible.  
5489 **Senator JOYCE**—Mr D’Ascenzo, in working out what is the percentage of tax paid on taxable  
5490 income,  
5491 what is the numerator in that equation?  
5492 **Mr D’Ascenzo**—I do not know what the equation is.  
5493 **Senator JOYCE**—I imagine it would be—  
5494 **Mr D’Ascenzo**—I would normally multiply it by 100 over one.  
5495 **Senator JOYCE**—So the numerator would be the tax paid and the denominator would be?  
5496 **Mr D’Ascenzo**—What is the equation again, sorry, Senator?  
5497 **Senator JOYCE**—In working out the percentage of tax paid on taxable income, the numerator  
5498 would be?  
5499 In working out as a fraction what the tax paid is on taxable income, the numerator would be what,  
5500 Mr D’Ascenzo? The number on the top.  
5501 **Mr D’Ascenzo**—Would that not be tax?  
5502 **Senator JOYCE**—Yes, it would. And the denominator would be?  
5503 **Mr D’Ascenzo**—What you mentioned.  
5504 **Senator JOYCE**—Taxable income?  
5505 **Mr D’Ascenzo**—That is right.  
5506 **Senator JOYCE**—Mr Parker, in working out what the percentage of tax paid is on taxable  
5507 income, the numerator would be?  
5508 **Mr Parker**—Same answer, Senator.  
5509 **Senator JOYCE**—Same answer. That is good. On that issue we seem to have the same answer.  
5510 It just seems peculiar—  
5511 **Mr Parker**—By definition, Senator.  
5512 **Senator JOYCE**—that on other issues we have different answers. I will have to return to  
5513 something. It surprises me that Treasury is unable to provide the figures underlying four simple pie  
5514 charts which were prepared by Treasury—by Ms Mrakovcic and by the three people who assisted  
5515 her. I presume that they are all here. We asked you this question and it was taken on notice a number  
5516 of days ago. I ask again: can the numbers behind those four charts be provided tomorrow morning  
5517 when this committee resumes?  
5518 **Senator Sherry**—Senator, I will respond in the same way as I responded at least on two  
5519 occasions before we broke for dinner. We can take it on notice. I cannot give any undertakings. You  
5520 should know me by now. I do not give undertakings unless they can be met. We will take it on  
5521 notice.  
5522 **Senator JOYCE**—Ms Mrakovcic, can you explain to me where the difficulty lies in finding  
5523 those figures or why they are so difficult for such a simple pie chart?  
5524 **CHAIR**—Senator Joyce, we have been over this for half an hour before. It is perfectly in order  
5525 for the officials to take your question on notice.  
5526 **Senator JOYCE**—I am just asking the question of Ms Mrakovcic. Can you explain to me where  
5527 the difficulty lies in providing what is in reality a very simple request?  
5528 **CHAIR**—Senator Joyce, what I am saying is that Dr Henry took that particular question on  
5529 notice. I am not even sure that Ms Mrakovcic has seen the question. I think it is unfair—  
5530 **Senator JOYCE**—Ms Mrakovcic, did you see the document that I tabled for you prior to the  
5531 dinner break?  
5532 **Ms Mrakovcic**—Yes, Senator.  
5533 **Senator JOYCE**—You saw that document?  
5534 **Ms Mrakovcic**—Yes.  
5535 **Senator JOYCE**—What is that document of?

5536 **Ms Mrakovcic**—Sorry, Senator, what do you mean what is it of?  
5537 **Senator JOYCE**—What are these things?  
5538 **Ms Mrakovcic**—Pie charts.  
5539 **Senator JOYCE**—Four of them. Can you explain to me what the difficulty is in you providing  
5540 the numbers for those two?  
5541 **Ms Mrakovcic**—Senator, we have explained that the secretary, Dr Henry, took those questions  
5542 on notice last week. We are in the process of preparing an answer to the question that he took on  
5543 notice.  
5544 **Senator JOYCE**—How many days ago was Dr Henry here?  
5545 **Ms Mrakovcic**—Last Thursday morning, I believe.  
5546 **Senator JOYCE**—What is today?  
5547 **Ms Mrakovcic**—Tuesday.  
5548 **Senator JOYCE**—There is Thursday and Friday. I imagine there would be someone there if they  
5549 needed— it is budget estimates—to do overtime on Saturday. There is Monday and most of  
5550 Tuesday. Where lies the difficulty in tabling those numbers?  
5551 **Senator Sherry**—The issue, Senator Joyce, is, as I have said now on three occasions, I do not  
5552 think it is fair of you to, as I think you are now doing, verge on harassing the witness. Ultimately, at  
5553 the end of the day, when a question is taken on notice for an answer, it will be provided by the  
5554 minister's office. It will be provided by the minister's office. So whatever good works the officers at  
5555 the table and elsewhere in Treasury are doing, ultimately—you well understand this process—it  
5556 goes through the minister's office.  
5557 **Senator JOYCE**—Is it a reasonable request to ask where the difficulty lies?  
5558 **Senator Sherry**—But we have already said we will take on notice and obtain an answer to your  
5559 question and the other questions. Given the taking on notice was last Thursday morning, it is not,  
5560 certainly from my almost 20 years coming here now, normal practice to provide answers to  
5561 questions taken on notice at the same hearing of estimates. In fact, it is extraordinarily unusual for  
5562 that to occur.  
5563 **Senator JOYCE**—It has happened.  
5564 **Senator Sherry**—It has happened, but it is extraordinarily rare. As I have said, we will take it on  
5565 notice. I do not think it is fair or reasonable for you to press the witness any further. She has given  
5566 her response to the best of her ability.  
5567 **Senator JOYCE**—Minister, would you like to venture an answer as to when you think you may  
5568 be able to  
5569 provide those numbers? A month, two months, half a year, a year on?  
5570 **Senator Sherry**—Perhaps the chair could remind me what the standing order requires. Is it 30  
5571 days?  
5572 **CHAIR**—As I said in the opening statement, the date for return of answers to questions on notice  
5573 is 30  
5574 July.  
5575 **Senator Sherry**—So it is up to 30 July. I think I can reasonably indicate, and certainly the  
5576 practice of this government—I could reflect on the previous government, but I will not—is  
5577 overwhelmingly to have the answers to questions taken on notice back within the required time as  
5578 specified by the Senate, not by the government. We will do our best to accelerate that time deadline.  
5579 I will do my best. But I am not going to give  
5580 specific date assurances beyond what I have stated so far.  
5581 **Senator JOYCE**—Mr Parker, you are completely comfortable with these figures, are you not?  
5582 **Mr Parker**—Well, I have described what they are.  
5583 **Senator JOYCE**—But you are comfortable with them, are you not? You are comfortable with  
5584 the  
5585 description of these pie charts and the recommendation that has been used by the Treasurer of this  
5586 nation in his argument that uses these figures?  
5587 **Mr Parker**—With those charts as they are, that is right, Senator.  
5588 **Senator JOYCE**—You are comfortable with them, are you not?

5589 **Mr Parker**—Let me give you an assurance that Treasury will do all in its power to expedite the  
5590 answer.

5591 **Senator JOYCE**—The question I ask is: you are happy with them? They are correct?

5592 **Mr Parker**—They are correct on the basis of the information that was provided to the  
5593 Treasurer's office.

5594 **Senator JOYCE**—On the information that was provided to the Treasury by whom?

5595 **Mr Parker**—It was provided by Treasury to the Treasurer's office, as we have previously stated.

5596 **Senator JOYCE**—By Treasury to the Treasurer's office. So you provided this to Mr Swan's  
5597 office or Mr Swan provided you with the baseline information on this data? In which direction did  
5598 the information flow?

5599 **Ms Mrakovic**—Senator, I have already mentioned that we provided the data underlying those  
5600 charts to the Treasurer's office.

5601 **Senator JOYCE**—To the Treasurer's office. Who drew these charts?

5602 **CHAIR**—Senator Joyce—

5603 **Senator JOYCE**—That is a simple question. Who drew these charts?

5604 **CHAIR**—Senator Joyce, the question has been put on notice as to—

5605 **Senator JOYCE**—Surely that question can be answered. Who drew these charts?

5606 **Senator Sherry**—Provided the officers know.

5607 **Senator JOYCE**—Do you know who drew these charts?

5608 **Ms Mrakovic**—I do not as a statement of fact know who produced those charts.

5609 **Senator JOYCE**—You do not know who produced those charts?

5610 **Ms Mrakovic**—The name of the person?

5611 **Senator Sherry**—She has already said that, Senator Joyce, and you are again pestering.

5612 **Senator JOYCE**—Did you not say before that it came from your cell, Ms Mrakovic?

5613 **Ms Mrakovic**—Senator, I have explained that we provided the data underlying the charts to the  
5614 office.

5615 **Senator JOYCE**—So you do not know who produced these charts?

5616 **Ms Mrakovic**—Senator, I am not going to add to that answer. I have said that we have provided  
5617 the data underlying those charts to the office.

5618 **Senator JOYCE**—You seem hesitant, Ms Mrakovic. Do you know who—

5619 **Ms Mrakovic**—I am not hesitant at all, Senator. I have indicated that—

5620 **Senator Sherry**—The witness has answered this question on at least three occasions consistently  
5621 and in

5622

5623 full.

5624 **Senator JOYCE**—And the consistent answer is, Minister?

5625 **Senator Sherry**—She has answered.

5626 **Senator JOYCE**—What is the consistent answer, Minister?

5627 **Senator Sherry**—She provided the data.

5628 **Senator JOYCE**—Minister, what is the consistent answer?

5629 **CHAIR**—Senator Joyce, we are not at a trial here.

5630 **Senator Sherry**—You are not Perry Mason. Far from it.

5631 **CHAIR**—Asking questions several times and badgering witnesses is not in the spirit of  
5632 estimates.

5633 **Senator Sherry**—Senator Joyce, let me make this clear for the final time. We have taken the  
5634 question on

5635 notice that has been asked three or four times tonight. We have indicated that on Thursday. We have  
5636 taken it on notice. That is it.

5637 **Senator JOYCE**—That is the only answer you are going to give me, Minister?

5638 **Senator Sherry**—On this issue, yes.

5639 **Senator JOYCE**—Because it suits your purpose of evading the question.

5640 **Senator Sherry**—I do not have anything further to add.

5641 **Senator JOYCE**—Before dinner, it was stated that analysis of the PPL and some other coalition  
5642 policies had been undertaken by Treasury. Can you describe the type of analysis undertaken? Paid  
5643 parental leave is PPL.

5644 **Ms Mrakovcic**—Senator, I did answer the question before the dinner break. I do not know that I  
5645 can add much more to it. I indicated that essentially we had looked at the 1.7 per cent levy on the  
5646 taxable income of companies above a threshold of \$5 million and had essentially come to the view  
5647 that it was basically equivalent in revenue terms to a one per cent increase in the company tax rate  
5648 across all companies. I also pointed out that you could look at a one per cent increase in the company  
5649 tax rate in relationship to the KPMG modelling of the 2 per cent decline in the company tax rate.  
5650 Looking at the symmetry of those responses and taking a linear approximation, essentially there was  
5651 a set of results that came out of the KPMG modelling on the 2 per cent reduction in the company tax  
5652 rate that was relevant in terms of looking at a one per cent increase in the company tax rate.

5653 **Senator JOYCE**—How long has Treasury been analysing coalition policies?

5654 **Senator Sherry**—For as long as you analysed ours.

5655 **Senator JOYCE**—How long has Treasury been analysing coalition policy?

5656 **Mr Parker**—Treasury advises the government. If they ask us to analyse a policy, we do so.  
5657 There are certain exceptions to that, of course, in a pre-election period, when the relationship  
5658 between the government and Treasury and the opposition and Treasury is governed by the Charter  
5659 of Budget Honesty. Outside that period before the writs are issued on an election, we take our  
5660 direction from the government in terms of the analysis and advice that they would like provided to  
5661 them.

5662 **Senator JOYCE**—Can you provide a list of all the policies of the coalition you have analysed?

5663 **Mr Parker**—Over what time period, Senator?

5664 **Senator JOYCE**—Over the last six months.

5665 **Mr Parker**—I would have to take that on notice.

5666 **Senator JOYCE**—Over the last year.

5667 **Mr Parker**—I would have to take that on notice too.

5668 **Senator JOYCE**—Over the last week.

5669 **Mr Parker**—Over the last week? I am not aware of any. Maryanne, when was the advice on PPL  
5670 sent?

5671 **Ms Mrakovcic**—It was 21 May.

5672 **Senator JOYCE**—What happened then?

5673 **Ms Mrakovcic**—The advice on the paid parental leave—

5674 **Senator JOYCE**—That is 21 May.

5675 **Mr Parker**—There may have been other requests for advice of which I am not aware.

5676 **Senator JOYCE**—So apart from the paid parental leave, can you think of another policy that you  
5677 have

5678

5679 analysed?

5680 **Mr Parker**—In the last week?

5681 **Senator JOYCE**—In the last six months?

5682 **Mr Parker**—Yes. We were asked to look at the effects of a freeze on Public Service hiring  
5683 insofar as it may

5684 have an effect on the revenue raising capability of the ATO.

5685 **Senator JOYCE**—Will you provide to the committee all of these analyses? Would you be  
5686 prepared to make them public?

5687 **Mr Parker**—I think the analysis on revenue raising has been effectively made public in the form  
5688 of a press release by Minister Sherry. As to the other ones, I will take the question on notice and put

5689 it to the Treasurer.

5690 **Senator JOYCE**—Mr Parker, you said previously that treating the RSPT as having no economic  
5691 cost was Chris Murphy's decision and you would not have done it that way yourself.

5692 **Mr Parker**—No, I did not say that, Senator. What I said was that Chris made the economic  
5693 judgment as to how to model it in the final exercise that he did—the second of the two. We provided  
5694 him with the specification. On that basis, he did the modelling which followed from that. We did not  
5695 tell him how to model it and, equally, he did not tell us how to design the tax.

5696 **Senator JOYCE**—What was the premier assumption in the model? Does it regard the  
5697 availability of  
5698 capital?

5699 **Mr Parker**—That is one of the assumptions in the model—the degree of capital mobility, yes,  
5700 that is right.

5701 **Senator JOYCE**—What is that assumption?

5702 **Mr Parker**—He did it several ways.

5703 **Ms Mrakovic**—It was more under both assumptions of perfect capital mobility and then there  
5704 was  
5705 analysis also done under imperfect capital mobility.

5706 **Senator JOYCE**—Where is the analysis on imperfect capital mobility? Is that public?

5707 **Ms Mrakovic**—I believe that it is basically throughout the document. The results are essentially  
5708 provided  
5709 under both perfect and imperfect mobility.

5710 **Mr Parker**—So there is a table on page 36 which sets out the two alternatives. There is a chart  
5711 earlier on in the paper which summarises it.

5712 **Senator JOYCE**—So just to be clear: the conclusion of no economic cost of the RSPT is not  
5713 derived from modelling but by assumption that it has no economic costs, as discussed in chapter 4 of  
5714 the report?

5715 **Mr Parker**—It is a judgment which flows from the properties of the tax. In particular is the fact  
5716 that there is refundability of losses in the event of mine closure and transferability of losses between  
5717 different projects. Neither of those two features apply in the PRRT, incidentally. And then the third  
5718 linkage there is the long-term bond rate as the uplift, which follows logically from the fact that the  
5719 tax has transferability and loss

5720 refundability in it.

5721 **Senator JOYCE**—In other words, the report does not really model the RSPT, does it?

5722 **Mr Parker**—I am not sure what you are suggesting, Senator.

5723 **Senator JOYCE**—On the basis of the assumptions, the assumptions are not really the reality of  
5724 how it  
5725 actually works in the real world.

5726 **Mr Parker**—There is debate about that, that is for sure, yes.

5727 **Senator JOYCE**—And, in your view, it is a true reflection of how the marketplace will actually  
5728 work?

5729 **Mr Parker**—Well, I think if you look at how that debate has flowed, you see that there has been  
5730 a significant increase in the sophistication of that debate since the announcement on 2 May. This is  
5731 somewhat of a caricature, but the debate broadly went through three stages. One was immediately  
5732 after 2 May—'This is not a super profits tax because the uplift rate is not high enough.' Then the  
5733 next phase in the debate—we observed this as we met with companies in the resource tax  
5734 consultative panel and more broadly—was 'We now understand conceptually the role of the  
5735 long-term bond rate and the link to refundability.' Those two mechanisms interact so that it makes  
5736 the tax operate. It is characterised as a cash flow tax plus a deferred tax asset. Economically, that is  
5737 equivalent to a joint venture with shared risk and shared return. The sharing of that risk is the critical  
5738 feature in the design of the tax, which makes it neutral. If you were to compare the design of that tax  
5739 with a PRRT arrangement, where there is no refundability and no transferability but a higher uplift  
5740 rate, the mathematics of that are that a PRRT type tax is inherently non-neutral except by  
5741 coincidence for a particular project. Then the third phase of the debate has moved on to, 'Well, for

5742 one reason or another we don't value the refund that is embedded in the tax and we would prefer one  
5743 of two things to happen—either you make the refund valuable or you have a higher uplift rate.'

5744 **Senator JOYCE**—Would the modelling results be any different if they had modelled the tax  
5745 changes without the RSPT included?

5746 **Mr Parker**—I think the answer to that is no because the economic effects flow from the  
5747 corporate tax rate and the removal of royalties.

5748 **Senator JOYCE**—That is interesting.

5749 **Mr Parker**—That is, it was modelled as a neutral tax.

5750 **Senator JOYCE**—So it makes no difference whether the RSPT is in or out; the model would  
5751 provide the same. But it is supposed to be a model about the effects of the RSPT.

5752 **Mr Parker**—No, it was a model about the overall tax package.

5753 **Senator JOYCE**—Why was there no sectoral analysis in the report?

5754 **Mr Parker**—There is some sectoral analysis in the report. I will ask the officers who were  
5755 responsible for that to take you through it, if you would like.

5756 **Senator JOYCE**—I refer specifically to page 32 of those results for mining and non-mining. But  
5757 there is no further detail by sector.

5758 **Ms Mrakovcic**—Senator, before I answer that question, I should point out that in fact the people  
5759 who were essentially involved in the KPMG modelling exercise in Treasury, the people  
5760 coordinating with KPMG and Econtech, are actually not here. So we are actually trying to answer  
5761 their questions but, not having been as involved intimately in the process ourselves, we obviously  
5762 cannot do as thorough a job of answering your questions as they would be able to were they here.  
5763 Having said that, as Mr Parker has pointed out, there were some results provided in terms of a split  
5764 between mining and non-mining. I think that in the nature of the package that was requested to be  
5765 modelled, which essentially included the RSPT with its removal of royalties and the company tax  
5766 rate, the focus was obviously at the broader economic level and then clearly there was an interest in  
5767 that mining-non-mining split. But that was the main focus of what was sought.

5768 **Senator JOYCE**—What about non-mining and agriculture? What about mining and agriculture?

5769 **Ms Mrakovcic**—Senator, the agriculture is captured within non-mining.

