



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

Estimates

(Public)

WEDNESDAY, 14 FEBRUARY 2024

CANBERRA

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ECONOMICS LEGISLATION COMMITTEE

Wednesday, 14 February 2024

Members in attendance: Senators Bragg, Canavan, Colbeck, Gallagher, Henderson, Hume, McDonald, McKenzie, McKim, O'Neill, Barbara Pocock, Rennick, Roberts, Shoebridge, Dean Smith and Walsh

TREASURY PORTFOLIO

In Attendance

Senator Gallagher, Minister for the Public Service, Minister for Finance, Minister for Women

Department of the Treasury

Dr Steven Kennedy, Secretary

Macroeconomic Group

Mr Luke Yeaman, Deputy Secretary

Dr Adam Cagliarini, First Assistant Secretary, Macroeconomic Conditions Division

Dr Shane Johnson, First Assistant Secretary, Macroeconomic Analysis and Policy Division

Dr Alex Heath, First Assistant Secretary, Climate and Energy Division

Ms Ineke Redmond, Assistant Secretary, Macroeconomy Branch

Mr Patrick D'Arcy, Assistant Secretary, Domestic Demand, International and Trade Branch

Ms Eleanor Williams, Assistant Secretary, Australian Centre for Evaluation

Ms Rebecca Cassells, Assistant Secretary, Climate and Industry Modelling Branch

Mr Matthew Maloney, Assistant Secretary, Climate and Energy Policy Branch

Ms Rebecca McCallum, Acting Assistant Secretary, Sustainable Finance Branch

International and Foreign Investment Group

Ms Roxanne Kelley, Deputy Secretary

Mr Chris Tinning, First Assistant Secretary, Foreign Investment Division

Ms Isobel Sloan, Assistant Secretary, Frameworks Branch

Ms Katrina Di Marco, First Assistant Secretary, International Economics and Security Division

Ms Steph Gorecki Natik, Assistant Secretary, Geoeconomics Branch

Mr Paul Cotterill, Assistant Secretary, International Engagement Branch

Mr Hector Thompson, Deputy Commissioner, International, Support and Programs, Australian Taxation Office

Markets Group

Mr Brenton Philp, Deputy Secretary

Ms Nghi Luu, Acting First Assistant Secretary, Financial System Division

Mr Robb Preston, Assistant Secretary, Banking, Credit and Insurance Branch

Mr Tim Baird, Assistant Secretary, Payments System and Financial Innovation Branch

Ms Khanh Hoang, Assistant Secretary, Regulators and Capital Markets Branch

Mr James Kelly, First Assistant Secretary, Market Conduct and Digital Division

Mr Tom Dickson, Assistant Secretary, Corporations Branch

Mr Tony McDonald, Assistant Secretary, Registry Data and Digital Branch

Mr Jason McDonald, First Assistant Secretary, Competition Taskforce Division

Mr Marcus Bezzi, Chief Adviser, Competition Taskforce Division

Mr Owen Freestone, Assistant Secretary, Competition Taskforce Division

Ms Joanna Abhayaratna, Assistant Secretary, Competition Taskforce Division

Ms Lynn Kelly, First Assistant Secretary, Retirement, Advice and Investment Division

Dr Andre Moore, Assistant Secretary, Advice and Investment Branch

Mr Luke Spear, Assistant Secretary, Member Outcomes and Governance Branch

Mr Adam Hawkins, Assistant Secretary, Tax and Transfers Branch

Fiscal Group

Ms Sam Reinhardt, Deputy Secretary

Ms Philippa Brown, First Assistant Secretary, Budget Policy Division

Ms Neena Pai, Assistant Secretary, Budget Policy Division

Mr Oliver Richards, Assistant Secretary, Budget Policy Division

Ms Nat Horvat, First Assistant Secretary, Commonwealth-State and Population Division

Mr Nick Latimer, Assistant Secretary, Commonwealth-State and Population Division

Mr Matthew Burston, Acting Assistant Secretary, Commonwealth-State Relations Branch

Mr Ray Harris, Former Director, Migration Modelling and Analysis Unit

Ms Mohita Zaheed, First Assistant Secretary, Labour Market, Environment, Industry and Infrastructure Division

Mr Brendan McKenna, Assistant Secretary, Labour Market, Environment, Industry and Infrastructure Division

Mr Damian Mullaly, Assistant Secretary, Labour Market, Environment, Industry and Infrastructure Division

Ms Anthea Long, First Assistant Secretary, Social Policy Division

Ms Marg Thomas, Assistant Secretary, Social Policy Division

Ms Kristen Baker, Assistant Secretary, Social Policy Division

Small Business, Housing, Corporate and Law Group

Ms Victoria Anderson, Deputy Secretary

Mr Anthony Seebach, First Assistant Secretary, Small and Family Business Division

Ms Mary Jeffries, Assistant Secretary, Small and Family Business Division

Ms Kerren Crosthwaite, First Assistant Secretary, Housing Division

Mr Christian Vallence, Assistant Secretary, Housing Division

Mr Nicholas Dowie, Assistant Secretary, Housing Division

Dr Angela Barrett, Chief Operating Officer, Corporate Division

Ms Tarnya Gersbach, Chief Finance Officer, Corporate Division

Ms Erin Wells, First Assistant Secretary, Law Division

Mr Christopher Leggett, Assistant Secretary, Law Division

Revenue Group

Ms Diane Brown, Deputy Secretary

Mr Damien White, First Assistant Secretary, Tax Analysis Division

Ms Laura Berger-Thomson, First Assistant Secretary, Personal and Indirect Tax and Charities Division

Mr Marty Robinson, First Assistant Secretary, Corporate and International Tax Division

Ms Susan Bultitude, Assistant Secretary, Corporate and International Tax Division

Mr Yi Yong Cai, Assistant Secretary, Tax Analysis Division

Mr Darren Kennedy, Assistant Secretary, Tax Analysis Division

Ms Louise Rawlings, Assistant Secretary, Tax Analysis Division

Ms Emma Baudinette, Assistant Secretary, Personal and Indirect Tax and Charities Division

Mr Richard Maher, Assistant Secretary, Personal and Indirect Tax and Charities Division

Mr Bede Fraser, Assistant Secretary, Personal and Indirect Tax and Charities Division

Portfolio Agencies

Australian Taxation Office, including Australian Business Registry Services

Mr Chris Jordan AO, Commissioner of Taxation

Ms Jacqui Curtis, Chief Operating Officer, Enterprise Strategy and Corporate Operations

Mr Jeremy Hirschhorn, Second Commissioner, Client Engagement Group

Ms Kirsten Fish, Second Commissioner, Law Design and Practice

Mr Ramez Katf, Chief Information Officer, Enterprise Solutions and Technology

Mr David Allen, Acting Chief Service Delivery Officer Service Delivery

Ms Janine Bristow, Chief Finance Officer, ATO Finance

Mr Bradley Chapman, Deputy Commissioner, Enterprise Strategy and Design

Mr Hector Thompson, Deputy Commissioner, International, Support and Programs

Ms Clare Gunning, Deputy Commissioner, ATO Corporate
Ms Emma Rosenzweig, Deputy Commissioner, Superannuation and Employer Obligations
Mr Nicholas Shizas, Assistant Commissioner, ATO General Counsel
Ms Rebecca Saint, Deputy Commissioner, Client Experience (PG CE)
Ms Alison Stott, Deputy Commissioner, ATO People—Workplace Relations and Strategy
Mr Matthew Hay, Deputy Commissioner, Strategy and Architecture
Ms Louise Clarke, Deputy Commissioner, Private Wealth

Tax Practitioners Board

Mr Michael O'Neill, Chief Executive Officer and Secretary
Ms Janette Luu, Assistant Secretary

Australian Charities and Not-for-Profits Commission

Ms Sue Woodward AM, Commissioner
Ms Anne Smyth, Assistant Commissioner General Counsel
Ms Sallyann Stonier, Assistant Commissioner

Australian Prudential Regulation Authority

Mr John Lonsdale, Chair
Ms Margaret Cole, Deputy Chair
Ms Therese McCarthy Hockey, Executive Board Member
Ms Suzanne Smith, Executive Board Member
Ms Carmen Beverley-Smith, Executive Director, Superannuation Division
Ms Lucinda McCann, General Counsel

Australian Competition and Consumer Commission

Ms Gina Cass-Gottlieb, Chair
Mr Scott Gregson, Chief Executive Officer
Ms Tracey Walker, Acting Chief Financial Officer
Mr Tom Leuner, Executive General Manager, Mergers, Exemptions and Digital [by video link]
Mr Rami Greiss, Executive General Manager, Consumer and Fair Trading
Ms Sarah Proudfoot, Executive General Manager, Infrastructure Regulation
Mr Richard Fleming, General Manager—Competition Division
Ms Kathie Standen, Executive General Manager—Consumer Data Right Division
Ms Heidi Snell, Acting Executive General Manager National Anti-Scam Centre
Mr Richard Home, Executive General Manager, Digital Transformation and Chief Risk Officer

Housing Australia

Mr Nathan Dal Bon, Chief Executive Officer
Mr Stuart Neilson, Chief Financial Officer and Chief Operating Officer
Ms Robyn Briese, General Counsel—Government
Ms Lisa Marigliano, Major Programs Director

Australian Reinsurance Pool Corporation

Dr Christopher Wallace, Chief Executive
Mr Jason Flanagan, Chief Claims Officer
Ms Samantha Lawrence, Chief Governance Officer

Productivity Commission

Ms Danielle Wood, Chair
Prof Alexander Robson, Deputy Chair
Dr Lisa Studdert, Head of Office

Ms Rosalyn Bell, First Assistant Commission

Ms Natalie Siegel-Brown, Commissioner

Australian Bureau of Statistics

Dr David Gruen AO, Australian Statistician

Ms Jenet Connell, Deputy Australian Statistician

Ms Teresa Dickinson, Deputy Australian Statistician

Mr Brenton Goldsworthy, Deputy Australian Statistician

Mr Duncan Young, General Manager, Census and Population

Australian Accounting Standards Board and Auditing and Assurance Standards Board

Dr Keith Kendall, Chair and Chief Executive Officer, Office of the Australian Accounting Standards Board

Mr Doug Niven, Chair and Chief Executive Officer, Office of the Auditing and Assurance Standards Board

Mr Justin Williams, AASB-AUASB Managing Director

Australian Securities and Investments Commission

Mr Joseph Longo, Chair

Ms Sarah Court, Deputy Chair

Ms Kate O'Rourke, Commissioner

Mr Alan Kirkland, Commissioner

Ms Simone Constant, Commissioner

Mr Warren Day, Chief Executive Officer

Mr Chris Savundra, Executive Director and General Counsel, Legal Services

Mr Greg Yanco, Executive Director, Regulation and Supervision

Committee met at 09:01

CHAIR (Senator Walsh): I declare open this hearing of the Senate Economics Legislation Committee into the 2023-24 additional budget estimates. I begin by acknowledging the traditional custodians of the land on which we meet today and paying my respects to their elders past and present. I extend that respect to Aboriginal and Torres Strait Islander people here today.

The committee has set 23 February 2024 as the date by which senators should submit written questions on notice and 5 April 2024 as the date for the return of answers to questions taken on notice. The committee's proceedings today will begin with the Department of the Treasury's Macroeconomic Group and International and Foreign Investment Group.

Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee. Such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence.

The Senate has endorsed the following test of relevance of questions at estimates hearings. Any questions going to the operations or financial positions of the departments and agencies which are seeking funds in estimates are relevant questions for the purpose of estimates hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has the discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise.

The Senate has resolved also that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

Witnesses are reminded of the Senate order specifying the process by which a claim of public interest immunity should be raised. I incorporate the public immunity statement into *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

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

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

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

(1) If:

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

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

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

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

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

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

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

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

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

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

CHAIR: I remind all senators that, as we continue our work in implementing the *Set the standard* report, as Chair I will ensure that proceedings are conducted in an orderly, respectful and courteous way.

The committee has agreed to authorise all media outlets to record the proceedings of the public hearings, subject to the broadcasting resolutions in the standing orders and the following conditions. Media entry is subject to not exceeding the maximum capacity of the room, and social distancing will be observed. The committee or a witness may object to being recorded at any time, and the committee may require that recording cease at any time. Recording must not occur from behind the committee or between the committee and witnesses and must not otherwise interfere in the proceedings. Computer screens and documents belonging to senators, members and witnesses must not be recorded. Flashes must not be used, and the directions of the committee secretariat must be followed at all times.

Department of the Treasury

[09:05]

CHAIR: I now welcome Senator the Hon. Katy Gallagher, Minister for Finance. Good morning, Minister.

Senator Gallagher: Good morning.

CHAIR: I welcome Dr Steven Kennedy. Dr Kennedy, we look forward to your opening statement. Welcome to the proceedings today.

Dr Kennedy: Thank you, Chair. It's good to be with the committee again. I thank you for the opportunity to make an opening statement. Having peaked in mid to late 2022, global inflation continues to ease. Goods and energy price pressures have generally fallen, which is flowing through to headline inflation rates in many countries. However, the speed at which global inflation is moderating has slowed. This is not unexpected. The echoes of the supply side shocks are becoming smaller, and economies are transitioning back towards services leading inflation. The cycle in the price of services tends to lag that in goods and be more persistent, rising more slowly and falling more slowly. We can see this in a number of countries, with core services inflation now being the largest contributor to headline inflation.

The moderation in inflation across advanced economies has led financial markets to bring forward their expectations of policy interest rate cuts. In the United States, prospects for a soft landing have improved, and current market pricing indicates that the Federal Reserve will begin reducing the federal funds rate in the June quarter, with around one percentage points of cuts, fully priced in, by the end of 2024. Central banks, including the Fed, have shifted to more neutral policy guidance but have emphasised that more evidence is needed to be confident that inflation is heading back to targets sustainably before easing monetary policy.

The median projection among Fed officials as of December 2023 implied cumulative interest rate cuts, by the end of 2024, of around 75 basis points. The lagged effect of sharp monetary tightening seen over the past two years, coupled with ongoing weakness in China's economy, are expected to weigh on global growth in 2024. We expect global growth over 2023, '24 and '25 to be the weakest three years in three decades outside of the global financial crisis and pandemic.

While the extreme volatility of the early 2020s has abated, recent events have highlighted that conditions are ever-changing. The disruption to shipping in the Red Sea has impacted global trade flows, increasing the cost and shipping times for seaborne freight between Europe and Asia. This could temporarily impact some domestic supply chains, including for passenger motor vehicles. While global oil prices have fallen over recent months, they remain volatile.

This summer has reminded us that natural disasters are an ever-present risk in Australia, with cyclones, severe storms, floods and bushfires impacting communities over December and January. These events have had particularly acute impacts on communities in Queensland, New South Wales and Victoria at times when regions reliant on tourism and agriculture are in their peak seasons. Many Australians will experience these natural disasters as an increase in the price of fresh produce. For those directly affected, the experience is much worse. But we expect the increases in fresh food prices to be less severe than those following the floods across eastern Australia in 2021. We are also seeing the effects from the increased severity and frequency of disasters in higher insurance premiums for those exposed regions.

The Australian economy expanded by 0.2 per cent in the September quarter of last year, with continued strength in investment and services export supporting demand. Household consumption was flat in the quarter, with cost-of-living pressures continuing to weigh on real incomes and spending. While households are still saving in aggregate, the rate of saving is at its lowest point since the December quarter 2007, and some are drawing on their accumulated savings to support consumption and service mortgage costs.

This is the weakest period in per capita consumption since the global financial crisis, although, fortunately, it has not been accompanied by significant deterioration in employment, which is often the case when consumption weakens. Weakness in the household sector is being partly offset by stronger than expected investment and continued growth in services exports. We expect investment to remain elevated in the near term, supported by a solid pipeline of public infrastructure projects, commercial buildings, private sector electricity infrastructure and some large LNG projects. The residential sector continues to face constraints but is steadily working through a substantial pipeline which will support activity in the near term. There are early signs that conditions have stabilised, and we expect a recovery in dwelling construction in 2024-25 and beyond, supported by growing demand and improving returns for investors.

The labour market remains strong but, as expected, there are signs of cooling. The unemployment rate rose gradually in 2023 in response to the slowing economy. Labour demand has softened, with job ads easing from recent peaks and employment growth beginning to slow. The adjustment in the labour market has also occurred through reduced hours worked. We have seen average hours worked fall 4.6 per cent since its peak in April 2023. There are also early signs that the participation rate may have reached a cyclical peak, and we expect participation to moderate further as the labour market cools. The unemployment rate is forecast to rise to 4½ per cent by the June quarter 2025, and the participation rate and average hours are both expected to fall back. The strong employment growth over the past two years has had the welcome benefit of bringing more people into

employment, particularly younger people and the long-term unemployed. It has also helped improve the near-term budget position.

There are encouraging signs on the inflation outlook with inflation continuing to moderate. Annual inflation eased to 4.1 per cent in the December quarter 2023, well below its peak of 7.8 per cent in the December quarter 2022. An easing in global supply chain disruption and normalisation in demand for goods has led to a moderation in goods inflation. While volatility and global oil prices fed through to volatility at the bowser in late 2023, the overall moderation in oil prices over recent months has reduced the inflationary pressure for automotive fuels compared to the Mid-Year Economic and Fiscal Outlook forecasts.

As in other economies, the initial impact of the pandemic and the 2022 supply shocks have faded, but they are continuing to ripple through the economy and have been a driver of some services components. For example, businesses continue to face higher electricity costs. More broadly, the drivers of inflation are normalising, with services inflation now leading. We expect that services inflation has likely peaked and will moderate over the next two years as the second-round effects of earlier shocks fall away and the economy cools.

Rental price growth has added to inflationary pressures. Near-record low vacancy rates reflect strong rental demand amid constrained housing supply. Rental demand has been driven by strong growth in population following the reopening of the international borders after the pandemic. The increase in Commonwealth rent assistance has helped to reduce the impact of rental price rises for the most vulnerable households. Over the six months leading to December, Commonwealth rent assistance reduced the increase in rental prices by 1.6 percentage points and the energy bill relief rebates reduced electricity prices by 11.9 percentage points—both reducing the pressure on inflation more broadly.

Inflation has largely unfolded as expected since the forecasts released in the October 2022 budget, when we were better able to capture and understand the likely impact of the significant supply shocks underway. There is some downside risk to the near-term inflation forecasts published most recently at MYEFO, reflecting the recent flow of information, although we still expect to see volatility in monthly inflation. We have not changed our view on inflation's steady return to the target band. Further, and as we outlined some time ago, there has been no evidence of a wage-price spiral emerging and no evidence of a change in inflation expectations. This provides further confidence that the unemployment rate can be maintained at levels previously thought unsustainable.

Not surprisingly, there has been considerable focus on inflation and ongoing concerns about lifting prosperity in the medium term, and both remain crucial to future prosperity. There has been, perhaps, less focus on the ongoing strong labour market outcomes and associated opportunities. With the right policy choices, there remains a rare opportunity to sustain the economy closer to full employment than has been the case for many decades. Such an outcome would be life changing for many disadvantaged Australians.

Many households are continuing to be affected by cost-of-living pressures. The government recently announced a redesign of the stage 3 tax cuts. Treasury and the Department of Finance have been engaged in ongoing consideration of cost-of-living options since 2022, as reflected in both budgets to date. In December, the Prime Minister asked the Treasury and the Department of Finance to identify further options to provide cost-of-living relief to Australian households without putting upward pressure on inflation. Treasury analysis released by the government at the time of their announcement highlighted that price rises reflected in the CPI have been broad-based and affected all Australian households. However, unanticipated cost-of-living increases associated with the rapid rise in inflation and rising interest rates have disproportionately impacted low- and middle-income households, who have less capacity to absorb rising prices. Our advice recommended that redesigning the stage 3 tax cuts was the most appropriate way of providing relief to households affected by cost-of-living pressures while not impacting the inflation outlook. We recommended proceeding with a tax cut of a similar size to counter the effect of increasing average income tax rates and because the immediate pressure on the budget has been abating.

The stage 3 tax cuts were designed under dramatically different circumstances than what we face today. While the initial impact of the COVID-19 pandemic and the 2022 supply shocks have faded, their effects continue to ripple through the economy. Our recommended redesign delivers an overall tax cut around the size of the original stage 3 tax cuts, providing a save to the budget in 2024-25 of around \$1.3 billion and a total cost over the forward estimates of around \$1.3 billion. The redesign distributes the future impact of bracket creep more evenly. Taxpayers in the first seven taxable income deciles are expected to face a smaller increase in average tax rates over the coming years compared to no change and the original stage 3. Under the new arrangements, all taxpayers will now experience similar increases in average tax rates over time. The redesign is also expected to result in a larger increase in participation. This is driven primarily by increases in hours worked and participation of women with taxable incomes between \$20,000 and \$75,000 overall. We expect the change to persist, given the change in growth of average tax cuts. The redesign of the stage 3 tax cuts will not add to inflationary pressures.

It is worth noting the economic environment in which these changes are taking place. The proposed tax changes come into effect from 1 July and will be delivered over the course of the financial year. As I highlighted earlier, over this period we expect inflation to continue to moderate, returning to the target band, while labour market conditions are expected to continue to ease and the unemployment rate is expected to rise.

Treasury recently commenced a review of competition policy. The review is examining competition policy settings with a particular focus on merger policy and non-compete agreements in employment contracts, as well as options to revitalise the national competition agenda. An immediate priority for the taskforce is looking at ways to ensure Australia's merger control system can properly target and stop harmful mergers that reduce competition, stifle innovation or lift prices.

The government is working with the state and territories through the Council on Federal Financial Relations to revitalise our 30-year-old National Competition Policy. Promoting efficient markets and competition is fundamental to lifting productivity and living standards. This is particularly important for the new and growing areas of the economy, such as the care and support sector and supporting the transition to net zero.

The government has announced two complementary reviews to ensure regulatory settings appropriately support a competitive and sustainable food and grocery industry. A review of the Food and Grocery Code of Conduct, led by the honourable Dr Craig Emerson, will report to the government by 30 June 2024, and there will be an ACCC price inquiry into the supermarket sector to ensure Australians are paying a fair price for their everyday groceries.

