



COMMONWEALTH OF AUSTRALIA

# SENATE

## Official Committee Hansard

ENVIRONMENT, RECREATION, COMMUNICATIONS  
AND THE ARTS LEGISLATION COMMITTEE

**Consideration of Estimates**

FRIDAY, 14 NOVEMBER 1997

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**SENATE****Friday, 14 November 1997****ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS  
LEGISLATION COMMITTEE****Portfolios:** Environment, Communications and the Arts**Members:** Senator Tierney\* (*Chair*), Senator Schacht (*Deputy Chair*) Senators Bartlett, Eggleston, Lightfoot and Lundy*\*Senator Tierney appointed to 27 January 1998; Senator Patterson appointed from 28 January 1998**\*Senator Chapman to replace Senator Tierney for additional estimates***Senators in attendance:** Senator Bob Brown, Senator Margetts**The committee met at 2.36 p.m.****DEPARTMENT OF THE ENVIRONMENT, SPORT AND TERRITORIES**

Proposed expenditure, \$17,082,000 (Document A).

Proposed provision, \$5,830,000 (Document C).

Consideration resumed from 13 November 1997.

**In Attendance**

Senator Hill, Minister for the Environment

Department of the Environment

Mr Roger Beale, Secretary

Program 1—Environment

Subprogram 1.1—Environment Priorities and Co-ordination Group

Mr Robert Butterworth, Head

Dr A.J. (Tony) Press, First Assistant Secretary, Environment Forest Taskforce

Dr Rhondda Dickson, Assistant Secretary, Forest Assessment Branch 2, Environment Forest Taskforce

Ms Anne-Marie Delahunty, Assistant Secretary, Forest Assessment Branch 1, Environment Forest Taskforce

Subprogram 1.2—Environment Protection Group

Ms Anthea Tinney, Head

Mr Ian Carruthers, Assistant Secretary, Atmospheric Protection Branch

Mr Mark Hyman, Assistant Secretary, Chemicals and the Environment Branch

Mr Gerry Morvell, Assistant Secretary, Environment Assessment Branch

Mr Mark Tucker, Assistant Secretary, Environmentally Sustainable Industry Branch

Mr Stewart Needham, Assistant Secretary, Uranium Mining Audit and Review Branch

## Subprogram 1.3—Australian and World Heritage Group

Ms Sharon Sullivan, Head

Dr Martin Wardrop, Assistant Secretary, World Heritage and Wilderness Branch

Ms Alison Archer, Acting Assistant Secretary, Corporation and Communications Branch

Dr Warren Nicholls, World Heritage Unit

## Australian Heritage Commission

Dr Rosemary Purdie, Assistant Secretary, Identification and Conservation Branch

## Subprogram 1.4—Biodiversity Group

Mr Gerard Early, Acting Head

Mr Malcolm Forbes, Acting First Assistant Secretary, Natural Heritage Division

Mr Andrew Campbell, Assistant Secretary, Sustainable Landscapes

## National Parks and Wildlife

Dr David Kay, Assistant Secretary, Wildlife Australia

## Subprogram 1.5—Portfolio Marine Group

Dr Ian McPhail, Head and Chairperson GBRMPA

## Great Barrier Reef Marine Park Authority

Mr Richard Kenchington, Executive Director

Mr Norm Austin, Director, Administration

Mr Clive Cook, Manager, Impact Assessment Unit

## Program 4—Corporate Services

Mr David Anderson, First Assistant Secretary, Corporate Management Division

**ACTING CHAIR (Senator Eggleston)**—I declare open this public hearing of the Senate Environment, Recreation, Communications and the Arts Legislation Committee examining additional estimates for 1997-98. The committee is continuing the examination of the environment portfolio. Questions on notice will be accepted until the close of business on Monday, 17 November. The committee has agreed that, unless otherwise stated, answers to questions on notice are to be provided by close of business on Friday, 30 January 1998.

I welcome the minister, Senator Robert Hill—recently returned from Tasmania, I believe—and officers from the environment portfolio. Departmental officers will not be asked to comment on the reasons for policy decisions or the advice they may have tendered in the formulation of policy, or to express a personal opinion on matters of policy. We will now return to program 1.

[2.37 p.m.]

**Program 1—Environment****Subprogram 1.1—Environment Priorities and Coordination Group**

**Senator MARGETTS**—I do not have any further questions on subprogram 1.1. I have a few on subprogram 1.2.

**Senator LUNDY**—I have no questions on subprogram 1.1.

[2.38 p.m.]

**Subprogram 1.2—Environment Protection Group**

**Senator MARGETTS**—My questions relate to the hazardous waste trade program. Will Australia abide by its international commitment made at both the second and third conferences of the Basel convention parties, as the European Union has already done, to support an international ban on hazardous waste trade to developing countries by ratifying the Basel ban under national legislation?

**Senator Hill**—The government has not decided that as yet. It needs to go through our more elaborate parliamentary procedures now. Has the treaties committee started to consider it?

**Mr Hyman**—Not yet.

**Senator MARGETTS**—Are there particular impediments that the government see in ratifying the Basel ban, given the list of hazardous waste to be controlled was finalised in the last International Technical Working Group meeting in Geneva in February 1997?

**Senator Hill**—I think one of the arguments is that it is somewhat patronising of the developing world, which is a philosophical debate. At the moment it requires consent, doesn't it? Do you want to elaborate?

**Mr Hyman**—The lists have been agreed by the Technical Working Group and they have been referred to the Conference of the Parties. The Conference of the Parties was due to meet in October. That meeting was deferred to November and then again to next February. At that time, a decision will be taken about how to reflect those lists in the convention. The government has had the position that it wishes to see how those lists will be reflected in the convention before taking a decision about ratification of the amendment.

**Senator MARGETTS**—So that would probably mean that it will not come to the Joint Standing Committee on Treaties until after that process has taken place.

**Mr Hyman**—I would suppose so, yes.

**Senator Hill**—But that is expected to be fairly soon, is it not?

**Mr Hyman**—The Conference of the Parties is in February next year.

**Senator MARGETTS**—So the government has not got a position until that stage?

**Senator Hill**—No, they have not.

**Senator MARGETTS**—I want to ask a question in relation to ocean dumping. Does the federal government intend to continue ocean dumping off Christmas Island and Cocos (Keeling) Islands beyond March 1998 or will they seek land based solutions?

**Senator Hill**—The new amended convention will apply. This is in relation to car bodies and the like, I presume. Is what you are talking about?

**Senator MARGETTS**—I guess that is a lot of it but there are probably other things as well.

**Senator Hill**—That is the debate that I have heard in the past as to the economics of having to transport such heavy items or bulky items back to the mainland and, in the past, they have been disposed of in the ocean. What is the current position, Mr Tucker?

**Mr Tucker**—The current London Dumping Convention does permit that disposal—

**Senator Hill**—It does?

**Mr Tucker**—Yes, it does permit disposal. The 1996 protocol which the government is currently considering also permits that dumping. I imagine that the judgments will be made

on a case-by-case basis as they come up. But, certainly, we are doing everything to encourage proper disposal of those items.

**Senator MARGETTS**—Personally, I understand there is a difference probably between Christmas Island and the Cocos (Keeling) Islands for potential impact of dumping a car body, but one of the things that occurs to me is that there might be some ruling which says that, if it is just an empty body like an empty shell, then it might not have too much negative impact on the environment. There might be some regulations that say, ‘We understand the bulk but there are things you must remove from the car body before such a thing happens.’

**Senator Hill**—I do not know of toxic waste being dumped. The only cases I have heard of are the bulky ones, and that has been done for a long time off Christmas Island.

**Mr Tucker**—Things like whitegoods.

**Senator MARGETTS**—But there is a lot of oil, for instance, within a car—even one that is not operating. As long as this is going on unregulated, I guess it might conceivably—

**Mr Tucker**—I can say that those dumping activities require a permit and we usually put conditions in the permit which minimise the environmental effects. I have not seen one recently in terms of dumping any vehicle, but I imagine it would be quite a reasonable requirement to have to remove oil.

**Senator MARGETTS**—Who sets the permit conditions? Are there Commonwealth guidelines? Is there a potential draft permit that might be available to the committee to have a look at to see what kind of things might be included in those permits?

**Mr Tucker**—Yes, we could provide you with some sort of generic permit.

**Senator MARGETTS**—Does the federal government support ocean dumping of oil and gas platforms and associated infrastructure?

**Senator Hill**—Where do they fit within the amended convention?

**Mr Tucker**—I am speaking from memory here, because there has been some recent discussion on it at which I was not present. I am a bit reluctant to speak from memory; it may be best if I can take that on notice and provide you with the information.

**Senator Hill**—Basically, we are a party to the international regime. The international regime sets out what can be legitimately ocean dumped. It would be a question as to whether it fell within that definition.

**Senator MARGETTS**—I would be happy if you took that on notice and came back with the information.

**Senator Hill**—I do not think it is one that we have had to face in relation to our own platforms.

**Mr Tucker**—No, that is quite right.

**Senator MARGETTS**—There might potentially be a situation in those areas which are on the books for the new sea columns, with a potentially greater number of companies involved with oil platforms in the new seabed boundaries agreement areas.