5770 **Senator JOYCE**—So you would say that the KPMG Econtech report was a far more detailed  
5771 analysis?

5772 **Ms Mrakovcic**—Sorry, Senator?

5773 **Senator JOYCE**—Would you say that the KPMG Econtech report gives a more detailed sectoral  
5774 analysis?

5775 **Mr Parker**—That is presented on that page. Is that what you mean?

5776 **Senator JOYCE**—Yes.

5777 **Mr Parker**—Conceptually it could have.

5778 **Senator JOYCE**—It was previously explained that the Treasury projected revenue of \$9 billion  
5779 from the RSPT in 2013-14 is a net figure. Table 7 of page 5-21 states that the resources rent tax  
5780 raises \$15.9 billion in 2013-14. How much of this amount is RSPT revenue?

5781 **Mr Parker**—Which table are you referring to?

5782 **Senator JOYCE**—Table 7 on page 5-21.

5783 **Ms Mrakovcic**—Basically, as the footnote to that table points out, the \$3 billion and \$9 billion  
5784 costing of the RSPT had a number of elements in it that went across a number of revenue heads.  
5785 Essentially those revenue heads affected by the RSPT include company tax and superannuation  
5786 funds as well as the PRRT and royalties line.

5787 **Senator JOYCE**—Can you put aside and clearly identify how much of that is RSPT revenue?

5788 **Ms Mrakovcic**—The costing of the RSPT measure was given as \$3 billion and \$9 billion. That is  
5789 if you go

5790 to the measure and specifically BP2.

5791 **Senator JOYCE**—That is a net figure, is it? But that is a net figure.

5792 **Ms Mrakovcic**—It is a net figure in the sense that we undertook a costing of the introduction of a  
5793 RSPT and the actual costing was \$3 billion and \$9 billion. It has a number of components to it, as I  
5794 mentioned, that go across a number of revenue heads. But at the end of the day, the way it is costed  
5795 and presented as a measure is as having an impact of \$3 billion and \$9 billion.

5796 **Senator JOYCE**—In your sectoral analysis, can you split out agriculture, manufacturing and  
5797 services?

5798 **Mr Parker**—KPMG could do that.

5799 **Senator JOYCE**—Can we get that figure?

5800 **Ms Mrakovcic**—We will take that on notice.

5801 **Senator JOYCE**—How long before we can get that back?

5802 **Mr Parker**—Well, it will depend on what KPMG does.

5803 **Senator JOYCE**—It is dependent on KPMG?

5804 **Mr Parker**—Yes.

5805 **Senator JOYCE**—As soon as they provide it to you, you will provide it to us?

5806 **CHAIR**—As the minister described, Senator Joyce, it goes through the minister's office. So the  
5807 officers

5808 here are not able to give you a specific answer. **Senator JOYCE**—So are you able to detail each  
5809 component of the calculation that produces the gross

5810 figure to the net figure of \$9 billion?

5811 **Mr Parker**—So that is the figure of \$15.9 billion?

5812 **Senator JOYCE**—Yes.

5813 **Mr Parker**—That would include PRRT.

5814 **Senator JOYCE**—How much? Can you identify?

5815 **Mr Parker**—We can put those numbers together for you, Senator.

5816 **Ms Mrakovcic**—Yes. We have to take that on notice.

5817 **Senator JOYCE**—How many companies will pay the RSPT in 2013-14?

5818 **Mr Parker**—I do not have that number with me.

5819 **Ms Mrakovcic**—We will have to take it on notice.

5820 **Mr Parker**—We will have to take it on notice.

5821 **Senator JOYCE**—Will you be able to identify how much of the royalties is paid back to the  
5822 states?

5823 **Mr Parker**—Yes. Under the design, all of the royalties are paid back to the companies, which  
5824 pay them to

5825 the states.

5826 **Senator JOYCE**—Will you be able to identify for us how much is paid back to companies for  
5827 failed projects?

5828 **Mr Parker**—That is a little harder to do, because the way this has been modelled is made a little  
5829 easier because of the nature of the tax. Because of the refundability and the transferability, you can  
5830 model this tax looking at the sector as a single aggregate.

5831 **Senator JOYCE**—Can you find one year and find a gross figure and say, 'This is how much we  
5832 put in that model to repay the 40 per cent of failed projects?'

5833 **Mr Parker**—Not directly, because when we have modelled it, we have taken the income  
5834 projections of the sector. That is effectively a net number. It includes both projects which succeed  
5835 and projects which fail.

5836 **Senator JOYCE**—So how do we ascertain what the number is that you derived for failed  
5837 projects, because it compensates 40 per cent for failed projects, as you know—I say that for the  
5838 purposes of the *Hansard*. How do we know that number is in there? If that number is in there, what  
5839 is it?

5840 **Mr Parker**—As I said, it is implicitly in there. It is in the revenue numbers that are there because  
5841 the tax, because of its properties, was able to be modelled on an industry-wide basis.

5842 **Senator JOYCE**—So it is implicitly in there, but can you define it explicitly? We have an  
5843 explicit number in \$9 billion. Why can we not get explicit numbers that make it up?

5844 **Mr Parker**—The \$9 billion includes both receipts and payments. It is a net figure.

5845 **Senator JOYCE**—Surely, therefore, in making that net figure you would be able to say, ‘In  
5846 finding the \$9 billion we took off the \$4 billion in failed projects or the \$2 billion in failed  
5847 projects’—

5848 **Mr Parker**—No, we did not do it that way.

5849 **Senator JOYCE**—Is there any number we can determine that we took off to make that net  
5850 figure?

5851 **Mr Parker**—Well, you could take that net figure and try and gross it out, but you would need an  
5852 additional layer of detail to do that.

5853 **Senator JOYCE**—But surely Treasury must have been aware of that figure.

5854 **Mr Parker**—Do you want to add any detail to that, Colin?

5855 **Mr Brown**—Senator, you do not need to know the number of failed projects if you are modelling  
5856 from tops down provided that the design of the tax is as it is—that is, that it gives full refundability  
5857 and transferability. In that case, the aggregate revenue numbers in fact accurately reflect both  
5858 refunds and tax paid in your figures. It comes out of your base.

5859 **Senator JOYCE**—In that case, are you looking at predominantly new projects in your modelling  
5860 or existing projects in your modelling?

5861 **Mr Brown**—Both. The modelling would take account of growth in the industry—that picks up  
5862 new projects—as well as existing projects that are already there. They are in the base that we start  
5863 with.

5864 **Senator JOYCE**—Predominantly new or predominantly existing?

5865 **Mr Brown**—It would be predominantly existing in any industry because the growth in the  
5866 industry is a mixture of both.

5867 **Senator JOYCE**—Predominantly being 70 per cent existing?

5868 **Mr Brown**—I cannot give you that figure, Senator. We do not do it project by project. We do not  
5869 go by numbers of taxpayers. We are looking at aggregate income.

5870 **Senator JOYCE**—How do you ascertain a proportion?

5871 **Mr Brown**—Of what?

5872 **Senator JOYCE**—New and existing?

5873 **Mr Brown**—We do not need to.

5874 **Senator JOYCE**—So you do not need to?

5875 **Ms Mrakovic**—It is the same answer to the earlier question, Senator, taking the tops down  
5876 industry approach.

5877 **Senator JOYCE**—What are the estimates for RSPT beyond 2013-14?

5878 **Mr Parker**—I think the Treasurer has mentioned a number of, on average, between \$10 billion  
5879 and \$12 billion.

5880 **Senator JOYCE**—You said previously that Treasury had prepared the costings for all the  
5881 recommendations in the tax review. What is the estimated cost of raising the personal income  
5882 tax-free threshold to \$25,000?

5883 **Mr Parker**—We would have to take that on notice, Senator.

5884 **Senator JOYCE**—Would you be prepared to also, in taking that on notice, provide the  
5885 committee with the costings of these recommendations?

5886 **Mr Parker**—Of all 138 recommendations?

5887 **Senator JOYCE**—Yes.

5888 **Mr Parker**—We can take that on notice, Senator.

5889 **Senator JOYCE**—The budget shows the company tax reduction costs of \$2 billion in 2013-14.  
5890 What is the effect on personal income tax payments of the proposed reduction in company tax  
5891 because of the dividend imputation?

5892 **Ms Mrakovic**—We will have to take that on notice.

5893 **Mr Parker**—Let me just pick into the conceptual issue. If the company has the same payout ratio  
5894 as previously and it did not have an excess franking credit account, it can do two things compared  
5895 with the previous situation. Firstly, it will have more after tax income than before because its tax rate  
5896 is lower. It will be able to frank that higher dividend at a lower rate. To the extent that its dividend  
5897 payout ratio of profits was unaltered by that, you would end up with exactly the same result at the  
5898 personal tax level because it would all get netted out. That is, the person would report a higher

5899 dividend but franked at a lower level.

5900 **Senator JOYCE**—How much has the personal income tax received risen in 2013-14 because of  
5901 the reduction in company tax?

5902 **Mr Parker**—We would have to take that on notice.

5903 **Senator JOYCE**—The RSPT provides for 40 per cent of failed projects to be refunded by  
5904 taxpayers on a reasonable basis. Can you explain in as much detail as possible what would be the  
5905 factors that determine what is reasonable?

5906 **Mr Parker**—That is a matter which the consultative panel has been consulting on. It was  
5907 specifically written that way—on a reasonable basis—so that we could consult on precisely the  
5908 circumstances in which a refund of that sort would be payable. Broadly speaking, there are three  
5909 ways which an owner of a project can get access to the 40 per cent tax credit. One is to offset that  
5910 against tax paid along the way. That reduces their capital base. Second is in the event of mine  
5911 closure, and that raises issues of when a mine is closed. That is a matter which we have been  
5912 consulting on. The third way you can get access to that tax credit is to sell the project to somebody  
5913 else, in which event the tax credit travels with the project.

5914 **Senator JOYCE**—Mr Parker, when did you start modelling this?

5915 **Mr Parker**—Modelling which—the RSPT?

5916 **Senator JOYCE**—The RSPT.

5917 **Mr Parker**—It has been modelled for a long time, Senator.

5918 **Senator JOYCE**—So when did you start?

5919 **Mr Parker**—In the middle of 2009.

5920 **Senator JOYCE**—In the middle of last year. So in that detail you were looking at, what did you  
5921 determine then as a reasonable basis for modelling a failed project and including it in your model?

5922 **Mr Parker**—Well, that is one of the reasons why the government has put out the consultation  
5923 paper and why they have tasked us to do it and to provide them with advice on that. Then we have an  
5924 issues paper to be released in July this year, which will go into the question in considerably more  
5925 detail.

5926 **Senator JOYCE**—How is the feature of what is reasonably modelled in the forward estimates?

5927 **Mr Parker**—Sorry, could you repeat the question?

5928 **Senator JOYCE**—In working out what is reasonable where you will refund the 40 per cent—not  
5929 you but the government—how do you determine that feature in the forward estimates?

5930 **Mr Parker**—It goes back to the same question that Mr Brown mentioned about the way it is  
5931 modelled, which is effectively on an industry-wide basis because of transferability and  
5932 refundability. So, unlike a PRRT, you would have to model that. You have to model a PRRT on a  
5933 project by project basis. With the RSPT you do not.

5934 **Senator JOYCE**—But the petroleum resource rent tax would take into account that all capital  
5935 was upfront and then you predominantly had a cash flow that followed. We can see that working  
5936 splendidly, unfortunately, in the Gulf of Mexico at the moment. Once the oil starts flowing, it is very  
5937 hard to stop.

5938 **Mr Parker**—Yes.

5939 **Senator JOYCE**—Notice that iron ore extraction and coal extraction require an ongoing capital  
5940 development program and there are alternative sources of capital. Even though you talk about  
5941 perfect transferability and unlimited capital, this is not actually the case in the market, is it? We have  
5942 fundamental differences between the cash flow structure of oil and gas and how you invest in that  
5943 and the cash flow structure of coal and iron ore, for instance.

5944 **Mr Parker**—Well, the cash flow structure is different. There is no doubt about that. I do not  
5945 think it necessarily follows from that that the tax structure should be different. The cash flow  
5946 structure of businesses all over the economy are different, but we have the same company income  
5947 tax system.

5948 **Senator JOYCE**—But you would agree that the capital investment in an oil project is all upfront,  
5949 is it not?

5950 **Mr Parker**—Generally, yes.

5951 **Senator JOYCE**—Therefore, the tax advantages that are upfront and what you are following is  
5952 really tax on a cash flow, which is the oil coming out of the pipe?

5953 **Mr Parker**—Yes. But if you are suggesting that the RSPT is therefore non-neutral because  
5954 different projects have different capital profiles, I would not accept that. The point is that a project

5955 which has its capital expenditure delayed, say, compares to the oil situation that you mentioned has  
5956 less capital at risk. There is less investment.

5957 **Senator JOYCE**—So less capital at risk and, therefore, less potential for you to have to pay out  
5958 on a reasonable basis?

5959 **Mr Parker**—And less funding for the firm and an option value in terms of how far they take their  
5960 investment. So that is why you tend to find in the mining sector, when you have a fall in commodity  
5961 prices, investment comes off quite quickly. It comes off quickly both in new and existing mines  
5962 because they have the option of scaling back investment, unlike a petroleum project, where, as you  
5963 said, the capital is sunk.

5964 **Senator JOYCE**—I refer you to a paper that Treasury officials titled ‘The disparities in average  
5965 rates of company tax across industries’ which appeared on your Treasury website on 24 May. Its  
5966 conclusion was, and I quote:

5967 The average tax rate is found to be relatively high in the finance and insurance industry and relatively low in  
5968 the most capital intensive industries, such as electricity, gas, water and mining.

5969 **Mr Parker**—Yes.

5970 **Senator JOYCE**—Also released that day to some journalists but not, I believe, publicly, was a  
5971 Treasury minute to the Treasurer recommending the release of a paper and providing some  
5972 additional information not included in the article. This included estimates of average tax rates for the  
5973 10 years to 2004-05 for mining at 17 per cent, transport and storage at 27 per cent and finance and  
5974 insurance at 29 per cent. These numbers were cited by the Treasurer and the finance minister, Mr  
5975 Tanner. Exactly when was the paper written?

5976 **Mr Parker**—When was the paper written?

5977 **Senator JOYCE**—Yes. The one that appeared on the website on 24 May. When was it written?

5978 **Mr Parker**—I think it had been in preparation for some time. Can someone answer the question,  
5979 please?

5980 **Mr Davis**—Work on that paper commenced last year.

5981 **Senator JOYCE**—So is it intended for publication?

5982 **Mr Davis**—It was intended for publication.

5983 **Senator JOYCE**—So when will it be published?

5984 **Mr Davis**—I understand it is intended for publication in the coming round-up.

5985 **Mr Parker**—That is in the latter part of June.

5986 **Senator JOYCE**—Why was it done? What was the motivation behind it?

5987 **Mr Davis**—The motivation behind that work was to examine the implications of the company  
5988 tax system for the economy. It was asking the question: what does the company tax system actually  
5989 do? There is a range of things that you would want to explore. One of them is saying, ‘Well, do  
5990 different activities in the economy get treated in effect differently as a result of the company tax  
5991 system?’ So we think having a 30 per cent rate means that you have a flat rate of tax across the whole  
5992 economy. Is that true given the way we have the tax system structured? Does it have any economic  
5993 and resource allocation implications? So it was asking that fundamental question, which is an  
5994 important thing for us to understand in thinking about the company tax system.

5995 **Senator JOYCE**—There is something that fascinates me about this RSPT, and it is this: Dr  
5996 Henry tells Australia that it would not matter if it was 40 per cent or 50 per cent, in fact, 70 per cent.  
5997 In fact, the only problem we had was when it got to 100 per cent. Given that it has no effect, why did  
5998 we pick 40 per cent? Why do we not make more money? Why do we not have it at 90 per cent?

5999 **Mr Parker**—That is a good question.

6000 **Senator JOYCE**—It is a very good question.

6001 **Mr Parker**—There are several layers of answer to that question. The nature of the tax, as I have  
6002 said, is a

6003 cash flow tax with deferred tax credit, which is effectively economically equivalent to a joint  
6004 venture.

6005 **Senator JOYCE**—Sorry?

6006 **Mr Parker**—It is effectively equivalent to a joint venture between the private participant and the  
6007 government, where gains and losses are shared in proportion to the tax rate.

6008 **Senator CAMERON**—It is like a partnership.

6009 **Senator JOYCE**—If you are going to listen to interjections, listen to mine.

6010 **Senator Sherry**—There are plenty of them. Let the witness finish the answer.

6011 **Mr Parker**—We have been down the road of exploring how wickedly difficult it is to measure  
6012 effective tax rates in particular industries and in particular projects because it depends on the rate of  
6013 return of a particular project and the risk profile. What the RSPT does—the lock in it which makes it  
6014 a neutral tax—is the refund of royalties and the refund of tax credits. I will just finish. Clearly, if you  
6015 were to have a tax rate that was extraordinarily high, you may have more difficulty attracting—

6016 **Senator JOYCE**—Investment?

6017 **Mr Parker**—investment. That is right. What the RSPT does, because it is economically  
6018 equivalent to the joint venture arrangement, which comes from the refunding of losses, is it leaves  
6019 60 per cent of the rent on the table for the private participant, which has 60 per cent of their capital at  
6020 risk.

6021 **Senator JOYCE**—So what you have said there, Mr Parker, is that people are affected by the rate  
6022 of tax. You have said that with a high rate of tax you might have trouble attracting investment. That  
6023 is a very logical thing to say because it is the truth. So how did we get to this miraculous 40 per cent  
6024 figure?

6025 **Mr Parker**—Well, I did not get to the miraculous 40 per cent figure. This is a number which was  
6026 recommended by the Henry review panel. Let me refer you to page 233 of volume 1 of part 2.  
6027 Ultimately it is  
6028 judgment, Senator.

6029 **Senator Sherry**—Informed judgment.

6030 **Mr Parker**—Ultimately, any number in the tax system is a judgment.

6031 **Senator JOYCE**—It is a judgment. It is a judgment on who will invest and who will not invest.  
6032 What is the  
6033 optimum amount of return?

6034 **Senator CAMERON**—It is a fair go for Australians. That is what it is about, goose.

6035 **Senator JOYCE**—What is the optimum amount of return to the Treasury?

6036 **Mr Parker**—I think that is probably putting it at a level of sophistication which is not there.

6037 **Senator JOYCE**—It is not there?

6038 **Mr Parker**—No. As I said, it is a judgment which reflects a range of issues, including the  
6039 location-specific  
6040 rents of Australia's resources. That arises in substantial part because of our location in the world  
6041 next to the rapidly growing Asian markets. It is also a judgment which reflects the quality of the  
6042 resource and so forth.

6043 **CHAIR**—Senator Joyce, can I point out that Senator Pratt has 10 minutes of questions coming  
6044 up, so you only have a short time left.

6045 **Senator JOYCE**— It is always interesting because you talk about a joint venture, but it is a  
6046 peculiar sort of joint venture because the government does not actually pay for 40 per cent of the  
6047 capital before it goes in. It just takes 40 per cent of the profits. It does not buy any of the company,  
6048 does it? It does not go in and buy 40 per cent of the shares, does it?