The 2023 Mid-Year Economic and Fiscal Outlook, released in December, continued to show welcome improvements in the near-term fiscal outlook. A small deficit of \$1.1 billion is now forecast for 2023-24, an improvement of \$12.8 billion compared to the budget. In total, over the forward estimates the underlying cash balance has improved by \$39.5 billion. Tax receipts have been revised up by \$64.4 billion across the forward estimates, with most of the upgrade coming from personal income tax and company tax. Personal income tax upgrades are driven by strong employment growth. High company tax receipts reflect near-term strength in commodity export prices and higher non-mining corporate profits. Given iron ore and metallurgical coal prices have remained above their assumed MYEFO glide path, there are further upside risks to tax receipts.

Total payments have increased by \$27.8 billion over the forward estimates. This largely reflects upward revisions to existing payments, including interest on government debt, the National Disability Insurance Scheme and the childcare subsidy. Real payment growth is expected to remain low by historic standards, and is forecast to average 0.8 per cent over the five years to 2026-27.

Increases in interest payments reflect a higher cost of borrowing. The assumed weighted average cost of borrowing rose from 3.4 per cent at the time of budget to 4.7 per cent at MYEFO. This reflects the increase in the 10-year yield on Australian government bonds to the highest level since 2011, and mirrors trends in bond markets globally, in part due to expectations that central bank policy rates may remain higher for longer. As a result of higher bond yields, MYEFO projected that Australian government interest payments will be the fastest-growing major payment over the medium term. Bond yields have fallen since MYEFO, with the 10-year yield currently around 4.2 per cent. If these declines are sustained this will unwind some of the upward revision to interest payments in MYEFO.

New policy decisions since budget had a small impact on the budget balance, reducing the underlying cash balance by \$5.2 billion over the forward estimates and \$650 million in 2023-24. Returning 92 per cent of the tax upgrades in MYEFO to the budget continues to help ensure that fiscal policy works with monetary policy, does not add to inflationary pressures and lowers debt. As a result of the improved fiscal outlook, gross debt is now expected to fall to 34 per cent of GDP by 30 June 2023, which is 5.1 percentage points lower than at the height of the pandemic in 30 June 2021. Gross debt is expected to remain lower than projected at budget across the medium term. While these improvements are encouraging, budget deficits are still projected across the medium term, and the debt to GDP ratio remains high by historic standards.

In finishing, I would like to acknowledge that this will be the last Senate estimates for Mr Chris Jordan, who I understand will appear in front of you later today. Mr Jordan has served as the ATO commissioner since 1 January 2013 and leaves a proud legacy for the ATO and the tax system. The new ATO Commissioner, Mr Rob Heferen—who previously worked at the ATO and served as deputy secretary of Revenue Group at Treasury—will commence on 1 March 2024. We warmly congratulate Rob on his appointment. Thank you for the opportunity to provide you with an update, Chair.

CHAIR: Thank you very much, Dr Kennedy. The committee will now, with agreement, table your opening statement. We thank you for it. I will proceed first to Senator Hume for a 15-minute block.

Senator HUME: Thank you for tabling your statement, Dr Kennedy. I'll ask you about last estimates. You committed to take on notice and come back to the committee in session about whether full-time workers were \$3,700 better off under the current government—that was a claim that the Treasurer made and that RMIT ABC Fact Check labelled misleading. We had quite a significant conversation about that at the last estimates. Treasury has failed to come back to the committee and failed to come back on notice. So I'm asking today: was RMIT fact check correct to say that the Treasurer misled the Australian people when he said that the average full-time worker was \$3,700 better off under Labor?

Dr Kennedy: I know Mr Yeaman is across the details of your question, so I'll pass to him.

Mr Yeaman: Apologies. I thought there had been a response to that provided to committee, but it may have come in quite late. On that issue, we did look at that fact check and take the data away. What we found was that, in terms of the numbers that were presented in the RMIT fact check, we could replicate those figures. We could see how they were sourced and we could replicate those numbers. There was a separate questions around whether the Treasurer's statements were misleading, and we don't agree with that. There are different ways of looking at wages data: you can look at it through the nominal sense and you can look at it through the real sense. Both, in our view, are entirely appropriate depending on the context in which they're used. As I read the Treasurer's statements at the time, he was trying to demonstrate the growth in overall wages for households in one time period versus another. In that sense, the numbers were accurate and reasonable, in our view, but we could replicate the numbers that were provided in the RMIT fact check as factually accurate.

Senator HUME: So he wasn't taking into account real wages; he was taking into account nominal wages?

Mr Yeaman: Correct.

Senator HUME: He wasn't taking into account interest rate rises; he was simply taking into account subsidies that had been put into place by the government? He wasn't taking into account bracket creep; he was simply taking into account positions and policies that the government had taken?

Mr Yeaman: As I read his comments—and I don't want to speak for the Treasurer—he was highlighting the fact that wages growth in Australia had started to pick up and was growing relatively strongly by historical comparisons.

Senator HUME: Nominal wages growth?

Mr Yeaman: Correct. Of course, the stronger the nominal wages growth is—it's clear, as the Treasurer has acknowledged many times, that we are facing a serious inflation challenge in Australia, which is impacting on households—the easier it is to deal with those challenges. I think that's the point he was seeking to make, but, again, I would not want to speak for him. But we can replicate the statistics that were provided.

Senator HUME: So that \$3,700 better off—was that a number that Treasury had provided the Treasurer?

Mr Yeaman: We fact-checked a number of—

Senator HUME: No, no; that's not the question. I just wanted to know whether you gave him the number in a briefing of some sort that said, 'Australians are \$3,700 better off.'

Mr Yeaman: We were asked to fact-check some data by the Treasurer's office, which we did, and that's what we provided. How it was then used is a matter for the Treasurer's office.

Senator HUME: Did you advise the Treasurer that to only use nominal wages rather than real wages, to not take into account interest rates when calculating how much people are better off, would be misleading?

Mr Yeaman: As I said, Senator, we were asked to fact-check data on this occasion, and we did, but we do provide regular briefings to the Treasurer on the aggregate economic outlook, including the wages outlook, using a range of data sources, including both nominal and real.

Senator HUME: If you can see that the Treasurer is about to say something that you know in your heart is wrong or misleading, is it beholden on you to say something, to mention it, to point out to the Treasurer that, if he says something like that, he is likely to be called out for being incorrect?

Mr Yeaman: I think that's a reasonably hypothetical question that calls for an opinion. As I said, in this case we were provided some information, we were asked to fact-check that information and we did that, and then how it's used is a matter for the Treasurer's office.

Senator HUME: So frank and fearless advice doesn't apply here?

CHAIR: Senator Hume—

Dr Kennedy: I might come in quickly, because I have observed this, I suppose, over an extended period of time. If it becomes apparent to us that there's a factual inaccuracy or something is clearly wrong, then the

department does have an obligation to draw it to the attention of the relevant minister, but, as Mr Yeaman said, the nominal wage calculation was correct and was fact-checked.

Senator HUME: So you checked the statistics that the Treasurer's office provided you, but then did you provide any other figures to him that would make his statement more accurate?

Mr Yeaman: No.

Senator HUME: Right. So you haven't provided him any statistics, other than the ones that he gave you, for that calculation?

Dr Kennedy: Senator, I might come in here again. As Mr Yeaman outlined, we've provided him with, frankly, a vast array of statistics around incomes—nominal, real—with real obviously reflecting how the cost of living is affecting households. We don't want to be in a commentary on the Treasurer's public comments, but we can say he's been very clear, and it reflects our advice and, frankly, all the discussions we've been having in more recent times that the cost-of-living pressures are significant. He has described those, and they reflect our briefings.

Senator HUME: Can you then, Dr Kennedy, confirm the Treasurer's statement that Australians are better off in economic terms than they were a year ago?

Dr Kennedy: I think Mr Yeaman has taken you through the fact-checking and the nominal wage calculation that the Treasurer was referring to.

Senator HUME: Would you say that Australians are better off now than they were a year ago? Can you name a demographic who are better off now than they were a year ago?

Senator Gallagher: Are you quoting the Treasurer there?

Senator HUME: No. I'm asking Dr Kennedy—

Senator Gallagher: Okay. So I think when you look at the Treasurer's statement—

Senator HUME: whether he can name a demographic who are better off in economic terms than they were in May 2022.

Senator Gallagher: That's a different claim. What the Treasurer said is that we'd get wages moving again, and we are. He then went on to say:

An average full-time worker was \$3,700 better off in the first year of the Albanese government.

So he's linking that to getting wages moving again, and we've been clear that they were nominal wages.

Senator HUME: Where were you clear that they were nominal wages?

Senator Gallagher: We've answered the question.

Senator HUME: No, sorry. Where was the Treasurer clear that they were nominal wages—that he wasn't taking into account that inflation at that stage was rocketing along and swallowing up any nominal wage gains that had been made?

Senator Gallagher: He was linking it to wages growth.

Senator HUME: Nominal wages growth?

Senator Gallagher: Well, wages growth.

Senator HUME: Do you think that's selective, Minister?

Senator Gallagher: You can comment on that—

Senator HUME: Can you, Minister?

Senator Gallagher: The point we were making is that under you wages hadn't been moving. We said we'd get wages moving again. They are moving, and because of that people are earning more. That is factually accurate.

Senator HUME: Is this factually accurate, then, Minister? Would you say that the average Australian is \$3,700 better off under Labor?

Senator Gallagher: When it comes to wages, because of wages growth, yes.

Senator HUME: Can you name a demographic who are better off than they were in May 2022?

Senator Gallagher: They are better off because wages are moving.

Senator HUME: Australians are better off. Is that what you're saying?

Senator Gallagher: In terms of wages, they are earning more. Wages growth is moving because we have made a concerted effort to support that, which is the opposite of what you did when you were in government.

Senator HUME: Would you have said that the average full-time worker is \$3,700 off under Labor? Would you have used those words?

Senator Gallagher: If I was linking it to wages growth, that statement is factually correct.

Senator HUME: So you would have to put some caveats around that statement before you'd be comfortable using it?

Senator Gallagher: It's not a caveat. The quote from the Treasurer was, 'We said we'd get wages moving again.'

Senator HUME: Do you trust ABC Fact Check? Is that something you've referred to in the past?

Senator Gallagher: I don't recall whether I have or not.

Senator HUME: Secretary, is inflation homegrown, as the RBA governor has claimed?

Dr Kennedy: The services component of inflation that I spoke about in my opening statement has a domestic aspect to it. One of the RBA officials was up yesterday, talking about services driving inflation in Australia. To the extent that people are talking about inflation being homegrown, they're talking about non-traded goods—things that happen in Australia. The second dimension that they're thinking about is the balance of supply and demand in Australia. Part of what has been going on with increasing interest rates is slowing demand to match the fact that supply has been constrained. If we go back to what started all of this, it was the supply shock in the first instance. It was that we were not able to sustain the demand we would have had in the past. This is because supply chains were interrupted, and that leads to higher prices. The response during the pandemic left many households with accumulated savings. It has now faded on the monetary policy side, but on the fiscal and monetary policy side throughout the pandemic households were strongly supported—appropriately. That has echoed through, but it has come up against these supply shocks.

Our expectations for services inflation are similar to the RBA's and those that the governor talks about and that were recently published. The RBA's new term inflation forecasts are below ours now, as I outlined in my update. They've had an opportunity to update their inflation forecasts with the recent data in mind. I think their inflation forecasts to June 2024 are a little bit below ours, and I indicated that ours would probably come down in light of the recent data. Sorry, I've gone onto other issues.

Senator HUME: That's alright.

Dr Kennedy: In broad terms we have the same inflation outlook. Yes, we agree that services inflation is leading inflation now, but we do expect services inflation to ease in the same way the RBA does.

Senator HUME: The Prime Minister claimed in November that Australia's inflation was due to a global phenomenon. Is non-tradable inflation—that 5.4 per cent—consistent with that statement?

Dr Kennedy: Yes, it is.

Senator HUME: Could you explain how.

Dr Kennedy: It's because a supply shock hits the whole economy. It certainly hits the traded sector—there's no doubt—because the things we import, such as building products and a whole range of things, immediately spike because we're now having trouble importing them.

Senator HUME: Supply shocks are easing though.

Dr Kennedy: They are easing.

Senator HUME: That was something that you have said.

Dr Kennedy: Yes.

Senator HUME: And the services inflation is the homegrown component the RBA governor is referring to. Is that right?

Dr Kennedy: She's talking about the balance, yes. I have to be careful because she's appearing in front of you tomorrow and she's also our spokesperson for the board. I'll let her explain not only her own position but the board's position. All I'm trying to draw out and have been trying to draw out today is that the global supply shocks, which are unprecedented, call for responses from governments that have not been seen for generations. As I said, in broad terms, they are appropriate responses. It's not surprising to me at all that they would continue to echo through, and they are. Housing construction costs have still not deflated away from what they were prior to COVID. Those costs of inputs are still pushing hard in that sector, and that pushes through into services.

Senator HUME: That knock-on effect of inflation is the real issue here, isn't it? The problem with inflation is that it erodes purchasing power. It makes your savings worth less. It makes you worse off. Is that right?

Dr Kennedy: There are two dimensions. Very much so in the longer term we want to see inflation sitting around the middle of the target band. It's good to have some inflation in the economy, but not too much, because of some of the distortions that you outlined. In the short term, when we have these inflation spikes driven by, frankly, these unprecedented shocks, it is a real challenge for macroeconomic policy. The shock itself does a lot of the work. As you just outlined, when households face these increased costs for goods they are forced to respond themselves. There's less money to spend, and demand will automatically be affected. We can see that in household disposable income. The price effects in real household disposable income have been significant through this period. So there is an equilibrating mechanism when these shocks come through—a mechanism that naturally balances supply and demand. The challenge for macroeconomic policymakers is what else might be needed to ensure you get that balance. That's something the Reserve Bank spoke about in its most recent monetary statement release: how to get this balance of supply and demand.

The last thing I'd say is that the key point, the fundamental key point—that's why I raised it in my opening statement—is that people's expectation of future inflation does not move away. The new governor has indicated that she's strongly focused on that. I think she's made decisions and is performing her duties in a way that should give everyone the highest confidence that she's leading the board in that way.

CHAIR: I'll come back to you, Senator Hume. I just want to follow up on some of those questions about wages and the job market. We talked about nominal wages increasing. We talked about inflation moderating. Could you tell us what has been happening with real wages over the last couple of quarters and what we're projecting in terms of real wages growth.

Dr Kennedy: I might ask one of my colleagues to join me.

Senator HUME: Sure.

Dr Cagliarini: Could you please repeat the question.

Senator HUME: What's happening with real wages?

Dr Cagliarini: Currently, they have been falling. We think they will start rising this financial year.

CHAIR: So what are you projecting in terms of real wages?

Dr Cagliarini: I think this financial year we expect it to rise by about half a percentage point and then beyond that, in forward estimates, about one per cent.

CHAIR: Dr Kennedy, in your opening statement you've got quite a significant statement around the focus on the ongoing strong labour market, and you say:

... there remains a rare opportunity to sustain the economy closer to full employment than has been the case for many decades. Such an outcome would be life changing for many disadvantaged Australians.

What's the significant resilience that you're seeing in the labour market, and how do you see that assisting Australians going forward?

Dr Kennedy: What appears to be the case is that, while it's difficult to distil through the supply shocks I was talking to Senator Hume about earlier, we can sustain an unemployment rate in the low fours on an ongoing basis. We're currently at 3.9. Wages have strengthened. And, as Adam just outlined, because of the way inflation is unfolding, we can see real wages growing quarterly and soon through the year. But the labour market dynamics, if you like, look to me to be sustainable. It looks to me that we could hold this unemployment rate at low levels—lower levels than we've seen for many decades. I think we'd have to go back into the seventies, off the top of my head. And that would be, as I said, a tremendous outcome.

It was once put to me by a labour market economist that the most effective labour program one could run is strong aggregate demand—in other words, the demand for people to have a job. If we can keep that, have the unemployment rate in these low fours, and if wages are sustainable—growing sustainable consistent with inflation being low and sustainable around the middle of the band—it just pushes that bit further into the labour market for people demanding additional people for work, and people are more likely to get an opportunity earlier in their life, which is really crucial.

One of the things I think is an upside of what we've been through over the last four years is seeing this strong growth in the labour market and seeing the youth unemployment rate fall to the extent that it has. That will have lifetime echoes. Once people get a start, they're more likely to remain in employment. They're more likely to be re-employed. A start is important. For those people who perhaps don't have strong family networks and all those things that can make it a bit harder, like coming from a disadvantaged background in life, if they're entering the workforce in a strong economy and demand for labour, they're significantly more likely to crack that opportunity.

It's actually something that the former governor and I spoke about through the pandemic period—about this opportunity, about the difficulty in knowing what this unemployment rate that we can sustain is but about how important it was for public policy and about the opportunity that would emerge post the pandemic. We didn't anticipate the supply shocks at the time.

My point today is that opportunity is still present, and I would say that we work very well with the Reserve Bank on this issue. The governor herself gave a speech about the importance of full employment and outlined many of the benefits I just outlined. Getting this balance right is very much in their mind and in the board's mind—she can speak to that. It's why we face some criticism as a board, but it's why we've chosen the path we have in seeing inflation come down steadily over time—because we really are doing our best to preserve as much employment as possible.

CHAIR: So we've got relatively low unemployment, the economy is producing hundreds of thousands of jobs and inflation is moderating. At the risk of getting stuck in a numbers conversation, as nominal wages are rising and as inflation is moderating, we're expecting to see real wages increase as well. I think the official was answering in terms of annualised real wages. Are we seeing real wages starting to move now?

Dr Kennedy: We have seen quarterly increases, I think, across the last two quarters—or maybe it was the last quarter.

Dr Cagliarini: It was the last quarter. The gap between wage price index growth and CPI has actually been narrowing, so we do expect that to cross over in the first half of this year.

CHAIR: Would you like me to go back to you, Senator Hume?

Senator HUME: Yes, that would be terrific.

CHAIR: For everyone's info, I'll proceed in 10-minute blocks now.

Senator HUME: At that 0.5 per cent wage growth, how long will it take to recover what inflation has eaten away in the last 18 months for the average worker?

Dr Kennedy: I don't think we've done a calculation along those lines. We can think about it, but I'll make a quick comment about supply shocks. Frankly, it's been in our mind when thinking about broader policy advice we've been giving the government. When a significant supply shock of this order comes along—and 'supply shock' sounds like it's some sort of abstract economist term—it reduces income to the whole community. That's what it is. The real question, as we go forward—and this relates to the productivity discussion—is: has this been a one-off supply shock? In other words, has the whole community and the whole economy lost income, because everything became more expensive for a short period and then we began to recover? Will we catch up, or are there some permanent effects of this shock? For example, have supply chains been affected in a more permanent way? It's part of the judgements people are making at this stage.

Frankly, just to be cautious, it predates this government, but one of the real considerations we had previously in macro policy through the pandemic was about understanding the supply shock there. When the economy fell by seven per cent, from memory, in the quarter, that was a seven per cent fall in income across that we were never going to recover. The government, appropriately, chose to effectively borrow to offset that massive fall and to smooth that adjustment through time. Nothing could be done to stop that. Similarly, if there's a war that drives up prices in another way, governments have that consideration to think about what the broader impact is on the economy, how different parts of the community will be most affected and where it chooses to provide support. But those shocks have that permanent income effect, if you like, Senator Hume. I have not sat down and done a calculation.

It's worth remembering—and this slightly complicates it all—that households, after fiscal policy changes through that period, actually had higher accumulated savings. In a sense, more income was spread than was lost. My own view is that one should always be on that side of the argument. Of course, there is a matter of degree in debate about how much in responding to shocks. So they are accumulated positions. We were talking about it recently. Accumulated savings across all households in Australia are still higher than pre the COVID pandemic.

Senator HUME: That was a very long answer.

Dr Kennedy: In a longhand way, it's very complicated to say when they will catch up because some of the households have a better balance sheet today than they would have otherwise had.

Senator HUME: So some people are better off than they were in May 2022—is that what you are saying?

Dr Kennedy: I was talking about the pre-COVID period.

Senator HUME: They're probably better off than they were in the 1930s too. I'm just wondering how far we go back.

Dr Kennedy: I was just trying to assist people in understanding what we mean by 'supply shocks' and being open and honest that it's not just an economic notion; it means people losing income.

Senator HUME: The Prime Minister said that he had met with every department secretary three times. He said on the sixth of this month:

So I've had three meetings now with the Secretaries of every Department.

At last estimates you confirmed that you hadn't had a one-on-one briefing with the Prime Minister and had only dealt with him through the ERC process. So I'm asking you now: have you met with the Prime Minister three times since November?

Senator Gallagher: I don't recall the Prime Minister saying that he'd met with people three times since November.

Senator HUME: He said on 7.30 on 6 February 2024:

So I've had three meetings now with the Secretaries of every Department.

Dr Kennedy: I think, to be honest, I've met with him with a group of secretaries four times—

Senator HUME: Since November.

Dr Kennedy: No, not since November. Sorry, I am just racking my brain for what's happened since November.

Senator Gallagher: The PM didn't say 'since November', though. That is you.

Senator HUME: The secretary said he hadn't met with the Prime Minister in November.

Senator Gallagher: I think that was in the context of different questioning. It was about a one-on-one economic briefing. I think that was the question.

Dr Kennedy: The way I have met with the Prime Minister is I have seen him—and I can take on notice how many times—with groups of secretaries. We have met just with him and discussed policy issues, with no other ministers present. And then—

Senator HUME: So you have met with him with no other ministers present?

Dr Kennedy: He's met with the secretaries. He's come to see a group of secretaries.

Senator HUME: Have you met with him personally, one on one?

Dr Kennedy: No. Without getting into all the cabinet stuff, I would see him and talk to him and brief him two times a week in sitting periods and—

Senator HUME: With other ministers or other secretaries there?