**Senator Hill**—The time would presumably come; so we will take it on notice.

**Senator MARGETTS**—Thank you very much.

**ACTING CHAIR**—Are there any more questions on 1.2?

**Senator Hill**—I am sorry, I am still puzzling over the last one. I have just received a note—the list at annex A of the protocol includes vessels and platforms or other man-made structures

at sea. So I presume the structures you are talking about would fit within those. That is the term of the international regime and then it is a question as to whether we adopt a more demanding standard than that and we can, if we so wish, domestically. I do not know that we have any specific policy on that because we have never had to address it in relation to our own waste. But we will consider it further and see if there is anything else we can add to it.

**Senator MARGETTS**—Yes, thank you very much.

**Senator Hill**—It also provides the answer to a previous question—

**Senator MARGETTS**—Can I just clarify what you are reading from?

**Senator Hill**—Under the new protocol, you can only dump the listed categories. Under the convention it was the other way around, you could not dump those that were listed. So now to be able to dump an item, you have to find it on this list.

**Senator MARGETTS**—And it is on that list, is it?

**Senator Hill**—‘Vessels, platforms or other man-made structures at sea’ is on it and so is ‘bulky items primarily comprising iron, steel, concrete, et cetera’. So the car example from the islands would fit within that item as well.

**Senator MARGETTS**—Cocos (Keeling) is a different matter because it is shallow and you damage the coral just by dumping.

**Senator Hill**—The only instances I have heard of dumping have been in deep water. I do not think they dump them anywhere—

**Mr Tucker**—That is quite right. The permanent conditions often specify where you can dump. You are to move away from corals if they are sensitive areas. A lot of that material will be covered in the permanent conditions—depth of water, exact location and so on.

**Senator Hill**—But I have also been involved in some discussions on other ways in which they can be more economically removed to the mainland. There have been some propositions for small crushing plants and the like. So that is an ongoing debate. My preference, all things being equal, would be that they were not sea dumped. I will see if I can get you any further information.

**Senator MARGETTS**—Thank you very much.

**ACTING CHAIR**—We will now move to subprogram 1.3.

[2.46 p.m.]

#### **Subprogram 1.3—Australia and world heritage**

**Senator LUNDY**—I have a couple of questions to start off with. Is the Commonwealth-state agreement signed for Shark Bay? **Senator Hill**—The heads of agreement were completed—or what I call heads of agreement; the management arrangements were signed on 12 September of this year. That is an agreement on administrative arrangements. But a number of other agreements are still being developed pursuant to that arrangement.

**Senator LUNDY**—Does that agreement specifically exclude oil and petroleum exploration from the world heritage area?

**Senator Hill**—If what you are asking is how are we approaching the issue of the licences to explore that were given by the Western Australian government, you will be aware that at the time of the listing there were exploration licences in existence for Shark Bay. They were also referred to in the then management agreement at the time of listing. But there have been, in more recent times, some new licences given—three from memory. Those new licences did—

as you know because we were asked about this in the Senate—cause us some concern. I said that I have difficulty in seeing how they could be compatible with the world heritage values at Shark Bay which are very sensitive.

The argument was put in turn that Shark Bay covers a very large area and that the licences which might be acted upon were a very long way from the sensitive areas. What we have agreed is that there would be an examination of this issue and a report back. It is being done under the authority of the Western Australian EPA but it is to be done by a consultant to be agreed between the state and the Commonwealth. That examination will look at the issue as to whether exploration could be compatible with the obligation to protect the values of the listing. That consultant will report back to the ministerial council in due course, and the ministerial council will then take the next step.

You will remember also in relation to those licences at the time that it was stressed by the Western Australian government that any exploration pursuant to those licences would require prior environmental assessment through the relevant Western Australian authorities and, of course, any subsequent mining would require another level of assessment. But be that as it may, it was our view that the whole issue should be looked at by an authoritative independent party. We look forward to that process being completed in due course, and the ministerial council getting the report.

**Senator LUNDY**—Just going back to my question, from that answer my interpretation is that the agreement does not specifically exclude that type of exploration. I just want your confirmation that it does not—if that is, in fact, the case.

**Senator Hill**—There is mining in the vicinity of Shark Bay and always has been—

**Senator LUNDY**—That is not the question.

**Senator Hill**—The obligations in relation to mining—this is presumably a public document?

**Dr Wardrop**—It is, Minister.

**Senator Hill**—The obligations in relation to mining are set out in clauses 5.3 to 5.5 of schedule 1.

**Senator LUNDY**—Minister, you still have not answered the question.

**Senator Hill**—I can read the provisions to you, if you wish.

**Senator LUNDY**—No, you just need to tell me whether or not there is an exclusion in there for oil and petroleum exploration in the world heritage area.

**Senator Hill**—No, there is not a specific exclusion.

**Senator LUNDY**—Do you oppose oil and petroleum exploration in Shark Bay?

**Senator Hill**—I have just answered that one.

**Senator LUNDY**—That is arguable.

**Senator MARGETTS**—Could I ask a question in relation to that? Is that all right?

**ACTING CHAIR**—With the minister's permission. I think he is looking—

**Senator Hill**—Yes.

**Senator MARGETTS**—The section that I have got here from the agreement, section 5.4, under mining and petroleum says:

The Western Australian minister will seek advice from the EPA under section 16(e) of the Environmental Protection Act (1986), regarding environmental aspects of petroleum exploration development activities

within the Shark Bay world heritage area. Having received advice from the EPA, the Western Australian minister will refer this advice to the Commonwealth minister.

I assume that is you, minister?

**Senator Hill**—Yes.

**Senator MARGETTS**—So you would be the decision minister there:

The ministerial council will then decide whether petroleum exploration and development activities are compatible with the protection conservation and presentation of the property and if so, will agree on a framework for the administration regulation of these activities.

Who are the actual decision makers? Who are the ministerial council? Who would then be the ones making the decision?

**Senator Hill**—It is two Commonwealth ministers and two state ministers. If you want the persons, it is Mr Williams the Attorney-General and I from the Commonwealth side and it is Cheryl Edwards, the environment minister and Norman Moore, I think, for tourism, for the Western Australian side.

**Senator MARGETTS**—Sorry for interrupting.

**Senator LUNDY**—Minister, I understand that you are examining local industries in the area. What industries are you looking at and for what purpose?

**Senator Hill**—Examining local industries?

**Senator LUNDY**—Yes.

**Senator Hill**—There are issues about which we have also had discussions in the Senate concerning the expansion of the salt works. There are issues that we have looked at from time to time with regard to the proposed expansions of the gypsum mining in the area. That is actually in the world heritage area in the vicinity. There are proposals from time to time to expand the public facilities in the Monkey Mia region. That is all I can think of offhand.

**Dr Wardrop**—It is perhaps worth adding that the whole of the world heritage area is broadly a multiple use world heritage area. When you look at the mixture of tenures and existing uses, you would have to conclude that it is very much a multiple use area. You have existing pastoral activities and you have existing tourism activities. You have existing mining extraction activities of quite a range. In that sense, all of these activities are already occurring. Within that broad range of activities, you will inevitably have either proposals for changes or extensions to those activities or, alternatively, possibilities of new activities. The reason that the administrative agreement was fairly complex is that it has to cope with both that range of tenures, that range of planning processes and the range of both existing and potential new activities. I think it is a little hard to respond, on such a general property, to a fairly general question.

**Senator LUNDY**—I guess what I am looking for in terms of the purpose of examining these industries is this: is that with any view to exerting some sort of position on what industries are developed as opposed to what are not? Or on what achieves some level of Commonwealth support and what does not? Is it being approached strategically in that way?

**Senator Hill**—Firstly, I do not know of the suggestion of new industries.

**Dr Wardrop**—I am not aware of any new industries, per se.

**Senator Hill**—The consideration we would give is whether any such proposal threatens the world heritage values.

**Senator MARGETTS**—Some of those are vague proposals for a Useless Loop tourism development. That is a new industry to the area.

**Senator Hill**—I have heard of speculation of other possible tourist developments but I do not have anything specific on that.

**Senator MARGETTS**—That is all I have on Shark Bay.

**Senator LUNDY**—I have lots on other areas but I am happy for Senator Margetts to come in.

**ACTING CHAIR**—Do you want to come back to other areas?

**Senator LUNDY**—I have no more specifically on Shark Bay but I do have on a whole range of other areas.

**ACTING CHAIR**—We will go to Senator Margetts and Senator Brown.

**Senator MARGETTS**—I am sure that you will recall that on 16 October 1997 you answered a question in relation to the distinct stock of pygmy schnapper now being confirmed to occupy the area of lower Useless Inlet which includes the Shark Bay world heritage area and the Useless Loop salt pond now currently being constructed. When I said 'distinct stock' I actually was referring to the fact that the physical identification of a stock had already been taken so what is necessary now is to identify whether they are, in fact, a different species or simply a different stock of the same species.