6049 **Mr Parker**—It does not buy 40 per cent of the shares, but it takes 40 per cent of the cash flow and  
6050 it gives to the company concerned a tax credit which is equivalent to 40 per cent of the capital  
6051 invested, and 40 per cent of the capital invested is not at risk.

6052 **Senator JOYCE**—Existing projects have done the due diligence. They are not in there to make a  
6053 loss. These things are actually making a profit. So you are buying 40 per cent of the capital of the  
6054 company with no money. You are just taking 40 per cent of the profit. You are just basically  
6055 acquiring for nothing 40 per cent of the cash flow.

6056 **Mr Parker**—No, I do not agree that that is correct.

6057 **Senator JOYCE**—Why?

6058 **Mr Parker**—What companies get in their starting base is a credit for their past investment. That

6059 goes into  
6060 the starting base, so that is there as a deduction.  
6061 **Senator JOYCE**—At fair market value or at cost?  
6062 **Mr Parker**—It goes in at book value. That is an issue which we have been consulting on.  
6063 **Senator JOYCE**—Is the price of your house now, Mr Parker, the same as the price of your house  
6064 when you  
6065 purchased it? **Mr Parker**—No. That is largely because of two things. One is that the land value has  
6066 gone up. Secondly,  
6067 the value of the house itself has probably fallen, if you were to separate those two.  
6068 **Senator JOYCE**—So you acknowledge that there is—  
6069 **CHAIR**—Senator Joyce, last question.  
6070 **Mr Parker**—Subject to construction costs and so forth.  
6071 **Senator JOYCE**—Because the government is a silent partner, what are the impacts of the RSPT  
6072 on the incentives for a company to control costs—that is, higher costs will be subsidised by a lower  
6073 profit or potentially a refund if no profits are made?  
6074 **Mr Parker**—At the margin, that is correct. That is, the government will, by honouring the  
6075 guarantee, meet 40 per cent of the costs. It will also take 40 per cent of the returns. So I think if you  
6076 just look at one bit of it, you could come up with that conclusion. But if you look at the whole thing,  
6077 it is quite clear that companies have a pretty strong incentive to maximise their profits.  
6078 **Senator JOYCE**—Of your existing projects—  
6079 **CHAIR**—Senator Pratt has the call.  
6080 **Senator JOYCE**—This is the final one. Of your existing projects, how much—  
6081 **CHAIR**—Senator Joyce, no. I did say it was the final question. Senator Pratt has been waiting.  
6082 **Senator PRATT**—Thank you very much, Chair. Given the government's intention to introduce  
6083 its RSPT, based on giving a fair share of our natural resource wealth and sharing it with Australians,  
6084 I want to ask about the government's tax relief to companies, small businesses and the retirement  
6085 savings. To start with, I would like to know how many businesses it is foreseen will benefit by the  
6086 cutting of the company tax rate to 28 per cent. How does that rate compare internationally?  
6087 **Mr Parker**—I do not have the number in front of me. We may have it here, I am not sure. The  
6088 short answer to your question is that all tax-paying companies would benefit from this. There are a  
6089 substantial number of companies in the tax system which do not pay tax—trustees and all that kind  
6090 of stuff. Do my ATO colleagues or others have that particular information?  
6091 **Ms Granger**—Perhaps I can help with the small business aspect of that. The faster acceleration  
6092 affects 720,000 small businesses.  
6093 **Senator PRATT**—I beg your pardon. How many?  
6094 **Ms Granger**—That is 720,000. That is in one of the facts sheets.  
6095 **Senator PRATT**—You do not have a state by state breakdown to know how many would be in  
6096 Western Australia?  
6097 **Ms Granger**—No.  
6098 **Senator Sherry**—I think we can take that on notice. I think I can reasonably assure you of a rapid  
6099 response.  
6100 **Senator PRATT**—Great, thank you. I want to know what the flow-on effect will be on the  
6101 broader economy from cutting the company tax rate and the effect that that will have on consumers  
6102 in relation to prices.  
6103 **Mr Parker**—The starting point of the analysis here is the company tax rate because it taxes all  
6104 income. It is not a rent tax. So the company tax rate is a distorting tax. It taxes the normal return to  
6105 capital. One of the leaps forward in tax policy thinking over the last 20 or so years is as follows. If  
6106 you go back, say, to the time of the Asprey report, the basic frame of analysis there was the  
6107 comprehensive income tax system. You said, 'Look, a dollar of income is a dollar of income  
6108 irrespective of how it is earned. Tax it the same.' It was largely an equity issue. The more modern  
6109 perspective is to say, 'Look, a dollar of income is not the same as a dollar of income. What one ought  
6110 to do is think about the distorting effects of taxing each dollar the same.' This was the basis of the  
6111 analysis and it is why that chart in the Henry report about the distorting features of different taxes is

6112 so important. It is why it is important that on that chart company tax is identified as one of the more  
6113 distorting tax rates.

6114 So if you reduce the company tax rate, several things happen. In the short term, you will increase  
6115 the return to capital. What that will do is tend to lead to a growth of investment by the corporate  
6116 sector. That in turn will lead to an increase in capital intensity of the economy. That in turn over time  
6117 will lead to an increase in wages and consumption and lower prices. One of the important things that  
6118 was done in the Henry review was to look at the economic incidence of taxes rather than the legal  
6119 incidence. We have talked a little about this in terms of the super. In terms of company tax, reducing  
6120 that tax on capital income will ultimately benefit wages and consumers. The reason for that is more  
6121 capital will come in. We can give you some information specifically from the KPMG Econtech  
6122 model or we can provide that to you on notice, if you would like.

6123 **Senator PRATT**—Great. That is terrific. Another part of the package is the \$5,000 instant asset  
6124 write-off. I would like to know again how many businesses that will help and what kind of benefit  
6125 that policy will be to small business owners.

6126 **Mr Parker**—I think Ms Granger gave the figure for that.

6127 **Ms Granger**—It is 729,000.

6128 **Mr Parker**—It is 729,000 small businesses. This applies obviously not just to companies but  
6129 across the board more broadly to all small businesses. The economic effect of that is to the extent  
6130 that the \$5,000 write-off covers capital investment done by those firms—and it will do that to some  
6131 extent, obviously not all—it will turn the income tax system in that sector into more of a cash flow  
6132 tax. That is, your investment effectively gets written off straight away. That again takes away the  
6133 distortions.

6134 **Senator PRATT**—Would I be right in assuming that kind of benefit can assist in things like  
6135 employment et cetera because of the improvement in cash flow?

6136 **Mr Parker**—The same answer as before.

6137 **Senator PRATT**—What I am most concerned about is the fact that many small businesses,  
6138 particularly in Western Australia, seem to be vulnerable to scare campaign arguments currently  
6139 being run by the mining sector. I suppose I would like to know whether this is of concern and how  
6140 small business might best go about educating itself in an informed way about how it might be  
6141 affected by these proposals.

6142 **Mr Parker**—I am not sure, Senator. I do not have the figure for WA with me. We can provide  
6143 that on notice. I just need to correct the record. I misheard, if I understood it correctly, what Ms  
6144 Granger said. With the distributional impact, it is estimated that up to 2.4 million small businesses  
6145 will benefit from this and 720,000 companies will. Is that right?

6146 **Ms Granger**—That is right. The 720,000 small businesses that are incorporated will have the  
6147 advantage of the accelerated reduction of the company tax rate. The instant write-off is capable of  
6148 applying to every small business with under \$2 million turnover if they have that. So that is, as Mr  
6149 Parker has said, in excess of two million—it is about 2.4 million small businesses. It depends on  
6150 their individual circumstances.

6151 **Mr Parker**—So there are cash flow benefits which come from that and less need for  
6152 recordkeeping and complexity in complying with your tax arrangements.

6153 **Senator Sherry**—I think there is a simplification measure, is there not, as part of it?

6154 **Mr Parker**—Yes, that is right. There is also a depreciation pooling arrangement in addition to  
6155 the small business instant write-off.

6156 **Senator PRATT**—There is no reason to believe that small businesses in Western Australia  
6157 would have any less to gain from this than small business in other parts of the country? There is  
6158 nothing different really about them in that sense?

6159 **Mr Parker**—The tax system applies across all of Australia.

6160 **Senator PRATT**—Great.

6161 **CHAIR**—I thank the Australian Taxation Office and the revenue section for your evidence here  
6162 this evening.

6163 [8.32 pm]

6164 **Australian Securities and Investments Commission**

6165 **CHAIR**—Welcome. Do you have an opening statement you would like to make, Mr D'Aloisio?

6166 **Mr D'Aloisio**—It is very short this evening, Chair. I am accepting the hints from other sessions,  
6167 I think. Briefly, I will say first that Belinda Gibson has been appointed as deputy chairman of ASIC  
6168 since we last met, and we have a new commissioner, Shane Tregillis. With me tonight, of course, are

6169 Belinda and Commissioner Michael Dwyer. In terms of ASIC, there are a couple of other things. We  
6170 are geared up for the new credit regime on 1 July and the registrations coming in for that have been  
6171 significant. Over 10,000 have been all electronically processed and have worked very well. So the  
6172 organisation is set for the change to the national credit regime on 1 July. A more minor point is the  
6173 Sydney office, which has been in different locations, has consolidated into new premises, or new  
6174 digs as they say, in Market Street. We have moved out of Martin Place from what one would call a  
6175 premium building to more of an A-grade building. But it is a wonderful fitout and the staff have  
6176 moved there yesterday and today, in fact. That completes my opening statement.

6177 **Senator JOYCE**—I have a brief question. Mr D'Aloisio, I have been looking on your website.  
6178 Are you aware of a gentleman by the name of Brien Ernest Cornwell?

6179 **Mr D'Aloisio**—I am sorry?

6180 **Senator JOYCE**—Brien Ernest Cornwell.

6181 **Mr D'Aloisio**—It does not ring a bell immediately, Senator.

6182 **Senator JOYCE**—He had an investment scam around Newcastle. I note that on the website on  
6183 Tuesday, 13 May 2008, the Supreme Court of New South Wales ordered the operators of an  
6184 unregistered managed investment scheme linked to Newcastle property development to stop  
6185 promoting or issuing further interests in the scheme following an application by ASIC. You had an  
6186 enforceable undertaking taken against him, but it now appears that Mr Cornwell is driving around in  
6187 a black sports car, taking holidays in Croatia and has managed to peel off things to his wife. Why is  
6188 it that ASIC, with these dodgy dealers, cannot nail them down?

6189 **Mr D'Aloisio**—First, in relation to the specifics of the case that you are mentioning, I am happy  
6190 to look at that further and provide you with a more specific answer. I am not aware of the case. But  
6191 certainly I will look into that and give you a more detailed answer. In terms of the comment, 'Why  
6192 aren't they nailable?', of course they are. We do in terms cancel people's licences. We ban directors.  
6193 We do follow up that to the best to ensure that they do not come back into schemes and so on. But  
6194 ultimately we enforce the law as we find it. Once we have done that, unless someone has been  
6195 incarcerated or they are in prison, we cannot monitor them on a 24hour basis.

6196 **Senator JOYCE**—So there was a section 93AA enforceable undertaking taken against him.  
6197 What does that actually mean?

6198 **Mr D'Aloisio**—It depends on its terms. It is an alternative to, for example, going to court. You  
6199 can get by agreement under the relevant legislative provisions these enforceable undertakings. They  
6200 have the force of law. The undertaking will be not to do something or to pay something. It will be the  
6201 sort of order you would get in a court, for example, except it is done by agreement with legislative  
6202 backing. If it is breached, there are remedies that ASIC would have, including going to court and  
6203 including enforcing that enforceable undertaking in a court of law.

6204 **Senator JOYCE**—We know that issues such as Storm get a lot of publicity. The Commonwealth  
6205 Bank come out and say, 'Oh, well, sorry about that. We'll fix up our section of it.' Everything looks  
6206 very earnest. What do we say to the investors in Brien Ernest Cornwell's scams who see him now  
6207 basically living pretty comfortably? I notice he has his own personalised number plates on his own  
6208 nice sports car. He is taking holidays and other people have lost their house. Does an enforceable  
6209 undertaking mean that they are going to get their money back?

6210 **Mr D'Aloisio**—Senator, I understand what you are saying. Where people have been subjected to  
6211 a scam and they have lost money and they see perhaps the promoters of those scams re-establishing  
6212 and doing other things, that is really disheartening. I understand that. At the end of the day, we can  
6213 only work with the law, and if there is a breach of the law, we take action in relation to that. If in this  
6214 circumstance there are breaches of the enforceable undertaking—and I will take it on notice and  
6215 look at it—clearly we could take some action. But does that mean that once a person has been  
6216 banned or lost a licence that that person cannot engage in any other form of business and build up  
6217 wealth elsewhere? Of course it does not mean that.

6218 I will say this: in relation to the work that ASIC does with schemes, in any given year we close  
6219 down a substantial number of these schemes. We do ban a substantial number of people. A lot of  
6220 them do not actually come back in and run the schemes again. But you are right; if there are those  
6221 that do, simply taking action against an illegal scheme and banning someone does not necessarily  
6222 mean that they are out of play in a business sense for the rest of their lives. It just does not extend that  
6223 far.

6224 **Senator JOYCE**—Well, this gentleman has come to my notice because he is living in a hilltop  
6225 house overlooking Newcastle. Either he has a BMW and his wife has a Mercedes or it is the other  
6226 way around. He has been on holidays to Croatia. He seems to be living a pretty comfortable life yet  
6227 there is a whole range of people around him who are basically broke because of him. He is back in

6228 business. What are we doing wrong that we cannot chase these people down? Are we missing the  
6229 resources? Are we missing the laws? What is going wrong that these can be flaunted in front of the  
6230 people who basically are living without, living on the bones of their backside because they have  
6231 been done over?

6232 **Mr D'Aloisio**—As I say, I will look at it further and give you a more specific response in relation  
6233 to the case you have mentioned because I do not know the facts. In our system, when there is  
6234 corporate wrongdoing, at the end of the day at the heart of our system is the corporation. The  
6235 corporation is there because there actually is limited liability. The liability does not actually pass to  
6236 the directors and the shareholders. You have a corporate veil, if you like, in terms of your business  
6237 dealings which have significant advantages in the way that our economy works. So if it is the  
6238 corporation, for example, that has been at the centre of the problem, it does not necessarily then  
6239 follow that the individual is liable—that the director is liable—and that their personal assets are at  
6240 risk. They will only be at risk if they themselves have breached a provision of the Corporations Act  
6241 or if a shareholder has breached a provision of the Corporations Act. So, generally speaking in our  
6242 system, where you work through corporate structures and trust structures with corporate trustees, the  
6243 purpose of those vehicles is actually to protect the personal assets of individuals. But I am saying  
6244 that there is a limit to that as well. The limit is where you then prove wrongdoing of the individuals  
6245 who are involved in those corporations, and then of course, through sections such as 180 of the  
6246 Corporations Act, you can get compensation for investors. An example is us taking action in that  
6247 sense in the Westpoint case where we have sued the directors and the auditors.

6248 **Senator JOYCE**—Lifted the corporate veil because of the illegality of the actions of the  
6249 director?

6250 **Mr D'Aloisio**—Correct.

6251 **Senator JOYCE**—Which in this case is Mr Cornwell. You apply for court orders for him to  
6252 repay investors. Would that be correct? Is that one of your roles?

6253 **Mr D'Aloisio**—We can. It depends on the action that we might take. We can seek compensation  
6254 orders. If, for example, we close down an illegal managed investment scheme and we feel that those  
6255 individuals involved in it breached provisions of the Corporations Act, we may, under the powers  
6256 that we have, seek compensation orders from a court in relation to the individuals who are involved  
6257 and their assets. But that would depend on the particular case. But we would have the power to be  
6258 able to do that just as we have the power to sue directors and to seek compensation orders against  
6259 directors.

6260 **Senator JOYCE**—Mr D'Aloisio, taking on notice that there is this person called Mr Cornwell  
6261 and that he has a house overlooking Newcastle, that he has a couple of sports cars and that he is  
6262 going on holidays, will you give a guarantee that you will look into his file? If it warrants it, will you  
6263 bring about orders to enforce him to repay the people he ripped off?

6264 **Mr D'Aloisio**—Senator, as I have said, I would like to look into it and take it on notice. Indeed, if  
6265 we receive complaints or information that indicates there is wrongdoing and there are issues, we  
6266 would clearly pursue them. You have used the word 'guarantee'. I do not have enough facts at the  
6267 moment to know what course of action we would take. But I am quite prepared to look at it and to  
6268 come back and outline what we have decided to do in relation to it.

6269 **Senator XENOPHON**—I have a question supplementary to Senator Joyce's. I have to apologise  
6270 for getting here a bit late. I was at other estimates hearings and there is only one of me. If I have  
6271 doubled up, I apologise.

6272 **Senator Sherry**—There is only one of you. I get the impression there is about half a dozen of  
6273 you, the way you flush through the media.

6274 **Senator XENOPHON**—You need to get your eyes checked, Minister. It is just a chimera. I want  
6275 to ask about the Brien Cornwell case because I have been contacted by people who have been ripped  
6276 off by this man. When an enforceable undertaking is agreed to, what monitoring and/or follow-up  
6277 does ASIC conduct to ensure it is met? What monitoring or follow-up occurred in the case of Brien  
6278 Cornwell?

6279 **Mr D'Aloisio**—Clearly, where we have enforceable undertakings, speaking generally, when  
6280 they are in place, we would as a matter of course follow up to ensure that all the obligations are  
6281 performed. If not, we would take action. That is with all enforceable undertakings.

6282 **Senator XENOPHON**—I am conscious of time. Under the conditions of the enforceable  
6283 undertaking, Brien Cornwell was required to report back to ASIC regularly with progress of the  
6284 undertaking. Did this occur? When this did not occur, did ASIC chase up the matter? On what  
6285 occasions did Mr Cornwell contact ASIC pursuant to that undertaking?

6286 **Mr D'Aloisio**—Again, I am more than happy to take on notice all the specifics of it and give you

6287 an answer. As I say, in the general sense we would follow up enforceable undertakings.

6288 **Senator XENOPHON**—Again, you may take some of these on notice. I hope you will be able to  
6289 answer some here. From the moment that ASIC was made aware of Brien Cornwell's actions and  
6290 made an order against him, how long did it take for an enforceable undertaking to be reached?

6291 **Mr D'Aloisio**—I will get that as well.

6292 **Senator XENOPHON**—According to papers that I have received, Brien Cornwell signed the  
6293 enforceable undertaking in December 2007 but it was not signed by ASIC until May 2008. If that is  
6294 the case, what was the reason for the delay? Does ASIC concede that this gave Brien Cornwell an  
6295 additional five months to move his assets? This is on the basis of the paperwork I have been shown.

6296 **Mr D'Aloisio**—I can only take that on notice.