Dr Kennedy: Yes.

Senator HUME: With other ministers and other secretaries, or with other ministers or other secretaries?

Dr Kennedy: Predominantly through the ERC process and other cabinet meeting process.

Senator HUME: Outside the cabinet meeting process and outside the ERC, have you discussed the stage 3 tax cuts with the Prime Minister?

Dr Kennedy: All my briefings to the Prime Minister on the stage 3 tax cuts were done through the cabinet process.

Senator HUME: Ms Nadine Williams from the Department of the Prime Minister and Cabinet said on Monday that PM&C were aware that Treasury were working on cost-of-living options well before Christmas but only became aware those policy options were about breaking an election commitment through the cabinet process. At any point did you discuss the tax cuts with the secretary of PM&C?

Dr Kennedy: I'm trying to think. In that period through December, I certainly talked to him about cost-of-living relief. I did not take him personally through the detail of what we were recommending. I did not call him up separately to the process of circulating what we were thinking and outlining that and the normal things.

Senator HUME: Did you make it clear to him that changes to the stage 3 tax cut commitment were on the table?

Dr Kennedy: I did not ring him up and say that. PM&C knew we were working on cost-of-living measures. I didn't have one-on-one engagement with Glyn on exactly what that would be—and I wouldn't on an ongoing basis. I rely on the usual processes for our briefings to go through for PM&C to comment on. Glyn would get involved in that way.

Senator HUME: Did you discuss your plans to reverse the stage 3 tax cuts prior to the cabinet submission going forward?

Senator Gallagher: 'Reverse'? You're loading your questions there. I just want to be on the record that we're revising stage 3—

Senator HUME: 'Revise' not 'reverse'.

Dr Kennedy: All I will say here is that, as I outlined to you earlier, all my briefings and discussions were through the Treasurer, which is always the case, as appropriate.

Senator HUME: The Prime Minister said on 3 January that he had tasked the Department of Finance and the Treasury to come forward with cost-of-living relief. When was that request received and how was it received?

Dr Kennedy: As I think I answered earlier, there are two parts. First of all, as I said to you last time, there wasn't some sort of bright line where we thought: 'Oh, maybe the government is interested in the cost of living. We'd better start working on it.' We had been thinking about it for a very long time. In terms of that accelerated period of advice that involved the tax system with that broader request of providing broader relief and not affecting inflation: there was that meeting around 11 December—I think I've recorded that—with the Treasurer, where, in a way, our advice accelerated. The government was interested in understanding what could be done and, particularly, what could be done to affect, literally, millions—but not impacting on inflation.

Senator HUME: Was the Prime Minister's—

CHAIR: Senator, you're at time, but you can have one final question on this topic.

Senator HUME: Was the Prime Minister's directive, which came via the Treasurer, to task finance and Treasury to come forward with cost-of-living relief on top of or additional to the body of work that was already being done on the stage 3 tax cuts revisions? You've said your department works on these things all the time; were there requests to look at other aspects of the tax system as part of that request? Or the transfer system?

Dr Kennedy: You're right on the advice that we provide more broadly. Frankly, all I can do is repeat the earlier comments that I made around this area. Because of the significance of this issue, there has been no part of the types of interventions that we have not been thinking about. We do not get directed specifically to what we should do or where we should find solutions, or how we should come about them. What accelerated through December was part of that ongoing consideration of cost-of-living increases. As I said, it wasn't novel to us; we had been thinking about it for some time—in what way could relief be provided much more extensively than what it had been without impacting on inflation? As I said to you last time, there aren't many places to go if you want to support low- and middle-income earners beyond the tax system.

You're right: we could think about the transfer system, but the potential to impact inflation significantly begins to rule that out quickly if you want to provide support for millions of people.

Senator HUME: So was the secretary of PM&C blindsided—

CHAIR: Senator Hume, I've said that was your last question and that you were over time. We'll go to Senator McKim.

Senator McKIM: Thanks. Good morning, Minister and Dr Kennedy.

Senator Gallagher: Good morning!

Senator McKIM: Thanks to you and your colleagues for appearing before us this morning. Dr Kennedy: are negative gearing and the capital gains tax discount putting upward pressure on house prices in Australia?

Dr Kennedy: The *Australian* took an opinion from me this morning. Features of the tax system in the way that capital gains and negative gearing work have not been changed.

Senator McKIM: They aren't helpful.

Dr Kennedy: They have been there for some time. What's going on in the housing market at the moment is predominantly driven by the balance of supply and demand, particularly the constraints around supply, but also the faster-than-anticipated the recovery in population from the pandemic, getting now back to the levels we expected pre pandemic. I think they're the major issues here. Particularly I might add the capacity for our planning and zoning arrangements in large cities to accommodate these increases. As you know well, having studied the issue closely, it is a constant struggle to keep housing costs, rents or prices affordable in large cities. They bring this dynamic because of the proximity, transport and a range of other issues. They're the issues, hence the focus of the government's policies here and now. It's not appropriate for me to start advising you on how I would be advising the government on the interaction of the tax system. All I would say is, simply, there has been no change there. The cycles, the ups and downs, are being driven by the balance of supply and demand, in my opinion.

Senator McKIM: I'm not asking how you're advising government here. I'm simply putting to you the proposition that negative gearing and the capital gains tax discount, all other things being equal, are putting upward pressure on house prices in Australia. Would you agree or disagree with that statement?

Dr Kennedy: As I said, the main driver of house prices at the moment is the balance of supply and demand. The interaction with the tax system is a very complex question.

Senator McKIM: Are you suggesting negative gearing and the capital gains tax discount are not putting upward pressure on house prices in Australia?

Dr Kennedy: All I said was it's a very complex question. There are two dimensions here. Are you talking about some sort of persistent pressure, or are you talking about the cyclical aspect? The cyclical aspect is clearly driven by the balance of issues in the housing market itself at the moment, not the tax system. In the longer term, that's an open question.

Senator McKIM: They have to be putting upward pressure on house prices, don't they, Dr Kennedy, simply because fiscal policy settings are adding to demand. It's economics 101, isn't it?

Dr Kennedy: On aggregate demand, we could talk about the broad budget position. As I said in my opening statement, the government saving considerable amounts of revenue it's getting and not recycling back through the economy actually is doing a lot to not add to aggregate demand. I think that's important. Your question is really going to, 'Does the tax system in some way create larger cycles or something or persistently change prices?' That's the thing I'm saying is a more open question. There has been no change in those policies that would lead them to be doing more or less than what they've done for the many years they've been in place, which I think is now over 20 years. They've been in place for different times in different ways, but they've been place for a very long time.

Senator McKIM: Have they driven an increase in house prices over and above what would've been the case if they'd not been in place for some time?

Dr Kennedy: That's the bit I answered earlier when I said that's a complex question.

Senator McKIM: Would you accept the proposition that negative gearing and the capital gains tax discount affect the distribution of ownership of housing stock in Australia in that they provide an advantage to property investors over people who are trying to buy into the housing market, people who are currently renting and want to buy their first home?

Dr Kennedy: I understand the debate you're referring to. Those are the types of issues the housing council is looking at, led by Sue Lloyd-Hurwitz. I do provide advice to the government about those sorts of issues. I'll agree with you they're a relevant consideration, but I can't go any broader than that.

Senator McKIM: Are you aware of the ABS figures released recently that show that lending to property investors is far outpacing the proportion of lending that goes to first home buyers; that just over 36 per cent of all housing finance in December went to investors, up from about 23 per cent three years ago; and that that's significantly higher than the first home buyer share of finance, which is about 18 per cent?

Dr Kennedy: I am aware of that. It's something we were looking at recently in discussions around monetary policy as well. Once again we have to be conscious and think through what's part of a cyclical feature of the economy and what's a persistent structural part of the economy. It's not surprising to me that investors would be seeing the opportunity, given where rents are rising and the demand for rental housing. I think, just off the top of my head, some time prior to that those numbers were strongly reversed. I am aware of those numbers. Once again I just caution using them as your argument around what the structural position should be, because you could be talking to me in two years and those numbers would be on the other side.

Senator McKIM: This is my last question on negative gearing and CGT on this part of it. I've asked you a few times whether negative gearing and the capital gains tax discount are putting upward pressure on house prices, and you've responded by talking about cyclical versus longer term and some of the other complexities there. But just because something is baked into the system doesn't mean you can't do work to understand the impact it's having, and wouldn't you agree with the proposition that those tax settings, around negative gearing and the capital gains tax discount, advantage property investors over and above people who are currently renting but have the Australian dream of buying their first home? The property investors can simply go into the market with those massive subsidies in their pockets and outbid people who are working hard, who are currently getting smashed by high rents and who want to buy their first home but don't have those tax advantages that property investors have. Would you accept that proposition?

Dr Kennedy: I'm not going to venture an opinion, and I wouldn't probably use the colourful language you do. But the debate about how the system works is well known to me and appropriate to be had.

Senator McKIM: Treasury released a distribution analysis of the capital gains discount last week, which showed 82 per cent of the benefit of the CGT discount goes to the top 10 per cent of income earners in Australia. That's even worse than the original stage 3 tax cuts, and that really is saying something. Is any work being done to provide advice to government about addressing that massive inequity in the capital gains tax discount settings?

Dr Kennedy: I had quite a long chat with Senator Hume last Friday about how Treasury have Revenue Group, which provides advice on all parts of the tax system, but that what we don't do, frankly because it would constrain our ability to provide advice on all parts of the tax system, is get into any detail on what particular things we're providing or not, particularly if they should be near a cabinet process or they are part of a deliberative process. I can say to you that, as illustrated by that tax expenditure statement, we are thinking about all parts of the tax system and advising the Treasurer on an ongoing basis. That is our job, but I'm not getting into the game of ruling in, ruling out or whatever the bits and pieces of the tax system we're providing advice on, because it constrains me in my ability to advise all governments. I didn't do it previously, as I said earlier, and I'm not going to do it now.

Senator McKIM: At the moment in Australia if you get an income from selling an investment property you're taxed at half the rate of those who go out and earn your income as a worker. What are the societal consequences of that, given it rewards people who have a large discretionary income and the capacity to invest in property over and above those who are going to work every day, working hard and struggling to put food on the table for their kids? What's the societal consequence of our tax setting rewarding people who've already acquired significant wealth and enabling them to get ahead so much quicker than people who are simply working to earn their income?

Dr Kennedy: Just in broad terms it's very relevant to be thinking about the incentives that particularly income tax arrangements have on people. That was a strong part of our advice around stage 3, particularly lower income people, where tax rates can affect their incentive to participate, and we outlined some advice on that. That's certainly something we think about. Then the broader taxation of all forms of income—savings, capital income, whatever you like—is absolutely a relevant consideration in what we give to the government, how all forms of savings or all forms of capital gains should be treated. Frankly, they're comments you might want to direct to the minister or elsewhere about the broader equity-type arrangements, but all of those things are an ongoing active consideration for us, because we want the tax system to work in a way that does the least damage to people's incentive to work and efficiently and equitably raises income. That's the principle we work to. As to the detail of that, they're government decisions.

Senator McKENZIE: Secretary, great to see you, as always. I have some questions on the new vehicle efficiency standards that were released by the government last weekend. Whilst refusing to actually release the modelling the impact analysis is based on, Ministers King and Bowen have claimed the scheme will not increase the purchase price of new cars here in Australia. They've been quite emphatic about that, despite the fact that the carbon emission caps proposed to be imposed by 2029 effectively require all new car sales to be either electric vehicles or high-end hybrids to fit under the cap. I'm interested in what the Treasury's modelling suggests about such a rapid transition from the types of cars Australians currently love to drive and purchase, over a five-year period, without there being an impact on the purchase price.

Mr Yeaman: The modelling of that measure was done by our Fiscal Group colleagues, because they shadow the department of transport infrastructure.

Senator McKIM: I spent time with them earlier this week. That's why I'm here—oh, in Treasury?

Mr Yeaman: Our Fiscal Group colleagues shadow that part.

Senator McKENZIE: As a matter of principle, if you're imposing a cap at such a stringent rate, can you also simultaneously claim it's not going to drive up the purchase price of the behaviour change you're wanting to see?

Dr Kennedy: Do you want me to do general comments?

Senator McKENZIE: General comments would be great.

Senator Gallagher: We are out in a consultation phase, as you know.

Senator McKENZIE: I appreciate that. That's the TPs, Minister.

Senator Gallagher: But we are in a consultation phase.

Senator McKENZIE: I know, and you've chosen option B.

Senator Gallagher: We're out getting feedback on that proposal.

CHAIR: We don't have Dr Kennedy for long. We do have Fiscal Group coming in.

Senator McKENZIE: That's why I'm appreciating Dr Kennedy's high-level comments.

Dr Kennedy: I'll have a quick crack, having looked at this issue in the past, but my colleagues will be much more across the detail.

Senator McKENZIE: Yes, I'll come back for that.

Dr Kennedy: I'm pretty certain we're one of the few countries that don't have fuel efficiency standards. I'm pretty certain the fuel efficiency standards—you'll have to confirm this bit, Senator—being proposed are in line with fuel efficiency standards elsewhere. The prices for cars are not set in Australia; they are set globally. It's a global market. I would've thought the global market will determine, frankly, what the price of those cars are, and we will import them at that price. The fuel efficiency standards will change over time the balance of demand towards more fuel efficient cars. I think I'll answer this question, because I suspect you might ask me. I think you want to ask us the form of this fuel efficiency standard—like, is it a cap-and-trade arrangement? We would describe it as a baseline-and-credit arrangement. That's different to a cap-and-trade arrangement. A cap-and-trade arrangement is an absolute cap, and a cap-and-trade arrangement means you have to find a way of offsetting all emissions, for example, associated with some activity. A baseline-and-credit arrangement is more akin to the safeguard arrangement, where you set a baseline for someone. If they overachieve that baseline, they can credit and trade it; if they don't achieve that baseline, they can source a credit from somewhere else or they can bank it or vary it over time. That sounds subtle, but they are quite different arrangements. Probably the most similar arrangement in place in Australia at the moment to baseline and crediting is the safeguard mechanism.

Senator McKENZIE: Has Treasury model the potential budget impact of revenue raised from the penalties of car sales as a result of this new standard being implemented?

Dr Kennedy: I'm right up at the top level. I don't anticipate, to use your language, a revenue penalty coming from this standard.

Senator McKENZIE: Fuel excise?

Dr Kennedy: We have looked at what we expect to happen with fuel excise, and that's in the intergenerational report. We have outlined a scenario in broad terms about how the revenue from fuel excise declines over time with EV take-up. That's the analysis we've done publicly on the declining excise tax base.

Senator McKENZIE: When you put those figures into the intergenerational report, is one of the assumptions option B of the fuel efficiency standard and the rapid change to our current vehicle fleet make-up that the government is seeking to drive over the next five years? What were the assumptions you put in?

Dr Kennedy: We don't put in policy changes that haven't been announced. But we do try and make a reasonable judgement about how EV take-up might occur, and we look at the global trends. In a similar way, we don't assume taxes increase on the income side; we assume a point at which the average tax rate stops. We don't say what that policy was or is, but we have to make a sensible assumption.

Senator McKENZIE: I agree. The fuel efficiency standard option B wasn't part of the consideration in the fuel excise figures that were in the intergenerational report. There are questions about funding road maintenance with the reduction of fuel excise and the increased uptake of EVs. This is quite an aggressive push. It's double what the US is trying to achieve in the same time frame, so I would suggest that intergenerational report fuel excise graphs and data might need to be re-examined in light of the fuel efficiency standard.

Dr Kennedy: There are two things to think about here. One is trajectory, and one is level. Once again, very much at the top level, from a level point of view our fuel efficiency standards, globally, as I understand it, are far from comparable countries, so the opportunity to move to those quickly would seem to me to be readily apparent because there's a very significant global supply of these vehicles that other countries are clearly able to get to. One would've thought, for a small market like Australia—

Senator McKENZIE: I appreciate what you're saying, but we are quite a unique market in the types of cars that are our top 10. They're not Suzuki Swifts. They're not the vans the tradies use in Europe to throw their gear in and slam the door. They're a very unique vehicle make-up. We're very unique. Whilst I accept what you're saying on the global availability of certain types of cars, they're not the types of cars Australians can afford or want to buy at the moment, so there's going to have to be a very fundamental cultural shift to actually see the uptake the government's seeking. I want to park the fuel efficiency piece, which the secretary was going to, because I appreciate that issue. It's the trajectory I'm interested in.

Senator Gallagher: Trajectory of what?

Dr Kennedy: I think it's about how fast and whether it's going in a way that will add to prices. I agree with you about parts of Europe and parts of Asia, but there are countries with large land masses, particularly the US and Canada, that appear to be readily achieving these goals.

Senator McKENZIE: But their utes are exempt from their efficiency standards.

CHAIR: I'm concerned we're getting a bit chatty while Dr Kennedy is here. We're going to run out of time.

Senator DEAN SMITH: Thank you very much, Secretary and officials, for being available. Turning briefly to your opening statement, there are couple of questions I want to focus on. First is your comments with regard to higher insurance premiums. This is a matter of higher public interest now, so can you just for the committee share your views on with regard to the drivers of these higher insurance premiums and what sorts of remedies may be available to consumers?

Dr Kennedy: The first remark to make is it's not unique to Australia. Insurance premiums are rising all around the world, and part of insurance costs issues, which I think I've engaged with Senator Bragg about in the past, is around reinsurance. The cost of reinsurance has risen dramatically. In simple terms—I don't pretend to be a technical expert in this area—reinsurance is the insurance of insurers, and those costs have been increasing a lot. Why have they been increasing? Partly it's because the cost of the thing they're insuring has been increasing. People buy better vehicles, and they're more costly. On average to ensure those the cost rises. In housing there's is a pretty interesting debate around people building higher quality houses and better dwellings, so to insure that has a cost increase. I don't want to get into this, because I only know this more from an international perspective, and I think you should talk to others about the Australian perspective. But I think it's worth thinking carefully about: if we build more expensive dwellings in more dangerous places, they will cost more to insure. I'm not in a position to tell you if that trend is happening in Australian states and others; I haven't dug into that. But those dimensions, if you like, mean that costs of insurance will rise because the products themselves are becoming more costly or, in the case of more expensive dwellings in more dangerous places, that's associated with the risk.

Then of course there is this other open question about the impacts of floods, the natural risks I referred to and the fact that we've had a run of those. I'm aware of some insurers paying out on floods in similar locations—northern New South Wales would probably be a good example—more frequently in recent times. That adds to the cost of insurance, and that cost has to be borne and spread back across premiums. I will have some colleagues coming in Markets Group who have been briefing me on these issues—I think Mr Kelly will be of some assistance here—where there has been a cycle of insurance companies, if you like, catching back up on their profitability and repricing because, if they face large disasters and they pay out on those, they have to recover their position. Sorry, it's longwinded again, Senator, but I agree with you. It is a matter of public interest. It is one we should be looking at closely, the operation of the insurance markets. There have been government interventions here. Under the previous government there was an intervention around northern Australia reinsurance and cyclones. The last bit is this intersection of a changing climate, climate change, with that part of the risk. The reason I mention that last is not that it's not potentially very significant; it's that those other factors I talked about perhaps have been forgotten on the way through—the cost, and people building in places where perhaps risks are higher.

Lastly, I will just say it's an important component of the CPI. It's not as big as some components, but it is being felt in general price inflation. The premiums are large. I would expect there's quite a lot of switching behaviour going on in insurance at the moment, where people are getting premiums. That's a good thing, because people tend to not move their insurer, so the potential for a loyalty tax, if you like, is being passed through there. I'm not sure if the Senate is currently looking at it, but this is an area we are all going to have to think about carefully in the years ahead, particularly if these premium cost increases persist.

Senator DEAN SMITH: We talked briefly about employment and the higher level employment. In your opening statement you said, 'With the right policy choices there remains a rare opportunity to sustain the economy closer to full employment.' What are those right policy choices, in your mind, or what are the characteristics?

Dr Kennedy: Part of the reason I wanted to talk a little bit about our competition policy review today was that the importance of competitive and efficient markets can be underappreciated in producing those good employment outcomes. If we have efficient and competitive markets, they'll be more productive, they'll pay higher real wages over time and workers are more likely to get those returns because if they don't get the return they'll go elsewhere. I'm very enthusiastic about that competition reform. I think it's important. Reinvigorating the national competition policy, working with the states, I see as a genuine opportunity to shift this focus back that we've had in the past in ensuring all our markets are competitive. I know it's an interest that the Senate takes in supermarkets and a range of areas. I've engaged with many of you over a long time. But it's broader than that, and

it's not an abstract economic concept; it's crucial to generate those employment outcomes and associated wage outcomes.

It's clear people need to have the right skills to match these employment opportunities, so how training works, how TAFE works in particular but also how our universities work—frankly, how important it is that people have the fundamental numeracy and literacy skills they need to engage in the workforce, particularly people coming from a disadvantaged background. It's absolutely crucial. This is only anecdotal, but I sadly hear of people trying to make it into the workforce from employers who are dealing with adults who have numeracy or literacy issues. You can think of them in bundles: the qualities people need, how our markets work and then, lastly, very good macroeconomic policy that ensures we don't make the mistakes of over- or under-stimulating the economy.

Senator DEAN SMITH: The policy success you talk about in your opening statement, if I remember correctly, provided financial incentives to states to improve some of their less competitive arrangements. Would you foresee financial incentives being necessary to drive state cooperation? When we think about national competition policy reform, how much of that sits within states or in federal-state relations?

Dr Kennedy: Whether to provide financial incentives is very much a matter for government, but your characterisation is correct. I suppose I'd go as far as saying I'm very open-minded about how such incentives can be more powerful than anticipated, even when only small.

Senator BRAGG: Good morning. Can I ask you about the discussion you had about the capital brief reporting. I think that was in the last few days. Last week the Treasury was asked how many people would face higher taxes under the stage 3 recalibration. Do you know that information?