What I asked at the time is whether or not the federal government will provide the \$30,000 needed to determine the taxonomic status of the stock by DNA fingerprinting. At the time, the response was that the federal government has noted that the Western Australian government is already undertaking genetic testing. The words 'DNA fingerprinting' were not actually mentioned in the answer. What I want to clarify is whether that does, in fact, confirm that the Western Australian government or bodies under the Western Australian government are undertaking DNA fingerprinting on this pygmy schnapper.

**Senator Hill**—I do not know what form of genetic testing is taking place. I certainly discussed it with the Western Australian minister and she assured me that the testing was taking place. We are waiting on a conclusion of that process. What the nature of the genetic tests is I do not know. Does anyone know?

**Mr Nichols**—It is DNA fingerprinting.

**Senator MARGETTS**—That is certainly good news. Do you know what the time frame is for results from that?

**Mr Nichols**—We were told three months from when they started. I think we are expecting them in the next four weeks.

**Senator MARGETTS**—That is good news. Thank you. You have noted that if the genetic testing demonstrates the stock is a separate species then its status would be considered in accordance with the Endangered Species Protection Act 1992 and that any action would be considered in cooperation with the Western Australian government. Would the Commonwealth instigate that or how would that be triggered if that were found to be a separate species which was therefore likely to be eradicated as a result of the current activities?

**Senator Hill**—You jump another hurdle in the latter part of your question. There are two stages. I thought that the concern was the plume that was being created in the construction period and how this might be threatening the fish.

**Senator MARGETTS**—No, we are not on to plume yet.

**Senator Hill**—What you are concerned about is whether—

**Senator MARGETTS**—There is a bar that is being built across—

**Senator Hill**—Yes, I know. You are concerned, firstly, if they are a separate distinct species, secondly, if they are endangered and, thirdly, if they are only located in the area to be enclosed in the expanded loop?

**Senator MARGETTS**—Yes. If I could explain more clearly. The Western Australian Department of Fisheries have already, in recent times, gone out and discovered that this particular pygmy schnapper is located mostly in the area of the lease but there are pygmy schnapper which are outside the area of the lease but they, in fact, breed inside the lease area. If the bar goes across there is little doubt that that species will be eradicated. Basically, what we are talking about is a value which currently exists within the world heritage area which would cease to exist if that bar is completed. It is a fairly clear issue in terms of biodiversity and world heritage values, I would have thought.

**Senator Hill**—Well, obviously, if all that is correct, it would disturb us greatly. But there are a lot of steps to actually get to that conclusion. The Commonwealth's Endangered Species Scientific Subcommittee has not done a lot of work in relation to marine species, has it?

**Mr Wardrop**—I should not comment. Dr Kay is here, and he would know more on this topic.

**Senator Hill**—Whilst we get an authoritative answer on that point, I would be happy to refer it to the Commonwealth body for advice.

**Dr Kay**—The Endangered Species Scientific Subcommittee is set up under the act to independently assess any nomination for listing under the act. There is a public nomination process under the act, and the committee is also obliged to consider any changes that are made to the lists developed by the Australian and New Zealand Environment and Conservation Council. So there are two different ways in which a nomination can come in. There is an independent process set up under the legislation to consider such a nomination.

**Senator MARGETTS**—I am sure there will be many people contacting you as soon as the DNA testing is finished and saying, 'How about this species?' and 'What are you going to do about that?'

**Dr Kay**—If it is identified as a separate species or subspecies in the terms of the legislation, then there will be an independent consideration of that by the Endangered Species Scientific Subcommittee. They will report to the minister on whether, in their view, it should or should not be listed.

**Senator MARGETTS**—In real time, given that the bar is going across as we speak—and I will get to the levee being washed away in a little while—and that efforts are being made to put in tonnes and tonnes of the bar every day and it is being washed away every night, what is the timing on the process by which these kinds of considerations can take place? Will the fish be extinct by the time we get a listing?

**Dr Kay**—I cannot answer that. I do not know what the timing of the process of construction is. The timing of the committee's consideration really depends on the quality of the evidence put in front of it. It can be a matter of weeks; it can be a matter of months.

**Senator MARGETTS**—Presumably, if in a couple of weeks we did have an answer from a Western Australian department which said, 'Yes, this is different genetic stock from the rest of the schnapper in general,' then it could happen quite quickly. Is that what you are suggesting, that it could happen quite quickly?

**Dr Kay**—It needs to be both different and demonstrated to be threatened or endangered under the terms of the legislation.

**Senator MARGETTS**—Yes, given that this is a hypersaline area and the fish cannot live for very long outside the hypersaline area, I think that could be fairly easily demonstrated.

**Dr Kay**—I do not want to prejudge a statutory committee's report.

**Senator MARGETTS**—Okay. The actual construction of the levee, I am reliably informed by those people who are watching it every day, means that tonnes and tonnes of material is being deposited on a daily basis onto an ever increasing levee height—from two to three metres—because the water is getting ever deeper in an area which is supposed to be a salt works and probably would be much too deep for a salt works. Given that that is the case, what is the situation from the Commonwealth's point of view about the fact that two to three metres of this large amount of material is being washed out every day into the Shark Bay world heritage area, and I believe to the extent of a four-metre plume of muck into the world heritage area?

**Senator Hill**—The advice that I can recall from some time ago were that it was not believed that the plume would damage world heritage values. Have you got anything more recent on that?

**Mr Wardrop**—It might be helpful if Dr Nicholls from the World Heritage Unit, who has just been over looking at that area, could comment.

**Mr Nicholls**—There is monitoring going on of the turbidity levels there. Between the Commonwealth and the state, there have been limits set on what is and is not acceptable as far as damaging the world heritage area is concerned. This levee is 400 metres outside the world heritage area and it is being monitored on a daily basis. Our reports are that the turbidity levels have not reached the levels that would be considered necessary to intervene. The conditions are there to be able to stop the operation if they do exceed those limits.

**Senator MARGETTS**—Part 7.5 of the agreement between the state of Western Australia and the Commonwealth of Australia on administrative arrangements states:

Western Australia will, in discharging its primary management responsibility under this agreement, ensure that actions which are inconsistent with the protection, conservation and presentation of the property's outstanding universal values are not permitted.

I would have thought four kilometres of dirt and two tonnes of material daily being washed into a world heritage area would, if nothing else, affect the presentation of a world heritage property, wouldn't you?

**Mr Nicholls**—I was there probably about four weeks ago with the scientific committee that has been set up between the two governments and with the scientists who are going to be involved in advising on this sort of thing. They said the conditions that they observed 100 metres away from the levee bank—with all the things that you are saying happening—were no different from what they would expect without the levee bank being there.

**Senator MARGETTS**—Have you overflowed the area?

**Mr Nicholls**—No.

**Senator MARGETTS**—Where would I send photographs of four kilometres of plume? Is there an office I could send it to where it might be reasonable for a person to respond and suggest that there might actually be visible damage, if nothing else, being done? We are not talking about 100 metres, we are talking about four kilometres here.

**Senator Hill**—The scientific advisory committee has been looking at the issue, has it?

**Mr Nicholls**—Yes.

**Senator MARGETTS**—I would think that, at the very least, this would probably constitute pollution under the Western Australian Pollution Act.

**Mr Nicholls**—The Western Australian Department of Environmental Protection and the Western Australian Department of Conservation and Land Management, CALM, involved in monitoring the operation—they would be my first suggestion for your contact. If you wanted to send us a copy, I would be grateful.

**Senator MARGETTS**—The Western Australian Department of Conservation and Land Management did not actually do any studies on the values of the area before their lease was renewed last year. It is hard to believe that they would necessarily have their finger on the pulse in relation to the values of this area.

**Senator Hill**—There was an impact study on the building proposal, wasn't there? As I recall it, there were impact studies on both the construction works and what would be the consequences of the expanded area.

**Mr Nicholls**—That is what the WA EPA are monitoring.

**Senator MARGETTS**—I happen to know that they did not do a biological survey of the area. It is very hard to believe that the Commonwealth is satisfied that that is sufficient and that, under these circumstances, it will give you proper management of the area.

**Senator Hill**—As I recall it—this is now many months ago—but we did examine their report. I think you gave me advice on it, Mr Nicholls.

**Mr Nicholls**—Furthermore, I think the relevant WA minister, Mrs Cheryl Edwards, gave you an assurance that she was satisfied that there were no threats arising from this work and that that was consequent upon the advice contained in the EPA study.

**Senator Hill**—She is obviously receiving the same representations that you are getting, Senator, and I have had some direct representations myself. I know that she is actively involved and sensitive to the issue and, as I have said, we have had several discussions on it. But, basically, as a result of my inquiries and her inquiries, the concerns that have been expressed to date have not been found to be well-founded.

**Senator MARGETTS**—Fine. So if I were to provide photographic evidence to you that there are values—including the presentation values, let alone biological values—that are being damaged by that level of pollution, I could expect some difference from your current attitude that everything is just hunky dory?

**Senator Hill**—I do not think we said hunky dory, but another aspect that I can recall in relation to the presentational issue was the fact that the plume would be temperate—no long-term consequences of that type were expected because it was clearly a building—

**Senator MARGETTS**—Where would that amount of material—tonnes and tonnes and tonnes of material—go?

**Senator Hill**—What do you mean where would it go?

**Senator MARGETTS**—Exactly that. Tonnes of material are being washed out by the currents each day into the world heritage area—it is a loop, remember, not just open out directly to the sea. Tonnes and tonnes of material are being washed into the world heritage area daily. Where would that go?