6297 **Senator XENOPHON**—Again, according to information I have received, could you confirm  
6298 that is the case? If so, why the delay? Further to that, on the basis of the enforceable undertaking  
6299 with Brien Cornwell and the fact that no moneys have been returned to investors, does ASIC feel  
6300 that there needs to be a review of enforceable undertakings as a mechanism to deal with such  
6301 matters? Can it understand why members of the public, particularly the victims of Mr Cornwell, can  
6302 feel completely let down by the system in terms of enforceable undertakings?

6303 **Mr D'Aloisio**—With regard to the first part of that question, Senator, I can say that I do not think  
6304 we would be seeking an amendment to the enforceable undertaking provisions. I think from what  
6305 you are referring to and depending on the facts—talking again more generally—what we would  
6306 need to do is make an assessment. Rather than go for an enforceable undertaking, we would actually  
6307 go to court. If we feel there is money there or likely to be money there and there has been  
6308 wrongdoing, it would probably be better for us to go straight to court rather than go through an  
6309 enforceable undertaking. So we would not need to amend the enforceable undertaking provisions. I  
6310 think we would have other powers that we could proceed under, but in this case we did not.  
6311 Obviously there will be reasons why that was not the case, and I will look into it.

6312 **Senator XENOPHON**—Further to that, during the negotiation of the terms and conditions of an  
6313 enforceable undertaking, does ASIC use its power to freeze assets? Did it do so in this case?

6314 **Mr D'Aloisio**—Again, I cannot speak for the case. Generally speaking, if we feel that it will  
6315 protect investors and there could be a pool of money that could be returned to them, we would seek  
6316 freezing orders, if we can establish them.

6317 **Senator XENOPHON**—My understanding is that freezing orders were not sought in this case.  
6318 Given what Senator Joyce has said about the way Mr Cornwell and his wife are living, you can  
6319 understand why that is particularly galling to investors.

6320 **Mr D'Aloisio**—I understand the thrust of what you are putting. As I have said to Senator Joyce, I  
6321 will look into that and we will give you a response on all those issues.

6322 **Senator XENOPHON**—As far as investors go, some of them understood that an enforceable  
6323 undertaking, if not a guarantee, gave them some security in a broad sense that they would be paid.  
6324 But it is fair to say that an enforceable undertaking is not a guarantee of any sort?

6325 **Mr D'Aloisio**—It depends on its terms, Senator. If one of the terms is a payment of money and  
6326 ASIC is satisfied that the money was there and took steps to protect it, then yes, that could happen.  
6327 But that would be unusual with an enforceable undertaking, I must say, in my experience.

6328 **Senator XENOPHON**—One of the specific issues that has been raised by me in relation to Mr  
6329 Cornwell is that given that the Palais investment was sold for \$5 million, how can ASIC now advise  
6330 investors that neither Newcastle Palais Holdings nor Mr Cornwell has the financial capacity to make  
6331 repayments as required? There is a real issue there about that particular asset.

6332 **Mr D'Aloisio**—I am sorry, but I do not have the facts.

6333 **Senator XENOPHON**—No. I understand that a lot of these have to be taken on notice. I think  
6334 you can understand the despair of many of the investors—the victims of this matter—as I think  
6335 Senator Joyce has outlined. Finally, in relation to this, if enforceable undertakings are in effect  
6336 unenforceable, as in this case, will the Cornwell case and other cases prompt ASIC to look at a  
6337 review of mechanisms to protect investors in such cases?

6338 **Mr D'Aloisio**—Clearly the answer would be yes. As I said earlier, I suspect that it would not be  
6339 necessary for us to seek legislative change to enforceable undertaking provisions. I think what it  
6340 would indicate to us is that we probably should be looking at other powers that we could be using  
6341 under the Corporations Act, which more directly enable us to get court orders for the compensation  
6342 or for other fines and so on. We will look at it in the context of the way you have asked the question.  
6343 But I think really our choices are that you look at the wrongdoing. You make an assessment as to  
6344 whether it is just the corporation or whether it is the corporation and the directors, the shareholders

6345 and who else—the investors—and whether it is a registered scheme or unregistered scheme. From  
6346 that you will make an assessment of the nature of the actions you may take. In some cases, you may,  
6347 as for example in Westpoint, go directly against individuals rather than the companies. In other  
6348 cases, you may concentrate on the companies. So it is a case of looking at the facts.

6349 **Senator XENOPHON**—Chair, I do have five questions in relation to Westpoint, but I can wait  
6350 my turn or I can keep going and take five minutes.

6351 **CHAIR**—I think Senator Bushby is anxious.

6352 **Senator XENOPHON**—I will wait my turn for the Westpoint questions. Mr D'Aloisio, insofar  
6353 as the answers that you will provide on notice, can you provide any documents or supporting  
6354 documentation in terms of a paper trail of the enforceable undertakings and dates and times when  
6355 things were followed up and the like?

6356 **Mr D'Aloisio**—Certainly enforceable undertakings are a public record and they are on our  
6357 website. We can provide them. As to whether I can provide any other papers, I will need to look into  
6358 that.

6359 **Senator XENOPHON**—Insofar as—

6360 **Mr D'Aloisio**—Insofar as I can as a matter of law.

6361 **Senator XENOPHON**—Insofar as those documents reflect what level of compliance was there  
6362 with respect to the enforceable undertaking.

6363 **Mr D'Aloisio**—I see what you mean, yes.

6364 **Senator XENOPHON**—And what follow-up there was by ASIC to follow up Mr Cornwell and  
6365 his activities, thank you.

6366 **CHAIR**—Senator Xenophon, I understand that you can go ahead, if you prefer.

6367 **Senator XENOPHON**—Mr D'Aloisio, I have been asked by Graham MacAulay, who is the  
6368 president of the Westpoint Investors Group, to put some questions to you.

6369 **Mr D'Aloisio**—Yes. I know Mr MacAulay.

6370 **Senator XENOPHON**—He has contacted my office. Firstly, did ASIC commission a solvency  
6371 review of the Westpoint group and its entities?

6372 **Mr D'Aloisio**—In what year?

6373 **Senator XENOPHON**—Prior to action being taken by ASIC?

6374 **Mr D'Aloisio**—I am not sure. I think there was. Whether it is a solvency report I am not sure.  
6375 Again, I think so, but I will take it on notice and answer that specifically.

6376 **Senator XENOPHON**—Thank you. Following on from that, was there a Deloitte's solvency  
6377 review carried out in relation to Westpoint before action was taken by ASIC? Did that solvency  
6378 review find that Westpoint was not insolvent?

6379 **Mr D'Aloisio**—I cannot answer that either. I will have to take that one on notice. It does not ring  
6380 a bell with me.

6381 **Senator XENOPHON**—Further to that, would that be a public document in relation to any  
6382 solvency reviews carried out?

6383 **Mr D'Aloisio**—I will have a look.

6384 **Senator XENOPHON**—The question that Mr MacAulay has raised with me is: why did ASIC  
6385 make the winding up application against ASIC's own expert opinion, given his understanding that  
6386 Deloitte's solvency review found that Westpoint was not in fact insolvent?

6387 **Mr D'Aloisio**—Again, I will look more carefully at that, because this now goes back to about  
6388 2004-05. ASIC was quite clear at the time that it needed to take action to put the companies into  
6389 liquidation in order to protect investors. That then led to a series of actions that ASIC took. So ASIC  
6390 made a judgment that it was in the best interests to put those companies into liquidation. I think as  
6391 history has proven, that was correct. As to what the basis of it was and the nature of the reports ASIC  
6392 received, I will have a look at that and answer the question.

6393 **Senator XENOPHON**—I have a couple more questions. If that is the case, did not ASIC  
6394 suppress the Deloitte's solvency report when making an application to the Federal Court? In other  
6395 words, that solvency report was not provided to the Federal Court when the application was made.

6396 **Mr D'Aloisio**—I will take that on notice. That is not ASIC—we would not—

6397 **Senator XENOPHON**—Again—

6398 **Mr D'Aloisio**—I will take it on notice.

6399 **Senator XENOPHON**—I want to make it clear that these are concerns—

6400 **Mr D'Aloisio**—These are questions—

6401 **Senator XENOPHON**—These are questions that have been expressed to me. If that is not the  
6402 case, it will be terrific if you could clarify that. The other matter that has been put to me is that there  
6403 is a perception amongst investors who have lost their money that ASIC timed their action to prevent  
6404 the rollovers and repayments proceeding and that led to a chain of events that led to the collapse of  
6405 this group when a solvency review found that the group was still solvent at that time.

6406 **Mr D'Aloisio**—ASIC has worked hard to recover money. We are now in the process where, I  
6407 think of the \$370 million or \$380 million lost through liquidations and ASIC actions, investors have  
6408 now received somewhere in the order of \$100 million. There is a major litigation matter outstanding  
6409 with the auditors. There is litigation outstanding with the directors. The directors have  
6410 cross-claimed. Indeed, one of the cross-claims that the directors have made is that the company  
6411 should never have been put into liquidation and that if ASIC had not done that, the company would  
6412 be solvent today. I am paraphrasing.

6413 **Senator XENOPHON**—Sure.

6414 **Mr D'Aloisio**—Our view is that there is just no substance to that defence. But these are before a  
6415 court of law. In due course, the court will rule on those issues as well. We commenced some 17  
6416 actions, of which a significant number were against financial advisers. Pretty much all of those have  
6417 now been settled and moneys have been recovered for the investors. So we are working very hard to  
6418 protect the interests of people like Mr MacAulay.

6419 **Senator XENOPHON**—But if there were any expert reports, including a Deloitte's solvency  
6420 review, into Westpoint, ASIC would not have difficulty in releasing that document?

6421 **Mr D'Aloisio**—I have to look at the nature of the document and how it was obtained and what its  
6422 relevance is in the current court proceedings. In principle, one would look at it. If it is a document  
6423 that can be made

6424 available, of course it would. But I do have to weigh up the nature of the litigation that is going on in  
6425 this. These are not resolved matters at the moment.

6426 **Senator XENOPHON**—Sure, but go back a step. Before any litigation, there was not a  
6427 document—

6428 **Mr D'Aloisio**—No. But all this will be relevant to litigation that is going on today.

6429 **Senator XENOPHON**—Sure. But insofar as a document was not prepared for the purpose of  
6430 litigation, it is not in the nature of an expert report for the purposes of litigation. It was a preparatory  
6431 report as to the solvency of the Westpoint group. As a general principle, if a document is prepared  
6432 prior to any litigation, not in anticipation of litigation, would not that document be in the public  
6433 interest to be released for those concerned about this matter?

6434 **Mr D'Aloisio**—There are very strict rules under the ASIC Act as to what we can and cannot  
6435 make available. Under section 127, for example, there are things that have to be maintained, such as  
6436 confidentiality, and what we can and cannot release. I am not disagreeing with you, Senator, and I  
6437 am not suggesting that I will not make a document available if we can. What I would like to do is to  
6438 take it on notice and have a look at it. If we can make it available, we will.

6439 **Senator XENOPHON**—And you can let the committee know—

6440 **Mr D'Aloisio**—Absolutely.

6441 **Senator XENOPHON**—if you do not wish to make it available, as to what basis?

6442 **Mr D'Aloisio**—Absolutely.

6443 **Senator XENOPHON**—And any other expert reports in relation to the solvency of this group  
6444 before action

6445 was taken.

6446 **Mr D'Aloisio**—Okay, I will have a look at that as well.

6447 **Senator XENOPHON**—Insofar as there was any opinion or advice given prior to the action  
6448 taken by

6449 ASIC. Thank you very much.

6450 **Mr D'Aloisio**—Thank you.

6451 **Senator BUSHBY**—Thank you, ASIC, for coming along tonight. Congratulations, Ms Gibson,  
6452 on your

6453 appointment.

6454 **Ms Gibson**—Thank you.

6455 **Senator BUSHBY**—I want to ask some questions initially about the use of coercive powers.

6456 Which of the

6457 coercive powers available to you do you make most frequent use of?

6458 **Ms Gibson**—There are three that spring to mind, Senator. One would be the power to require  
6459 people to acquire documents. The second is the power to attend investigation hearings. The third one  
6460 would be a power we have to require financial services licensees to give reasonable assistance,  
6461 which would be to prepare documents rather than just respond to directions.

6462 **Senator BUSHBY**—What legislative powers give you the right to use those particular three? For  
6463 the

6464 record, which sections?

6465 **Mr D'Aloisio**—Section 19 and section 33.

6466 **Ms Gibson**—I am not sure of the other ones either. There is 944DA or something.

6467 **Mr D'Aloisio**—Asking commissioners that question is a bit tricky. We will take that on notice  
6468 and give you

6469 the answer. It will not take us long to get.

6470 **Senator BUSHBY**—I will ask you some questions about section 19 and section 33. In respect of  
6471 section 19, how frequently would you use that power to compel a person to provide assistance or  
6472 answer questions?

6473 **Mr D'Aloisio**—That power would be used quite extensively in almost, I would have thought, all  
6474 investigations.

6475 **Ms Gibson**—We would commence most investigations or inquiries, actually. The section 19  
6476 power is engaged to produce notices where you are still in a pre 'capital I' investigation phase.

6477 **Senator BUSHBY**—Do you keep any record of when you use the coercive powers? Is that  
6478 something you would keep a—

6479 **Mr D'Aloisio**—For every matter, there would be a record of what— **Senator**  
6480 **BUSHBY**—Within that file?

6481 **Mr D'Aloisio**—Within that file.

6482 **Senator BUSHBY**—You do not keep a separate record of the use of coercive powers?

6483 **Mr D'Aloisio**—Not that I am aware of. You would not have an aggregated list of how many of  
6484 those. We could do some spot testing and do some extrapolation, but really each case takes its own  
6485 course and you use a range of powers.

6486 **Senator BUSHBY**—And given that you do not have the record, you would not be able to provide  
6487 a state-by-state basis of where you have used it.

6488 **Mr D'Aloisio**—It is an interesting question. I have not thought of that.

6489 **Senator BUSHBY**—Of keeping the record generally?

6490 **Mr D'Aloisio**—Yes.

6491 **Senator BUSHBY**—Since we are on it, I will ask you now: do you think it would be important to  
6492 keep such a record? The ACCC does keep such a record of its use of its coercive records. The ABCC  
6493 even has a separate report for disclosing the use of coercive powers. They are acknowledged as  
6494 significant powers that are open to being abused, so it is important that the transparency is there so  
6495 that people have a comfort that they are not being abused. Is that something that ASIC would  
6496 consider?

6497 **Mr D'Aloisio**—First of all, I will take it on board. Secondly, I think there may well be reports we  
6498 do produce, because I know with the model litigant provisions and the way we work with the  
6499 Attorney-General's Department we provide a lot of statistics and a lot of information. Why don't I  
6500 take it on board and have a look at that and answer both what we do have and then, secondly, come  
6501 back to you on the issue of whether we should extend that? In principle, what you are saying in terms  
6502 of a broader record, it might be useful in some respects.

6503 **Senator BUSHBY**—I think it is useful for transparency, if nothing else, and giving people the  
6504 confidence that their regulators are using the powers available to them in appropriate manners. I will

6505 come back to the specifics, though. With section 19, are persons entitled to have a lawyer present  
6506 when it is employed? Specifically looking at section 19 again, are people entitled to have a lawyer  
6507 present when you are using your coercive powers?

6508 **Mr D'Aloisio**—They would have the option to have a lawyer present and they would be able to  
6509 claim privilege on answers to certain questions. It is up to them and their advisers. You may have  
6510 situations where they choose not to have lawyers. It is a matter for them.

6511 **Senator BUSHBY**—You sort of answered this earlier when you said that most investigations  
6512 you undertake probably commence with the use of section 19. Are you able to tell me what  
6513 percentage of the use of section 19 powers actually results in an investigation going forward?

6514 **Ms Gibson**—Senator, I am slightly confused whether section 19 is the power to attend inquiry or  
6515 section 19 is a requirement to—

6516 **Senator BUSHBY**—Provide assistance and answer questions.

6517 **Ms Gibson**—It is to come in and answer questions. So that would be when we would have  
6518 commenced an investigation.

6519 **Senator BUSHBY**—You would not use that unless you had already commenced an  
6520 investigation?

6521 **Ms Gibson**—That is correct. Sorry, I was wrong earlier.

6522 **Senator BUSHBY**—I suppose it depends on your definition of commencing an investigation. If  
6523 somebody raises an issue with you that raises issues of concern but without a lot of evidence, would  
6524 you use section 19 to go off and see if there is actually substance to the allegation, or would you not  
6525 use that until you had actually got to the point where you thought there was something you needed to  
6526 investigate?

6527 **Ms Gibson**—To commence an investigation, the investigator or the person in the deterrence  
6528 team has to be satisfied that there is a certain threshold. I think they have to prepare a file note or a  
6529 certificate that attests to the view that they had formed the view at that stage. You cannot engage a  
6530 section 19—

6531 **Senator BUSHBY**—That answers the question. So they have to reach a certain threshold  
6532 because it will be considered an investigation is underway and, therefore, section 19 powers would  
6533 be used?

6534 **Ms Gibson**—Yes.

6535 **Senator BUSHBY**—What about section 33—the power to compel a person to produce books or  
6536 documents? How often would that be used? As often as section 19, or only once you are further  
6537 through an investigation? What sort of threshold would be required before that would be employed?

6538 **Mr D'Aloisio**—Again, it would depend on the investigator. We can take that on notice as well.

6539 **Senator BUSHBY**—Do you have any internal policy for when the use of coercive powers should  
6540 be employed?

6541 **Mr D'Aloisio**—No. Not in the sense of trying to have generalisations about cases. But with the  
6542 experience that our investigators and lawyers have, they would, I guess, intuitively work out how  
6543 they are going to approach a particular inquiry into an investigation and so on. Through discussion  
6544 and so on, they would work it out. Generally they would take a similar procedure in each case. I do  
6545 not think we have it written down as such.

6546 **Senator BUSHBY**—Once again, without casting any aspersions on your investigators—I am  
6547 quite sure that the confidence you have in them is justified—for transparency purposes it would  
6548 seem to me that there is some advantage in people knowing the terms and the circumstances that  
6549 would actually lead to the use of coercive powers. Is that something that you would agree with?

6550 **Mr D'Aloisio**—We will take that on and come back to you and, again, outline what we do and  
6551 assess the point you are making.

6552 **Senator BUSHBY**—I will move on from there. Have you heard of a fund regulated under the  
6553 Australian Managed Investments Act known as the Basis Yield Alpha Fund?

6554 **Mr D'Aloisio**—Yes, I have.

6555 **Senator BUSHBY**—Is this fund currently operating?

6556 **Mr D'Aloisio**—There are two Basis funds. I think one was frozen and I think the other one is  
6557 operating. There are two of them. One is operating and one, I think, is frozen.

6558 **Senator BUSHBY**—Are you aware of whether there have been any losses in this fund or the  
6559 other Basis funds following the collapse of the CDO market in 2007? If so, what is the extent of  
6560 those losses?