Dr Kennedy: I don't have a number to hand. I'll just talk about where question and calculation are coming from. There's a chart in our advice that shows a scenario of average tax rates by income decile. I want to make some contextual comments about this, having read some of the debate. We put the scenario in because we wanted to illustrate the pattern of changes across those deciles. We didn't put the scenario in because we anticipate governments of any persuasion would wait 10 years to make a change to income tax arrangements. There has been a lot of focus on that final 10-year point. We put it in because we wanted to show how incentives would vary by income decile and how average tax rates would change over time, so we kept this. Also we know there's a strong focus in this committee and elsewhere on the 10-year numbers. I don't have that number to hand. I'm happy to take it on notice. I would encourage senators in that we've been very open, when the government released our advice, in trying to illustrate people how things would unfold. Even that number in the 10th year in the sense does not make sense in that calculation you just spoke of because, frankly, someone could be better off for nine years and then the average tax rate flips in the 10th year. In cumulative terms they've been vastly better off. It all starts to become a bit silly. Anyway, I'll leave it there.

Senator BRAGG: My understanding is that you were asked to provide that number before this hearing.

Dr Kennedy: We were asked to provide a number, and we're considering the request. I understand we have until 26 February.

Senator BRAGG: Is there a public interest immunity claim being made over these numbers?

Dr Kennedy: That would be a matter for the Treasurer. At the moment we're just working through, having responded to the 191 questions on notice we got for this committee—

Senator DEAN SMITH: We're more curious than the previous opposition.

Dr Kennedy: I can tell you it's a workload—the other questions we have. We're very proud that we did manage to table all of our questions on notice this time. We will work our way through it, and that will be a matter for government if it wants to put in a PII.

Senator BRAGG: We appreciate there are many questions, but do you know whether there's a PII claim?

Dr Kennedy: As I said, we'll work with that inquiry, and we'll work with the time lines it set out and respond to its questions on notice.

Senator BRAGG: Can I ask you about the Medicare levy thresholds?

Dr Kennedy: I'll do my best. Revenue Group is coming a bit later, and they'll be able to take you through the detail of the thresholds. But I'm happy to have a little crack.

Senator BRAGG: Can you provide any detail as to why, when Treasury was asked to look at all the cost-of-living options, this one was apparently decided but not announced; is that right?

Senator Gallagher: We went through this last night with Finance. Happy to go back through it. The government took a decision and it was announced. As I said last night, I don't know there's any smoking gun here.

Senator BRAGG: I have any questions about the COVID inquiry. Should I leave those to corporate?

Dr Kennedy: Which part, Senator?

Senator BRAGG: The COVID results inquiry.

Dr Kennedy: The one led out of PM&C and our submission?

Senator BRAGG: Any input you may have had into it, yes. We can leave it to corporate; I don't want to waste your time.

Dr Kennedy: We'll prepare those for fiscal. Let's do it in fiscal. We made a submission to that inquiry, I can tell you that, and it was prepared in Fiscal Group.

Senator O'NEILL: Thank you very much, Dr Kennedy and team, for your evidence this morning so far, and thank you for the very thorough opening statement. I know Australian lives hang on every word here. It's not just a numbers game. You've indicated that on a few occasions, and the responsibility of the way which our we frame our questions has been part of what you've said as well. I was a teacher before I came here, and then I taught adults who became teachers. I know what it means when a young person who might not have been great at school but can go on to become an amazing business employer gets a start. I was really very pleased to hear your commentary about youth unemployment. I want to frame where we are in this question: how does the current rate of unemployment compare to the historical reality? I note you mentioned the seventies as a reference point and, more recently, prior to COVID. What are the implications in particular for young people and their families, who are so desperate for them to get into employment and move on with all that offers in life?

Dr Kennedy: I'm very happy to respond to that. Very quickly on the thumbnail of the eighties and nineties, when unemployment rose dramatically in those periods it was very slow to come down. That persistence in unemployment means it's having its effect on those most marginally attached to the workforce. Those who are most marginally attached to the workforce tend to be those who aren't yet attached, the young people, or those who may work less hours because they have a health issue they balance or those types of issues. There is little doubt that high unemployment, and unemployment higher than it needs to be, has its most deleterious effect on those most disadvantaged. It is just absolute. That's a fact.

One of the things that drove the shape of policy responses in the global financial crisis, which I happened to be involved with—and, frankly, in COVID—was preventing that large surge in unemployment because of the echo of what happened. People sometimes call it a scarring effect. Preventing that echo is a significant public policy issue, and in both cases it was prevented. It had large, positive, ongoing effects. A debate arose post the GFC because the youth unemployment rate never quite recovered back down to the levels it had previously. A debate did arise arounds the balance of our macroeconomic positioning—frankly, where interest rates were—the fact that inflation was below the band persistently through that period and the judgement about where monetary and fiscal policy should be to support aggregate demand more broadly to see if the unemployment rate should be lower, and that might have the positive effect of seeing inflation in the middle of the band. Ideally we're aiming for inflation in the middle of the band, not persistently below and certainly not persistently above.

Senator O'NEILL: For ordinary people, there's a sweet spot that we need to get to, and right now, having suffered a few decades of struggling to get young people and people who are marginally employed into the workforce, there's one end of the sweet spot that's in place, and it's having a real impact on people's lives. I think you said in response to Senator Hume that youth unemployment is significantly in decline.

Dr Kennedy: At the moment I don't know we have the numbers to hand, but it's certainly lower than what it has been. Very recently in a cyclical sense there has been some weakening in demand in that area. In general terms I liked your characterisation. That's what we're talking about. We're talking a sweet spot. Can we sustain this unemployment rate at a low level? One thing we looked at carefully in the full employment white paper is it's not just about the unemployment rate; can people get all the hours they want to get? Are as many people participating as they can? We will be careful not to just make it all about the unemployment rate. Effectively, full employment has these many dimensions, and one of them certainly is the youth side of it. I might get Mr Yeaman give you a couple of numbers to illustrate that. I guess the thing I'm bringing to senators' attention is that this is a very powerful piece of positive public policy, and certainly we put all of our efforts towards advising on how to keep in this sweet spot, to use your language.

Mr Yeaman: To briefly provide a few numbers for the discussion to support the Dr Kennedy's comments, in the last decade we saw youth unemployment bounce around between 12 and 14 per cent, which was pretty consistent with past experience. Obviously there was an increase during COVID. But following COVID, as the economy strengthened and we were able to, as Dr Kennedy said, draw some of these more disadvantaged and disconnected workers into the labour force, we saw the youth unemployment rate fall very sharply to around

seven or eight per cent, and it has broadly maintained those gains despite the softening labour market more recently. That's a very substantial reduction in youth unemployment in an historical sense.

Senator O'NEILL: That's a lot of lives impacted in a positive way. Thank you very much for your care.

Senator DEAN SMITH: ABS December 2023 data said youth unemployment was at 9.4 per cent.

Mr Yeaman: As I said, it has mostly maintained those gains, compared to the 12 to 15 per cent I mentioned as the trend rate. It has started to pick up more recently, which is consistent with the broader signs in labour market we've seen, so it's getting closer to that.

Senator McKIM: Dr Kennedy, you did just briefly glance on the Senate's interest in supermarkets, so I want to ask you a little bit. I know Treasury is doing some work on competition policy at the moment. We have a situation where the profit margins of the supermarket duopoly have risen in recent years. We have a very high, in the global context, concentration of market share for Coles and Woolworths, about two-thirds of the market share here in Australia. Is Treasury aware of any evidence that supermarkets are using the cover of inflation and a lack of competition to increase margins and boost their profits?

Dr Kennedy: I think exactly those questions are now going to be addressed through the ACCC inquiry. Dr Emerson's inquiry is more about the business relationships, but it will be relevant to his inquiry. There was a very good inquiry done—in 2009, from memory—in the past done by the ACCC. It pointed to a few things that people have forgotten, particularly around planning and zoning interactions, and the ACCC has had a long ongoing concern around what's broadly called creeping acquisition, which is also being looked at in the mergers reform. We don't have a definitive position on all that. I very much support ACCC doing this inquiry. We think it's timely, both elements of it, and fits very much with our broader interest in mergers reform. Hopefully, the government will be in a position to indicate where it's headed, because it's relevant also to the supermarket aspect, the creeping acquisition element.

Senator McKIM: That's right, and I have some questions a little bit later, once you've left, Dr Kennedy, with regard to the work Treasury is doing there. The RBA flagged in its May statement on monetary policy last year that rising profit margins, not just in supermarkets but more broadly applicable, may be a causal factor in increasing inflation if firms facing limited competition take advantage of higher inflation to raise their mark-up over input cost. Minister, you and I have discussed this issue many times both in estimates and in the Senate. I accept there are some caveats in that statement from the RBA, but I want to ask you, Dr Kennedy, whether you agree with the comments of the RBA—and I acknowledge you are on the board—and also whether you're familiar with the report released recently by Professor Fels, where he concluded business pricing has added significant significantly to inflation in recent times. He referenced the fact that our food and groceries sector is among the most concentrated in the world—those are his words—and the average profit margin of the sector has remained remarkably stable despite enormous volatility in prices throughout the domestic economy and noted increasing margins in both Coles and Woolworths food and grocery segments driven by, in Professor Fels' analysis, low competitive forces. Given all that, I want to ask whether you accept the proposition that, if the market power of the supermarket duopoly were less, that would put downward pressure on food and grocery prices in Australia.

Dr Kennedy: The bits I accept are the logic you put around it. With less competition, in less competitive sectors the margins would pass through. I accept it's a highly concentrated sector. There's little doubt about that. That's in the facts. I guess the final point was: with a change in the efficiency of the market, the structure of the market or the types of pricing, would we get better pricing outcomes? I think it's absolutely right the government has decided to ask that question in detail. As I said, the Gina and the ACCC will leave no stone unturned. The prima facie case—I'm not sure of the right legal language—you're talking about is the concern that might arise because the market is highly concentrated, and you do observe things. I have read Professor Fels' report. It's a prime area for investigation, and I await the evidence.

Senator McKIM: The ACCC is before this committee a little bit later on, so we can raise some of these issues with Ms Cass-Gottlieb when the ACCC is here. But when I previously asked Ms Cass-Gottlieb about divestiture powers, which Australia currently doesn't have, I put to her whether, in her view, if Australia did have divestiture powers, they would be in broad terms powers for the ACCC to apply to the courts for a divestiture order to increase competition in the supermarket sector. I put to Ms Cass-Gottlieb, if that power did exist, did she think, in the context of the supermarket sector in Australia, that that power could lead to lower prices for things like food, and she agreed with that proposition. Would you also agree with that proposition?

Dr Kennedy: I think you put this to me last time.

Senator McKIM: I did. You quite reasonably said you wanted to have a look at what Ms Cass-Gottlieb said, and I then handed you the transcript. I'm just taking the chance to put it to you again.

Dr Kennedy: I wish I had gone and had a chat to Gina about it. The tough thing about the sort of question you put is there's so much going on in the background. This is the thing we have to be careful about. I'm not saying you're leaping, but leaping to the divestiture powers before fully understanding the impact they might have, for example—and I'm not saying they are. But the barriers to entry for an independent competitor are higher because, as soon they try to move into an area, a supermarket goes and buys something and does something else. I really think the whole regulatory arrangement needs to be looked at, and you have to be cautious on making policy.

Senator McKIM: Who is doing that, though?

Dr Kennedy: The first thing that's going to happen in supermarkets is we're going to build an excellent evidence base, because Gina will do a brilliant job of looking closely at what's going on.

Senator McKIM: I totally agree with that proposition. This is not in any way a criticism of Ms Cass-Gottlieb or the ACCC; to the contrary, I'm glad they are doing it, and I'm glad, in my view, that the Senate commencing its inquiry into supermarkets actually forced the government's hand on this. Quite frankly I don't think that inquiry would be happening unless the Senate had decided to establish its own inquiry first. I'm very pleased that the Prime Minister has finally woken up to the financial stress that millions of Australia are facing as a result of food and grocery prices. I think that's terrific, but the test will be what he actually does, rather than what inquiries he establishes. You've read Professor Fels' report, and he recommended introducing a divestiture power. The biggest so-called free market economy in the world, the US, has robust antitrust frameworks that were put in place to address the market power of the robber barons, back in the day.

Dr Kennedy: By the Republican Party.

Senator McKIM: Indeed.

CHAIR: Senator McKim, you cannot ask three 5-minute questions in a 10-minute block. Ask your question.

Senator McKIM: I accept this is complex, but all other things being equal, wouldn't a divestiture power, even if it was never used, even if it just sat there—like, for example, the section 11 powers that the government's trying to remove to underwrite the RBA—wouldn't that put downward pressure on food and grocery prices?

Dr Kennedy: I will talk to Gina about it again, but it's not clear to me. Our focus at the moment is on mergers reform. This is what I do think she would agree with: that's where our focus should be, and many of those issues may well be addressed there.

Senator McKIM: I will have some questions about that later.

Senator DEAN SMITH: Secretary, the Treasurer has said many times that the government's cost-of-living relief package of \$23 billion has been carefully calibrated and methodically designed. The government says it has a 10-point plan to deliver \$23 billion worth of support. The Prime Minister was forced to go to the National Press Club earlier this year to say the government had changed its position and that the range of measures they had put in place had not been effective enough. Page 51 of the most recent MYEFO states that the government's cost-of-living policies are expected to directly reduce annual headline inflation by three-quarters of a percentage point through the year to the June quarter of 2024. My first question is: what are the updated estimates of the impact on inflation of the government's cost-of-living policies, reflected in the most recent prime ministerial statement, when he announced the stage 3 tax change?

Dr Kennedy: I will ask Mr Yeaman do that. We can help you because the ABS has been identifying the impact of policy changes on the reported CPI numbers.

Mr Yeaman: I will take it into parts. The three-quarters of a percentage point number we still consider to be on track. As Dr Kennedy has suggested, the ABS have highlighted that in energy, rents and child care we have seen material reductions in expected inflation as a direct result of the government's measures, and my colleagues may wish to add numbers specifically to that. In terms of new changes in cost-of-living support through tax cuts, Treasury have said in our advice that we don't expect it to change the inflation outlook.

Senator DEAN SMITH: With regard to the first part of the question, to come to the decision that that three-quarter percentage point is correct you've used ABS data?

Mr Yeaman: We had assumptions built into our forecast about the impact of government policy in those key areas of energy, child care and rents, and I would say the data we've seen since that time has broadly aligned with our expectations. We will look at this again in the context of the budget, as always, and see if there are any changes that need to be made, but at this stage I would say we are seeing the benefits that we expected to see from government policy on inflation in those areas coming broadly in line with our expectations.

Senator DEAN SMITH: Have you been asked to constantly monitor the effectiveness of the cost-of-living policies, being the \$23 billion worth of cost-of-living policies the Treasurer regularly cites?

Mr Yeaman: We provide regular advice to the Treasurer, especially in the context of updated inflation data.

Senator DEAN SMITH: My question, just to be clear, was: do you continuously monitor the effectiveness? The answer to that is yes?

Mr Yeaman: Yes, and I take the context as the impact on inflation.

Senator DEAN SMITH: Are you able to provide to the committee information about the per annum fiscal profile of the \$23 billion worth of cost-of-living relief?

Senator Gallagher: I think we had this discussion last night at Finance, and I seem to recall that Finance took on notice to answer it.

Dr Kennedy: Sorry, I wasn't watching last night. I should've been. I don't have those numbers to hand, so I haven't come prepared. You could put it to my Fiscal Group colleagues. They may have it when they come shortly, but I don't have it here.

Senator Gallagher: It has been taken on notice though.

Senator DEAN SMITH: Thank you for that direction, Secretary. We can ask officials at another point.

Senator HUME: Dr Kennedy, you said on Friday to the cost-of-living committee that the Treasurer was aware you were doing work on the option—the option being to revise the stage 3 tax cuts. Was the Treasurer aware you were doing work on the option before your meeting on 11 December or only after that meeting?

Dr Kennedy: He was aware, to use the general phrase. We had discussions on all parts of the tax system and how it was all working. In terms of the sharpening up, I cannot remember precisely the language I used on the 11th. I did make it clear I was telling him we were going to be thinking about options for the government for cost-of-living relief in the run-up to the budget. The 11 December meeting was about sharpening up our consideration and the framing of it needing to go to millions of people and not affect inflation, and I think I outlined in broad terms that there were not going to be many opportunities to do that without looking at the tax system.

Senator HUME: Ms Brown said on Monday, regarding that 11 December request on cost-of-living relief, that she presumed the Treasurer had been speaking with the Prime Minister. Did the Treasurer indicate to you he'd been speaking to the Prime Minister prior to that request to sharpen up your advice on 11 December?

Dr Kennedy: In broad terms I was under the impression that these discussions were going on. I don't normally get into quite the details of these conversations, but there wasn't, since I've got into it, some sort of direct request from the Prime Minister to do X. I was aware of the broad request and aware in broad terms of discussions going on, but that's about it.

Senator HUME: Dr Kennedy, you said, regarding the decision to break the commitment to deliver stage 3, that actioning that advice was a matter for government: 'I just knew that they wanted a clear picture of what the potential options were here to provide broader cost-of-living relief, so we got on with it.' Can you confirm clearly that there were in fact other options that were put to government, using either the tax system or any other mechanism, besides altering the stage 3 tax cuts?

Dr Kennedy: What has come out of this process is our recommended option, and what I've said in the past, and I think it's entirely appropriate, is: I'm not going to go into the deliberation around options talking about potential numbers and whether or not they were part of cabinet consideration. They appropriately should remain part of those considerations, and I'm not going to discuss them.

CHAIR: We've had Dr Kennedy here now for the two hours as agreed. Do you have just one final question?

Senator HUME: I do. Dr Kennedy, it is seriously your position that you would independently look at breaking a core election commitment that had been repeated hundreds of times and that requires repealing existing law, without explicit direction from the Treasurer?

Dr Kennedy: My job as a public servant is to independently come up with the best advice I can give to government about what will address the issue at hand. It's entirely up to them how they make a decision subsequently to that. It's not my job to think about the broader political considerations. I'm not independent of government; obviously I serve the government. But I must be in a position to develop that advice independently, and then it's up to them. It's what I've done repeatedly throughout my career, and my approach in this case did not change from the approach I've taken over many years.

CHAIR: Thank you very much, Dr Kennedy, for being here this morning to answer our questions for the first two hours of this estimates round. We very much appreciate your time, and we release you with our thanks.

Proceedings suspended from 11:01 to 11:16

CHAIR: The committee will resume, with representatives from Treasury Macroeconomic Group and International and Foreign Investment Group.

Senator HUME: I want to talk about the jobs outlook. There were 65,100 jobs lost in the month of December last year, and that was the largest loss of jobs in a single month outside COVID since—gosh!—1993. Obviously, 1993 was in the aftermath of the recession we had to have. Is Treasury concerned by this large number of job losses in a month in the midst of a cost-of-living crisis?

Mr Yeaman: What we're seeing at the moment is quite a lot of volatility in the labour force data, month to month. That's both in terms of overall numbers of employed persons, both full-time and part-time, but also other adjustments occurring in the number of hours that people are working. So we're seeing quite a lot of volatility from month to month in different aspects of that transition.

What I would say, consistent with Dr Kennedy's opening statement, is that we're clearly seeing a softening in the labour market, which is what we expected and had forecast. But, having said that, I would say that there's still a very substantial amount of resilience in the labour market overall. We still have unemployment at fairly low levels and we've had strong employment growth over a longer period of time. So the short answer is no, we're not concerned by that; we're watching the labour market closely and we see it slowing broadly, as we expected.

Senator HUME: The Treasury forecast is for the unemployment rate to rise to 4½ per cent. What does that look like for the number of jobs lost?

Mr Yeaman: The maths can be done—I don't have that in front of me.

Senator HUME: Is there a rule of thumb?

Mr Yeaman: I don't have that in my head and I don't have it in my notes in front of me. It's complicated by the fact that the unemployment rate reflects, as you know, both—

Senator HUME: Full-time and part-time—

Mr Yeaman: the participation rate.

Senator HUME: Yes.

Mr Yeaman: So it's possible to see the number of jobs increasing and also the unemployment rate rising, if there are more people entering the labour force to participate—

Senator HUME: That wasn't the case in December, though, was it?

Mr Yeaman: From memory, we saw a small decline in the participation rate—I'll get my colleagues to confirm that. Generally, what we expect to see, from memory, is overall employment growing broadly. I'll check that—yes: we do expect to see employment growing over this period, but with the unemployment rate heading up as the broader labour market slows, as I said. My colleague may wish to add that.

Dr Cagliarini: We're still expecting employment to grow this year in MYEFO by June by about 1½ per cent and then one per cent thereafter. We do expect easing in the participation rate and that has come off a bit of late.

Senator HUME: Do you track the number of jobs lost to redundancies?

Dr Cagliarini: I would have to check. I don't think we would have that explicitly in the labour force survey.

Mr Yeaman: Not as a matter of course, no.

Senator HUME: The MYEFO NOM forecasts reflected the estimated reductions from the 25 new policy commitments in the government's migration strategy, including in this current financial year, 2023-24, taking NOM down from 440,000 to 375,000, a reduction of 65,000. Can I confirm exactly which department estimated the impact of NOM from these migration strategy policies? Are they Treasury forecasts or do they come from the Department of Home Affairs? Was it their estimate of the impact of NOM, and then Treasury takes it as a given? What do you do with that data?

Mr Yeaman: I'll give a high-level answer, but our colleagues from the Centre for Population are part of the Fiscal Group and they'll be in shortly so they can speak in more detail. At a high level, the overall NOM forecasts you quote are Treasury forecasts we produce and stand behind, but the impact of individual policy measures on NOM is, fair to say, a collaborative effort. Our Home Affairs colleagues have unique information they can bring to bear on the likely responses inside the programs so they provide us with information and then we work with them to finalise the numbers.

Senator HUME: What role does the Centre for Population play? I know that they were the same forecasts as were in the 2023 population statement. Is the impact a given? What role do they play?

Mr Yeaman: The Centre for Population produces the NOM forecasts that support our budget estimates. They do that in very close collaboration with other departments, where they have relevant information and particularly where there are policies being put in place that will affect those numbers.