**Senator Hill**—Yes, but the point is that it is not designed to be washed away; quite the contrary, it is designed to restrict the flow. It is not going to restrict the flow—

**Senator MARGETTS**—No, I am trying to tell you that they are trying to build a levee bank, and two to three metres of that levee bank is being washed away each day into the world heritage area as they are trying to build it.

**Senator Hill**—So they are unsuccessful in the building project, are they? That is the first time I have ever heard that.

**Senator MARGETTS**—That appears to be the case.

**Senator Hill**—If you have got more material, why don't you send it to us and I will have the officers pursue it.

**Senator MARGETTS**—I will definitely do that very, very soon. I also have some questions referring to concerns regarding the translocation of threatened species to the Shark Bay world heritage area, particularly mallee fowl, by the Western Australian Department of Conservation and Land Management, and this is partly funded by the Environment Australia project named Project Eden. CALM is required to prepare a translocation proposal or TP for the mallee fowl and any other species to be released in the Shark Bay world heritage area, and CALM's Animal Ethics Committee is required to approve each translocation proposal. It appears that the mallee fowl translocation proposal was approved by CALM on 20 November 1996 before the finalisation of the mallee fowl translocation proposal by the ethics committee and without any accurate information about the content of the project. Can I have a comment as to whether or not the Commonwealth believes that is a reasonable way for the Commonwealth to spend its money, on a translocation proposal?

**Senator Hill**—Well, I presume it is pursuant to the recovery plan. Dr Kay, can you comment?

**Dr Kay**—Yes, all of our funding for endangered species programs of that sort is contingent on it being a part of an approved recovery program. I am not aware of the particular considerations within the Western Australian government in terms of ethics committees. Part of our standard contract for any work on endangered species which involves experimentation or movement is that the particular proposal be considered by an appropriately constituted ethics committee.

**Senator MARGETTS**—But in this particular case it appears that the mallee fowl translocation proposal did not receive formal approval by CALM's Animal Ethics Committee as it is required by law.

**Dr Kay**—I was unaware of that.

**Senator Hill**—When you say 'required by law', you are not saying that this was a process within the recovery plan; you are saying that this is a separate and distinct matter under Western Australian legislation.

**Senator MARGETTS**—I am saying this is something the Commonwealth is funding—

**Senator Hill**—As Dr Kay said, what we are supporting is the approved recovery plan. If you are saying to us that the money is not being spent in accordance with the approved recovery plan, then that is obviously something we should investigate. If you are saying to us that there are other aspects of animal ethics under Western Australian law that are not being adhered to, we could have a look at that as well but I am not sure that it is directly related to our decision to support the program.

**Senator MARGETTS**—I would like to think that you would want your programs to be lawful and actually useful. If I could give you some further details, it is clearly established that feral cats are the major risk to translocated animals in the arid zone, particularly mammals and ground-dwelling birds such as the mallee fowl. The translocation of 80 burrowing bettongs and golden bandicoots in the Gibson Desert Nature Reserve, which was funded partly by the Australian Nature Conservation Agency, failed because a small number of feral cats preyed on those threatened species. Here I believe there are still 20 per cent of feral cats in Francois Peron National Park and mallee fowl are due to be released.

**Senator Hill**—I do not think anyone suggests that all of cats have been eliminated—in fact, I have seen a feral cat within the park. This is the whole point: the issue is whether you can get recovery of these species in an environment where the feral predators have been substantially reduced. It is the only way in which you are going to get reintroduction on a large scale. Dr Kay, is that all correct? We should get authoritative answers to this.

**Dr Kay**—That is certainly the philosophy on which much of the reintroduction is based. Total elimination of predators across mainland Australia is not a practical proposition. So some experimental work on the degree to which predators have to be suppressed to maintain viable population of the threatened species is part of this program.

**Senator MARGETTS**—So in a way it is an experiment to see how long it takes these native species to be killed by predators?

**Senator Hill**—No, if they did not think it would be a successful reintroduction, they would not be doing it, because that would be counterproductive to their whole objective.

**Dr Kay**—Mallee fowl exist quite well throughout a large part of Australia where fox and cat are quite common. They are endangered because of the fox and cat, but a degree of suppression of that predation may well allow them to re-establish and extend.

**Senator MARGETTS**—Given that this is an area where it may well be possible to put a predator proof fence, would it not concern the Commonwealth that there is not a predator proof fence at present?

**Senator Hill**—There is a predator proof fence; the issue is getting rid of all the ferals from within the fenced area.

**Senator MARGETTS**—There is a predator proof fence in this release area?

**Senator Hill**—I am not sure what the release covers, sometimes they have more confined release areas within the larger part of it.

**Dr Kay**—The peninsula, that I think you are talking about, is isolated by a predator proof fence, but the task of eliminating the predators that were there before the fence was constructed has not been 100 per cent efficient. That leaves some predators still within the enclosure.

**Senator MARGETTS**—I believe that the site has access to the town of Denham, which does, of course, also contain a population of domestic and mostly unsterilised semi-feral cats.

**Senator Hill**—I think that the people of Denham are pretty sensitive to the area. They are very proud of what is being achieved there. But, certainly, there is a public road access to the area and there is considerable passage of people. The objective of this is to achieve re-establishment in an area that is not a zoo. It is in a larger area that has to withstand the pressures of urban contact.

**Senator MARGETTS**—We are talking about \$490,000 being given to a project where Environment Australia would be funding a proposal for the translocation of threatened species

in an area where those species probably do not stand a chance. Is that a wise way of spending Commonwealth money?

**Senator Hill**—That is quite false. If it was believed that they did not stand a chance, it would not be happening. The reports I have read of this project praise it. It has received high commendation. I guess you will always find someone who is critical but, within the whole concept of reintroduction of endangered species to large areas, this project is regarded as a leader. Isn't that so, Dr Kay? That is why the Commonwealth for some years has been supporting it.

**Dr Kay**—There are always judgments to be made in this, but neither the Western Australian government nor our department would have provided this sort of funding if we did not think that there was a reasonable chance of success with this operation.

**Senator MARGETTS**—Given that you obviously will have concern about wasting, or potentially wasting, half a million dollars of taxpayers' money and the lives of endangered species, will Environment Australia commission an urgent assessment now of the ethics of Project Eden by an independent ethics committee and refer the project to the Australian Science, Technology and Engineering Council as part of their current review of the ethics of research and management practices in world heritage and other environmentally sensitive areas?

**Senator Hill**—The whole endangered species program is being currently reviewed.

**Senator MARGETTS**—This is especially given that CALM did not refer this project to their ethics committee with the full information.

**Senator Hill**—I think we should take that on notice. We need to confirm the facts, as they have been put to you, for a start. We will then have to consider what is the consequence of that. You are returning to the former issue, are you, rather than the issue as to what is the likelihood of this proving to be a successful recovery plan?

**Senator MARGETTS**—Yes. I would like to think that Environment Australia would suspend the funding for this project until an independent scientific review of the project had taken place, given that there are concerns that the proper approval process did not take place.

**Senator Hill**—I think the best and most sensible thing would be for me to take that as a question on notice and give it proper consideration. What I was saying to you is that the issue of recovery plans under the Endangered Species Act is being currently reviewed by Dr Boardman but I think the issue you want us to dwell upon is a much more narrow issue.

**ACTING CHAIR**—Senator Lundy has some questions on this area.

**Senator MARGETTS**—Yes. I will just finish off this little section. I believe the chief investigator for the mallee fowl translocation project does not appear to have any specific skills or training in bird handling. I believe that is also a breach of the code of animal ethics committee guidelines. I believe that the mallee fowl translocation proposal contains several factual errors, one of which is that the mallee fowl nests contain 20 to 30 eggs; they usually contain 10. If they are taking 10 eggs from the nests, it will in fact stop the breeding process.

**Senator Hill**—I think the best course of action is for you to provide that material, which I will undertake to have examined by the officials, and we will respond to you.

**Senator MARGETTS**—Thank you.

**Senator LUNDY**—I now want to turn to Port Hinchinbrook. What is the size of the special lease at Port Hinchinbrook?

**Senator Hill**—What special lease?

**Senator BROWN**—For the tourist project.

**Senator LUNDY**—You are not aware of this special lease?

**Senator Hill**—I am not sure whether what you are talking about is the tourist project. Are you talking about the current issue over an adjoining lease that Mr Williams is seeking to develop, which has received some coverage and questions in the Senate?

**Senator LUNDY**—Yes.

**Senator Hill**—The issue is whether he can proceed with a building proposal on that land.

**Senator LUNDY**—I want to know if it extends into the marine park and, if so, by how many hectares.

**Senator Hill**—No. If we are talking about the same lease, it is well away from the marine park. It is actually inland.