6561 **Mr D'Aloisio**—Clearly there are issues around specific cases. I think in relation to this in terms  
6562 of the public record, the Basis capital, from memory, the investments related to CDO, or  
6563 collateralised debt obligations and they were pursuant to a registered managed investment scheme.  
6564 There were product disclosure statements. The product disclosure statements were quite extensive  
6565 in outlining the risk and the leverage and the nature of these models. My understanding is that in turn  
6566 those funds invested in offshore funds and ultimately invested in funds in the United States and in  
6567 more sophisticated synthetic CDOs, which they have. As a consequence of those investments, when  
6568 assets declined when we had the crisis, those funds then either, from memory, closed or were at least  
6569 frozen for a period of time just to look at the investor returns. Beyond that, I would have to take it on  
6570 notice, because I am trying to recollect here.

6571 **Senator BUSHBY**—There were reports that there were losses of \$700 million, which is the  
6572 largest loss under the MI Act since its inception in 1998.

6573 **Mr D'Aloisio**—I cannot confirm that.

6574 **Senator BUSHBY**—Are you aware of whether the fund is being wound up? I am talking about  
6575 the Basis fund that is not operating. What will be its final distribution?

6576 **Mr D'Aloisio**—When I looked at it, one of them was, as I said, frozen. The other one was still  
6577 operating. Again, this is a matter that we can take up. Indeed, I suspect our people are in touch with  
6578 the fund managers. We can get that information. I do not want to guess at it.

6579 **Senator BUSHBY**—Are you aware that a former director of Basis, Mr David Mapley,  
6580 approached the USA's SEC to complain about misleading statements by Timberwolf investments  
6581 and fund sponsor Goldman Sachs, who ultimately made collateral calls on Basis and forced it to  
6582 close?

6583 **Mr D'Aloisio**—I am aware from newspaper reports that there was a complaint and there had  
6584 been allegations about the Timberwolf transaction, which is the synthetic CDO that I referred to  
6585 earlier. But that is not on my direct evidence. That is what I have also read.

6586 **Senator BUSHBY**—Likewise. Have the complaints that Mr Mapley made to the USA's SEC  
6587 also been made to ASIC?

6588 **Mr D'Aloisio**—I am not aware of it, but if the gentleman has, we will certainly act on it. As I  
6589 recollect from what I read, he was alleging fraud, I think. Clearly if there are allegations of fraud, as  
6590 a matter of course, ASIC would look into those, if it is not already doing so. I am not aware of it. But  
6591 certainly if he has complained to us or complains to us and gives us information that is credible, we  
6592 will act on it.

6593 **Senator BUSHBY**—It appeared on the basis of what I read as well that it would be associated  
6594 with the Goldman Sachs issues that led to a focus coming on Goldman Sachs in the States a couple  
6595 of months ago.

6596 **Mr D'Aloisio**—They are two different things, Senator. The Timberwolf transaction, which Basis  
6597 has been referred to, is one CDO. The action in the United States against Goldman Sachs is the  
6598 Abacus synthetic CDO case. It is a separate transaction.

6599 **Senator BUSHBY**—You are aware of the facts to be able to give that sort of—

6600 **Mr D'Aloisio**—We are aware of the second of those, yes.

6601 **Senator BUSHBY**—Has ASIC ever met with the officials and directors of Basis to inquire into  
6602 the reasons for the failure of their funds?

6603 **Mr D'Aloisio**—You could assume that in a case where we have complaints we would clearly  
6604 look into that and our people would be in touch with those funds and clearly would examine the  
6605 conduct and would examine the PDS, the disclosure documents, and so on to ensure that the law had  
6606 been complied with.

6607 **Senator BUSHBY**—Are they being investigated as a result? Are you satisfied that—

6608 **Mr D'Aloisio**—I am aware that we are in touch with them and clearly have been following this  
6609 now since 2007, indeed, when the issues first arose. But we do not, as you know, indicate what we  
6610 are doing.

6611 **Senator BUSHBY**—Has ASIC been in contact with the SEC at all in respect of this matter?

6612 **Mr D'Aloisio**—ASIC, again, has extensive arrangements with overseas regulators, including the  
6613 SEC. Those arrangements require both parties not to disclose what they discuss under those  
6614 arrangements.

6615 **Senator BUSHBY**—Did the ASIC annual report of 2008-09 have any reference to Basis and/or  
6616 the Timberwolf episode?

6617 **Mr D'Aloisio**—Have any?

6618 **Senator BUSHBY**—Any reference to Basis and/or the Timberwolf episode?

6619 **Mr D'Aloisio**—I will need to check, but I would not have thought so because normally we would  
6620 report on what we take action on. We have not taken action on that.

6621 **Senator BUSHBY**—We will move on to some more administrative—

6622 **Mr D'Aloisio**—May I just add, I understand investors in Basis and the exposure to CDOs and  
6623 potential losses because it is a very complex product. It is also worth noting that ASIC actually was  
6624 very alive to the complexity of some of these products. Indeed, the CDO market in Australia at the  
6625 end of the day was I think in the order of \$16 billion. When you compare term deposits at \$500  
6626 billion, you can see that they had a very limited uptake. I think this was in part due to the regulatory  
6627 regime we have and the disclosure requirements and, indeed, such things as our FIDO website,  
6628 which says to retail investors, 'These are complex things. You really should stay away from them.'  
6629 So it is an area we have been alive to. I think Australia is actually fortunate that its CDOs were \$16  
6630 billion when you look at the trillions that were involved in, say, the United States and in Europe.

6631 **Senator BUSHBY**—And the value of which now is considerably less.

6632 **Mr D'Aloisio**—Yes.

6633 **Senator BUSHBY**—As I said, I will move on to some more administrative matters. What was  
6634 total staff turnover in 2009-10? How many employees left ASIC and how many were recruited?

6635 **Mr D'Aloisio**—Again, I will get these numbers and we will confirm them more specifically. In  
6636 terms of our turnover in ASIC, we have found in fact when you look at our so-called EL1s and EL2s  
6637 and ASIC 1 to 4s, the turnover rate is around five per cent to six per cent or seven per cent a year. So  
6638 it is quite low in terms of industry comparisons, particularly in the financial services sector. At the  
6639 more senior level, the turnover rate was higher in 2008-09. I think it was the year you mentioned, or  
6640 2009-10.

6641 **Senator BUSHBY**—It was 2009-10.

6642 **Mr D'Aloisio**—It was higher in 2008-09 because it followed the strategic review and the  
6643 bringing in of more senior people. There was quite a turnover of that senior level. That turnover at  
6644 senior level did continue in 2009-10 as, for career and other reasons, people left. But from ASIC's  
6645 point of view, the retention and attrition rates are quite acceptable indeed. They do not indicate at the  
6646 EL1 and EL2 and ASIC 1 to 4 level issues of significant loss of talent. Indeed, the attrition rates are  
6647 probably lower than you might like in the sense that you would probably like to see a higher  
6648 turnover of bringing in fresh blood all the time.

6649 **Senator BUSHBY**—I note from the portfolio budget statement that your staff level will fall by  
6650 an amazing number of two to 1,426 in 2010-11 from 1,428 in 2009-10. I presume that is a prediction  
6651 rather than a firm undertaking that you will have two fewer people next year.

6652 **Mr D'Aloisio**—Senator, on that—this is probably the way these budget statements are put  
6653 together—there are two figures in those budget statements. One is that one you have mentioned. A  
6654 little further on there are another 500 staff. So, all up, our staff in that comparative period is 1,960 to  
6655 1,954. In other words, the 2008-09 goes down by six.

6656 **Senator BUSHBY**—So it is basically static. Is there a reason why it is shown as going down by  
6657 six? Out of 2,000, why has it gone down by six?

6658 **Mr D'Aloisio**—It is just the way the numbers fall, Senator.

6659 **Senator BUSHBY**—But it would be because of specific program based reasons. When you add  
6660 them all up, it just comes to six less than what it was the year before?

6661 **Mr D'Aloisio**—Yes.

6662 **Senator BUSHBY**—Are you able to detail the total amount of overtime worked by ASIC staff  
6663 members in 2009-10?

6664 **Mr D'Aloisio**—Yes, we can. Obviously I do not have it, but we can get that for you, yes. We  
6665 would keep those records. For where we pay overtime?

6666 **Senator BUSHBY**—Well, where you pay it, yes.

6667 **Mr D'Aloisio**—In those categories where we pay overtime, we can get those statistics for you.

6668 **Senator BUSHBY**—Taking that further, do you have any understanding of unpaid overtime that  
6669 is worked by members of staff? Is there a high incidence of staff working longer hours than they are  
6670 required to for no extra recompense?

6671 **Mr D'Aloisio**—Well, at the professional level, if you look at the tiers of staff, there are the senior  
6672 executives—the SES level—

6673 **Senator BUSHBY**—You work until you get the job done?

6674 **Mr D'Aloisio**—And the commission and the SES would work to get the job done. Then at the  
6675 EL1 and EL2 level again, it is very professional. They work to get the job done. So there would be a  
6676 considerable amount of time. Now we obviously try to ameliorate that—

6677 **Senator BUSHBY**—Do you monitor that at all?

6678 **Mr D'Aloisio**—We will see if we can get you some estimates, but we try to ameliorate that by  
6679 obviously allowing people to then take some time off and pick up, particularly when they have been  
6680 under heavy stress. But with the sort of work we have had in the organisation for the last two or three  
6681 years, the organisation has worked very hard. I am sure I would not be doing justice to things—

6682 **Senator BUSHBY**—It is one of the reasons why I am asking these questions.

6683 **Mr D'Aloisio**—At the commission level we are obviously very conscious of it as well. You can  
6684 overwork people, because we have had a lot of jobs on. We will see if we can give you a clearer  
6685 answer. But we are alive to the issue, particularly at that senior level, and our people in development  
6686 group are really conscious of what we need to do to ease the pressure. But there is a lot of work on.

6687 **Senator BUSHBY**—One way it might highlight if the pressure is getting to people is if people  
6688 are going out on leave for stress reasons. I wonder whether you could advise the number of staff that  
6689 ASIC currently has on leave for stress purposes.

6690 **Mr D'Aloisio**—Again, we will take that on notice.

6691 **CHAIR**—Senator Bushby, we have arrived at a tea break, so we will suspend for 15 minutes and  
6692 return at  
6693 9.35 pm. We will be back at 9.35 pm, thank you.

6694 **Proceedings suspended from 9.18 pm to 9.35 pm**

6695 **Senator EGGLESTON**—I would like to ask about frozen mortgage funds. First of all, can ASIC  
6696 outline the process it takes when investigating frozen mortgage trust funds and the processes that  
6697 must be undertaken to unfreeze redemptions to those funds? What is the average time frame  
6698 involved in a fund unfreezing redemptions?

6699 **Mr D'Aloisio**—Senator, as you know, a number of these funds were frozen. In terms of the  
6700 figures that we have of mortgage funds, I think there were some 63 schemes, representing about \$70  
6701 billion, that were frozen. There was about \$3.7 billion in property funds that was frozen, by way of  
6702 example. As you know, the freezing occurs; it is driven by the legislation. We have, as ASIC,  
6703 worked with the fund managers here to assist in unfreezing these funds, if you like. We introduced  
6704 hardship relief to enable hardship cases to get relief ahead of other unit holders. We have facilitated  
6705 more regular withdrawals by unit holders in these frozen funds. We have introduced rolling  
6706 withdrawals. So we have tried to assist within the confines of the regulatory framework ways to  
6707 assist unit holders get access to funds consistent with the obligations and fairness— horizontal  
6708 equity, if you like—with other unit holders.

6709 We have worked with the industry to assist and provide relief, where necessary, to enable the  
6710 industry to unfreeze funds where it can. We think overall, given what has been involved, it is  
6711 working reasonably well. Our present indications are that we will probably take another two years to  
6712 possibly five years for these to all work their way through, depending on what the economic  
6713 conditions do as well, because that can affect the underlying values and returns of the assets in these  
6714 funds.

6715 That seems a long time. The withdrawal that we are allowing in the meantime is providing  
6716 returns. But essentially you have a situation where you are allowing these funds to work through and  
6717 to work through with the economy. Hopefully at the end of the day, everyone will get their money  
6718 back.

6719 **Senator EGGLESTON**—With regard to the funds that were frozen after the government's bank  
6720 deposit guarantee in October 2008, how many of these are still frozen and freezing redemptions as  
6721 well?

6722 **Mr D'Aloisio**—I am not commenting on whether there is any causal link between the guarantee  
6723 and the freezing of the funds. There are a lot of other factors that went on at the time for the funds to  
6724 be frozen. But the freezing of these funds that I mentioned earlier really occurred at around that time.  
6725 So the numbers I gave you earlier would be indicative of the numbers that would have been frozen at  
6726 the time, unless I have misunderstood the question.

6727 **Senator EGGLESTON**—You allow investors to access their money under hardship provisions.  
6728 What are these hardship provisions?

6729 **Mr D'Aloisio**—You say we allow; we provide relief. We enable the trustees or the managers to  
6730 provide relief in hardship cases. An example is if a member is unable to meet their immediate living  
6731 expenses and needs to access the fund on compassionate grounds or because of permanent

6732 incapacity or unemployment. There is a range of factors that trustees are allowed to consider to  
6733 accelerate redemption for some investors over others. We then ask that there be a cap. In other  
6734 words, you cannot take your whole investment out. It is capped so that you are seeking to maintain  
6735 fairness with others that are locked in. So they are examples of the sorts of hardship relief we would  
6736 allow trustees to provide.

6737 **Senator EGGLESTON**—How many people have applied to access their money under hardship  
6738 provisions since the freezing of those funds? How many have been successful with accessing  
6739 redemptions?

6740 **Mr D'Aloisio**—We actually have those numbers, but I do not have them in my briefing note, so I  
6741 will get that for you. It is quite substantial, of those that apply. My recollection is that really a high  
6742 proportion satisfy the hardship grounds and do get some of their money out. But I can get you those  
6743 numbers. I know we have them.

6744 **Senator EGGLESTON**—I have been approached with quite a specific case. It involves a  
6745 foreign national professional—a Scottish veterinary surgeon—who has money invested under a  
6746 fund in Australia. They want to withdraw that money and return to live and retire in Scotland, but  
6747 they find they can only partially withdraw the money. Why would that be if they are leaving the  
6748 country wishing to return to their own homeland and retire?

6749 **Mr D'Aloisio**—It is an issue of fairness with other unit holders that are locked in. Really the  
6750 trustee probably in that case may have exercised a judgment and said that it is not really a hardship  
6751 case in the sense of financial needs. The fact that someone is overseas still means that they can get  
6752 access to drip feed returns over a period of time. You are not naturally a hardship case because you  
6753 are relocating to another country. You would need other factors. In answer to your previous  
6754 question, Belinda has just pointed out that in fact some 4,642 applications, representing \$162  
6755 million, were received by the schemes. They paid out on 3,721, or \$86.8 million. We will give you  
6756 more detailed figures on that. But there are substantial numbers that apply.

6757 **Senator EGGLESTON**—I return to this particular constituent that I am referring to. They are  
6758 Australian residents at the moment, not overseas. What you are saying is that, in the interests of  
6759 equity to the other unit holders, they should not be allowed to withdraw all of their capital?

6760 **Mr D'Aloisio**—If you create a system, a hierarchy, you say, 'These funds are illiquid. In order to  
6761 protect all investors we will have a periodic workout. As income comes in, we will pay it out.'  
6762 However, in order to deal with hardship cases, you say, 'Okay, we'll allow on need, on family and  
6763 on incapacity.' The wider you put that class, the greater the risk there is of what I call not having  
6764 horizontal equity between the unit holders. Clearly, the trustees can approach us and say, 'Well, we  
6765 would like relief', for example, to extend the hardship relief to include people who go overseas. We  
6766 will look at it, but it is unlikely because intuitively, if that person going overseas has other means,  
6767 does it really matter that part of their funds remains locked up in Australia?

6768 **Senator EGGLESTON**—I have a couple of other little questions related to this general issue. Is  
6769 it generally the case that ASIC chooses to freeze all the funds of fund investments relating to a  
6770 particular trustee?

6771 **Mr D'Aloisio**—The freezing decision will be taken by the trustee—the manager. It would be rare  
6772 for ASIC to require the freezing of funds.

6773 **Senator EGGLESTON**—That is interesting, thank you. I think Senator Williams has a question  
6774 on this issue as well.

6775 **Senator WILLIAMS**—Thank you, ASIC representatives, for your time tonight. I want to follow  
6776 on from Senator Eggleston as far as the freezing of the funds. Was it not the case that these funds  
6777 were in fear of having a run on them or actually did have a run on them during the global financial  
6778 crisis? That would have been the main reason they were frozen.

6779 **Mr D'Aloisio**—It is an issue of if, for example, they depended on new money coming in and new  
6780 money did not come in, then clearly you would get a run if there were a lot of withdrawals. So there  
6781 could be a number of reasons. But, yes, in broad terms what you say is probably right.

6782 **Senator WILLIAMS**—I think that would have been the case. Senator Sherry was well aware at  
6783 the time, because I spoke to him personally, when the government underwrote those investments in  
6784 the ADIs but not in these companies that are not registered ADIs. Of course, as I have said before, if  
6785 you underwrite investments in that lot of companies and not that lot, they do not have the  
6786 government guarantee, and people are going to withdraw their money out of that and put it into a  
6787 safer haven. That was a serious problem with the way the government underwrote these various  
6788 funds, banks and ADIs et cetera. Those other companies were not covered under ASIC. The  
6789 Colonial First State mortgage income fund was terminated on 1 March. Are you aware of that?

6790 **Mr D'Aloisio**—It does ring a bell, yes.

6791 **Senator WILLIAMS**—They were making payments over a period of time, but they would not  
6792 pay any interest, apparently. Is Colonial First State mortgage owned by the Commonwealth Bank?  
6793 We found out through the Storm issue that Colonial Margin Lending is. As soon as I see the word  
6794 ‘Colonial’, I think, ‘Perhaps that is owned by the Commonwealth Bank.’ Do you know if it is?

6795 **Mr D’Aloisio**—I think it is, yes.

6796 **Senator WILLIAMS**—They are a big organisation. If one of their subsidiary companies were  
6797 frozen, you would wonder why they could not pay their money back with interest. But it has  
6798 obviously caused a lot of heartache. The person who has referred this to me is a self-funded retiree  
6799 and he relies on that interest from those investments to actually live. Of course, he is not getting  
6800 interest. Now he may get a dribble of his principal back over time, as you have mentioned, Mr  
6801 D’Aloisio, but with no interest. You should never assume, but I assume that the Colonial First State  
6802 mortgage income fund is owned by the Commonwealth Bank. They are not paying interest. That is  
6803 what has been brought to my attention. I assume it is correct—once again, we should not assume. Is  
6804 that not a breach of contract with the investor? You invest your money and all of a sudden the  
6805 organisation is frozen and you are not getting interest back. Would that not be a breach of contract?

6806 **Mr D’Aloisio**—Senator, I am happy to look at it. I do not remember the details, so I would like to  
6807 take it on board. But, in general speak, it will depend on the terms of the constituent documents and  
6808 what they say in certain events and what a manager and trustee can do. So there will be a legal  
6809 answer. I do not have it with me. I would need to look at it.