Senator HUME: What sort of scenario analysis has been undertaken on the policies in the migration strategy if the reduction isn't delivered?

Mr Yeaman: I will defer those questions to our Fiscal Group colleagues because the Centre for Population does all of those calculations and scenarios.

Senator HUME: Can you tell me whether the forecast is still higher than were expected in the budget?

Mr Yeaman: Again, I'd like to refer that to the Centre for Population because they're the experts on that topic.

Senator HUME: Is Australia still in a per capita recession?

Mr Yeaman: It is the case that growth in per capita terms has been declining recently. We expect to see that reverse in coming quarters but, at this stage, yes, that is still my understanding.

Senator HUME: When you say, 'reverse in coming quarters', what coming quarters?

Mr Yeaman: I don't have the specific numbers in front of me, and we'll update our forecasts in the budget in the usual way, but, broadly speaking, as the surge in population growth we've seen—the unexpected surge in student arrivals that we've seen—starts to ease back and as growth picks up, we would see that trend reversed according to our forecasts.

Senator HUME: So is it the culmination of increased growth forecasts and decreased population forecasts that make you expect to see that per capita recession subside in future quarters but you're not entirely sure when those future quarters are?

Mr Yeaman: Yes. I don't have the detail of when that crossover occurs in front of me. As I've said, we'll review it in the budget process. We're in the middle of doing that now.

Senator HUME: Can you also confirm for me whether Australia's headline inflation rate is now still above all the G7 countries?

Dr Cagliarini: I'll have to find that.

Senator HUME: I have in front of me that Australia is at 4.1, the UK is at 4, Canada is at 3.4, the US is at 3.4, France is at 3.1, Germany is at 2.9, Japan is 2.6 and Italy is 0.8. Does that sound right?

Mr Yeaman: It sounds broadly right, yes. There are timing differences. Two comments I would make are that Australia's peak in inflation is lower than many of those countries, but to some extent we've been around one quarter behind most countries throughout the pandemic in relation to when we first started to see inflation take off and then as we've seen it coming down. We've had a very similar profile of inflation in terms of the rise and the fall, but—as has been quoted elsewhere—our peak is a little lower than many of those countries. But our reduction in inflation has also been lagging by probably about a quarter, so I think we're still expecting to see our inflation rate continue to decline in line with those other countries. Also, there are different timings for when those releases are made for each of those countries. But broadly those numbers sound correct.

Senator HUME: What's the tradables versus nontradables inflation rate?

Mr Yeaman: In Australia?

Senator HUME: Yes.

Dr Cagliarini: Tradables inflation actually fell in the December quarter; it was minus 0.7 per cent. Through the year to December it's 1½ per cent. The nontradables inflation was 5½ per cent, and that's largely made up of services inflation, and that's consistent with the opening statement given by the secretary this morning.

Senator HUME: So nontradables is essentially domestic inflation, and tradables is essentially international inflation. Is that right?

Mr Yeaman: As the secretary alluded to this morning, there is an important caveat there. Certainly, tradables inflation is the effect of importing goods from overseas and the impact that has here. It is certainly the case that a reasonable proportion of the services inflation that we're reporting—so therefore the nontradables inflation that we're seeing in Australia—is still being affected by many of the international supply shocks that we've seen over the course of the pandemic. Because the supply shocks that we've seen have been so broad based, affecting things like energy and fuel, they are feeding into domestic industries as well. So I think there are three categories,

essentially. There are the international effects in the tradable sector, and then inside the statistics of nontradables there are both, I would say, second-round effects of those international shocks and some domestic drivers.

Senator HUME: It must be very hard with the nontradables to separate out what is domestic and what is only domestic—

Mr Yeaman: Yes, it is complex.

Senator HUME: because we're in a globalised world and everything—

Mr Yeaman: Exactly. But I think we would say that there are both of those effects inside the data.

Senator HUME: On that, do you then see any material risks to the inflation outlook rising from the tensions in the Red Sea? Is that one of the risk factors that you have considered in your forecasts?

Mr Yeaman: Yes, certainly it is, and we're watching it closely. There have been movements in global markets as a result, but we haven't yet seen effects of the size and scale that would cause us to immediately change our view, but we're watching it closely.

Senator HUME: Okay. And you're still expecting inflation to return to the band at the end of 2025. Do the RBA have the same target?

Mr Yeaman: We have said that we expect it to return to the band in the 2024-25 financial year, and the RBA have recently adjusted their forecasts.

Senator HUME: So they're December 2025, you're June 2025 and the IMF is 2026?

Mr Yeaman: We said 'in the 2024-25 financial year'. I think Dr Kennedy said earlier today, in his opening statement, that we see some downside to our current forecasts because of the recent inflation outcome that we saw, which was probably a little better than what had been expected by us and some of the market. At this stage, broadly, yes, we maintain the position that within 2024-25 we'd expect to see a return to the band.

Senator HUME: So is it still earlier than June 2024-25, or is it December?

Mr Yeaman: Within that time frame—not December, but we're talking about financial year here. It could be before June 2025.

Senator HUME: Okay. And the RBA is saying probably not until December 2025, and the IMF is saying 2026. Is that right?

Mr Yeaman: That's correct.

Senator HUME: That discrepancy between Treasury and the RBA has been persistent now for a number of forecasts. What consultation occurs between the two agencies regarding the variation in forecasts?

Mr Yeaman: We meet very regularly with our colleagues at the RBA, and we have some formal processes to share our information and models. We talk very regularly with them. We will of course, at different times, have differences of view on particular aspects of the outlook and the forecasts, but we talk very regularly with them and share most of our information.

Senator HUME: It does seem weird, for an observer, that you'd have the Treasury secretary as a board member of the RBA, making decisions on interest rates affecting ordinary Australians, and yet have that institution have a very different—and it is different and has been persistently different—outlook to that of Treasury on when inflation will come back to band.

Mr Yeaman: I don't want to speak for the secretary. It's been well acknowledged and established that the Secretary of the Treasury brings insights and knowledge that come from being in the Treasury portfolio to the RBA board, which adds to the diversity of discussion among the RBA board members. But ultimately he then makes a decision as a board member of the RBA on the best path for interest rates. I'm sure those debates happen within the board.

One of the things we have observed through this period is that we have had a slight difference of view with the RBA on inflation, but I would not say it's substantial. One of the reasons that it looks, perhaps, more substantial at times is that the flow of information in their forecasts is on a different cycle to ours. Typically, when they make their forecasts, they have a different set of information to the set we had when we produced our budget or MYEFO, so their Statement on the Conduct of Monetary Policy is produced at a different point in the cycle to our numbers. I think the RBA certainly, as Dr Kennedy mentioned this morning, have reduced their forecast in their most recent statement as a result of the new data that was available, which we didn't have at the time of the last MYEFO. There are always some differences of view between us and other key forecasters, and we discuss those respectfully, but in broad terms I would say that the RBA and Treasury have very similar views about the aggregate decline in inflation that we can expect to see over the next 12 to 18 months.

Senator HUME: Both of you said that the stage 3 changes won't affect your inflation forecasts. The inflation forecasts are quite different. The revised stage 3 is going to come into effect on 1 July 2024. Even if you both believe that inflation is going to come down, you don't think that that's going to affect the timing of when it will come down?

Mr Yeaman: Sorry, Senator. I just missed the middle of that question.

Senator HUME: I said that the revised stage 3 tax cuts will come into effect on 1 July 2024. Obviously, those revised stage 3 tax cuts are very different from the ones that were legislated. They go in a smaller amount to people who have a high propensity to spend. I know you've said that there is going to be no effect on your inflation forecasts, and you say that you have advice from the RBA that it won't have any effect on theirs, but will it potentially align your inflation forecasts or—

Mr Yeaman: Both the Treasury and the Reserve Bank independently have said that the changes to the stage 3 tax cuts will not affect our inflation forecasts.

Senator HUME: Despite the fact that they go to a broader cohort that have a high propensity to spend?

Senator Gallagher: The Treasury analysis explains that.

Senator HUME: Yes, I've got that in front of me. Thank you, Chair.

CHAIR: Thank you, Senator Hume. I might just draw people's attention to whether you have any questions for International and Foreign Investment Group while they're here for another 15 minutes or so. I know Senator Roberts is running between meetings to try to catch that group for some questions. As Senator McKim enters the room and get his papers organised, is he seeking the call for Macro?

Senator McKIM: Yes.

CHAIR: Senator McKim, over to you.

Senator McKIM: Well, that was—

CHAIR: Unexpected, wasn't it?

Senator McKIM: Particularly well timed.

CHAIR: Indeed. Don't expect that to happen again.

Senator Gallagher: Don't walk in—you'll get the call.

Senator McKIM: It's a first, I have to say. Thanks very much. I just want to ask, firstly, about insurance premiums. The secretary mentioned insurance on the way through this morning. Obviously, insurance premiums are on the increase and a lot of people are really struggling to insure their homes and other properties. Reinsurers have made it clear that there's a huge jump in climate change induced natural disasters that is driving this. Has Treasury done any work to understand what the drivers of these rises in insurance premiums are, and would you agree with the reinsurers that have publicly linked the jump in their premiums—which, as Dr Kennedy said this morning, are basically insurance for insurers—to climate change?

Mr Yeaman: This morning the secretary gave, I think, a three- or four-point answer to that where he said in broad terms that the drivers of those higher insurance premiums are multifaceted but they include the fact that properties and goods are increasing in value. People have larger and more expensive houses. That's partly feeding through. He discussed some of the planning and zoning issues in terms of where people are building their houses and what risks that exposes them to in, if you like, a constant climate. Then, as he said at the end, there is the part which you've discussed, which is the effect of increased natural disasters having a large impact. We certainly agree with that.

Senator McKIM: Sorry; I was taking it a step further. I heard what the secretary said about natural disasters, but does Treasury accept that actually climate change is driving an increase in the rate and the severity of these so-called natural disasters?

Mr Yeaman: Yes. We take our advice from the experts internationally and from CSIRO and the Bureau of Meteorology and others, but I think it's documented that there has been an increase in severity and frequency of extreme events. We did a piece that you may have seen, Senator, in the most recent *Intergenerational report*, where we talked about some of these physical impacts of climate change, and there is quite detailed analysis in that document that reflects our views.

Senator McKIM: Thanks. We've got large parts of the country on track to basically becoming uninsurable at the moment. Towards the end of the previous term of government, the parliament stepped in and legislated a small scheme with very narrowly defined criteria. What are the financial implications for government of having to effectively underwrite more and more parts of the country and a greater and expanded category of natural

hazards? Isn't it really a case of either the government stepping in to do that or large amounts of the housing stock and people's homes in this country being either uninsured or effectively uninsurable because the premiums are so high?

Mr Yeaman: At a high level, our colleagues in Markets Group have been looking more closely at the insurance market itself and what steps may be necessary inside the insurance market to address some of these challenges. But, to be as helpful as I can here, as we discussed in the *Intergenerational report*, there are going to be costs for government associated with increased natural disasters. In some cases it's the direct reconstruction costs that state and federal governments pursue in response to those events. In some cases it's direct support to households that have been affected by those shocks. There will need to be, in some form, an ongoing program of adaptation to make communities, houses, more resilient to these shocks, whether that means moving some parts of communities or whether that means improving the quality of building. But, again, that will carry some costs. Then, as you say, for insurance companies themselves, if it becomes the case that there are parts of the community that are uninsurable, it could be that the government is asked to step in and fill that gap to some extent. So we're certainly aware of the issue, and it is drawing quite a substantial amount of focus inside government, as the secretary said. But my colleagues in Markets Group would be better placed to discuss the measures inside the insurance sector that may be required.

Senator McKIM: Should I address questions to you or to your colleagues later in regard to what data the government is gathering to understand the extent of the problem and the rise in premiums and how many Australians are being forced to not ensure their homes? Would I gather that from you or from them?

Mr Yeaman: From them. I am trying to be as helpful as I can. I'll certainly make sure they're aware of that.

Senator McKIM: I'd appreciate that. I noted with interest—to be fair, Minister, this is probably a question for you—that Assistant Minister Jones went overseas last year to meet with reinsurers, among other things, and he said, subsequent to that:

I've come away from this more convinced than ever that the sensible and enduring interventions are all aimed at reducing the underlying risk, instead of masking it or pretending that it doesn't exist. Because you pay for it one way or another.

Given Minister Jones's very firm view that we need to reduce the underlying risk, why is the government continuing to expand coal and gas extraction in Australia, which will turbocharge global heating and therefore turbocharge rises in insurance costs and price more and more Australians out of being able to insure their homes?

Senator Gallagher: I think that question doesn't go to the work we are doing around net zero and the transition to a net zero economy, to be fair. If there are projects underway that are going through EPBC approvals, then the law as it currently stands operates. The government operates in accordance with the law, but I don't think your question acknowledged the huge amount of work that's underway in supporting the uptake of renewables, building the energy grid for the system that we need to transition to more renewables, and the work that Minister Watt and others are doing around disaster mitigation and the efforts that are going on there.

Senator McKIM: Minister, you are publicly subsidising the burning of fossil fuels in Australia, to the tune of billions of dollars in every budget.

Senator Gallagher: This is the diesel fuel rebate?

Senator McKIM: There's also the subsidies for gas extraction and the failure to extract a reasonable tax take from the gas cartel through the PRRT. There's a range of different things your government is doing, or not doing—

Senator Gallagher: We do have plans on the PRRT.

Senator McKIM: And you're approving coal project after coal project, gas project after gas project, when the United Nations have made it clear that no new coal and gas is the absolute bare minimum to avoid an uninhabitable planet. Why are you doing that, given that so many Australians basically can't afford to insure their own homes now as a result of climate change related disasters?

Senator Gallagher: We are operating in accordance with the law in relation to any extension of current projects that are operating. We do need to transition to a renewable energy future. That transition is underway, but while that is underway we do need to ensure that there is reliable energy supply in this country. In relation to gas, we certainly do believe that, as a stabilising energy source, there is a role for gas to play. I think people in Australia understand—they would like their lights on, they would like to be able to charge their devices, they would like to be able to cool their homes and they would like to be able to charge their cars. As we transition, I don't think it's as black and white as the Greens political party would like to pretend. When it comes down to it—

Senator McKIM: [Inaudible]

Senator Gallagher: Yes, I think the vast majority of Australian people want to shift towards greener energy sources. I absolutely agree with that, but they also want to have reliable energy as that transition is made.

Senator McKIM: That's why you're approving massive new gas extraction where the gas all gets shipped overseas—that's the most ridiculous assertion, Minister.

Senator Gallagher: It is the job of government to ensure that energy can be provided as we transition to a net zero economy.

Senator McKIM: It's a ridiculous assertion.

CHAIR: This sounds like it's turning into a debate.

Senator McKIM: I'm going to move on now.

CHAIR: Do you have one final question? We have more people on the list for the time we have left.

Senator McKIM: I wanted to ask about the inflationary impacts of the stage 3 tax cuts. The question is to you, Mr Yeaman. Let's be clear: I'm asking about the tax cuts as a whole, not the changes that the government announced. Has Treasury done any work to understand what the inflationary impacts of the tax cuts as a whole are? I understand you've done work in regard to the changes that the government announced, but this is about the tax cuts as a whole and the inflationary impacts of basically dumping about \$340 billion into the economy over the next decade.

Mr Yeaman: The short answer is that we haven't done work recently to reassess the aggregate impact of the entire package. We've modelled, as discussed, the change to the stage 3 tax cuts. I'm going a long way back now, before my time, but when the full staged package was announced and legislated we had to incorporate it into our forecasts at the time. Stage 3 was a long way off then, and we focused our forecasts on the first one to two years. So there was some early work done when the original package was legislated, but not since then, no.

CHAIR: We are now out of time for this group, with three people remaining on my list. I'm going in very strict five-minute blocks now. Senator Rennick.

Senator RENNICK: My first question is around population. Why won't Labor and Treasury—because Treasury advise Labor what to do—reduce immigration as a way to reduce inflation and ease the housing crisis that is making so many Australians homeless?

Mr Yeaman: From a Treasury perspective, the settings around migration are matters for government. We have acknowledged, in many of our documents, that we've seen a faster than expected surge post COVID, which is not unique to Australia, by any means. I know, for example, that in Canada there's been a very large surge in the migration of students, but also in a number of other countries I could mention. There has been an unexpected surge in migration off the back of the COVID pandemic—faster than we thought. Government has taken substantial steps in recent times to try and reduce that increase. But, ultimately, matters around the migration intake are for matters for government.

Senator RENNICK: Minister, could you answer that question, please?

Senator Gallagher: You want to see further reductions to the ones that the government have outlined through our changes through the migration review—is that what you're saying?

Senator RENNICK: Yes. You've gone over half-a-million people. It's caused a shocking housing crisis that's rendered many Australians homeless. When are you going to lower immigration to rates that can get Australians back into their houses and out of the tents and cars that they're living in?

Senator Gallagher: Those reforms have already been announced by the Minister for Home Affairs. I'm sure that in Home Affairs estimates they could have taken you through some of those changes.

Senator RENNICK: What are you reducing your rate of immigration to?

Senator Gallagher: It was published in the MYEFO document.

Senator RENNICK: Was it 375,000?

Senator Gallagher: It is a staged reduction. I think it goes beyond that.

Mr Yeaman: I'll need to confirm that. We'll see if we have that number to hand.

Senator RENNICK: Three hundred and seventy-five thousand is still well above long-term averages.

Senator Gallagher: But I think it tracks down to 260,000, then down to 250,000. That's published in the MYEFO.

Senator RENNICK: What are we going to do about getting Australians who are now homeless back into houses?

Senator Gallagher: That's a separate question. I can talk you through all of the different housing policies that we have. Essentially, the short answer is that we have a very full agenda of driving and increasing housing supply in this country. Part of the issue we're dealing with is that we don't have enough houses, so we have to build more.

CHAIR: We also have that part of Treasury coming next—the housing group are coming next.

Senator RENNICK: I'll ask one more question about population and I'll take the tax stuff later on. Does Treasury acknowledge that, with higher immigration, it shifts the labour workforce and that, say, our tradies have to build more houses rather than go out there and build more factories to produce goods and services? Do you look at that sort of modelling when you look at the population intake?

Mr Yeaman: The way that we've talked about this in the past is that, when there's an increase in migration, obviously the economy itself gets larger. That's the first effect. For the people who come into the country as migrants, there is an associated level of increased demand. They demand housing and services and purchase goods here in Australia. But they also themselves bring an increase in labour supply that can be provided to support the economy.

Senator RENNICK: I guess that's my point. Half the immigration rate is driven by students who aren't necessarily builders. They're at university studying, rather than actually out there building the houses. It's not like the Snowy Mountains hydro scheme, where a lot of immigrants came in and started building straightaway. And that's my point. We've got a shift in the labour workforce from being on the tools to not being on the tools. I think we really need to look at getting the country back on the tools, if you know what I mean.

Mr Yeaman: There are other ways the labour market adjusts. Our view is that, over time, the effect of increased demand from those migrants is broadly offset by the increase in labour supply that they bring to the economy. But, in the short term, there can certainly be adjustment costs, and we're seeing some of that in the housing and rental market, as you say, and housing takes time to adjust. But there are other ways the workforce adjusts. If a student comes in, they will draw resources away from other areas of the economy, as you say, and wages and other aspects of the economy will adjust. But there's no doubt that there's been some additional pressure in the housing market in the short term, which is well documented, which reflects both some of the capacity constraints in the construction sector that we're seeing now and migration.

Senator RENNICK: Would you look at a levy on universities and the income they earn from foreign students, to help pay for housing and social housing?

Senator Gallagher: I think that's probably a matter for the Minister for Education and the Department of Education.

Senator RENNICK: Well, Treasury will obviously model this.

Senator Gallagher: All I'd say on that front is that there is a lot of work being done through the Universities Accord.

Senator RENNICK: So you are looking at introducing a levy on universities?

Senator Gallagher: No, but we are looking at—

Senator RENNICK: I'd support it if you did. I think they should pay more tax.

Senator Gallagher: It would be more appropriately dealt with in Education.

Senator RENNICK: Thanks.

Senator ROBERTS: Thank you for appearing today. My questions are on Treasury's plans to find foreign investors who leave properties that they own vacant. How you going to enforce that? Even Treasurer Jim Chalmers said we have no idea how many are being left vacant. Are you going to send people around doorknocking to see if there are any empty homes? It sounds like headline grabbing to me.

Ms R Kelley: As we've mentioned before, the Australian Taxation Office does have a compliance function that specifically deals with the vacancy issue. I have a colleague here from the ATO who can assist in answering the question, but they have a very well-established compliance program. They do look at the vacancy rate and they do enforce that when houses are left vacant for more than 183 days per year; they do actually follow up. I'm sure we can get some numbers, if you like, in terms of recent action by the ATO, but part of the government's announcements around the increase in fees was also that increased resources were being given to the ATO to assist in strengthening that compliance approach.

Senator ROBERTS: Thank you, Ms Kelley.

Mr Thompson: That's correct. I thought I might briefly explain how we enforce the existing vacancy fee rules. Obviously, these are amendments to the rates, but they don't change our enforcement approach. People who

are in scope—in the population in 2022-23 that was about 12,500—that we track are required to lodge a vacancy fee return every year. Some of those foreign investors declare to us that the property is vacant, in which case we levy them the vacancy fee. We also conduct compliance activities on the remainder of the population. For those foreign investors who don't lodge a return, we deem a vacancy fee on them and they need to contact us if they think that we have deemed that fee incorrectly.

Senator ROBERTS: How accurate is your register of foreign owners? Have you done any testing on it to make sure all the foreign owners are in fact registering?

Mr Thompson: Yes. As we explained in some questions on notice following the last estimates, we get the full data set for the real property transaction registry. For example, in 2022-23 the number was around 2.4 million individual entries. We work through a range of data-matching techniques to get that down to a potential compliance pool in the thousands and then we publish our compliance numbers, and they're generally in the hundreds. In that sense, we're very confident about the in-scope population under the Foreign Acquisitions and Takeovers Act rule.