**Mr Wardrop**—That is right. The marine park is the other side.

**Senator Hill**—There are issues relating to a number of leases going up the coast there.

**Senator LUNDY**—Does any of them extend into the marine park?

**Senator Hill**—I do not believe so.

**Senator LUNDY**—Does any of them go into the World Heritage area?

**Senator Hill**—I do not believe so.

**Senator LUNDY**—Do you support the current Queensland policy that excludes the public from the foreshore and beach areas?

**Senator Hill**—I come from a state where we do not have private beaches, I don't think.

**Senator LUNDY**—You are allowed to say that you do not support that policy.

**Senator Hill**—Is it commonplace to have private beaches in Queensland?

**Mr Wardrop**—It has been known to happen before, I understand. It is possible under Queensland law.

**Senator LUNDY**—That is not the question.

**Mr Wardrop**—I am afraid I do not know whether this is a short-term arrangement during the construction as Mr Williams is moving sand and other materials closer to beach.

**Senator Hill**—No, I do not like the concept of private beaches, personally. Certainly, having witnessed it in Europe and America and some other parts, I have always thought it was rather painful, actually.

**Mr Wardrop**—Disappointing.

**Senator Hill**—Disappointing. But we are not sure whether that relates to this particular situation. I think that is an issue that has not been raised before. There is always a new issue in relation to this matter. They are doing it well. It has been put to me that it would have been better if we had have had GBRMPA here to administer these values for us and the world heritage values there, but we will do our best.

**Senator LUNDY**—Are there any accurate plans or survey documents that you could provide to the committee with respect to this range of leases, or any new lease areas?

**Senator Hill**—We can provide the committee with the status of these relevant leases as we know them. There are a number of leases in which Mr Williams either has an interest or

aspires to have an interest to the south of the development program. They were not included in any of the approvals that we had given. On the lease that you are talking about, I think he sought to have the permissible use changed. I think he was successful in that, and that is the use that is given by the Queensland government. If he wants to actually develop it, that would require another approval process from the Queensland government.

**Senator LUNDY**—I have actually got a couple of questions about that more specifically. At the last estimates session, you said you were ignorant of any plan to convert the area south of Stoney Creek into a harbour or canal development. Have you got any more information about that particular proposal?

**Senator Hill**—We know what has been on the public record, and what GBRMPA has been able to find out. But he certainly would seem to be aspiring to some development south of the creek, south of the approved development.

**Senator LUNDY**—Have you endorsed any plan to change the access channel into a harbour or a canal or whatever?

**Senator Hill**—No. We have not endorsed any change, but certainly not any change that relates to any other building proposal that he might have south of the approved development.

**Senator LUNDY**—Right. Apparently it is 100 metres wide. I just want to confirm that you have not seen any plans or anything in that respect.

**Senator Hill**—I have not personally seen any plans from Mr Williams in relation to further development.

**Senator LUNDY**—Has the department received any applications or had any preliminary discussions with respect to such a proposal?

**Senator Hill**—That is what I would need to ask GBRMPA. What I can tell you is that there was certainly some engagement between the Queensland authorities and GBRMPA on the request of Mr Williams for rezoning, as I recall.

**Senator LUNDY**—Did you know when you signed the deed of agreement that Mr Williams had some ideas or some plans in that area south of Stoney Creek?

**Senator Hill**—We were in fact led to a contrary belief. I think if you go back into history, there were some suggestions that the development might continue on the other side—this is going back many years.

**Senator LUNDY**—Back in 1994.

**Senator Hill**—I think it was before then. Anyway, the proposition that he put to the Commonwealth that we addressed did not include any housing development south of the river. It was quite important because we did take into account the issue of numbers of prospective residents. The numbers that we took into account were those north of the river.

**Senator LUNDY**—My understanding is that that was in 1994, when Mr Williams sought to add a recreational lake to the resort but was refused permission by the Goss government unless he went through an EIS process. Were you aware of that?

**Senator Hill**—As I said, I can remember, simply through the documents referring to the long and tortuous history of this matter, that there were other development proposals south of the river. But there was no development proposal in any matter that was put before me.

**Senator LUNDY**—Do you think that the proposed scheme as now outlined by the developer would warrant a thorough review and EIS process?

**Senator Hill**—There are two stages. The first was the rezoning stage, which has passed. The second is the issue of a building development. That rule, as I understand, was subject to Queensland environmental assessment processes.

**Senator LUNDY**—Would plans to change the access channel to a harbour, or maybe some pontoons needing to be constructed, warrant an EIS review, in your view?

**Senator Hill**—On the face of it, I would say that, if there is such a plan to change the access channel, it would be in breach of the deed that Mr Williams has entered with us, and he would not be permitted to do so.

**Senator LUNDY**—There is the original development area of 25.4 hectares and this new special lease of 32.9 hectares over the foreshore.

**Senator Hill**—No, I do not think it is over the foreshore.

**Senator LUNDY**—That is according to the information I have.

**Senator Hill**—I do not think it is over the foreshore. There is another debate about some further foreshore land that we hear he is interested in acquiring, or at least in some way obtaining title to. We are interested in that matter, because obviously the foreshore land is more sensitive when it comes to the issue of the protection of adjoining values. Our only interest is the nearby world heritage values.

**Senator LUNDY**—Do you think that any expansion of the development should receive Commonwealth approval, given that it will inevitably impact on the area covered by the deed?

**Senator Hill**—The issue of Commonwealth approval or of what approvals would be necessary is a debate in itself. But I would be concerned if further development is approved by the Queensland government which adds to the indirect consequences to the World Heritage area. In other words, the issue of indirect consequence as a result of a rising population is a difficult one because there are a number of developments progressing in that area. In fact, the town of Cardwell might further develop itself. But if what Mr Williams has in mind was to in some way have an adjoining development which would significantly add to the public impact on adjacent world heritage values, then that would be something that would interest me.

**Senator LUNDY**—Have you been consulted about a waiver of the EIS south of Stoney Creek?

**Senator Hill**—When you say a waiver, the Queensland government decided not to require an EIS for the rezoning issue. I do not think that there has been any suggestion that—I do not know that they have even got the power to waive environmental assessment processes in relation to building proposals. In relation to the rezoning, I was told—this is from memory—that GBRMPA's advice or comment was sought on it—

**Senator LUNDY**—And what was their view?

**Senator Hill**—It was the view of GBRMPA that, whilst they have always favoured an EIS on the whole of the project, there not having been an EIS on the whole of the project, they were not of the view that a separate EIS for this particular lease would be necessary. My adviser says that is his recollection as well.

**Senator LUNDY**—So can you provide the committee with any documentation to that effect?

**Senator Hill**—Will I provide the committee with advices that I have received from GBRMPA? That is not my normal practice, no.

**Senator LUNDY**—It was worth a try. In terms of the actual detail, I might put the rest of those questions on notice and turn now to a couple of related issues, if I may.

**ACTING CHAIR**—That would be very helpful.

**Senator LUNDY**—Minister, have you been able to get yourself more comprehensively briefed about the situation of the mahogany glider south of Stoney Creek?

**Senator Hill**—I do not know about more comprehensively briefed, but if you ask the question I will have a go at answering.

**Senator LUNDY**—Can you provide the committee with information about the impact of the new leases on designated glider land?

**Senator Hill**—There are other leases that are within the mahogany glider recovery plans. There has, as you know, been an ongoing examination of the original plan, in particular whether it properly reflected the habitat of the mahogany glider, and there seems to have been a debate between the scientists particularly relating to glider habitat in coastal areas.

**Mr Wardrop**—And highland areas.

**Senator Hill**—I thought the highland areas were not so much in dispute, but, anyway, highland and lowland glider habitat.

Queensland had that review conducted and we have had their review examined, from memory. We believe that further work needs to be done. Queensland, however, I think, is of a mind to adjust the plan, but I have not yet seen details of what areas they are planning to change and this matter is ongoing.

**Senator LUNDY**—Have you read the critiques of the state government review by glider scientists Steve Van Dyke and Steve Jackson?

**Senator Hill**—I have read critiques. I cannot remember the names of the scientists.

**Mr Early**—The biodiversity group provided a critique to the minister which drew on various other critiques as well.

**Senator LUNDY**—There has been another excision of critical glider habitat by the Queensland government to allow an aquaculture project at Orient Creek on the coast east of Ingham. Were you consulted on the proposed excision at Orient Creek?

**Senator Hill**—I do not remember that one.

**Mr Early**—We are not aware that there have been excisions. Are you talking about excisions of the areas that are identified as habitat for the glider under the conservation plan because—?

**Senator LUNDY**—Yes, that is my understanding.

**Mr Early**—I think there might be some suggestions for, as the minister said, some variations but we are not aware that they have occurred yet because variations to the conservation plan require a public consultation period.

**Senator LUNDY**—I did say that it was the proposed excision at Orient Creek and I am asking you if you have been consulted on that proposal at this point in time.

**Mr Early**—We are not aware of the detail of any proposed excisions.

**Senator LUNDY**—Okay. You have not been consulted. But you are responsible for these endangered species so are you going to exercise your powers in this regard and stop further excisions of land?