6810 **Senator WILLIAMS**—It would be good if you could get that. I would appreciate that. I am  
6811 going to take you back. I have raised this issue before about debenture issuing companies. When you  
6812 mention debenture issuing company, you refer to a company that is mainly dealing in commercial  
6813 real estate. Is that correct? Put it this way: if I said to you, ‘That is a debenture issuing company’,  
6814 how would you perceive that term?

6815 **Ms Gibson**—Senator, a debenture is defined in the act as someone who is issuing with the  
6816 security over tangible property—that usually would be taken to mean realty. A practice has grown in  
6817 the industry for some time now—I cannot remember exactly when—that a debenture is taken as an  
6818 expression for reference just to some sort of debt. It is usually secured, but it could be secured on  
6819 intangibles.

6820 **Senator WILLIAMS**—I refer to the Provic group. It is a pretty well-known group of small  
6821 debenture issuing companies. People invest with them. They lend money to farmers and small  
6822 business. They take real security, as in land or bricks and mortar. That is the sort of company I am  
6823 looking at now. These companies have done it really tough over the competition. With the GFC, the  
6824 banks as well as building societies and credit unions were underwritten but not those little  
6825 companies I have been referring to. Under regulatory guide 156 regarding debenture advertising,  
6826 debenture issuing companies have to state that investors are at risk of losing part or all of their  
6827 principal and interest of their investment. Are you aware of that?

6828 **Mr D’Aloisio**—Yes.

6829 **Senator WILLIAMS**—They have to state that. So if they advertise on the radio, they have to  
6830 say, ‘Be aware, investors. If you invest with us, you may lose part or all of your investment.’ Yet no  
6831 other types of institutions are asked to make this statement—to warn their investors that they may  
6832 lose part or all of their money—but debenture issuing companies do.

6833 **Mr D’Aloisio**—You will recall that the background to this is the changes that we put in place in  
6834 the unrated, unlisted debenture area going back to ACR, Bridgecorp and Fincorp. You will recall the  
6835 advertising that was going on at the time. You will recall, ‘Sleep easy at night. Nine per cent return.  
6836 Buy our debentures’ et cetera. There was a lot of money lost at that time. We brought in a series of  
6837 benchmarks for issuers of debentures. We tightened up on the advertising. Yes, the consequence of  
6838 that was that you cannot make those sorts of statements, but we think it has been very effective.

6839 **Senator WILLIAMS**—Well, it might have been very effective for some, but I am talking about  
6840 companies that I see to be solid, that have real security and who you invest with just like a bank or  
6841 credit union. In fact, a lot of the lending banks do not have real security and hence they have the  
6842 write-offs.

6843 **Mr D’Aloisio**—Yes.

6844 **Senator WILLIAMS**—But for these smaller companies we are seeing the reduction of  
6845 competition in the finance industry. On the FPA committee that I have been part of for the inquiry  
6846 into finance for small business, this is what we are seeing—a reduction in competition. A small  
6847 company, under that title of debenture advertising, as I said, must state that you may lose part or all  
6848 of your investment. What I am saying is that the banks do not have to do that. The credit unions do  
6849 not have to do that. Yet these small companies have—

6850 **Mr D'Aloisio**—They do if they are issuing debentures.

6851 **Senator WILLIAMS**—Okay. What about when they are just lending to farmers for  
6852 investments?

6853 **Mr D'Aloisio**—The issue, Senator, of whether or not you lose your money is not dependent on  
6854 the size. If we restrict the term 'debenture' to securities in the form of real estate, there is an  
6855 argument that that might be less risky. But it does not follow from that that you cannot lose your  
6856 money. Retirees and retail investors invested heavily in the debenture products, which, as Belinda  
6857 said, had not only a security—perhaps real estate—but also intangibles. In some cases, they were  
6858 unsecured notes that were called debentures. What we found was that the investors focused on the  
6859 return. They focused on the nine per cent or 10 per cent.

6860 **Senator WILLIAMS**—Yes, instead of the security.

6861 **Mr D'Aloisio**—They did not make an adequate assessment of the risk-reward premium on that,  
6862 as against, say, a term deposit. That was one issue we were trying to get them to focus on. If it is  
6863 three per cent or four per cent above a term deposit, you have to look at it pretty carefully. But the  
6864 thing that really, in the surveys we did at the time, stuck out was that they did not associate the loss  
6865 of capital. They assumed that the capital was like a term deposit. That, to us, really was at the heart  
6866 of a lot of the issues that had occurred in that period. So using the disclosure provision that is  
6867 available to us under the Corporations Act, we brought in benchmarks to try to ensure that people  
6868 were able to assess the underlying securities that these debentures were issued against. Secondly, we  
6869 took a strong line against not just the companies advertising but also the advertising entity itself.  
6870 They needed to scrutinise these advertisements and they needed to state, as you have said, as a guide  
6871 that, yes, you can lose all or part of your principal. That is the position, whether it is a secured  
6872 debenture or an unsecured note.

6873 **Senator WILLIAMS**—Could it not also be the position if you invested in a credit union?

6874 **Mr D'Aloisio**—I agree that there can be unintended—

6875 **Senator WILLIAMS**—Surely it could happen.

6876 **Mr D'Aloisio**—Yes, I have agreed there can be unintended consequences. I agree.

6877 **Senator WILLIAMS**—If a credit union fell over, you would be in the same boat.

6878 **Mr D'Aloisio**—The minister has pointed out, quite rightly, that they are prudentially regulated.  
6879 There is the prudential regulated entities that APRA—

6880 **Senator WILLIAMS**—Does that mean they cannot fall over?

6881 **Mr D'Aloisio**—No. There is an added protection.

6882 **Senator Sherry**—It is less risky.

6883 **Senator WILLIAMS**—Well, I just think—

6884 **Senator Sherry**—Just hang on. You have asked your question. Just let me give you one  
6885 reflection in response. We analysed this area, as you are well aware, when I was sitting over there.

6886 **Senator WILLIAMS**—Sitting over where?

6887 **Senator Sherry**—Over there asking the questions.

6888 **Senator WILLIAMS**—I was not here then. I was not aware of that at all. I have been here for  
6889 two years.

6890 **Senator Sherry**—Fine, you were not aware then.

6891 **Senator WILLIAMS**—Well, Minister—

6892 **Senator Sherry**—You asked a question and I will give you a considered response. You were not  
6893 aware of the questioning and analysis of the unlisted sector and the collapses that occurred, but it  
6894 was extensive. To take up your suggestion, I will just make a couple of points. Firstly, what is  
6895 interesting—

6896 **Senator WILLIAMS**—What is my suggestion?

6897 **Senator Sherry**—Let me get to that in a moment. Firstly, I think it is interesting to note that the  
6898 collapses to which the chairman has referred occurred about a year to 18 months before the financial  
6899 crisis.

6900 **Senator WILLIAMS**—On commercial issues?

6901 **Senator Sherry**—There are a range of reasons for that. They have been well discussed and  
6902 canvassed. Reflect on what would have happened. If ASIC had not taken corrective action and the  
6903 additional disclosure requirements had not been imposed, I think there is a fair chance that that  
6904 sector would have continued on. We would have got to the financial crisis and in that sector the

6905 collapse would have been very, very significant indeed. If that sector had continued on in the way it  
6906 had been going, it would have hit the wall when the financial crisis occurred. We would have had a  
6907 whole further series of collapses. I think that is more than likely. So it is a good thing that ASIC  
6908 effectively put the brakes on that sector via the additional disclosure requirements. As I say, I really  
6909 shudder to think in retrospect what would have happened if that sector had continued on the way it  
6910 was promoting and advertising itself, giving the sorts of implied guarantees with minimal risk, and  
6911 the crisis would have hit. We would have had tens of thousands of investors harmed catastrophically  
6912 if there had been no change by ASIC.

6913 **Senator WILLIAMS**—A lot of those that did collapse were construction companies in that  
6914 field. Let us hope the dead wood has been cleaned out now.

6915 **Mr D'Aloisio**—What they were, Senator, is they were essentially using retail investor equity as  
6916 the equity level in a speculative construction. So you had no skin in the game as the promoter or the  
6917 investor in it. The usual protective mechanisms about equity, about liquidity, were not being  
6918 properly disclosed. That is where the risks occurred. So we tackled those. The sector at the time was  
6919 about \$34 billion. It reduced substantially fairly quickly. I think today it is probably about \$12  
6920 billion or \$14 billion. But the quality of the stock that is offered, we feel, is better than it would  
6921 otherwise have been.

6922 **Senator WILLIAMS**—I will move forward. If we have the dead wood cleaned out of the  
6923 industry and the baddies have fallen over, and unfortunately people have lost money, how can we  
6924 group together these small businesses today that are much more prudent and have better  
6925 security—they do not lend over 70 per cent LVR with real assets—where they do not have to have  
6926 that very biased advertising bit where they must say, 'If you invest with us, you could lose some or  
6927 all of your money?' My concern is that there are very good finance companies out there doing the  
6928 right thing with prudential lending. They have careful lending and secure lending, but they have to  
6929 run this title that is so negative. Once again, if they lose business, we come back to the problem of  
6930 losing competition in the finance industry. So is there some way, moving forward, we can group  
6931 them under another title so long as they are a secured company?

6932 **Mr D'Aloisio**—Well, the advertising guidelines are ASIC's so they are within our power to  
6933 re-examine and look at your analysis.

6934 **Senator WILLIAMS**—Would you consider that? I know the Provic group. I know they are  
6935 conservative lenders. They have survived the global financial crisis pretty well, considering that it is  
6936 David and Goliath stuff. They are up against the big end of town. I know they are good, safe lenders  
6937 and not fools. When they advertise, they have to carry this very negative piece in their advertising,  
6938 which is very detrimental to their business.

6939 **Mr D'Aloisio**—I hear clearly what you say and we will look at it. Because advertising is  
6940 something that we do control, we will have a look at it. If there is unfairness about it, we will have a  
6941 look at it. Let me be clear: from the evidence at the time and what we saw in radio advertising and  
6942 what we saw in a range of areas that targeted the retirees, it in effect used retirees to get the seed  
6943 capital for very speculative projects. ASIC took action correctly, we feel. To depart from that at the  
6944 moment I think would require quite a strong case.

6945 **Senator Sherry**—It had remarkable similarities, with a different form and a different legal  
6946 entity, to the Storm financial scandal, Senator.

6947 **Senator WILLIAMS**—Not enough security.

6948 **Senator Sherry**—Pitching the idea 'Secure your security base with property, you cannot lose.' It  
6949 focused on people who were elderly, arguably some more vulnerable.

6950 **Senator WILLIAMS**—I do not think that is good enough—

6951 **Senator Sherry**—They were not aware of the risks.

6952 **Senator WILLIAMS**—I think you are talking apples and oranges there. I would not put those  
6953 two together.

6954 **Senator Sherry**—I went to a number of the investor meetings following the collapses. A couple  
6955 of characteristics struck me. One is that they were generally elderly. They were generally retired. I  
6956 think generally they did not appreciate the level of risk involved in investing in those entities.

6957 **Senator WILLIAMS**—Are you referring to Storm or referring to—

6958 **Senator Sherry**—I am referring to both. The characteristics were similar, not identical, albeit  
6959 different vehicles for selling a financial product and giving a commitment on a financial return.

6960 **Senator WILLIAMS**—Coming back to competition in the industry, there has just been a review  
6961 of mortgage entry and exit fees by ASIC. I think the new legislation comes into effect on 1 July. Is  
6962 that correct?

6963 **Senator Sherry**—Which legislation?

6964 **Senator WILLIAMS**—Mortgage exit fees et cetera.

6965 **Senator Sherry**—I think that is right, yes.

6966 **Senator WILLIAMS**—I am very much against exit fees on variable loans because, as you are  
6967 well aware, I now have a loan and if I get out of that loan within three years I have to pay a \$1,000  
6968 exit fee. That does away with proper competition when you cannot walk out of your financial  
6969 institution and walk down the road where you get a better price. The exit fee is stifling competition.  
6970 Could you give us a brief outline of what the new legislation guidelines are and what they are meant  
6971 to achieve.

6972 **Mr D'Aloisio**—When we talk about exit fees we talk about early termination fees, break fees on  
6973 fixed rate mortgages and mortgage discharge fees.

6974 **Senator WILLIAMS**—I have no problem that they should stay on fixed mortgages.

6975 **Mr D'Aloisio**—In terms of tackling that from the point of view of unfairness or the rights of  
6976 consumers, under the existing law there is potential action where that is unconscionable. Under the  
6977 unfair terms legislation which will come in on 1 July, a term will be regarded as unfair if it causes  
6978 significant imbalance in the parties' rights and obligations arising under that contract. The early  
6979 termination fees and break fees will be subject to the new legislation. The upfront fees will not be  
6980 caught by that legislation; they will remain needing to be dealt with under the unconscionable  
6981 provision. In short, yes, there will be additional rights that will exist in dealing with mortgage exit  
6982 fees where consumers feel there has been unfairness or unconscionability.

6983 **Senator WILLIAMS**—Who has the discretion in that? Does the Treasurer have the discretion in  
6984 some of these things?

6985 **Mr D'Aloisio**—These are rights that consumers have that they can take up either through the  
6986 alternative dispute resolution mechanisms or through action that they may take in a court of law, or  
6987 ASIC may take action. ASIC will clearly work with the industry and work out guidelines and so on  
6988 to assist consumers under this new legislation.

6989 **Senator WILLIAMS**—I think I have used this analogy before: if you take your car to the garage  
6990 and are not happy with the job, you get home and the sump plug is not done up properly so it is  
6991 dripping oil et cetera, you can then just take your car down the road to another garage, you do not  
6992 have to take it back and there is no contract. With exit fees on variable loans—and I specify variable  
6993 loans as I understand that on fixed loans you have a contract and you have to meet your deal; if you  
6994 want to get out early on a fixed loan you have to pay the difference—but on variable loans shouldn't  
6995 it be the case that there should be a legislated ban on exit fees to bring proper competition into the  
6996 finance industry? As well as banning establishment fees, let the banks and financial institutions put  
6997 the establishment costs onto the interest rate on a margin so you have proper competition where you  
6998 can just walk out of one institution, go into the next institution and all you have to pay is the stamp  
6999 duty on your mortgage, and then you would have real competition.

7000 While you have an exit fee the bank might have a monthly charge of \$10 on your account. They  
7001 could put it up to \$12 a month and you would say, 'That's not very nice; I'm not happy,' but you are  
7002 not going to pull out of it, because you would have to pay the \$1,000 or \$2,000 exit fee. So they  
7003 actually have you hand-cuffed to their product and you cannot get out. For proper competition in  
7004 finance, shouldn't we be looking at banning exit fees and establishment fees on variable loans?

7005 **Mr D'Aloisio**—It is a policy matter for government, Senator.

7006 **Senator WILLIAMS**—Perhaps the minister might address it.

7007 **Mr D'Aloisio**—Obviously, ASIC has looked at account switching. We have clearly come up  
7008 with the industry enabling people to switch accounts so that their periodic payments transfer across  
7009 if they go to another bank. We have been working with industry on the exit fees on mortgages to  
7010 make it easier for consumer rights to be determined. We will now work with the unfair terms  
7011 legislation to do that. Ultimately, the broader policy issue that you are referring to is a government  
7012 policy issue.

7013 **Senator WILLIAMS**—Minister, would you like to comment on it?

7014 **Senator Sherry**—Well, the chair is right. Prohibition or regulation, and the extent to which you  
7015 do that on particular types of fees and practices, is a policy matter for government. In a perfect  
7016 well-informed competitive market, conceptually, an informed individual—and obviously that is a  
7017 heavy caveat; it is not a criticism—would have an unfettered choice or right of selection. In other  
7018 words, they would have the ability to move from one product to another, maximising competitive  
7019 pressure. That is the theory.

7020 **Senator WILLIAMS**—The theory, yes.

7021 **Senator Sherry**—That is the theory but obviously in some areas of financial services the practice  
7022 in reality can be quite different.

7023 **Senator WILLIAMS**—Exactly.

7024 **Senator Sherry**—There are a number of inhibiting factors to that theory of perfect competition.  
7025 One is a knowledge base to make an informed choice. Another is conflicts of interest in the advice  
7026 that may be given— whether that is direct ownership or a reward which represents a conflict. I think  
7027 you point to a legitimate barrier to competition in some circumstances.

7028 **Senator WILLIAMS**—Of course it is.

7029 **Senator Sherry**—An exit fee can clearly represent a barrier to moving from one product to  
7030 another, if a consumer wishes to do that, in some circumstances.

7031 **Senator WILLIAMS**—I would say that it would be a barrier in many circumstances because  
7032 many— probably hundreds of thousands—people in Australia have variable loans on their homes.  
7033 When we had an interest rate rise—I think it was in December—my rate went up 0.44 per cent but it  
7034 would have cost me \$1,000 to exit my loan. I was not happy with my bank when they did that and I  
7035 told them: next time you move it up past the Reserve Bank rate of 0.25 then I will gladly pay the  
7036 \$1,000 to go down the road. But the cost of getting out of a loan—because of monthly  
7037 charges—makes a mockery of that ability. Also, when we see the banks cribbing up above the  
7038 Reserve Bank price, Treasurer Wayne Swan said, ‘Go down the road; use your competition.’ You  
7039 cannot use competition when you have to pay to get out of the loan you are in, by way of an exit fee.

7040 **Senator Sherry**—I have already accepted and acknowledged that in some circumstances it can  
7041 be an inhibition or a restriction on the operation of effective competition. There are some  
7042 circumstances where that does occur—I am making an observation—however, the extent to which  
7043 that requires any direct policy intervention, regulatory oversight, is a matter for my colleague Chris  
7044 Bowen and broader government. It is a matter of policy and I would have to take on notice whether  
7045 or not the government would intend to act in any area, as you would suggest.

7046 **Mr D’Aloisio**—If it assists you, we produced a report for the Treasurer in April 2008—which I  
7047 think is on our website or I can make it available to you—where we did an industry review of the  
7048 mortgage entry and exit fees, to give a bit of a feel for what was going on in the industry, as a bit of  
7049 benchmark. We will use that and go back and do further reports to see how issue develops with new  
7050 laws and so on.

7051 **Senator WILLIAMS**—That would be good if you did because—

7052 **Senator Sherry**—There is another issue or another factor in all this, and that is what is called  
7053 inertia—the actual time and focus that an individual gives once they are in a particular product  
7054 provided by a particular provider. Do you need an opt-in or an opt-out approach?

7055 **Senator WILLIAMS**—You can do it at a credit union. It did not cost me anything to walk out of  
7056 the credit union to change.

7057 **Senator SHERRY**—But there are a certain proportion of people that remain locked in because  
7058 of the inertia of not making a decision. There is some interesting work there.

7059 **Senator WILLIAMS**—I am a big believer in free enterprise and competition. I think it inhibits  
7060 competition in the finance industry, and the finance industry should be no different to the ordinary  
7061 retail shop down the street, in my opinion.

7062 **Senator Sherry**—I accept that there is an argument in some areas, but the level of direct  
7063 regulatory intervention is a policy matter for government which I have to take on notice.