I would make the point that there is sometime debate about the exact numbers, and I think that goes to the different definitions that different regimes use. For example, we're aware that the rule of the Foreign Acquisitions and Takeovers Act is slightly different from state and territory land tax acts. There's also a NAB survey that is run every so often, and that asks the question about overseas buyers, as opposed to foreigners. When people talk about the numbers—I'd say we're very confident of the numbers under the Foreign Acquisitions and Takeovers Act definition, but that's not to say that, if people are using different definitions, you might not come up with different numbers.

Senator ROBERTS: That's a question I'll ask later, in another session. When it made its release, the government said it expects to collect \$500 million a year in these extra changes—\$170,000 per person. If the charge is \$170,000, that's less than 3,000 homes, and many of those 3,000 will probably still stay vacant because foreign buyers are rich and can probably afford to just pay the charge. Has Treasury conducted any modelling on how many of those 3,000 they expect to become occupied because of this thought bubble? You just mentioned 12,500 vacancies.

Ms R Kelley: I think we need to clarify that the predicted revenue is based on the total application fees as well as the vacancy fees.

Senator ROBERTS: How many houses do you expect to be trapped in this scheme?

Ms R Kelley: It depends. Every year there are different numbers. In the last financial year, 3,542 houses were purchased by foreign investors, so they would definitely be captured. The people who are purchasing are captured. The application fees have been tripled. They range with the value of the property, and the application fee increases with the increase in the property value. Then you have the numbers that Mr Thompson was talking about in terms of the number of houses that are already purchased and registered and that the vacancy fees apply to. The calculation around the revenue are based on those sorts of numbers as well. It's both factors.

Senator ROBERTS: Minister, it makes it really simple, doesn't it? Why not ban all foreign ownership of housing? That would solve the housing crisis.

Senator Gallagher: I am not sure it would when we look at the numbers involved in the evidence that's just been given, and that is not the government's position.

Senator ROBERTS: Why isn't it the government position? There are Australians in caravans, tents and cars.

Senator Gallagher: Again, there are a number of reasons why there is pressure in the housing market at the moment, whether you be renting, homeless or seeking to buy your first home. Not all of that can be attributed, as I think you would like to argue, to foreign ownership.

Senator ROBERTS: I am not saying 'all,' but I am saying massive immigration is driving up housing prices.

Senator Gallagher: That, again, is a different issue to the subject of foreign ownership. You've been given the numbers today.

Senator ROBERTS: We're concerned about Australians residents and citizens in tents, caravans, cars, under bridges—

Senator Gallagher: That is why we have all the effort on the housing side to generate supply.

Senator ROBERTS: Thank you, Chair.

CHAIR: We will come to housing more fully next. Senator Hume.

Senator HUME: I want to ask some questions about productivity. The Productivity Commission Chair revealed that they were not consulted over the government's industrial relations changes and specifically the right to disconnect. Has Treasury undertaken any analysis on the productivity implications of the government's right-to-disconnect legislation?

Mr Yeaman: We have provided advice on the government's annual industrial relations packages through the normal cabinet processes. Our colleagues in Fiscal Group are responsible for that and will be able to speak to that process in more depth, but our advice has been provided in the normal way through those cabinet processes.

Senator HUME: This was an amendment. Is the right to disconnect something you have looked in terms of productivity in other environments, other fora?

Mr Yeaman: No, not to my knowledge, but, as I said, we provided advice on the government's industrial relations packages through the cabinet processes.

Senator HUME: On that: have you undertaken any analysis of the benefits of flexibility in workplaces on productivity in a post-COVID environment?

Mr Yeaman: I'm not aware of any specific new analysis the Treasury has done looking at that particular issue. There has been a long series of literature on labour market dynamics generally, which Treasury monitors, but I'm not aware of any new work done.

Senator HUME: Do Treasury staff have flexible workplace arrangements?

Mr Yeaman: That is a matter for our corporate team, but, yes, we do.

Senator HUME: The Reserve Bank governor made it very clear recently that a return to long-term average productivity growth is absolutely essential if we're going to reduce interest rates and inflation and have sustainable wage rises. Labour productivity fell 0.1 per cent through the year to September. Multifactor productivity fell 0.05 per cent in the 2022-23 year. That's a far cry from the recent average and the long-run budget assumption, which is 1.2 per cent growth per annum. Is that something that concerns the Treasury?

Mr Yeaman: It's something we monitor closely. It's no doubt the case that, as we have said many times, stronger productivity is a good thing for the economy over the longer term. I would make two quick comments and will not go into great depth. As you know well, there's been a longer-term structural decline in productivity here and overseas. There is a range of arguments which I could go through, but, for the benefit of the committee, I won't unless asked about what longer-term drivers are. In terms of the immediate decline that you mentioned, I would just note—and I think the Reserve Bank has also noted this—that there has been a lot of volatility in economic statistics broadly but in productivity in particular in recent times. There have been some quite substantial revisions to the productivity statistics as well. From our perspective, we are watching it closely. It is a concern. We'd like to see productivity higher over time in all circumstances, but I note one bit of caution, which is that there is a lot happening post COVID in the labour market and the economy, which makes interpreting those productivity numbers quite difficult. Generally, with productivity, we would look to assess productivity trends over a productivity cycle, which is often three to five years, rather than a quarterly number or two quarters of growth. So we're watching it closely and we'll see how it progresses.

Senator HUME: Is that something that you've discussed with the Department of Employment and Workplace Relations?

Senator Gallagher: I'm sure there would be some discussions, particularly in the development of the employment white paper, which outlined the government's five-pillar productivity agenda. I'm sure there would have been some between Treasury and—

Senator HUME: When was the white paper developed?

Senator Gallagher: Was it released last year? Yes, it was released last year.

Mr Yeaman: It was in September last year.

Senator HUME: Did that white paper include the right to disconnect?

Senator Gallagher: I don't think it went to individual amendments that might be moved on the floor of the Senate. Obviously, it would be talking about work and efforts to improve productivity at work, including employees' right to fair working conditions as part of that.

Senator HUME: Has the Treasurer expressed any concerns about the productivity impacts of the government's industrial relations policy?

Senator Gallagher: I'm not sure Treasury is in a position to answer that.

Senator HUME: I'm asking you.

Senator Gallagher: The Treasurer is fully briefed by Treasury on all matters that go to cabinet. We don't go into cabinet discussions here. Neither did you.

Senator HUME: Can you, Mr Yeaman, perhaps explain how the right-to-disconnect laws will boost productivity?

Senator Gallagher: Again, I'm not sure that—

CHAIR: Is that for this committee?

Senator HUME: Perhaps you can, minister?

Senator Gallagher: I think it goes to a broader point about treating employees with respect, providing protections at work and ensuring that there's a fair balance between when they are in paid work and when they are not at work so that, when they are at work, they're a more productive employee. I don't think that will be news to anybody.

Senator HUME: Is there data to back that up?

Senator Gallagher: There's plenty of data about balancing work and time outside of work improving people's ability to—

Senator HUME: If you could table any data you have on the right to disconnect and how that affects productivity—

Senator Gallagher: I didn't say the right to disconnect.

Senator HUME: That's what I'm asking about.

Senator Gallagher: The right to disconnect goes into the issue of how you balance time outside of work with working responsibilities. It goes exactly to that. There's been a fair bit of interest in this in this parliament, including a committee enquiry, where there was unanimous support for measures to ensure that people were given that right balance.

Senator HUME: It wasn't part of your initial legislation—

CHAIR: Thank you. I'm going to move on. We are losing the gains we made earlier. For five minutes, Senator McKim.

Senator McKIM: Thank you, Chair. Minister, over the last decade the Labor Party has accepted more than half a million dollars in political donations from Coles and Woolworths. Now, those giant supermarket corporations don't give money away for free. What you reckon those donations have bought them from the Labor Party?

Senator Gallagher: Organisations make donations in accordance with the electoral laws. They're disclosed. It's not something that's unique to the Labor Party. All political parties have to raise money so that they can fund election campaigns.

Senator McKIM: It's true that the market duopoly does donate to the political duopoly in this country.

Senator Gallagher: We disclose those donations in accordance with the law.

Senator McKIM: That is true, but they're not giving this money away for free. Do you accept the proposition that donations from the supermarket duopoly have allowed them to get away with a massive share of the supermarket sector over a long period of time, with ruthlessly fleecing farmers and with price-gouging their consumers?

Senator Gallagher: No, I don't accept that, and you've got no evidence to support that claim—or, if you do, you should table it.

Senator McKIM: You asked for evidence. Labor supported draconian antiprotest legislation in New South Wales that will see peaceful protesters potentially spending up to two years imprisonment. In the bill, Coles and Woolworths facilities are specifically named in the legislation as places where peaceful protests aren't allowed to occur.

Senator Gallagher: I don't know how this relates to any matter I'm responsible for or the Treasurer is responsible for.

Senator McKIM: Is that the sort of thing their donations buy?

Senator O'NEILL: The question is out of order in every possible way.

Senator Gallagher: I don't know how this relates to what's going in New South Wales, which I know nothing about in how it relates to the matters I'm sitting here at the table responsible for.

Senator McKIM: It's about the donations you take from the supermarkets.

Senator Gallagher: I know the Greens political party like to come in and make that point at every hearing, but you have been unable to provide any evidence to back it up.

Senator McKIM: I just did.

Senator Gallagher: I don't accept that. I don't know what you just raised. I know nothing about it, so that doesn't really support your argument.

CHAIR: I'm not seeing any evidence that the committee still has questions for Macro, International and Foreign Investment Group, and I'd like to move on. Thank you very much to the representatives of Macro, International and Foreign Investment Group.

[12:05]

CHAIR: We are now moving to Small Business, Housing, Corporate and Law Group.

Senator BRAGG: I am just wondering whether anyone in the Treasury has read Alan Kohler's essay in *Quarterly Essay*, 'The great divide: Australia's housing mess and how to fix it'.

Ms Anderson: Yes, I and others I know are aware of and have read that article.

Senator BRAGG: In the pamphlet, he says:

And there is also some talk of tax incentives for "build to rent", which might help the rental crisis if institutions could be persuaded or bribed to build apartment towers and rent them out. But all that would do is offset the tax advantage that individual owners get from negative gearing and capital gains tax, which is unavailable to institutions and is the reason Australia doesn't do build to rent—since tax-advantaged individuals outbid institutions.

Poor institutions! What is your take on that? Do you think that institutions are in a position where they should be given access to the same tax arrangements as individuals?

Ms Anderson: I think you're very much in the territory of seeking an opinion from me—

Senator Gallagher: Yes, exactly.

Ms Anderson: and I don't think it's appropriate for me to venture my personal opinion on it. Generally, the government's policies are around encouraging institutional investment and all investment that will encourage supply in the housing market. I'm happy to talk about those things.

Senator BRAGG: Have you done any work on those issues, though? Have you prepared any work, any materials or any analysis on these claims that the institutions are to be pitied and should be given more tax advantages?

Ms Anderson: We have been involved in designing the government's programs, including the Housing Australia Future Fund. As to how institutions react to that, that is a matter for them. They have to make an act in the best interests of their shareholders. To the extent we've been involved in designing the government's announced programs, including the build-to-rent concessions that were announced as part of the last budget, we have clearly been involved in work on those issues, especially to the extent that they support the government's public policies in those areas.

Senator BRAGG: How do the build-to-rent arrangements work in terms of the tax concession piece?

Ms Anderson: I'll ask Ms Crosthwaite to help me here, and she may also want to throw to our Revenue Group colleagues for more detail; it's being led by them, but I'm sure we can give you a little bit here and you can ask more of them this afternoon, if you wish.

Ms Crosthwaite: Thank you for the question. The measure announced in the budget was that the government will be providing tax incentives to support build-to-rent developments to reduce—

Senator BRAGG: Tax incentives to whom?

Ms Crosthwaite: To investors.

Senator BRAGG: Who? Institutional investors, like super funds and those sort of—

Ms Crosthwaite: Managed investment trusts.

Senator BRAGG: So super funds and managed investment schemes?

Ms Crosthwaite: Correct. The intention is that the withholding tax rate for eligible managed investment trusts for newly constructed build-to-rent projects will reduce from 30 per cent to 15 per cent.

Senator BRAGG: So the government's policy is to give a tax incentive to institutions to buy and build more houses?

Senator Gallagher: To build more rental properties.

Senator O'NEILL: To invest in houses.

Senator BRAGG: Sorry, I'm asking the questions here.

Senator O'Neill interjecting—

Senator BRAGG: I'm asking the questions here. The question is: is the government's policy to give tax incentives to major institutions like super funds so that they build more houses?

Senator Gallagher: We want to support and incentivise the building of more rental properties by investors.

Senator BRAGG: So the answer is 'yes'.

Senator Gallagher: You can spin it as you choose, but the policy intent is clear.

Senator BRAGG: I will take that as a 'yes'; thank you very much. Next, I want to ask you about the Help to Buy Scheme. When exactly is that going to start?

Ms Crosthwaite: We anticipate that the Help to Buy Scheme will be open for applications later this year.

Senator BRAGG: What was the initial start date supposed to be?

Ms Crosthwaite: I don't believe there has been a commitment to a start date made by the government.

Ms Anderson: I think there were maybe some comments at National Cabinet in August last year around this year being the date, but, beyond that, I don't think the government has made particular comments on exact timing.

Senator BRAGG: Were you involved in the announcement of this policy, Minister, in the election campaign?

Senator Gallagher: I don't believe so. I would have been involved in the development of it. I'm not sure I was involved in the announcement of it. I could have been; it was a long time ago.

Senator BRAGG: You can't recall whether there was a different start date?

Senator Gallagher: No, I can't. I don't have the document in front of me, and working on this has involved working with the states and territories.

Senator BRAGG: One of the main initiatives the government has taken in housing has been in relation to trying to drive supply, it seems to me. It has adopted housing targets of 1.2 million over the next five years, which includes 75,000 a year in New South Wales—does that sound right so far?

Ms Anderson: Yes. I don't know if the New South Wales figure—is that correct?

Ms Crosthwaite: Yes.

Senator BRAGG: Good. Do you know that the New South Wales Treasury have said they only plan to build 36,000 per year over the next five?

Ms Anderson: Just more broadly on the 1.2 million commitment: it was agreed to by all states and territories and the Commonwealth at the National Cabinet in August last year. They made that commitment. In return for that commitment, the government has put on the table the new-homes bonus and also a scheme to assist with infrastructure, of \$500 million—so there is a \$3 billion incentive payment and a \$500 million infrastructure program. The intent of that is to stimulate a response in the market. If things were travelling at a trajectory that was achievable for the supply we need in the market, we wouldn't need programs like that. We are expecting and hoping that, as part of the commitment, the states will also look at how they can increase their supply.

Senator BRAGG: What I'm trying to understand is this: the government in New South Wales is saying it's only going to build half as many houses as you say it should build. Is that it?

Ms Anderson: I'm not aware of that particular public comment.

Senator BRAGG: That's what the New South Wales Treasury has said.

Ms Anderson: The New South Wales Premier was part of the decision last year, so I think that's a matter for them.

Senator BRAGG: Doesn't that cause a major problem for your housing policy—that half as many houses that were proposed are actually going to be built?

CHAIR: Do you want to table the document you are referring to?

Senator BRAGG: I'm sure I've got it somewhere. I can table it. It's a publicly available quote.

CHAIR: If you're continuing on that line, it might be useful for the officials to have the document.

Senator BRAGG: I'm sure we can dig it up.

Ms Anderson: I think I can probably answer that by kind of indicating that there is a lot of work to do. I don't think anybody, including the Commonwealth, has indicated that this is an easy ambition. I think the Prime Minister has used the word 'ambitious'. So it is ambitious, and the intent of it is to be ambitious because the policy intent is to increase supply and try to reduce the pressure in the market.

Senator BRAGG: What does the government propose to do in a case where there aren't enough houses being built—in this case, half as many as the target that was proposed?

Senator Gallagher: Our 1.2 million target, as we said, is ambitious, but it remains. So we continue to work on all of the different elements of our Housing Accord, the various measures that we've funded through the two budgets and the update that I've been involved in. We're pressing on. We're working with the states and territories and we want to work with councils to deliver the infrastructure that's needed, and we will continue to do so. I imagine it will continue to be discussed at National Cabinet.

Senator BRAGG: What about the Housing Australia Future Fund? When does the government expect the first homes in that scheme to be built?

Ms Crosthwaite: The \$10 billion has been credited to the HAFF. There is currently the first funding round open right now, whereby project proponents are able to submit applications to build homes under the HAFF. The first disbursements will begin to be made from the HAFF from 1 July this year.

Senator BRAGG: Where will these houses be built?

Ms Crosthwaite: They will be built all around Australia.

Senator Gallagher: It will depend on the applications, I imagine?

Ms Crosthwaite: Correct.

Senator BRAGG: Are you aware of the evidence given to a recent Senate committee where the property industry said that the position of getting to the housing targets will be undercut by virtue of the government's multinational tax bill, which reduces the ability for certain developments to deduct interest from their arrangements?

Senator Gallagher: Who's saying that?

Senator BRAGG: The Property Council.

CHAIR: This was a matter that was considered in another enquiry in relation to that bill, and a report has been tabled on that. That's where the detail of that—

Senator Gallagher: I don't think it's unusual for the Property Council to be arguing against changes to the tax system. I've had a long association with—

Senator BRAGG: So you're not worried that the industry is saying that they're not going to build enough houses?

Senator DEAN SMITH: They were actually arguing that there are going to be fewer properties built. That is unusual from the Property Council.

Senator Gallagher: The point I'm making is that I've heard that argument put by the Property Council a number of times, about a number of different measures.

Senator DEAN SMITH: What happens if it's true?

Senator Gallagher: Well it hasn't been to date.

CHAIR: There has been a bill enquiry, there have been amendments and it's been canvassed over there.

Senator DEAN SMITH: I'm wondering if the officials have any awareness of that.

Ms Anderson: I haven't personally read that transcript.

Ms Crosthwaite: No.

Senator BRAGG: Or their submission?

Ms Anderson: I'm not sure if my team have read the submission. I haven't.

Senator BRAGG: There seem to be a few holes in this housing plan, which is why I am asking you about it today. In fact, I think it is the case that the Premier of New South Wales, Mr Chris Minns, said on 17 January that New South Wales wouldn't meet its housing targets. Was that information made available to you at the time?

Ms Anderson: We've been in constant discussions with officials, Senator, including the New South Wales representatives. I'm not going to go into the toing and froing that has happened in those official discussions—that would not be appropriate—but we're also aware of the public statements that New South Wales has made in this

area. We are responding to National Cabinet's arrangements and the range of different policies that were agreed by first ministers at that meeting. If New South Wales wishes to re prosecute anything, there are avenues to do that.

Senator Gallagher: But we press on.

Senator BRAGG: Another matter we discussed at the last estimates was the issue of the Cbus engagement with your department. I think that was with you, Ms Crosthwaite. There was an FOI filed, and it was provided with significant redactions because there was a view that there was some commercial-in-confidence information. That's right, isn't it?

Ms Anderson: That's correct.

Senator BRAGG: Is there any light you can shed on why this particular fund, which is chaired by Mr Wayne Swan, who's also the head of the Labor Party, is providing the government with commercial-in-confidence information about a housing bill which was, at that stage, not finalised? It seems very murky to me; I'm just trying to get to the bottom of it.

Ms Anderson: I don't know that it's murky—

Senator BRAGG: Okay, that's good.

Ms Anderson: I certainly disagree with that. The decision-maker for that FOI was not a member of the parliament. I understand it was a decision taken in the Treasurer's office. The reasons for that decision will be laid out in the letter. I'm not sure we'd have too much more to add to that, but Ms Crosthwaite may have some more information.

Ms Crosthwaite: No, I haven't had any involvement with that.

Senator BRAGG: Okay. Why was there engagement with this fund on this issue?

Ms Anderson: I think we answered some of those questions on notice. Members of Treasury—including the secretary, I believe, and others—were at the investor round table in late 2022 that dealt with investment in the housing sector. I think we answered on notice that there were meetings with the housing division the following year. I can't speak on behalf of all of Treasury, but obviously our area that works in the Markets Group on super policy would be in constant meetings with all investment funds. There was nothing specific, as I think we answered to a question on notice, in terms of meeting with Cbus in or around the investor round table on housing. Attendance at the investor round table obviously did occur, and Cbus were in the room, as were others.

Senator BRAGG: I can table that document if you want, but the reason I'm asking you this is that we're talking about, effectively, a tax for institutions, aren't we?

Ms Anderson: Sorry, what was the question?

Senator BRAGG: We're talking here about a tax concession for institutions.

Ms Anderson: At the housing investor round table?

Senator BRAGG: Yes.

Ms Anderson: It was talking about institutional investment—

Senator Gallagher: And how to attract it.

Ms Anderson: in the housing sector and how to attract it, yes.

Senator BRAGG: Okay. But isn't part of this policy to have a tax deduction, effectively, or—

CHAIR: Build to rent.

Senator BRAGG: a reduced rate of taxation for institutions when they engage in built to rent? Isn't that part of the policy?

Senator O'NEILL: Or in a vested trust.

Ms Crosthwaite: The build-to-rent scheme—

Senator BRAGG: Sorry, you're not asking questions.

Senator O'NEILL: The questioning should involve [inaudible] vested trusts as well—for everybody who wants to invest.

Senator BRAGG: Interjections are useless! They're actually not useful interjections.

CHAIR: Alright. I think what we'll do is let Ms Crosthwaite have a go at answering the question that's been asked a few times.

Ms Crosthwaite: Thank you. I need to clarify that managed investment trusts, which is what the tax concession will apply to, relate to foreign investors. It's quite a narrow scope of potential investment.

Senator BRAGG: Are there any arrangements in this housing policy so far that would be beneficial to Australian institutional investors?

Ms Anderson: Are you talking about tax benefits?

Senator BRAGG: Yes.