**Senator Hill**—There have not been excisions.

**Senator LUNDY**—No, but there is a proposed one.

**Senator Hill**—We cannot quarrel about examinations that are to determine whether the plan was valid and they have been taking place. There is considerable current debate upon those various reports and you referred to some of that debate in your question. Although we know that Queensland has indicated that it wishes to excise parts that are demonstrated to not be habitat, they have not made any specific proposal to us in that regard as far as I now. Is that correct?

**Mr Early**—That is correct and not only that, the minister has written twice to the Queensland minister. Under the mahogany glider agreement, there is required to be a review and what the Commonwealth has suggested to Queensland is that any such changes should be done in the context of that review, so we are engaged in negotiations with Queensland about that. But as I said there are no formal proposals. I mean there might be suggestions around the place but there is no formal proposal at this stage.

**Senator Hill**—But we do think that at least one of the leases that Mr Williams is interested in is one of those leases that have been examined that is within the plan. It has been examined as to whether it is validly within the plan.

**Senator LUNDY**—Do you not feel like you are a bit of a goose? Obviously there is activity with respect to this excision and you have not been advised of it yet.

**Senator Hill**—As I said to you, there has been an ongoing debate to which we have been a party and the matter has not yet progressed to the next stage.

**Senator LUNDY**—From this perspective it looks like the Queensland government is putting one over you. When are you going to assert yourself and take control of the situation?

**Senator Hill**—You have missed the point I think, Senator.

**Senator LUNDY**—I do not think I have. You have not done anything.

**Senator Hill**—Excuse me, it has not been excised.

**Senator LUNDY**—But you have not been consulted yet about it either.

**Senator Hill**—It has not been excised.

**Senator LUNDY**—You had better ring the Queensland government and find out what is going on. I have just got a couple more questions that go to the wet tropics management plan to finish off. The Aboriginal peoples of north Queensland have forced the scrapping of the wet tropics world heritage management plan as I understand it. Why is that? I mean there are all sorts of issues there. Why has the Wet Tropics Authority Board not had a permanent executive director for about 18 months?

**Senator Hill**—The executive director was on sick leave for a considerable period of time, so there was an acting director. When the executive director ultimately resigned, processes commenced to find a replacement. It is an appointment, of course, by Queensland. In fact, I think it is a Queensland public service appointment. They are managing that process and it has not yet been finalised.

**Senator LUNDY**—Why have you not taken the opportunity to appoint any federal board members to that authority board?

**Senator Hill**—Until recently, there has not been a vacancy.

**Senator LUNDY**—Going back to my earlier point—sorry, no vacancies, did you just say?

**Senator Hill**—Until recently.

**Senator LUNDY**—How recently?

**Senator Hill**—There was a vacancy of the chairman but that was filled.

**Mr Wardrop**—Two members lapsed on 8 September, as I recall. My memory might not be exactly right.

**Senator LUNDY**—The federal appointees?

**Mr Wardrop**—That is correct.

**Senator LUNDY**—You have not reappointed anyone?

**Senator Hill**—Not yet but we are working on that.

**Senator LUNDY**—Are you going to?

**Senator Hill**—Yes.

**Senator LUNDY**—When?

**Senator Hill**—Soon.

**Senator LUNDY**—How soon?

**Senator Hill**—I hope very soon. We are working on it.

**Senator LUNDY**—Why did the wet tropics ministerial council take it upon themselves to amend the Wet Tropics World Heritage Management Plan's native title provisions without consultation with the Wet Tropics Management Authority, who as I understand it, worked for nearly six years in the preparation, consultation and development of the plan?

**Senator Hill**—I do not think that is a valid reflection of what has occurred. The council has been engaged in the issue of the plan throughout, certainly since this government has been in office. In fact, counsellors, and in particular myself, have undertaken a number of community consultations in relation to the plan.

It went through, as you know, a statutory period of public consultation. It has been varied and modified back and forth many times. The plan that was out of that, which was ultimately presented to the council was adopted by the council with a few variations, which the council believed were within its authority. The plan was then processed through the Queensland governmental processes.

Subsequently, litigation was commenced, in which the plan was attacked, arguing that the authority of the council had been exceeded and that the council should have referred its variations back to the authority before the plan as varied was adopted, or certainly before it was implemented under the Queensland law. That litigation has proved successful. Now the council will go through that extra step.

**Senator LUNDY**—Minister, are you aware that the amendments to that management plan effectively remove any provisions for establishing cooperative management with the traditional landowners in the world heritage area?

**Senator Hill**—Certainly not as I recall it.

**Senator LUNDY**—Is that the case though? It might not be as you recall it. Is that the situation?

**Senator Hill**—Well, as you describe it. From my perspective, that is definitely not so. Obviously, those who have made representations to you hold a different point of view.

Cooperative arrangements with the indigenous people in the area are a very important part of the—

**Senator LUNDY**—Have you had any independent advice on that issue?

**Senator Hill**—total management of the wet tropics and there is an Aboriginal advisory group that was established under the mechanisms. Sorry, have we had independent—

**Senator LUNDY**—Have you had any legal advice or independent advice on that issue? Have you requested it?

**Senator Hill**—There is constant legal advice. But on what you have just put to me?

**Senator LUNDY**—Yes.

**Senator Hill**—No, that is not a question of law, is it?

**Senator LUNDY**—Obviously, there is some controversy about the situation. I am asking you if you have sought advice about the status of those amendments and their effect.

**Senator Hill**—There has been lots of advice on that particular issue. It was quite a complex legal issue. But what you have put to me now is really your political assessment and not a question of law.

**Senator LUNDY**—Minister, I have one final question for you: are you prepared to rule out any amalgamation between GBRMPA and the Wet Tropics Management Authority?

**Senator Hill**—What I said last night was that I would think that that would be unlikely. I said that I am looking at the authorities from the point of view of determining whether they are the best models in terms of administrative performance and efficiency. One proposal that had been floating around was that a new cooperative model between the Commonwealth and Queensland to cover both world heritage areas would have advantages. The case that was developed for complementarity—

**Senator LUNDY**—So you would be prepared to hand over the reef to the Borbidge government?

**Senator Hill**—But I think I said last night that that would be very administratively difficult. In relation to your supplementary question, no, the Commonwealth is not going to abdicate any of its responsibilities in relation to the Great Barrier Reef.

**Senator LUNDY**—But are you prepared to rule out definitively an amalgamation between those two authorities?

**Senator Hill**—No.

**Senator LUNDY**—You are not prepared to rule that out?

**Senator Hill**—No. I said that I think that is unlikely for the reasons I set out last night. But I also said last night that, with the exception that I am not going to abdicate any Commonwealth responsibility, I did not want to start ruling out options.

**Senator BROWN**—Just following on from Senator Lundy's questions, are there any areas of potential sugarcane growing that have been taken out, or will be taken out, of the mahogany glider domain that you know of?

**Senator Hill**—As we said, there has not been any excise of property that is with the plan, I believe. Is that correct?

**Senator BROWN**—Thank you. I want to go to the Mount McCall Road. Will you give the committee the reasons for your decision to keep the road open?

**Senator Hill**—Sorry, I am just getting some further advice on that last matter. I just want to make sure there is nothing I should add. I think the answer is correct.

**Senator BROWN**—There has not been and there will not be, so far as you know.

**Senator Hill**—It would be a different issue if it could be demonstrated to our satisfaction that there were areas that were included that are not habitat. That has not been demonstrated and no areas have been excised.

**Senator BROWN**—With the Mount McCall Road, would you table your statement of reasons for your decision to keep it open?

**Senator Hill**—I understand that it is in the mail to you at your request. But in those circumstances, if you want it produced to this committee, I see no reason why it should not be.

**Senator BROWN**—Yes, I would like it produced. Would you also table your briefing paper for the world heritage ministerial council of last March, which as you know has been the subject of a freedom of information request?

**Senator Hill**—I will table it in the form in which you have received a copy.

**Senator BROWN**—No, I am asking about the unexpurgated version.

**Senator Hill**—I will not table that from which I deleted aspects on good advice.

**Senator BROWN**—Why not?

**Senator Hill**—Because of the advice.

**Senator BROWN**—No, I want your reasons.

**Senator Hill**—I think I told you the reasons in the letter, didn't I?

**Senator BROWN**—Can you give the committee the reasons?

**Senator Hill**—Part of it was because it included legal advice. This is public because it is what I put before the Senate:

Those exemptions were made if the matters were:

- . the subject of legal professional privilege (section 42 of the FOI act);
- . Commonwealth relations with a State (section 33A); or
- . internal working documents (section 36).

**Senator BROWN**—Is it true that the majority of the exclusions are under that final section?

**Senator Hill**—I do not know the answer to that.

**Senator BROWN**—Could you ask your adviser what the answer to that is.

**Senator Hill**—I think part of that was advice from Attorney-General's.

**Senator BROWN**—No, that was not the question I asked you.

**Dr Wardrop**—I signed the statement of reasons in relation to the FOI process which you sought in relation to the documents. There were three documents which fell within the scope of your request. Two of those documents, as the table of reasons set out, were related to professional privilege. The third document is a more complex one, the one which you received with fairly extensive deletions.