7064 **Senator WILLIAMS**—I will keep that in mind the next time the Treasurer says, ‘Go down the  
7065 road if they creep above the Reserve Bank rises.’ Mr D’Aloisio, where are we up to with Storm  
7066 Financial? It was going to be August last year. The last time I asked this in February it was going to  
7067 be March this year. Where are we up to?

7068 **Mr D’Aloisio**—As you know, in March we said that we had completed substantial parts of the  
7069 investigation and we wanted to enter into confidential negotiations with potential parties to possible  
7070 litigation. Those discussions were to take place. We have established, by the way, a dedicated Storm  
7071 Financial website for all investors and also each individual investor. That is a confidential part of the  
7072 website where we have all their details and can keep them up to date. In that period, confidential  
7073 agreements have been put in place with a number of entities. Pursuant to those agreements, we are in  
7074 confidential discussions. Those discussions, as you would appreciate, are complex and involve very  
7075 complex commercial and legal issues and are likely to continue during June. We have said that we  
7076 now expect to be in a position to provide an update on the discussions at the end of June. I am very  
7077 conscious of the fact that this is, for the investors, a difficult time. It is taking a long time, but let me  
7078 assure you that this is complex. The complexity is not assisted by additional class actions and other  
7079 activities that are going on. Again, they are for good reason. We understand that. But you would also

7080 expect that in order to get a resolution you really have to work out a way of resolving all claims for  
7081 all parties, and that is complex in this matter. Yes, it is taking time, but I believe the time is justified  
7082 given the nature of the matter.

7083 **Senator WILLIAMS**—It must have cost you a lot of money up till now.

7084 **Mr D'Aloisio**—The Storm investigation for ASIC is a major matter and it has used up and is  
7085 using up a major part of the enforcement special account. But I have said on previous occasions to  
7086 this committee or at least to PJC that this is not a funding issue for ASIC. ASIC has the resources to  
7087 continue to run this matter.

7088 **Senator BUSHBY**—I will continue on with some administration questions. ASIC have been  
7089 given lot of new responsibilities and powers by the government in the last few years, such as taking  
7090 over market supervision of the ASX and new powers to investigate and monitor companies on credit  
7091 licensing and so on. Litigation is also on the rise. How will ASIC cope with these new  
7092 responsibilities given, as we have already discussed, your staff levels are remaining static?

7093 **Mr D'Aloisio**—It would be worthwhile for me to spend a little bit of time on this. ASIC in the  
7094 2007-08 year when it did its strategic review came in on budget. It came in on budget in the 2008-09  
7095 year. In other words, it discharged its responsibilities within budget and will do so this year. So it  
7096 does continue overall to be able to discharge its responsibilities with the resources it has. As you  
7097 have identified, the government has given us an additional responsibilities on credit. The  
7098 government has also given us a four-year budget of \$67.6 million. The government has also asked us  
7099 to take over surveillance. It has given us \$53.478 million over four years for surveillance.

7100 Also for major cases, as you know, we operate the enforcement special account. Coming into the  
7101 2009-10 financial year we had a surplus of \$25.64 million in that fund which we had not used from  
7102 previous years. This financial year we used that surplus in addition to the \$30 million that we had  
7103 been allocated. In large part, we lost a major case, OneTel, which used up a substantial portion of  
7104 that surplus.

7105 **Senator BUSHBY**—I will ask you some questions about that one later.

7106 **Mr D'Aloisio**—Next financial year we will have \$30 million in the enforcement special account.  
7107 We feel that is sufficient for the major cases we are running. Yes, our responsibilities have gone up,  
7108 and our funding has followed that. Clearly we are always conscious of limited resources, but other  
7109 agencies are in the same position. But we are able to continue to discharge our responsibilities with  
7110 the resources that have been allocated by the budget in the portfolio budget statements.

7111 **Senator BUSHBY**—Thank you for that. You mentioned that most of these new responsibilities  
7112 you have received have come with extra funding. The obvious question is whether that funding is  
7113 sufficient, in your assessment, to cover the needs. I guess that until you have had a crack at applying  
7114 it you are not going to be able to answer that in any meaningful way.

7115 **Mr D'Aloisio**—Obviously you look at your experience. I am the first to recognise that we are in  
7116 the early stages of the implementation of surveillance and credit, and clearly we will keep that under  
7117 review. Certainly if we feel that the allocations in those cases are inadequate, obviously we will raise  
7118 that with Treasury.

7119 **Senator BUSHBY**—In respect of those specific additional responsibilities where you have been  
7120 given the extra money, have you quarantined that money for those or is it just tipped into the bucket  
7121 so that, if you need to, you just shift resources from other areas to cover that if it proves inadequate?

7122 **Mr D'Aloisio**—You have to track it because we then have to report how it has been used and  
7123 what has been used and so on. There is not a lot of discretionary reallocation that can occur.

7124 **Senator BUSHBY**—The reason I asked that is that you have a lot of responsibilities with these  
7125 new ones in addition to those you already had, and you have indicated that you are meeting your  
7126 responsibilities within the budget. But, to some extent, down the track, are these new responsibilities  
7127 actually delivered? If you are looking at it from a managerial perspective, you might need to take a  
7128 little bit from here where it is not quite as tight and put it in over there, where it is a bit tighter. Do  
7129 you have that flexibility?

7130 **Mr D'Aloisio**—There is some flexibility. I need to be guided by our chief operating officer in  
7131 terms of the rules, which I am not fully across. I rely on our people tracking this money as required  
7132 by the FMA. There is a limited ability. But I think I had probably better answer the question by  
7133 saying: clearly as chairman, as the commission, we are very conscious of the need to continue to  
7134 discharge those responsibilities. I think that the 2010-11 financial year for ASIC will be quite  
7135 significant, because it will bring a consolidation of a lot of these projects to substantial fruition. With  
7136 the benefit of that in the next three to six months, I think we will be in a better position to assess  
7137 things and talk to government as to whether we need additional resourcing or just what we may need  
7138 going forward. At this stage, as I say, we can work within what we have been provided.

7139 **Senator BUSHBY**—Going back to the original question that kicked this off, the 2009-10 levels  
7140 of staff are projected to fall by six. It will basically remain static between this year and next year,  
7141 despite the increase in responsibilities and the increase in funds you have received. How is that  
7142 explained? Presumably part of those funds that you have been given to match those new  
7143 responsibilities will require you to put extra people on, but it does not appear in those projections of  
7144 employment figures, if that is the case.

7145 **Mr D'Aloisio**—You have got to look at reallocation of priorities and resources that you have as  
7146 to whether you can shift people or not into other areas, so it is difficult to answer that question. There  
7147 is also the uptake of new people coming on for these projects and at what rate.

7148 **Senator BUSHBY**—You are saying that you have got extra money, and it is interesting when  
7149 looking at the budget papers that your portfolio budget statement indicates that the expenses on your  
7150 employee benefits, which I presume covers wages, actually drops by over \$1½ million—

7151 **Mr D'Aloisio**—I can explain that. In the way that some of the funding is given for the so called  
7152 star program, which is a capital program—the refresh of our technology—and the additional staff  
7153 for where that project is, about \$10 million has been taken from capital. The staff numbers are  
7154 reflected in that, but not the amount. So the actual comparable amount for the two years is around  
7155 \$210 million, as it is with the number of people.

7156 **Senator BUSHBY**—So it is about \$210 million for the two years. What about three years after  
7157 that? According to this, the three years after that are in the low 200s as well.

7158 **Mr D'Aloisio**—I think that then picks up what you would term the GFC funding that probably  
7159 cuts out after next year. Again, that was on the basis that by that stage some of the projects and major  
7160 matters that were GFC driven should be coming off. What the government said at the time was that  
7161 they would need to be reviewed to see what the impact of the GFC was. It is just too early to make a  
7162 call on that, but I think that explains the drop in the money.

7163 **Senator BUSHBY**—That explains the drop, but what it does not explain is that looking forward  
7164 you have got \$212 million this year, \$200 million next year, \$202 million the year after that, \$204  
7165 million and \$206 million. Are you telling me that you have got all these additional resources to fund  
7166 your new responsibilities, but it is not being reflected in the amount that you are projecting to spend  
7167 on staff?

7168 **Mr D'Aloisio**—This financial year coming up is going to be significant for us because you can  
7169 only look out so far. I think the explanation for the 2011-12 year is around the GFC, and we clearly  
7170 want to look at that as to whether our work will drop off so that those numbers make sense, or  
7171 whether we need to review that. It is just too early to make that prediction.

7172 **Senator BUSHBY**—I do not know whether it is me, but I do not understand this. Let me ask a  
7173 slightly different question: the additional money that you have been given for your responsibilities  
7174 which you outlined earlier; will any significant proportion of that be spent on staff?

7175 **Mr D'Aloisio**—Yes, it will; additional staff will be put on for those projects. It will be spread  
7176 over the four years.

7177 **Senator BUSHBY**—And would that cost show up in these projections for employee benefits?

7178 **Mr D'Aloisio**—Yes, it would.

7179 **Senator BUSHBY**—So we will go from \$212 million this year down to \$200 million next year.  
7180 That is explained by that one-off drop off, but then the following year you say is the GFC; that  
7181 continues to take off so much more that it offsets all the new expenditure on staff that you—

7182 **Mr D'Aloisio**—If you did not receive additional money, or you were not able to make out your  
7183 case, then you would have to look at cutting your expenditure to suit that, which would mean that  
7184 you would have to review your priorities and reassess your position.

7185 **Senator BUSHBY**—So really the additional money is only replacing that which you are losing  
7186 as the GFC measures wind down—according to this? You are not actually able to increase your staff  
7187 over where you are now because the money that you are getting to pay for these new responsibilities  
7188 is being offset by money that you are losing as other things wind down?

7189 **Mr D'Aloisio**—The projections that have been made are there, so it would follow that if your  
7190 money reduces then you have got to reduce your expenses. It means that you have got to re-examine  
7191 your priorities: either the major cases have come through from the point of view of the GFC and you  
7192 have handled them, and new big cases have not come on or, if they are still there you have then got  
7193 to talk to government about what you need.

7194 **Senator BUSHBY**—Okay.

7195 **Mr D'Aloisio**—You are constantly looking at reallocating your resources within what you are  
7196 receiving and what the government has appropriated, and you have got to make those adjustments.

7197 So you have to reallocate people to the new areas, look at your priorities and try and reskill them,  
7198 and in some cases you might have to lose people. But that is just part of running an agency—

7199 **Senator BUSHBY**—It is.

7200 **Mr D'Aloisio**—it is not peculiar to ASIC.

7201 **Senator BUSHBY**—But ASIC is a fairly important regulator in terms of the overall Australian  
7202 economy and the way it works, and it is important that you are able to deliver properly the  
7203 responsibilities that you are charged with delivering and that you are properly resourced. I am just  
7204 keen to make sure that what is happening here does not leave you in a situation where you have to  
7205 reallocate your priorities, to quote you, in a way that means you have to sacrifice the delivery of  
7206 some of your responsibilities in order to be able to deliver others.

7207 **Mr D'Aloisio**—Thank you, Senator. Clearly, the commission are alive to that; but, at the end of  
7208 the day, we compete for funds with every other organisation in government. We will put our case,  
7209 but if government makes a certain decision we will then live within the decision that government  
7210 makes. That is stating the obvious, I am sorry.

7211 **Senator BUSHBY**—I have a final question on these salaries. I mentioned the salaries go up by  
7212 about \$2 million a year from 2010-11 to 2013-14. How many additional employees would that  
7213 represent each year?

7214 **Mr D'Aloisio**—It depends on the staff level. As an average, at the more senior level we probably  
7215 work on a rough rule of thumb of one to \$100,000.

7216 **Senator BUSHBY**—Depending on whether they commissioners or EL1s—

7217 **Mr D'Aloisio**—Commissioners are worth one in 10,000! For the very senior people, we work  
7218 roughly on the basis of \$100,000 per employee, all costs; and probably, a bit lower down, it would  
7219 be around \$60,000 per employee.

7220 **Senator BUSHBY**—Okay. Still on administrative oversight, you would be aware that in the  
7221 *Australian Financial Review* on 13 April this year there was an article headed 'Trials and  
7222 tribulations', saying:

7223 The regulator has been in the spotlight for all the wrong reasons ...

7224 It then goes on to look at some of the staffing issues that ASIC have had, and its interpretation of  
7225 that, obviously, as opposed to yours. I just want to run through a few of the things that they raised to  
7226 see how you are addressing those and the extent to which they really are problems. It suggests that a  
7227 disproportionate number of senior staff have left ASIC over the past 12 months and says:

7228 One former senior executive warns that the departures raise serious questions about ... leadership and the  
7229 culture within the regulator.

7230 What is your view on this? First of all, is there a disproportionate number of senior staff leaving;  
7231 and, if so, what is your understanding of the reasons for that?

7232 **Mr D'Aloisio**—I might say first off, Senator, that there was a letter written by a former  
7233 executive— unprompted by me, I might add, or anyone else—the next day in the *Financial Review*,  
7234 putting the exact opposite view. So to that extent you have got one member saying one thing and  
7235 someone else saying another. Clearly, I take very seriously the issues about senior people, but you  
7236 need to step back. ASIC went through a strategic review and we brought in people, we promoted  
7237 people—senior people—and we have had a culture and an approach at the senior level that it be  
7238 more performance driven and about adding skills. As a consequence, our attraction and retention  
7239 rates have gone through a change, and a number of the people that have left did so for reasons to do  
7240 with career and pursuing other things, and that happens. So I do not see the turnover at the senior  
7241 level in our place as anything that is untoward or indicates some huge issue in the culture of ASIC. It  
7242 is part of a process of refreshing the organisation that we have gone through. As I said earlier, in  
7243 relation to the levels below that, the attrition rates just do not bear out what that article is talking  
7244 about. They are not voting with their feet and leaving.

7245 **Senator BUSHBY**—At the lower levels?

7246 **Mr D'Aloisio**—At the next level below the SES level. The greatest turnover has been at the SES  
7247 level—

7248 **Senator BUSHBY**—Which is what I think that article is talking about.

7249 **Mr D'Aloisio**—I guess what I am saying in a roundabout way, to be more direct, is that you  
7250 would expect that in an organisation that you are seeking to change.

7251 **Senator BUSHBY**—Is that greater turnover at the SES level a symptom of the fact that there is a  
7252 high level of recruitment by investment banks or people involved with securities?

7253 **Mr D'Aloisio**—When you look at the cases, the individuals, there are varied reasons. There are

7254 individuals that have had great careers at ASIC but, after nine or 10 years, feel that they would like  
7255 to try something else—not because they have necessarily been poached but because they would like  
7256 to broaden their skills. Indeed, we encourage people to go out and come back in or go out and stay  
7257 with us, because it is part of the value that can be added. Some have left, as you say, to take up other  
7258 positions, other careers, to do with money or other conditions. There are a range of reasons. Some  
7259 have gone back to the bar.

7260 To extrapolate that someone was disaffected and there is a huge cultural problem—that is not the  
7261 case. We recently had a senior leadership off-site. We got our senior leaders together to plan for the  
7262 next financial year and the review. We had very robust discussions about things that we can improve  
7263 and their involvement, their sense of wanting to make a real difference with the organisation. We  
7264 used outside facilitators to assist with that to make sure we got to the issues, and it was a very good  
7265 process. The commission learnt a lot about things that can improve. I have been in other  
7266 organisations and I have been in ASIC, and what is going on in ASIC is fine.

7267 The **Senator BUSHBY**—That is good to hear. In terms of the poaching-type activities, you  
7268 mentioned that some people leave for money. You mentioned also earlier that, with your senior  
7269 people, you use a figure of about \$100,000, including on-costs.

7270 **Mr D'Aloisio**—That is for EL1 and EL2. At the very senior SES level, it is much higher than  
7271 that.

7272 **Senator BUSHBY**—But EL1 and EL2 would presumably be people who had a few years  
7273 experience under their belts.

7274 **Mr D'Aloisio**—They would be aspiring to become senior.

7275 **Senator BUSHBY**—And they would be becoming useful—

7276 **Mr D'Aloisio**—Absolutely. They are the core of ASIC.

7277 **Senator BUSHBY**—in the sense of their knowledge, in the private sector. They are becoming  
7278 more attractive to the private sector.

7279 **Mr D'Aloisio**—Yes.

7280 **Senator BUSHBY**—I would imagine that \$100,000 including on-costs is probably fairly  
7281 conservative compared to what somebody with those sorts of skills and experience could get in the  
7282 private sector.

7283 **Mr D'Aloisio**—There is no doubt that people work for ASIC because they want to make a  
7284 difference. It is part of the value proposition that we have. But may I say—and Belinda can speak  
7285 more directly—that we made significant offers to ASX staff to join ASIC on similar terms and  
7286 conditions as our people, and we were not short of acceptances. Yes, there is no doubt that—

7287 **Senator BUSHBY**—You are competing with the private sector, aren't you?

7288 **Mr D'Aloisio**—some of the money we are competing with and the bonuses and so on are huge  
7289 and are there, but we are not too bad, and we have just gone through a new collective agreement.  
7290 Secondly, the motivation for working for ASIC, the commitment, is very much about wanting to  
7291 make a difference.

7292 **Senator BUSHBY**—I suggest that you are very lucky that it is—

7293 **Mr D'Aloisio**—Yes, we are.

7294 **Senator BUSHBY**—because, to do your job properly, you need good people. If you are not in a  
7295 position financially to pay what is the going rate in private enterprise, then it makes it very  
7296 challenging if there are not other reasons why they would come and work for you.

7297 **Mr D'Aloisio**—In the end, we are part of the Public Service and we are under the Public Service  
7298 Act, so we are constrained by the award system that is there, the caps on salary increase and so on.  
7299 We are essentially part of the Public Service.

7300 **Senator BUSHBY**—You mentioned that you had made an offer for staff from the Stock  
7301 Exchange. How many staff do you need to take on to be able to deliver the responsibilities?

7302 **Ms Gibson**—We made offers to a number. Some 25 have agreed to come across to us when the  
7303 transfer occurs. We have been hiring in the market I think between 12 and 15 additional positions—

7304 **Senator BUSHBY**—In addition to the 25?

7305 **Ms Gibson**—In addition to the 25. That supplements the 40 or so that we already have in ASIC  
7306 that are doing surveillance of brokers. So all up our market supervision team will be in the order of  
7307 80 people.

7308 **Senator BUSHBY**—And that is where it will end up and you think that is sufficient to be able to  
7309 deliver all the existing responsibilities in respect of listed companies and those that you are

7310 acquiring through the changes?

7311 **Ms Gibson**—We will not get listed companies. We will just get brokers and the market itself. We  
7312 think that will be enough for day one to do so. If we move to a competition regime, that number will  
7313 have to be revisited, but we think this will be sufficient.

7314 **Senator BUSHBY**—But they would be assisting with the role of Stock Exchange supervisor?

7315 **Ms Gibson**—Supervising the market itself—the trading—and supervising the stockbrokers. The  
7316 Stock Exchange will continue to be responsible for listing and supervising continuous disclosures.