Ms Anderson: I'm very happy for us venture our arm, but I am very conscious we have Revenue Group coming, and all of these policy decisions, including build to rent as a policy, are implemented by that group. Rather than us venturing our arm and having a matter of detail incorrect, I think it would be more appropriate if they answer.

Senator BRAGG: It's a 'yes' or 'no' answer.

CHAIR: Ms Anderson said that it would be better answered in Revenue. I just want to check, given that we've been going for 15 minutes on this line, whether anyone else is seeking the call or whether we want to stay with the deputy chair.

Senator BRAGG: I haven't finished, but I'm sure other people do.

CHAIR: I can come back to you.

Senator DEAN SMITH: I've got a line of questioning, but on a different topic.

CHAIR: So we'll stay with the deputy chair.

Senator BRAGG: We all have questions.

CHAIR: Deputy Chair.

Senator BRAGG: It's only really one question, and I don't expect you to give me a detailed tax answer. I'm not trying to be difficult; I'm just trying to understand something. Are there any policies you have here to promote institutional investment into housing?

Ms Anderson: I think I would take issue with the word 'promote'. There are a range of measures in place that are designed to increase supply, and that can include supply through institutional investment in the sector. As we've mentioned before, we have the Housing Australia Future Fund out in the market at the moment. I think we'll have a very good idea of the extent to which institutional investors and others are willing to partner with CHPs—community housing providers—and others to participate in that scheme. That would be a good test of what's going on in the market and the level of interest by institutional investment.

The National Supply and Affordability Council, which was an interim council last year, did a report to government on institutional investment as well, and there are some ideas in that which the government is considering. So I think that the broader—

Senator Gallagher: Why are you accusing us of being secret about it? The Treasurer has been holding investor round tables for goodness sake! You do that because you want to understand what's going to work to increase housing supply. In relation to that investor round table, he has held a number of them.

Senator BRAGG: These aren't trick question; I'm just trying to get to the bottom of any tax schemes that have been proposed or implemented. Your answer is that it's only one, which is for foreign investors. Is that right?

Senator Gallagher: And then we have things like the HAFF, for example.

Senator BRAGG: How does the HAFF support institutional investors engaging here?

Ms Crosthwaite: The HAFF provides a vehicle by which institutional investors can partner with others to provide social and affordable housing. The intention is that there's a scheme which allows for institutional investors to join with those that are already providing community housing, or who would like to. It gives them a pathway to channel that investment.

Senator BRAGG: What is the scheme? Is it a tax scheme, or is it—

Ms Crosthwaite: No. The Housing Australia Future Fund is not a tax scheme.

Senator BRAGG: Okay, so when you say 'scheme', what is it? Is it a way to bring together different people?

Ms Crosthwaite: It's a funding source. There will be \$500 million a year dispersed by the scheme to support the provision of social and affordable housing.

Senator BRAGG: Which is a grant—or is it a loan?

Ms Crosthwaite: It's likely that it will be a combination of different financing types. The way that the first funding round is being rolled out—I have to be a little careful; I don't want to trip over any probity concerns—

Senator Gallagher: Yes.

Ms Crosthwaite: because we're in the field. But there's an opportunity for potential proponents to interface with different types of financing arrangements.

Senator BRAGG: What does the \$500 million do? Is it to support the development through a loan to an institution or to a community housing provider? How does it work?

Ms Crosthwaite: An example of how it could work, if that would be helpful, is that a community housing provider might partner with an institutional investor and, perhaps, also a state government. If they're successful, they would fund a project which would include the building of social housing and then, potentially, the payment of availability payments. Those then allow for the difference between the rent that they might recover from social housing tenants, which isn't market rent, and the cost of them providing the housing.

Senator BRAGG: That's right. And the availability payments can be paid to institutions, can't they?

Ms Crosthwaite: They could be, if that were the way that the deal was made.

Senator Gallagher: Yes. We're out seeking applications now, so it might be easier to have more of these discussions when—

Senator BRAGG: No, that's all I need. I'll have another block later.

CHAIR: Senator Smith.

Senator DEAN SMITH: Just staying with the HAFF for a moment: has the investment mandate been agreed?

Ms Crosthwaite: Yes.

Senator Gallagher: Yes.

Senator DEAN SMITH: It has been.

Senator Gallagher: Yes.

Senator DEAN SMITH: What date was that agreed on?

Senator Gallagher: It has been published.

Senator DEAN SMITH: Okay, if it has been published that's fine. I want to turn to an article that appeared on 6 February in the *Daily Telegraph*. It reported that the Treasury was advertising for several temporary positions to manage communication campaigns.

Ms Anderson: That's right.

Senator DEAN SMITH: Great. Could you provide me with some information about that?

Ms Anderson: We did put an advertisement across APS agencies to seek additional staff for communications and information functions within Treasury. I think the process is underway to assess that at the moment.

Senator DEAN SMITH: When will the process finish?

Ms Anderson: I'll pass to Dr Barrett for that.

Dr Barrett: We've received some applications and we're reviewing those at the moment to see who would be suitable to fill the temporary roles.

Senator DEAN SMITH: Have applications closed?

Dr Barrett: They have.

Senator DEAN SMITH: Have you had a strong response?

Dr Barrett: I actually don't know the answer, Senator, I'd have to take that on notice. I'm not reviewing the applications myself.

Senator DEAN SMITH: Who will conduct the interviews?

Dr Barrett: Our head of communications will look at the applications, along with a director within that team.

Senator DEAN SMITH: So it will be a selection panel of two?

Dr Barrett: At the moment, we're not looking at a full-scale recruitment process. We're looking at, say, transfers from other departments—people who are already on their level in another department—and things like that.

Senator DEAN SMITH: Why wouldn't you just advertise on the government intranet? Why would you have to advertise in the *Daily Telegraph*?

Dr Barrett: We didn't advertise in the *Daily Telegraph*.

Senator Gallagher: I think that was a news article.

Senator DEAN SMITH: You're quite right.

Dr Barrett: We advertised internally in the APS.

Senator DEAN SMITH: How many applications have you received?

Dr Barrett: I don't know. I'd have to take that on notice.

Senator DEAN SMITH: That would be great. Could you also find out on notice if the selection panel is two people? If it's not, could you provide some additional information?

Dr Barrett: Yes.

Senator DEAN SMITH: Will there be any external parties to the Treasury involved in the selection process?

Ms Anderson: This is an expression of interest process. What Dr Barrett was getting at before is that we are looking at people already at level across the APS, so it's not a full, external, merit based process. It is still a merit based process, but it's based on a specific cohort of people that we're targeting. So it's a less fulsome recruitment process aimed to try and get some people on board.

Senator DEAN SMITH: What level are you looking at across government?

Ms Anderson: We advertise at a range of levels, from APS levels through to executive level 2, which is a manager in our system.

Senator DEAN SMITH: When was the decision taken to recruit three additional staff? Is that correct?

Ms Anderson: We're yet to determine exactly how many additional staff it will be. It's likely to be in excess of three. The decision was taken in early February or maybe very late January.

Dr Barrett: We placed the EOI on 1 February.

Senator DEAN SMITH: Is that less than 10 or more than 10?

Ms Anderson: Staff?

Senator DEAN SMITH: Yes.

Ms Anderson: We're still considering that. We're still determining the scope of the roles they will fulfil. Until we've done that, we probably won't make a decision on the final size and structure of that team.

Senator DEAN SMITH: Who will these people report to in Treasury?

Ms Anderson: They will report to an assistant secretary. Again, we're still establishing the exact structure. It would usually be an assistant secretary in the corporate division, who would then report to Dr Barrett, who reports through to me.

Senator DEAN SMITH: Is this not being done the wrong way around? Why wouldn't you establish the structure and have the discussions internally about how this is going to operate and then have an EOI process for officials from other departments?

Ms Anderson: We've clearly done some planning work to determine what we need, but, until you see the field and you understand exactly what expertise you've got, you won't make final decisions. So I guess we're hedging a bit on the exact size of the final team, but I think that's not unusual.

Senator DEAN SMITH: How long has the planning been underway?

Ms Anderson: The planning for the EOI or the planning for a new team?

Senator DEAN SMITH: Both.

Ms Anderson: Around a month, I would say, or a little less.

Senator DEAN SMITH: What triggered the need for a special unit?

Ms Anderson: We are likely to be given some new responsibilities around information provision.

Senator DEAN SMITH: So you've not yet been given the responsibilities?

Ms Anderson: We have been given the responsibilities. The exact scope of those responsibilities is still under discussion. We know we have some new responsibilities, and we are staffing in anticipation of that.

Senator DEAN SMITH: What are those draft scopes at the moment? You said you haven't got final scope, so I'm keen to know what the draft or the preliminary scopes are.

Ms Anderson: I think the expression of interest process itself outlined the sorts of skills we need, and one of those skills is around information campaigns. The exact scope of government information campaigns is obviously subject to many rules and committees, so the scope will be determined by those.

Senator DEAN SMITH: The EOI that was distributed—can you make that available to me?

Ms Anderson: We can take that on notice. I don't think that would be a problem.

Senator DEAN SMITH: Thank you very much. Where will the new unit be housed—in the Treasury?

Ms Anderson: That's right.

Senator DEAN SMITH: What is your expectation of the sort of work you'll do and the sorts of campaigns that you'll be involved in? That would influence the suitability of potential people.

Ms Anderson: We are looking for broad communications expertise—people who are involved in all aspects of communications. Sorry, what was your precise question?

Senator DEAN SMITH: What's your level of awareness of the sorts of skills and sorts of campaigns that you expect to have to instigate so as to assist you in identifying who would be suitable working in the unit?

Ms Anderson: We have awareness of a couple of smaller issues that are likely to require information campaigns or are not obviously in the public domain. Then we expect to be providing information into the public domain about the government's recently announced stage 3 tax changes.

Senator DEAN SMITH: Do you expect the work of the unit to be predominantly focused on the stage 3 tax decision and communicating that?

Ms Anderson: Yes, we do. That is the new element. There will be other things that that unit also does.

Senator DEAN SMITH: But you expect the stage 3 tax decision to be its predominant work?

Ms Anderson: That's right.

Senator DEAN SMITH: That aligns quite neatly to the 1 February date.

Ms Anderson: That's correct.

Senator DEAN SMITH: What is the quantum of additional resourcing that you've been given to create this new spin unit?

Ms Anderson: The government has taken a decision to provide additional resourcing. It's a provisioning amount at this point in time. Obviously all information campaigns are subject to the relevant subcommittee of cabinet, and the exact expenditure would be determined by them.

Senator DEAN SMITH: At this particular point, I'm more interested to know what additional resourcing you have been given in order to bring people on board.

Ms Anderson: In the portfolio additional estimates statements, some additional provisioning has been provided for Treasury. Exactly how that translates into staffing and supply costs and other things is something we're working through.

Senator DEAN SMITH: What's that quantum?

Senator Gallagher: I think the decision of government was to agree to a campaign of up to \$40 million over two financial years in relation to the tax campaign. But that hasn't been finalised, because we haven't got a campaign in place and it hasn't been approved. We've made a provision basically.

Senator DEAN SMITH: The stage 3 tax change roadshow is still in its preliminary or draft form?

Senator Gallagher: It will be done as it was done in the original government personal income tax plan, where there was a campaign around that in 2019, and in the economic response advertising that was done in 2020 and other public information campaigns. The expectation is that it will be of a similar size and scale and it will be handled in accordance with standard processes, including the independent campaign committee's review of any public information campaign. Obviously, while a provision is being made, we would still need that legislation to pass.

Senator DEAN SMITH: If the government is so confident of the success of its decision, why does it need to communicate it and campaign around it?

Senator Gallagher: It would be a public information campaign. Obviously millions of Australians will be affected by this change, so, in line with the original decision taken by your government—

Senator DEAN SMITH: But the tax benefit is so modest. Does it warrant a \$40 million—

Senator Gallagher: It's very much in line with the decision that your government took in 2019 around the original income tax plan.

Senator HUME: That was three stages as opposed to one stage.

Senator Gallagher: It is not unusual, when we have a change being put in place, that there is a public information campaign. But it is appropriate that it goes through all of the normal and standard processes around that.

Senator DEAN SMITH: You need \$40 million to say to the Australian community, 'We are increasing a threshold, and we're putting a rate back in'? That's a very expensive tax change.

Senator Gallagher: It will be a public information campaign around the legislation once it passes.

Senator HUME: Will it begin before the Dunkley by-election?

CHAIR: Are you seeking the call, Senator Hume?

Senator Gallagher: It hasn't commenced through any of the processes, so the answer to that would be no.

CHAIR: I'll go back to Senator Bragg and then Senator Smith briefly, and then hopefully we can move on to the next group, which is fiscal.

Senator BRAGG: I've tabled that news report from the *Sydney Morning Herald* from 18 August 2023 titled "Serious challenge": NSW will struggle to meet new housing targets'. We've tabled that, so hopefully that's something that is useful.

Ms Anderson: Thank you. I haven't got it yet, but yes, thank you for that.

Senator BRAGG: So hopefully, Minister, this is something the government will take seriously—that the state Labor government is not seeking to take your housing target policy seriously.

Senator Gallagher: I haven't seen the article. I'll have a look at it. But we remain committed to the targets that were agreed at National Cabinet by first ministers and the Prime Minister.

Senator BRAGG: Okay. Well, we look forward to you bringing your state colleagues into line.

I want to ask you some questions about the Cyber Wardens program. There was a freedom of information disclosure relating to 89 Degrees East. Do you know about that?

Ms Anderson: There have been a few requests, but yes, I'm generally aware that there have been freedom of information requests on the Cyber Wardens program.

Senator BRAGG: Can you confirm that the small business minister made a funding proposal of \$23.4 million for the Cyber Wardens program to Treasury prior to the final preparation of the most recent budget?

Ms Anderson: Yes—last year's budget, absolutely. Cyber Wardens—an allocation was made in that for a grant to COSBOA for the Cyber Wardens.

Senator BRAGG: How much?

Ms Anderson: My understanding is that it was \$23.4 million, although there is some provisioning in there for the oversight of the grant in that total amount.

Senator BRAGG: What date did Treasury receive the proposal from Minister Collins?

Ms Anderson: I'm going to ask Mr Seebach to help me out on this one.

Mr Seebach: Is that post-budget, or—perhaps you could repeat the question.

Senator BRAGG: I just wanted to know what date Treasury received Minister Collins's Cyber Wardens program funding proposal.

Mr Seebach: Well, it wasn't a funding proposal from Minister Collins. The funding proposals came from COSBOA, and the government decided to—

Senator BRAGG: But COSBOA don't run the budget, do they?

Mr Seebach: No, they don't, but—

Senator Gallagher: No, but they provide submissions to the budget, like many stakeholders.

Senator BRAGG: You don't know the date?

Mr Seebach: Well, it was part of the budget consideration.

Ms Anderson: We can't answer the question, because you're asking about Minister Collins's proposal, whereas I think if you asked the question of when COSBOA provided a proposal then we might be able, if we can't find an answer to that, to find one.

Senator Gallagher: And I don't think there was a Minister Collins proposal. As I understand it, the FOI referred to submissions that Treasury had received from Minister Collins's office which was relating to the COSBOA proposal.

Ms Anderson: That's right.

Senator BRAGG: Okay. Have you seen the FOI?

Senator Gallagher: No, I haven't seen it.

Senator BRAGG: Well, should I table this? I'm looking for your guidance.

CHAIR: I think the usual practice is that we have a look at what it is and then we table it. What is it?

Senator BRAGG: It's a redacted FOI.

CHAIR: Okay. I'm happy to table that.

Senator Gallagher: My understanding in relation to the Cyber Wardens is that it was a program provided to COSBOA and then COSBOA chose their delivery partners for that.

Senator BRAGG: The FOI, which appears to be some internal correspondence within the department, says that the 89 Degrees East submission is badged with the Cyber Wardens logo and includes many of the same details as the proposed Treasury proposal received from Minister Collins's office.

Ms Anderson: I can confirm that we were provided with the Cyber Wardens proposal in Treasury prior to the last budget.

Senator BRAGG: So there was one?

Ms Anderson: Yes, absolutely.

Senator BRAGG: From Minister Collins?

Ms Anderson: No, not from Minister Collins; it was from COSBOA.

Mr Seebach: Minister Collins's office simply forwarded the COSBOA submission to the department, which is not an uncommon thing. It's quite regular that people would provide submissions and proposals to both the department and ministers' offices.

Senator BRAGG: Is your position that the submission was just passed on from COSBOA; there was no 89 Degrees submission?

Mr Seebach: No.

Senator BRAGG: No 89 Degrees, not—

Senator Gallagher: I want to have a look at whatever that FOI is because I think the issue might be that there are two submissions. There's one from COSBOA on cyber wardens, and then I think there's another submission. I'll just have a look around the Cyber Security Strategy that may have been from 89 Degrees East.

Mr Seebach: That's correct, Senator.

Senator Gallagher: There are two different submissions, I think. I need to look at whatever that document is because I haven't got it.

Senator BRAGG: There are two submissions: one from COSBOA and one from 89 Degrees East.

Senator Gallagher: Yes, but on two different matters. The one on cyber wardens comes from COSBOA, and the one from 89 Degrees East relates to consultation on the Cyber Security Strategy.

Senator BRAGG: Okay.

Ms Anderson: I just want to be really clear that we do not have possession of an 89 Degrees East proposal relating to cyber wardens. On a couple of occasions in the past, we had possession of submissions from COSBOA. One of those submissions—I'm not 100 per cent sure—may have mentioned 89 Degrees East as a delivery partner, but, if there's a separate submission from 89 Degrees East, I strongly suspect the minister is right and that was part of the consultation process that the home affairs department has been running for the broader cyberstrategy.

Senator BRAGG: There appears to be a submission from 89 Degrees on cyber wardens. You don't have that?

Ms Anderson: No, I don't think so. I don't know if Mr Seebach—

Mr Seebach: Sorry, what was that?

Ms Anderson: There appears to be a submission from 89 Degrees on cyber wardens, but I'm not—

Mr Seebach: No, that's what I was just going to clarify. There have been multiple pitches for this proposal in various forms. I think I recall that there have been at least two versions of the COSBOA submission. I'm aware that both COSBOA and 89 Degrees East made submissions as part of the Cyber Security Strategy. The department, via the home affairs department, received both of those, which were then subsequently published by home affairs.

Senator BRAGG: I am trying to establish what the process was. Was the 89 Degrees East proposal given to you from the minister's office?

Mr Seebach: No. COSBOA provided a submission to the minister's office. The minister's office passed it on to us.

Senator BRAGG: Were you aware that 89 Degrees East was involved in the COSBOA proposal?

Mr Seebach: I think we were at that time. I'll take it on notice, just to clarify, but my recollection is that there was no mention of 89 Degrees East in the COSBOA proposal that went to the minister's office and then was forwarded on to us.

Senator BRAGG: Did Minister Collins declare any conflict of interest in relation to the submissions?

Mr Seebach: I'm not aware of any such declaration.

Ms Anderson: I think, Senator, we wouldn't go into that in a Senate estimates hearing; how the government manages its conflicts is probably a matter for government. I think these questions came up last time—I'm just trying to recall. We're not aware of any conflict of interest. We are not aware, as the department, of any conflict of interest either having been made or having needed to be made.

Senator BRAGG: So there were no conflicts of interest declared in relation to the ministerial code of conduct?

Senator Gallagher: In relation to what?

Senator BRAGG: In relation to the engagement—

Senator Gallagher: To having a budget submission sent that was forwarded on to the department?

Senator BRAGG: No, in relation to the two submissions that have been in the ether. I'm not sure whether both have actually been given to the department, but the question applies to both as to whether there were any conflicts of interest declared under the ministerial code in relation to either.

Ms Anderson: I'm happy to take on notice the question about the ministerial code and check with the office, but this was a submission from COSBOA.

Senator Gallagher: I don't know what you're suggesting that the minister had to declare.

Senator BRAGG: I'm just asking.

Senator Gallagher: Asking about what?

Senator BRAGG: I'm asking about any potential conflict of interest.

Senator Gallagher: Two submissions came. They were forwarded on to the department. I don't understand—

Senator BRAGG: I think they're saying that only one actually has been received.

Senator Gallagher: Right.

Senator BRAGG: Is that right?

Ms Anderson: There was a submission earlier in the previous government, I think in January 2022, that the department also received—just to be clear. So I think in relation to Cyber Wardens that is not the broader cybersecurity strategy.

Mr Seebach: That's correct. As I flagged earlier, we've received a number of proposals and submissions pitching the cyber wardens concept since January 2022 including prebudget submissions, some of which are confidential, and submissions to the cybersecurity strategy which I flagged earlier as well. Like I also said previously, it is not uncommon for both the department and ministerial offices to receive submissions or pitches for proposals. We consider them in the normal course of our business. In this case it was a proposal that was accepted as part of the budget process, and we subsequently provided an ad hoc grant to COSBOA to provide the Cyber Wardens service.

Senator BRAGG: Okay.

Senator Gallagher: I've met with COSBOA. I met with them in opposition, and they raised this with me. They said the biggest thing their members were after was support about cybersecurity. I think they were lobbying everybody at that time about their No. 1 priority.

CHAIR: Final question, Senator Bragg.

Senator BRAGG: I haven't finished this line.

CHAIR: I've got to go to Senator Pocock.

Senator BRAGG: That's fine. I understand. Can you confirm that this funding proposal made by Minister Collins includes many of the same details as the 89 Degrees East submission which was badged with the Cyber Wardens logo and apparently initially sent to home affairs on 17 April last year?

Ms Anderson: Cyber Wardens was a piloted program in advance of it receiving government funding. That would be entirely a matter between COSBOA and 89 Degrees East. The pilot, I understand, was running at the time so that's a matter for them as to how they badge.

Senator BRAGG: So it does contain many of the same details?

Ms Anderson: I can't confirm exactly the details.

Senator BRAGG: Can you take it on notice.

Ms Anderson: Yes, I'm happy to.

Mr Seebach: They are not identical.

Senator BRAGG: Not identical?

Mr Seebach: No.

Senator Gallagher: It also says they're published online.