It is not easy to generalise. We have not actually gone through line by line and weighed up the proportion of reasons. In some cases they interact. There may be a situation where, for instance, it was an internal working document which was based on advice received in confidence from the Tasmanian government. It is difficult to give you a precise answer to that,

other than simply to say that those three sets of reasons in some cases applied more than once to a chunk of text and, in other cases, it may be only one reason. But we did carefully work through advice from the Attorney-General.

**Senator BROWN**—Let us go to the first exclusion on page 1. What was the reason for that?

**Mr Wardrop**—I would need to be directed by the minister, but it is quite a complex process to respond. I would have to have the original without the strike-out to be sure and I do not immediately have it to hand. Secondly, I believe under FOI that there is a process for seeking a review of the decision.

**Senator BROWN**—I have passed beyond FOI and we are now talking to the Senate. What are your reasons for not giving this committee that information?

**Senator Hill**—In accordance with the long established practice, and FOI guidelines have been used to establish that practice.

**Senator BROWN**—What practice, Minister?

**Senator Hill**—What I have just said to you.

**Senator BROWN**—No, you said the ‘long established practice, and FOI guidelines have been used to establish that practice’; to what purpose?

**Senator Hill**—As to what should be legitimately tabled and what need not.

**Senator BROWN**—So you say that the principles guiding FOI are the same as the principles guiding your denial of information to this committee?

**Senator Hill**—No. What I am saying is that that has been a guide that has been used by ministers and governments in the past when assessing what is appropriate pursuant to an order—even though it is not an order now, the same principle—to be put on the public record.

**Senator BROWN**—But ‘no’, you say, that is not the reason this time. What is the reason then?

**Senator Hill**—I said that is the reason.

**Senator BROWN**—I see, so you began with ‘no’. Usually, if you mean yes, you say yes. Are you saying that the reasons for denying FOI are the same as the reasons for denying this committee?

**Senator Hill**—Well, no, what I am saying is that, in the case of what is appropriate to be disclosed when requested, there have been a number of exceptions established. Those exceptions tend to run a very parallel course to the exceptions that are provided under the Freedom of Information Act and, as a result of which, governments have used the Freedom of Information criteria as a guide to what is appropriate to exclude.

**Senator BROWN**—Are there any other reasons for denying this committee the full range of information that has been denied under FOI?

**Senator Hill**—There are other criteria but—

**Senator BROWN**—No, I am talking about reasons in this case.

**Senator Hill**—In this case, the reasons are as stated in the response to the motion for 841.

**Senator BROWN**—Are they different from FOI?

**Senator Hill**—No, as I said, they are the same exclusions as are covered by the Freedom of Information Act as applied to this particular matter.

**Senator BROWN**—To this committee?

**Senator Hill**—Yes.

**Senator BROWN**—With that gutted document in mind, we come to the impacts of keeping the track open on page 4 and I want to talk about those. Could you tell me how, in the provisions for that road continuing, you will be mitigating the impact of fire on the central Franklin wilderness basin and adjacent world heritage areas?

**Senator Hill**—I do not quite understand the question. There is access to the region in a number of different ways. We obviously rely on the responsible behaviour of people. If you are suggesting that for the track to remain open and therefore to provide continued access it increases fire risk, I guess that any access—

**Senator BROWN**—Do you disagree with that?

**Senator Hill**—I was just going to say to you that any access has some fire risk attached to it. Fires are not just caused as a result of human activity but statistically some are—

**Senator BROWN**—Ninety nine per cent in Tasmania since 1934, according to Forestry Tasmania.

**Senator Hill**—Those who use the track will, of course, have to obtain a permit to do so. The track will be closed to everybody with the exception of those who have a permit. We would expect them to behave responsibly and would have no reason to believe otherwise.

**Senator BROWN**—And where you have expected people to behave responsibly before, they have?

**Senator Hill**—I think, by and large people, behave responsibly. People who—

**Senator BROWN**—Without exception? I do not really want a general opinion on your view of human nature, Minister, I really want some specifics in this matter. You have made the decision. I would like some specific detail as to how you are going to mitigate the threat of fire, which would have been quite largely obviated if the track had been closed.

**Senator Hill**—Nothing has changed. There is no increased fire risk as a result of this decision. But—

**Senator BROWN**—What the senator does not understand here, because I will tell you what has changed—

**Senator Hill**—Mr Chairman, am I going to be allowed to answer the questions or not?

**ACTING CHAIR**—You must let the minister answer the question.

**Senator Hill**—I think the permit system gives the public reasonable confidence in this regard.

**Senator BROWN**—Let me say, Mr Chairman, when the minister said that nothing will change in the future through his action, he is wrong because the road was to be closed under the management plan. It is open because of his decision. Therefore, it is changed circumstances and more dangerous circumstances. It is for him to shrug that off. I guess the same will apply to other impacts, but I will ask you about them anyway. What are you going to do to mitigate—

**Senator Hill**—In response to that—

**Senator BROWN**—Let me finish, Minister, if you do not mind. Apply your own standards as far as this committee is concerned.

**Senator Hill**—You are now going on to another question.

**Senator BROWN**—My question to you is—

**ACTING CHAIR**—The minister wants to finish—

**Senator BROWN**—I want to finish my question.

**Senator Hill**—No, you engaged in a debate.

**Senator BROWN**—The question I am putting to you is—

**Senator Hill**—Mr Chairman, if he wants to engage in a debate—

**Senator BROWN**—And you wait.

**Senator Hill**—No.

**Senator BROWN**—Yes, you do.

**Senator Hill**—If he wants to engage in a debate, then both sides should be entitled to participate in the debate. It would be better if he restricted himself to asking the questions and I will answer them.

**Senator BROWN**—I will rely on your ruling, Mr Chairman.

**ACTING CHAIR**—I think the minister is right. This is a process of answering questions, not asking and answering, and not engaging in debate across the table. I would ask you to confine yourself to asking questions.

**Senator BROWN**—That requires the putting of information across the table as well. I will continue to have my right to do that, and I continue to have my right not to be interrupted by his rudeness. Minister, I was going to ask you about these introductions. How are you going to mitigate those?

**Senator Hill**—As you know, we have a permit system. The road is closed other than through the permit. We are planning washdown facilities as well. We give guidance to those who use the road as to the conduct that is necessary to ensure that there is no inadvertent introduction of anything that we would not wish for. Beyond that, we rely on the responsible behaviour of people.

**Senator BROWN**—What are the washdown facilities?

**Senator Hill**—Our agreement, as I recall it, provided for a hosedown facility. Is that right?

**Mr King**—The design of washdown facilities is still being developed by the Tasmanian government. We do not have a design that has been put towards us at this stage. The responsibility of developing that is still in hand by Tasmania.

**Senator BROWN**—So the ability to implement mitigation through washdown is not yet known, because you do not know what that facility is going to be able to achieve.

**Senator Hill**—Part of the ministerial decision was that there would be surgical washdown facilities provided, and that will be implemented.

**Senator BROWN**—What would be a suitable washdown facility? Could you give an example?

**Senator Hill**—We rely on expert advice.

**Senator BROWN**—Let us have it.

**Senator Hill**—I am not an expert.

**Senator BROWN**—That is true, and I am sure you have convinced the committee of that. What about the prevention of ongoing erosion?

**Senator Hill**—Do you want expert advice on that?

**Senator BROWN**—How will that be mitigated?

**ACTING CHAIR**—Do you want that question to be taken on notice?

**Senator BROWN**—We have passed it now because I asked for it and he could not give it.

**ACTING CHAIR**—The minister did offer the advice. Would you like it on notice?

**Senator BROWN**—Thank you. What is the answer to that question?

**Senator Hill**—Expert advice?

**Senator BROWN**—No. What has been done to mitigate ongoing erosion?

**Senator Hill**—I must say that I saw evidence of remedial work rather than erosion. Obviously the road, having been built, creates a circumstance of erosion, but there was remedial work being done on the banks to the road which, as I recall, the ministerial council said should continue. That should be something that you would applaud, Senator.

**Senator BROWN**—Let us not get into a debate. You ruled that out, Minister.

**ACTING CHAIR**—We did rule it out. It is a question and answer process.

**Senator BROWN**—Abide by your own rules, if you do not mind, Minister. Under the existing management plan, the road should have been closed in September. What work has been done since then, now that the plan has been reversed, to remedy the persisting environmental concerns of the road?

**Senator Hill**—As I said a moment ago, the remediation work in terms of revegetating the verges and so forth was already occurring. As I recall, the decision of the ministerial council was that that should continue. Are you able to give any further details to that process?

**Mr Wardrop**—Yes. We have talked to the Tasmania parks service about this issue. They are doing the necessary planning work, which covers things such as washdown facilities and attempts to reduce the extent to which the road has a visual impact by considering road treatments to diminish the whiteness of it at certain points. As to the erosion of the surface, we have some quite deep gouging on the surface at certain points where it comes down steeper slopes.

**Senator BROWN**—Has anything been done since September?

**Mr Wardrop**—I cannot answer that question. We have certainly talked to the Tasmanian parks service. There has been a significant commitment of effort put into this, which was recognised in the decision of the ministerial council—

**Senator BROWN**—But nothing has been done so far as you know yet?

**Mr Wardrop**—I cannot answer that.

**Senator Hill**—If you want to know whether any works have been done since September and, if so, what works, we can find that out for you and let you know.