7317 **Senator BUSHBY**—Supervising those aspects of a listed company?

7318 **Ms Gibson**—Yes.

7319 **Senator BUSHBY**—I will go on to something else now.

7320 **CHAIR**—Perhaps we might go to Senator Pratt at this stage.

7321 **Senator PRATT**—I have a question about ASIC's capacity to apply for search warrants under  
7322 the Australian Securities and Investments Commission Act and the changes in the bill about not  
7323 having to issue a notice to produce. I note that offenders currently have a window of opportunity to  
7324 destroy incriminating material. To what extent has this been a problem? Are we talking about white  
7325 collar crime, where people are really going out of their way to cover their tracks?

7326 **Ms Gibson**—I think that, in circumstances where we believe destruction will occur immediately,  
7327 we would ordinarily seek a search warrant with the Federal Police. In that instance, it is possible to  
7328 seize documents. We would still need to go through the Federal Police to serve this, but this would  
7329 expedite matters. This is the benefit of the other search warrant. At the moment, our search warrant  
7330 powers, first, require us to serve a forthwith notice. If nothing turns up, we say, 'Well that can't be  
7331 right; let's have a search warrant.' But, with the lapse of time between the forthwith and the search  
7332 warrant, it is not something we exercise very often, for those very reasons.

7333 **Senator PRATT**—To what extent is ASIC currently compromised, or is it unclear because you  
7334 are not really sure—

7335 **Ms Gibson**—You don't know what you don't know, do you!

7336 **Senator PRATT**—I would be interested to hear about the implementation of that and what it  
7337 uncovers.

7338 **Ms Gibson**—I expect it will streamline the way we can go about seeking notices.

7339 **Senator PRATT**—I want to ask about the handover of supervisory responsibilities and financial  
7340 markets, which is currently underway via regulation. Is it on track? Is there any chance that people  
7341 will be left without protection in the handover? I did note that the proposed regulations have  
7342 something about which I did not quite understand why it would be important and what it was meant  
7343 for, and that was allowing for specified markets to be exempt from ASIC supervision on day 1 of the  
7344 transfer of responsibilities. Those are my three questions.

7345 **Ms Gibson**—Starting with your first question, which is on whether we are on track, I believe we  
7346 are. We have been working hard with the ASX to manage that transition, as we said earlier. We have  
7347 now locked in—I think there are one or two places we are still filling, but we expect that to happen  
7348 this week. We have purchased a real-time surveillance system and the design-build phase is  
7349 complete, so we expect that to be ready by the end of this month. We are configuring it now. We  
7350 issued our market integrity rules in draft form earlier this year and in the next few weeks we will be  
7351 ready to issue the final version, and it will be very much the same as the other. Another piece in the  
7352 regulatory puzzle is the enforcement proposition, where we could go to court. Also, we are setting  
7353 up our own markets disciplinary panel, which will hear infringement notices and enforcement  
7354 undertakings that came up earlier. We issued a consultation paper on that and we will announce the  
7355 initial panel membership, I would think, by the end of this month. We have also, more to the point,  
7356 got our training happening internally, based on the rules. So I think we will be ready, when the time  
7357 comes, to effect that transaction. We and ASX have been working very closely in this regard and I  
7358 would like to record our appreciation for that.

7359 **Senator PRATT**—I think that answers the protection question as well.

7360 **Ms Gibson**—The exemption.

7361 **Senator PRATT**—Yes.

7362 **Ms Gibson**—These rules should apply to all of the licensed markets. In addition to the ASX and  
7363 SFE rules, which of course are the big ones, there are some four equities markets and we have  
7364 separate rules for them. We are consulting on them already. There are also about six, I think,  
7365 wholesale markets that hold licences—Bloomberg and Yieldbroker. Their rules are not as readily  
7366 adaptable to our level. Time-wise and application-wise, we are deferring that for six months until we

7367 can see where it goes. It may be that they will all say: ‘Actually, I don’t think we want a licence  
7368 anymore. We can go under exempt regimes.’ It is staging the transition a little bit.

7369 **Senator PRATT**—Okay. So there is no gap there—

7370 **Ms Gibson**—There is no gap there. They will continue to supervise their markets in the way in  
7371 which they have done for the past few years. It is clearly their obligation.

7372 **Senator PRATT**—I have one last question on a different topic. I am very pleased to see the  
7373 proscribing regulations on margin lending come into play. I understand one of the key factors within  
7374 that is requiring lenders to assess whether a loan is unsuitable for a client and whether borrowers  
7375 have provided their home as security for a loan. As I understand it, if your existing house is security  
7376 for another house—it seems like a pretty safe bet—but when people take out margin loans to buy  
7377 shares or investments I am interested to know how the regulations deal with how risky someone’s  
7378 investment may or may not be or whether the new regulation will simply say: ‘We’re not going to  
7379 look at the risk of the proposition that you’re investing in. It’s really a question of: if it were to go  
7380 bad whether it is risky or un-risky, we don’t think you can afford it.’

7381 **Mr D’Aloisio**—Just to step back in terms of margin lending: as you know, prior to the changes,  
7382 margin lending was not regulated for retail investors. We are now requiring that as a financial  
7383 product with proper disclosure and also a suitability test. It does put an obligation on the lender to  
7384 make sure of that. The issue that you are trying to avoid, for example, is what happened with Storm.  
7385 What happened with a lot of the cases involved in Storm was that people borrowed against their  
7386 home and used that as the equity to get shares and then they got margin loans. So, in effect, they  
7387 were pretty much 100 per cent geared. By talking about suitability, what you are really forcing  
7388 lenders to do and borrowers to think about is: ‘What am I putting at risk here in going into this?’ If  
7389 you are going to borrow against your home to then go into the stock market and take out a margin  
7390 loan, we would say: ‘That’s pretty dumb. You shouldn’t do that.’ From a suitability point of view,  
7391 investors who want to do that would have to understand all the risks and be prepared to take them.

7392 **Ms Gibson**—We are not going to regulate. There is not going to be a regulation to that effect.  
7393 The law about unsuitability sits there. I think we have already issued a regulatory guide—if we have  
7394 not, we are shortly to issue a regulatory guide—about the things you should take into account. We  
7395 certainly consulted on that.

7396 **Senator PRATT**—I suppose what I am trying to come to grips with is, for example, an  
7397 investment in Storm, which clearly was quite high risk, versus someone taking out a margin loan to  
7398 buy BHP shares. As much as they might whinge and moan about the RSPT, they seem to be—

7399 **Mr D’Aloisio**—Senator, you are right. If I am prepared to take out a margin loan to play it on the  
7400 stock market, that is my risk and that is part of the free enterprise system. But the assumption is that  
7401 I actually understand what I am doing and that I understand the difference between what a loan value  
7402 ratio is, what I have got at risk, what the volatility of the stock market can be and, if that  
7403 loan-to-value ratio drops below a certain amount, that I have cash in the bank to give to the lender so  
7404 that I can continue with the margin product.

7405 It is a bit like what I was talking about earlier, with Senator Williams, in relation to the debenture  
7406 issue. What we saw with groups of investors and retirees is that there just was not an understanding  
7407 of those risks. So our job is, through regulatory guides and through the changes, to try and get the  
7408 risk assessment done. On margin loans, a lot of people assumed that—because there was a loan to  
7409 value ratio and the shares could be sold—it would be fine, and in the end what you would lose would  
7410 be just the equity in the shares. But in fact if you had borrowed to go into it you actually stood to lose  
7411 your home.

7412 **Senator PRATT**—You could lose the lot.

7413 **Mr D’Aloisio**—So for us it is really an issue of making sure that risks are understood and  
7414 assessed— through regulatory guides, through the legislation. And we think the change in margin  
7415 lending for retail investors has been a significant change for the better.

7416 **Senator PRATT**—I am pleased to hear that it is not just about whether someone can or cannot  
7417 afford to lose their investment, because there are many definitions of that. It might be half your  
7418 superannuation. Sure, maybe you could afford to lose it, but you certainly would not want to. It is  
7419 actually about educating people about that risk that, clearly, some consumers have been ill-informed  
7420 about.

7421 **Mr D’Aloisio**—Again, through our FIDO website, we have some very clear guidelines to assist  
7422 people— particularly with a margin lending product, a more complex product—really asking them  
7423 to ask the basic questions. In a way, we are steering people away from complex products using  
7424 simple rules: ‘If you do not understand it, do not go into it. Really, you have got to try to understand  
7425 this or get access to advice.’ But if you do understand the risks then we say, ‘Okay—that is your

7426 choice.' But certainly we are doing work on this through financial literacy, retail investor education  
7427 and regulatory guides, and through FIDO, our website. There is a lot of work that our people are  
7428 doing on this.

7429 **Senator PRATT**—I would expect that, at the moment, having just been through the GFC, people  
7430 would be a bit more sensitised and a bit more aware. But I would imagine that if, at some point in the  
7431 future, the market really stalls, we will have to intensify again that education process.

7432 **Mr D'Aloisio**—I think that is a very good point. It is exercising our minds as well at the moment:  
7433 how do we do that actually? If the cycle starts to move rapidly, what will tend to happen is that a lot  
7434 more new products will be coming to retail investors and there will be a lot of retail investors who  
7435 will want to make up the losses of the past and may be prepared to go into even riskier processes  
7436 because there is only a certain lifespan and if you have lost some super savings you want to make  
7437 them up and so on.

7438 **Senator PRATT**—And, again, in that environment, there would be banks competing to give  
7439 credit.

7440 **Mr D'Aloisio**—Correct. So we have a team that is working on this to look at what it is we can do  
7441 to get the messages out a lot earlier than we may have in the past, so that, when you are hit with a  
7442 new wave of products at the retail investor level, you are asking the right questions. So it is a very  
7443 good point, and it is exercising our minds.

7444 **Senator PRATT**—Good. I am pleased to hear that. Thank you.

7445 **Senator EGGLESTON**—The government has changed the rules with regard to financial  
7446 advisers and introduced reforms to regulate that profession. Could you update the committee on  
7447 what steps you have taken so far to assume the regulation of advisers, and the budgetary cost of  
7448 having done this?

7449 **Mr D'Aloisio**—The new legislation and the new licensing and provisions are scheduled for 1  
7450 July 2012. Clearly, Treasury is working on that legislation and the changes. From our point of view,  
7451 we are continuing our strong emphasis on the surveillance of the financial advice sector, picking up  
7452 things through surveillance and through other actions. We are trying to continue to lift the quality in  
7453 the financial advice industry, through reviews in terms of training and trying to lift skills. So there is  
7454 a range of things that we will continue to do, including enforcing the law where inappropriate advice  
7455 may have been given to particular investors, pending the introduction of the new law. In terms of the  
7456 introduction of the new law and the resource implications for ASIC, we have not had that discussion  
7457 with government at this point. But we will. As the legislation reaches gestation we will no doubt  
7458 have that discussion with government about what additional resources we may need beyond 1 July  
7459 2012.

7460 **Senator Sherry**—There is one aspect Mr D'Aloisio did not touch on—it is not ASIC's  
7461 responsibility—and that relates to tax advice. A tax advisers board has been established. It is a new  
7462 national regime that replaces the state licensing supervisory regimes for tax advisers—in the main,  
7463 accountants—and BAS agents. This did raise the question of whether financial planners, who are  
7464 currently licensed by ASIC, should also be licensed, where they give tax advice—and many  
7465 do—under the tax agents board. I provided a deferral—not an exemption—of the application of that  
7466 particular licensing regime for a year whilst we consider the conceptual issue of whether it is  
7467 appropriate to have, in this case, financial planners subject to licensing, supervisory and inspection  
7468 regimes. They are different areas of advice but, conceptually, I came to the conclusion that that is  
7469 not particularly efficient and we need to look at some alternative to that. So, in terms of financial  
7470 planner supervision and regulation on tax advice, there is a year's deferral while we look at practical  
7471 mechanisms to overcome dual licensing, overlap et cetera. That is one area that is not in ASIC's area  
7472 of responsibility.

7473 **Senator EGGLESTON**—That is very interesting, given the inquiry that this committee is also  
7474 holding into liquidators. Is ASIC proposing to have some sort of training role in terms of the  
7475 licensing of financial planners?

7476 **Mr D'Aloisio**—ASIC does have responsibility for the training of licensees, financial advisers  
7477 and others, and certainly we are looking at reviewing the qualifications that are needed to get in and  
7478 the ongoing training that we have. It is in regulatory policy 146. There is a team that is working on  
7479 upgrading that. They are working with the industry to lift the standards. That work will not wait for  
7480 1 July 2012; it is going on now.

7481 **Senator EGGLESTON**—What investigation of an adviser does ASIC perform before granting a  
7482 financial services licence? What sorts of background checks or qualifications do you look for?

7483 **Mr D'Aloisio**—There is in the legislation a need to go through certain checks that our people go  
7484 through before the licence is issued. I can take that notice and give you the exact framework that we  
7485 go through.

7486 **Ms Gibson**—It is fair to say that at this point the regime gives us very limited discretion. It is an  
7487 experience test and it is not something that we test exhaustively in terms of each licence application.  
7488 Another way of putting it is that it is very difficult for us to refuse a licence.

7489 **Mr D'Aloisio**—We will set that out for you.

7490 **Senator EGGLESTON**—I think in a general way the committee would be quite interested in  
7491 that because of the other inquiry that we are doing, so I would be very grateful if you could provide  
7492 that information on notice.

7493 **Mr D'Aloisio**—Indeed. For the other inquiry we could give you a supplementary submission or a  
7494 comparison of the registration system and the licensing system.

7495 **Senator EGGLESTON**—My colleague Senator Bushby said he only wanted two minutes, but I  
7496 said he could have five, so I will now hand over to him.

7497 **Senator BUSHBY**—I still have about 10 or 15 pages of questions, but I do not like my chances  
7498 in the five minutes, so I think you might be getting a few on notice. In the last minutes, I will ask  
7499 some questions about short selling, primarily because there is a relevant date—that being  
7500 today—that I want to ask about. ASIC delayed implementation of the short selling regime for two  
7501 months in March in order to ensure that short sellers have the appropriate systems in place to meet  
7502 reporting obligations. Is ASIC now confident that short sellers have all the necessary information?

7503 **Ms Gibson**—I do not believe it is at this stage. The system is open to receive reports and so on,  
7504 but our understanding of the industry is—

7505 **Senator BUSHBY**—Is it open today?

7506 **Ms Gibson**—Yes. Our understanding is that the industry and the network providers have not yet  
7507 developed the systems to interact fully at this point, so we are still not receiving a full suite of  
7508 information at all.

7509 **Senator BUSHBY**—Are short sellers under obligations from today?

7510 **Ms Gibson**—We have indicated that they are certainly required to keep the information and give  
7511 it to us if we request it—this is the net short selling—and they are to continue to pursue, with due  
7512 expedition, obtaining linkage. I think that to some extent this is also beyond their control. It is the  
7513 intermediaries that have not yet got things developed to a level that is fully marketable to them.

7514 **Senator BUSHBY**—In your publication *10-42AD: short position reporting*, released on 5 March  
7515 2010, you said that you had made the decision:

7516 ... to delay the commencement of short seller obligations to lodge ... from 1 April 2010 to 1 June 2010 ...

7517 What I am concerned to know is: if people are looking to short-sell, are they under an obligation to  
7518 report

7519 now? From what you are saying, they may not have the systems in place to be able to do that.

7520

7521 **Ms Gibson**—They would still be reporting gross short sales daily through the exchange. This is  
7522 the net short sale reporting, and that is what they are working on getting linkage to. We have issued  
7523 an indication that, as long as they can show us that they have been making all due effort to link into  
7524 this system, we will not pursue action.

7525 **Senator BUSHBY**—I understand. So you have given them a period of grace to some extent,  
7526 provided that  
7527 they can show they are making the right—

7528 **Ms Gibson**—Yes.

7529 **Mr D'Aloisio**—It is accepting the reality. If they are trying their best to link and they are keeping  
7530 the records, we are saying, 'Okay, we're going to give you a bit more time, but we want you to get  
7531 onto this system, because net reporting's important.'

7532 **Senator BUSHBY**—Of course, the difficulty in complying was one of the issues that were raised  
7533 by industry when the concept was first discussed. I understand that the minister, in his previous role  
7534 as the minister responsible for this area, had extensive consultations with the industry, and no doubt  
7535 this was one of the subjects that were raised as part of that consultation—the difficulty of  
7536 complying. How long do you think that period of grace might extend for? How long are you going to  
7537 allow people, provided that they are making—

7538 **Mr D'Aloisio**—We will give a reasonable period of time, but there will be a point at which we  
7539 will say, 'Enough's enough now.'

7540 **Ms Gibson**—I think our 'no action' letter sets a benchmark of 21 June, which is the day we need

7541 to start reporting. So we have said another three weeks. Our discussions indicate that people are  
7542 close and that the networks are interfacing with our system now. That is a matter of getting it to all of  
7543 the industry.

7544 **Senator BUSHBY**—So 21 June is the date you will actually start reporting the aggregated short  
7545 positions.

7546 **Mr D'Aloisio**—Hopefully.

7547 **Ms Gibson**—We may have to revisit it if the numbers are meaningless because not enough are in.

7548 **Senator BUSHBY**—So, in terms of that period of grace, you are talking about a three-week  
7549 period rather

7550 than three months or six months.

7551 **Ms Gibson**—Yes.

7552 **Mr D'Aloisio**—Yes.

7553 **Senator BUSHBY**—So presumably at the end of that period, or as the 21st approaches, you are  
7554 going to be

7555 saying: 'We're going to start reporting. We have to have this information. You have to start  
7556 complying with the law now.'

7557 **Mr D'Aloisio**—Yes.

7558 **CHAIR**—As it is 11 o'clock, the time for the—

7559 **Senator BUSHBY**—It is one minute to.

7560 **CHAIR**—It is 11 o'clock.

7561 **Senator BUSHBY**—There are 40 seconds to go. I have one question to ask.

7562 **Senator CAMERON**—It is 30 seconds past, as I see it.

7563 **Senator BUSHBY**—You mentioned that you have advised those who are affected by this of this.  
7564 How have you done that?

7565 **Mr D'Aloisio**—I am sorry?

7566 **Senator BUSHBY**—You mentioned that the people who have an obligation to report have an  
7567 obligation to do so by 1 June. How have you advised them that there is a period of grace?

7568 **Ms Gibson**—We sent a letter out to a number of the industry bodies, and I gather—

7569 **Senator BUSHBY**—I have not been able to find anything on your website. I have been looking  
7570 for it, and I could not find any—

7571 **Ms Gibson**—It is a communication directly with the  
7572 industry bodies. I gather that IFSA has done a broadcast to  
7573 all of its members, because it is the short sellers that have to  
7574 register, which would be the funds. **CHAIR**—Now it

7575 definitely is 11 o'clock. **Senator BUSHBY**—It is 11

7576 o'clock now. **CHAIR**—The time for questioning has  
7577 concluded, so thank you for coming in this evening.

7578 **Committee adjourned at 11.00 pm**