**Senator BROWN**—Thank you. What sort of ranger presence will there be in the region on a day-to-day basis?

**Senator Hill**—I do not have the details of the ranger presence. Do you know that?

**Mr Wardrop**—There is not a ranger present at present. The arrangement is that people who want to visit that area have to get the key and the permit arrangements from Queenstown. That is my understanding. As to the implications of carrying through this work, of having the washdown facility, of deciding whether there is any call for supervision and where it will be

located, that would interact with the consideration of whether you would require somebody present. As to whether you would have someone there permanently or whether you would go out with a big party to the gate, we understand that is part of the planning that is being considered by the Tasmanian parks service. We are looking to receive a report on that.

**Senator BROWN**—Those measures will obviously have a cost. Have you got an assessment of what the cost will be?

**Senator Hill**—There were some assessments of costs, I recall. It was quite a number of months ago. The final determination of costs is obviously dependant on exactly what processes were adopted to implement the ministerial decision.

**Senator BROWN**—Can you provide the committee with those assessments of costs that you had in hand?

**Senator Hill**—Yes.

**Senator BROWN**—Thank you.

**Senator Hill**—I think they were very general.

**Senator BROWN**—We will take that into account.

**Senator Hill**—I will see what we can find.

**Senator BROWN**—When you assessed the costs of keeping the road open, what analyses did you have besides that of the Tasmanian National Parks and Wildlife Service?

**Senator Hill**—On the issues as a whole?

**Senator BROWN**—On the costs and benefits of keeping the road open or having it closed.

**Senator Hill**—In terms of financial cost, I do not think we had estimates other than from the Tasmanian government.

**Senator BROWN**—What was their estimate?

**Senator Hill**—That is what I am going to seek for you.

**Senator BROWN**—I understand that there was a cost of \$81,000 for not closing the road. I presume that is an annual cost. Is that the correct figure?

**Senator Hill**—I do not recall the figures, but I said that I would—

**Senator BROWN**—Has any of your advisers got an accurate figure?

**Senator Hill**—A figure may not tell the whole story. I would prefer to refresh my memory as to the detail of the advice that was given by the Tasmanian government at the time.

**Senator BROWN**—Was there no broader economic assessment done than that provided by the Tasmanian National Parks and Wildlife Service?

**Senator Hill**—In a way there was a broader assessment done. There was consideration of issues of tourism and the like, but it was broad brush because there was no way in which you could determine fine detail.

**Senator BROWN**—On page 2 of the March document, it says that one of the major rafting companies on the Franklin, World Expeditions, made a decision to stop using the track once the world heritage area management plan was gazetted in 1992. Is that a responsible thing for them to have done?

**Senator Hill**—I am not sure exactly in what way you are saying ‘responsible’. That was a valid option for them to take.

**Senator BROWN**—What about the option taken by other rafting companies to keep going, although the plan made it clear that the road would close in 1997?

**Senator Hill**—Again, I would say that that was their choice.

**Senator BROWN**—Do you know whether there has been any impact and, if so, an assessment of that impact on the business of World Expeditions because it chose to do the responsible thing and forbear using that track for reasons that were or have been stated to you?

**Senator Hill**—I know that those who use the longer rafting experience would prefer there not to be the shorter rafting experience.

**Senator BROWN**—Was an assessment done of the impact of the shorter rafting experience coming in on the middle of the longer rafting experience?

**Senator Hill**—I can recall claims of detrimental economic consequences as a result of that, I think, from World Expeditions and perhaps from some others—certainly from World Expeditions. But I do not recall seeing an economic assessment other than their representation.

**Senator BROWN**—Did you ask for one?

**Senator Hill**—No.

**Senator BROWN**—Why not?

**Senator Hill**—Because I do not really see that as being relevant. I see that as being an issue between two competitive tourism ventures—one providing a longer rafting experience, and another providing the shorter experience. I can remember some sort of advice being around of the particular type of tourist that prefers the shorter experience to the longer, but it was very general.

**Senator BROWN**—Was it your belief that it was an economic benefit to keep the road open?

**Senator Hill**—Yes, it is my view. My view is that it provides a tourist facility that would not otherwise be there.

**Senator BROWN**—Do you have economic advice that shows that that benefit was there?

**Senator Hill**—It certainly appeared in the advices that there was a market for the shorter rafting experience. And, if the road were closed, that opportunity would be lost.

**Senator BROWN**—Did the figures of the Tasmanian National Parks and Wildlife Service take into account that economic consideration?

**Senator Hill**—As I recall it, not so much, because that was an issue between the commercial operations. The Tasmanian authority was rather looking at the issue of cost to the authority of proper maintenance and supervision of the road.

**Senator BROWN**—Minister, would you provide the advice that you received from various departments within your aegis—the Australian Heritage Commission, the world heritage group, the environment protection group, and any others—that contributed towards your making this decision?

**Senator Hill**—The advices that I will provide are what I have already put on the public record.

**Senator BROWN**—Does that fully encompass the advice you got from those groups?

**Senator Hill**—No, it does not fully encompass the advice that I got from my department.

**Senator BROWN**—Why not?

**Senator Hill**—Because some of it was subject to legal professional privilege; some of it dealt with potential Commonwealth relations with a state where disclosure might be detrimental to those relations; and some of it was best described as ‘internal working documents’ that normally are not put on the public record for good reason—that confidence is necessary for good governmental practice.

**Senator BROWN**—There is information from the department, and what you have just told me is that information is not provided under FOI. Are there internal working documents—now that you have made the decision—for which you have some reason for denying access to this committee?

**Senator Hill**—I do not normally provide internal working documents. I think they have always been regarded as the business of government. On the other hand, I will be as helpful as possible. I am not sure what you are referring to.

**Senator BROWN**—Would you make an exception in this situation and provide those internal working documents to the committee?

**Senator Hill**—What are you asking for?

**Senator BROWN**—The files on this—

**Senator Hill**—No, I am not going to get the files.

**Senator BROWN**—excluding whatever legal advice you might have there.

**Senator Hill**—Senator, with respect, it might be more helpful if you come clean and tell me which ones you want. Then I could give it some further consideration.

**Senator BROWN**—That is the usual refuge of the scoundrel when it comes to FOI. You say, ‘What documents do you want?’ when you know that the person does not know exactly what the documents are entitled.

**Senator Hill**—Alternatively, what you are saying is that a fishing expedition is legitimate.

**Senator BROWN**—No, I am just saying, ‘be open and provide documentation’. I will give you one specific. Did you have any advice from your advisers or departments that the road should be closed, according to the original management plan?

**Senator Hill**—I think that my department would have preferred to have seen the road kept closed.

**Senator BROWN**—What were their reasons for that?

**Senator Hill**—I cannot recall the detail, but I think they would have related to the sort of reasons for which the original plan provided for it to be closed.

**Senator BROWN**—Like fire and exotic species?

**Senator Hill**—I am not sure.

**Senator BROWN**—Wilderness—

**Senator Hill**—I do not think there was great weight on that. I think it was more issues such as wilderness integrity and that type of thing.

**Senator BROWN**—Would you be prepared to provide just that piece of key advice?

**Senator Hill**—No, I am not providing any more than what I have provided. But I hope that I have been helpful.

**Senator BROWN**—At what stage are the world heritage nomination proposals in relation to Heard and Macquarie Islands?

**Senator Hill**—In relation to Heard and McDonald Islands, that is progressing well and without hiccup. We hope it will be approved next month. The Macquarie one has been more difficult because of a view expressed by the assessor that perhaps its geological values were not sufficient. That is inconsistent with my advice and, in this instance, the advice of my department as well.

We have made further representations to the World Heritage Bureau to allow this. We have made further representations and produced supporting evidence from learned geophysicists and geomorphologists to substantiate our case, and we hope to have the opportunity to argue it further.

**Senator BROWN**—Have you had any communication with New Zealand on the matter?

**Senator Hill**—From time to time. We originally tried to persuade New Zealand to be a party to a joint nomination; they declined. Then, after we had nominated, they came back and invited us to be party to a joint nomination. We said that we believed on good advice that we had a substantial case with the merits of the application that we had made and would continue with that application.

**Senator BROWN**—So you knocked New Zealand back the second time around?

**Senator Hill**—I said that we were not going to withdraw our nomination and start the process again in a joint way, partly because we would lose the time, partly because we gave them the opportunity to join—we requested them to join.

**ACTING CHAIR**—Senator Brown, we have reached our scheduled adjournment time.

**Senator Hill**—Anyway, I am very much looking forward to both being listed. But Macquarie is proving a bit more difficult than the other one.

**ACTING CHAIR**—Did you have any other questions to put on notice?

**Senator BROWN**—Yes, I will submit some further questions, if I may.

**ACTING CHAIR**—That completes the examination of the environment portfolio. I thank the ministers and officers of the department. I remind senators that questions on notice will be accepted up until the close of business on Monday, 17 November. This committee is adjourned until 8:00 p.m. on Tuesday, 18 November, when it will continue the examination of the Communications portfolio.

**Committee adjourned at 4.31 p.m.**