Senator BARBARA POCOCK: Thanks for being here. I want to go to some issues around the governance of consultants and consulting. In our inquiry through the finance and public affairs committee we've uncovered a multitude of very serious concerns, as I'm sure you're aware. I'm interested in the regulatory arrangements for the consulting and auditing firms in this country and what to do about their failures. I want to acknowledge the work of Senator O'Neill, who's been part of witnessing and drawing all that material out. Some of those sins have included partners in the big four misusing confidential information to benefit clients and make money; the deliberate harvesting of conflicts of interest, so many of them; a revolving door of senior personnel moving between consulting and the public sector; veracious land-and-expand activities which are profit seeking, with very high rates of profit out of the public sector; and the failure of regulatory institutions who have been unwilling or unable to respond. I think we're seeing a scale of regulatory capture that is astonishing and very un-Australian. The minister and I had a discussion perhaps yesterday—I forget; it's a blur—about insiders saying that senior management in some of these big firms think the caravan is moving on. The minister has reassured us that the caravan will not move on and that there is a real commitment to action. I think the need for change is very obvious. The finance and public affairs committee will shortly release its report and recommendations for changing consulting and auditing. I'm interested in Treasury's involvement and response to what has emerged out of all of this work.

Ms Anderson: We've been watching all of this very, very closely, and the matter relating to PwC in particular. Obviously there's been a butterfly effect of consequences that we've been watching quite closely.

Senator BARBARA POCOCK: A 'contagion' might be a more appropriate metaphor.

Ms Anderson: I'm a public servant; I don't use flowery language, I'm sorry. But we obviously take it very seriously and have been watching very closely the range of different inquiries that have occurred. There has been specific funding provided to Treasury to respond to the PwC matter. I'm actually not lead group on that; it is being handled mostly in our Markets Group and also in our Revenue Group. My group includes the Law Division, which has a role to play as well, so we are executing a lot of the government's public commitments in relation to the PwC response. In the corporate response, obviously we have been watching very closely the learnings that are coming out of those inquiries and consulting very closely with our Department of Finance colleagues around, for example, how different panels operate. We will be fully compliant with all of that going forward. I am just going to pause and see if Dr Barrett wants to add anything?

Dr Barrett: One thing I would add is that Treasury has now implemented an evaluation report, announced as part of our procurement template, reminding procuring officials of the requirement to consider ethical conduct of suppliers as part of value-for-money assessments. We have implemented that change.

Senator BARBARA POCOCK: Is that on your website or publicly available?

Dr Barrett: I would have to take that on notice. I don't know if it would be, because these are internal documents that people making procurement processes consider.

Senator BARBARA POCOCK: You are also pointing me, Ms Anderson, to questions to market and to Revenue Group.

Ms Anderson: We are calling it the PwC response but obviously it goes to the heart of many of the things that you are talking about. It is probably most appropriate that they answer the detail of those, because the implementation is occurring from those groups.

Senator BARBARA POCOCK: I want to go to the structural issues, and you may redirect me if I'm in the wrong spot. Currently the Corporations Act allows accounting firms to have up to 1,000 partners—the big four can have up to 1,000 partners—effectively exempting partnerships from the obligations and duties of other ordinary large businesses that are not partnerships. The size of the cap is much lower for other professions. For example, medical practitioners have a cap of 50 partners before they have to incorporate. In Treasury's view, are there any arguments against setting a cap of, say, 50 partners for accountants, similar to that for doctors?

Ms Anderson: I will have to disappoint you on it being my responsibility to answer that one. I will just check where we can redirect you, though. That is a Markets Group issue, so yes.

Senator BARBARA POCOCK: Great, thank you. I have a bunch of questions in relation to that but just let me end then by asking how your own purchasing and use of consultants has changed as a result of all of these events?

Ms Anderson: I think in the past we have indicated our internal audit contract was held by PwC. That is no longer the case. We have recently been through a tender process there. We have no current contracts with that organisation or its successor in the government sector. I can ask Dr Barrett or Ms Gersbach to run through our profile of spending on consultants, if that is useful. In recent years, we have had a couple of large contracts that have played their way through the system and we do expect actually lower spend on consultancies going forward, but I will ask Dr Barrett to add anything more.

Senator BARBARA POCOCK: Did you say a lower spend?

Ms Anderson: Yes, a lower spend going forward. But at the moment, it has been relatively consistent through the years with a couple of lumpy bits related to particular contracts.

Dr Barrett: I would say our procurements are managed in accordance with the Commonwealth procurement rules with a particular focus on being efficient, effective, economical and ethical. As Ms Anderson said, we are seeing a decrease in consultancy spend. That is what the trend is at the moment. We only really do employ consultants where there is a short-term particular need, so a really bespoke project where you need assistance.

Senator BARBARA POCOCK: On notice, could you give me the profile of the last three years—the quantum of the spend and the firms—of the big four and their participation in contracts for Treasury.

Dr Barrett: I can give you the past three years now, if that would assist you, of consultancies.

Senator BARBARA POCOCK: Great.

Dr Barrett: In 2021-22, it was \$7,172,490; in 2022-23, it was \$6,528,114; and in 2023 through to 31 December, it was \$6,749,861.

Senator BARBARA POCOCK: So in a six-month period in this current financial year you have matched the spend of the year before?

Dr Barrett: That's correct. However, that's partly as a result of three large contracts that relate to the Modernising Business Registers program. Those costs will actually be cost recovered but they are reportable through our consultancy contracts.

Senator BARBARA POCOCK: What firm is running that contract?

Dr Barrett: I would have to take that on notice unless Tarnya knows?

Ms Gersbach: I should.

Senator BARBARA POCOCK: I am curious about whether there have been overruns and extended payments for that contract, and who was receiving those overruns, how they're being managed?

Dr Barrett: The contract is being managed by our Markets Group colleagues, so perhaps when they come we can ask them to be prepared to answer that for you.

Senator BARBARA POCOCK: Thank you and thanks, Chair.

CHAIR: I have three senators on the list for this group, so five minute blocks on the same topic.

Senator O'NEILL: I acknowledge the work of Senator Pocock and Senator Colbeck, who have been describing the reality of the sectors we had discussion on this morning. I want to go to what you are actually undertaking, in addition to the answers you've given to Senator Pocock. What sort of update can you give us about the latest steps that Treasury has taken to improve the integrity of the consultancy processes?

Ms Anderson: I don't think we have a lot to add to what we provided to Senator Pocock. It is probably easier to point to lots of specific things in relation to the external and regulatory environments, which, as I indicated, my colleagues will be able to talk to in detail. Internally, we are always trying to improve our processes. We obviously had a close look at all the contracts in place with consultancy firms. We are applying really quite stringent analysis, as Dr Barrett alluded to earlier, as to the whether or not we need a consultant at all in certain circumstances. Obviously, part of the government's policy is to convert some of that work to ASL in the public sector, and we have seen an increase in Treasury's ASL modest increase to take on additional work. We use consultants and contractors only when absolutely necessary, due to the skill set or time frame required to do tasks. It is not that we will not ever use them. We have been a fairly small user historically, and I would expect that to be the case.

The culture has really improved in the last 12 months or so, especially since scrutiny was given to this issue, which clearly brought to light a lot of concerns and issues. Beyond that, I will doublecheck that Dr Barrett does not want to mention anything specifically. But for our procurement rules, we follow the Department of Finance's guidance, so to the extent that they have changed things we will obviously be implementing that as assiduously as we can. Our conflicts-of-interest process is something we have paid particular attention to as well, and we have made sure our systems and processes are constantly improving to ensure those things are captured and understood and managed in an appropriate way.

Senator O'NEILL: It is interesting you mentioned the 12 months, because I recall the senator's announcements and prompt action in response to the outrageous reveal about what had happened with PwC. Is it fair to say in the last 12 months there has been an increase in attendance to probity measures and getting real value for money in decision-making around consultancy that differs from the previous periods?

Ms Anderson: I think it is definitely the case there has been increased attendance to those issues, yes.

Senator O'NEILL: Could I ask you to take on notice anything you can further add with your implementation of enhanced procurement frameworks when managing your contracts? But given the time limitations that the chair has made me very aware of, could you briefly take me through the work that you are doing, or I hope you are doing, on the use of legal professional privilege in Commonwealth investigations?

Ms Anderson: I might ask one of my colleagues from the law division to come and speak to that.

Senator O'NEILL: I understand that legal professional privilege has a very important function, but, like anything, when it is abused, it can become a very dangerous instrument, so what is your response there, Mr Leggett?

Mr Leggett: As Ms Anderson pointed out, the work out of the PwC response is being split up amongst Treasury work. One of the reviews that the government announced was into the use of LPP and Commonwealth investigations, and that was triggered from a number of our portfolio agencies having indicated that they had some concerns with the use of LPP, or at least the use of LPP to stymie or delay Commonwealth investigations. It's the review that's on the longer timetable, and we're doing this jointly with the Attorney-General's Department. At the moment, both agencies are in the investigation mode. We're speaking with all Commonwealth regulatory and law enforcement agencies to determine the extent of the problem and the issues that they're currently facing, with an aim for an issues paper to be released later this year as the first step.

Senator O'NEILL: I think that's very important work. Thanks for giving us an update.

CHAIR: Great.

Senator BARBARA POCOCK: Can I just add to the question? We heard last night from the AFP about one use of legal professional privilege, which I suspect is them using that privilege to not provide to the Senate the Linklaters report, the review of international—

Senator O'NEILL: The most hidden document across the world, Senator Pocock.

Senator BARBARA POCOCK: Exactly. So could you please include that in that analysis and give us a report specifically on that AFP document and the inquiry?

CHAIR: Is that a joint question on notice?

Senator BARBARA POCOCK: Yes.

Senator O'NEILL: Collaborative!

CHAIR: Senator Smith for five minutes.

Senator DEAN SMITH: Ms Anderson, when we were speaking previously you mentioned that some funding had been provisioned for the stage 3 tax change unit. Was that provisioned through MYEFO?

Ms Anderson: No, through the portfolio additional estimates.

Senator DEAN SMITH: And what was that quantum?

Senator Gallagher: Up to \$40 million. The provision would be \$40 million, but the decision of the government is up to \$40 million. But the campaign hasn't been finalised or anything.

Senator HUME: The legislation hasn't passed yet.

Senator Gallagher: Yes, exactly. So a provision has been made, as you're meant to do when you make a decision. But—

Senator DEAN SMITH: I suppose what I'm trying to ascertain, Minister, is how much has been provisioned for people, accommodation—

Senator Gallagher: The breakdown within it?

Senator DEAN SMITH: travelling around the country, going to community fairs, talking about tax changes and that quantum of money that will be used for billboards, television and digital advertising?

Ms Anderson: I can go to that breakdown. I certainly wouldn't accept some of the premise of the question in terms of what the funding will go towards, because that is subject to approval by the government. But in terms of the departmental allocation that has been provisioned, in 2023-24 there is a million dollars for the department, and in 2024-25 there is \$1.6 million for the department, totalling \$2.6 million.

Senator DEAN SMITH: Minister, in a cost-of-living crisis is that prudent use of public money?

Senator Gallagher: A public information campaign about a change in tax, I think, is pretty routine.

Senator DEAN SMITH: But the government enjoys a majority of members of the House of Representatives. Isn't it the government's job to communicate?

Senator Gallagher: They will be doing that as well, but I think—and as we've seen from when the income tax cuts were originally announced, when the COVID response came out—when there is a decision like that it is usually supported by a public information campaign. This is no different to that.

Senator DEAN SMITH: So is this a vote of confidence in the government's members and senators being able to communicate to their electorates?

Senator Gallagher: If we're going to play the game, I could say that same thing about the 2019 decision and the COVID response that followed as well. It's a public information campaign. We have very strict rules and processes around that—

Senator HUME: COVID response was an emergency measure. This isn't an emergency measure.

Senator Gallagher: and they will be followed.

Senator DEAN SMITH: But we weren't in a cost-of-living crisis in 2019. I'm just wondering what you might expect the public reaction to be to an expenditure of \$40 million of public money on an advertising campaign for what is a modest—

Senator HUME: And automatic.

Senator DEAN SMITH: tax benefit?

Senator Gallagher: It's up to \$40 million; the cost of it is yet to be determined. We have made a provision over two years, and we have a responsibility to ensure that there is accurate information about the changes that will come into effect on 1 July.

Senator DEAN SMITH: It's not a complex change, though, is it?

Senator HUME: You don't have to apply for it, the way you did for COVID assistance. It's automatic.

Senator Gallagher: Well, what about your income tax campaign in 2019? You felt the need for a public information campaign around that. You didn't need to apply for that either.

Senator DEAN SMITH: It was reform as opposed to change.

Senator Gallagher: Oh right. So, when we do it, it's change. When you do it, it's reform. Hilarious.

Senator DEAN SMITH: To be fair, you're not doing very much—inserting a rate, lifting a threshold. That's not really—

Senator Gallagher: It's reform and relief, and it is coming in on 1 July—

Senator HUME: It's not reform.

Senator DEAN SMITH: It's not reform.

Senator BRAGG: It's winding back the clock.

Senator Gallagher: Okay, we have a disagreement about that, obviously. You can do what you want with that, but it is reform and relief, and the Treasury advice, I think, goes to those matters around reform, and it will be supported by a public information campaign.

Senator DEAN SMITH: I don't think commentators regard it as reform, but, you're right, let's move on. On 10 January the Prime Minister, the Treasurer and Minister Leigh announced that Mr Craig Emerson would be appointed to the independent review, as the independent reviewer. How long is Mr Emerson's appointment for?

Ms Anderson: Dr Emerson's appointment for the supermarket work—I'm afraid I would point you towards Markets Group on that one. That is being managed out of there.

Senator DEAN SMITH: If they're listening: How long is Mr Emerson's appointment for? How much is Mr Emerson being remunerated? Is Mr Emerson being supported by a secretariat? How many staff and at what ASL level are supporting Mr Emerson in a secretariat if there is a secretariat? And does Mr Emerson's remuneration include travel, accommodation and hospitality costs?

Ms Anderson: Hopefully they were listening.

CHAIR: We can get to them quickly if we move quickly as well, Senator Smith.

Senator DEAN SMITH: We'll get through them very quickly as well, if they come with the answers. Quid pro quo.

Senator BRAGG: Mr Seebach, you said in an email on 2 November last year that the COSBOA-89 Degrees East relationship is 'interesting'. What does that mean?

Mr Seebach: It sparked interest because the relationship with 89 Degrees East was the subject of questioning at supplementary estimates in October. 89 Degrees East was the delivery partner with COSBOA in 2019 on the Future Female Entrepreneurs Program, which was launched and then extended by the previous government.

Senator BRAGG: Who are 89 Degrees East?

Ms Anderson: We don't have any particular knowledge or understanding of them.

Senator BRAGG: You haven't met with them?

Ms Anderson: No, we haven't met with them.

Mr Seebach: At no time have we—the department, that is—met with them.

Senator BRAGG: So how are 89 Degrees East in the mix here? Did they meet with the minister's office? Do you know?

Ms Anderson: I don't know.

Senator Gallagher: I think you're probably best asking COSBOA about that.

Senator BRAGG: I'm just asking the department if they've met with someone.

Senator Gallagher: Well, no. You were asking a different question, around how they were in the mix, and I'm saying you should speak to the person who manages the grants.

Senator BRAGG: Okay. I'd be pleased to rephrase the question. Do you know whether the minister's office has met with 89 Degrees East?

Mr Seebach: No, I do not know.

Ms Anderson: I don't know.

Senator BRAGG: Could you take it on notice?

Ms Anderson: Yes.

Senator BRAGG: Do you know whether there were any conflicts of interest declared in relation to 89 Degrees East and Minister Butler?

Ms Anderson: I don't know.

Senator Gallagher: I think we have dealt with this at Health estimates.

Senator BRAGG: Which one, sorry?

Senator Gallagher: I think this may have come up at Health estimates. I'm just dusting off my brain, because it was a couple of estimates ago, but I think we've dealt with it. There were a number of questions asked, if it's in relation to a family member of Mr Butler—

Senator BRAGG: Yes.

Senator Gallagher: where there were declarations made.

Senator BRAGG: So there was a declaration made?

CHAIR: I think you're being referred to the previous *Hansard* to check what was on it, with the same questions.

Senator BRAGG: That's fine. So you are aware that there were declarations made in relation to one minister. Were there any declarations made in relation to Minister Collins?

Ms Anderson: I think I've indicated I'm not aware that there were, but I'm happy to check.

Senator Gallagher: From memory, the advice I just answered in the health portfolio was unrelated to the Cyber Wardens.

Senator BRAGG: I don't know that it is.

Senator Gallagher: You've obviously prepared more than you're telling us at the moment. I'm trying to understand—

Senator BRAGG: My understanding is that there was a declaration made in relation to this organisation—89 Degrees East.

CHAIR: In relation to what? Cyber Wardens or health or what?

Senator BRAGG: In relation to the organisation. It's not a complex question. I'm just asking whether there is any declaration made in relation to 89 Degrees East from Minister Collins? I think you've said you'll take it on notice.

Ms Anderson: That's right.

CHAIR: Senator Dean Smith?

Senator DEAN SMITH: Why wouldn't information about someone who's been engaged by the Treasury be held by corporate? Why would it be held by a different—

Ms Anderson: I'm not sure if there is a conflict of interest. The deed is with COSBOA.

Senator DEAN SMITH: Sorry, going back a page. As a matter of general curiosity, I would have assumed they would have all been centrally held.

Ms Anderson: Not necessarily. There is central guidance to areas on what their responsibilities are when contracting individuals. I'm not sure that we have a collection centrally of that. It may be interrogatable, but it's certainly not something I'm aware of.

Senator DEAN SMITH: I get that. I was just curious.

Dr Barrett: Certainly the senior officer for approving and managing those things sits within the relevant policy area, so even if we have corporate people supporting it, the person who's accountable for the signing off will be in the right area.

Ms Anderson: While we have Senator Dean Smith, we can confirm that 25 applications were received for the roles you were asking about earlier—to save us a question on notice.

CHAIR: Senator Canavan?

Senator CANAVAN: Is this the small business group?

Ms Anderson: It's the Small Business, Housing, Corporate and Law Group.

Senator CANAVAN: I want to follow up on the news.com.au article earlier this week that there'd been a decline in the number of businesses in Victoria. Have you seen that? Are you aware of the ABS series on that?

Ms Anderson: I'm aware of the ABS series but not the particular article.

Senator CANAVAN: Has there been any investigation of why there's been that decline? It seems fairly concerning.

Ms Anderson: We are hearing from stakeholders, and based on the statistics you've mentioned and others, there are a range of different indicators that there is a decline in confidence and a decline in small businesses generally. There's a range of different measures of that, so we are generally aware about cost-of-living pressures

and labour-supply pressures. There is a range of things that the government has in place to respond to some of those pressures. I won't waste time going into those, but I can if you wish to.

Senator CANAVAN: In the media the Victorian Chamber of Commerce has explicitly pointed out that energy prices and also the restrictions on gas in Victoria are hitting confidence and potentially contributing to that. Have you looked at all at the way energy prices are impacting on business confidence and the resulting number of businesses operating in Australia?

Ms Anderson: That's probably specifically a little bit before my time but in the context of the energy bill relief there is an Energy Bill Relief Fund and a small-business energy incentive, so I'm sure it was very much in the contemplation of government that some of the pressures that are coming through in the energy market will flow through to small business—and probably in a more acute way, in many instances, than large businesses.

CHAIR: The committee tables the news.com.au article on housing referenced by Senator Bragg earlier on housing. Ms Anderson, are you able to assist us with where questions about the Commonwealth government COVID-19 response inquiry, announced in September by the Prime Minister, go to in Treasury, if anywhere?

Ms Anderson: The Prime Minister and Cabinet is, in a general sense, responsible. But in terms of Treasury's submission and other work that Treasury is doing to support that inquiry it would be the Fiscal Group.

CHAIR: Fiscal Group. Great. We look forward to Fiscal Group next, but Senator Smith has a final question.

Senator DEAN SMITH: I understand that ASIC provides reporting on insolvencies. Does the small-business group in Treasury collect information about the number of small-business insolvencies?

Ms Anderson: We don't have a separate information collection. We would simply look at and assess the range of things that come from external sources on that.

Mr Seebach: I would add also that that's not comprehensive, either. A lot of small businesses are not companies, in which case we would go to the Australian Financial Services Authority, who look after personal insolvencies, because many small businesses are sole traders.

Senator DEAN SMITH: The Treasury doesn't do its own data collection or anything?

Ms Anderson: No.

Senator DEAN SMITH: Great. Thank you.

CHAIR: We are going to break for lunch and return with Fiscal Group. We very much thank Ms Anderson and team. You go with our thanks.

Proceedings suspended from 13:21 to 14:22

CHAIR: The committee resumes. We welcome the Fiscal Group, Ms Reinhardt and team. I'm going to Senator McKenzie.

Senator McKENZIE: In line with the secretary's advice, I come asking questions on the impact on new car prices of the government's proposed New Vehicle Efficiency Standard. Ministers King and Bowen have both claimed that the standard will not increase the cost to buy new cars here in Australia but have also simultaneously refused to release the modelling on which those claims are made, which drives me here. To fit under the carbon emissions cap by 2029, new cars will effectively need to all be EVs or very efficient plug-in hybrids. We know that EVs cost more to buy than equivalent ICE vehicles. The after-market resale values of EVs are unknown because of the uncertainty of the battery life beyond seven years. When I asked these questions in infrastructure the other day, the government made claims about car prices in other markets, but these are markets which have different purchasing habits and make-ups. They have the habits of purchasing the preferences of the market, but they're also markets that have subsidies, such as the US, which the government is saying this scheme is based on. What I want to understand, purely from an economic assessment, is what will be the impact on new care prices across the board, given the government's new policy seeks to force more Australian consumers to purchase more expensive models of cars they love to buy, such as SUVs, four-wheel drives and utes. What will be the impact on new car prices?

Ms Reinhardt: The secretary this morning also answered this question. The prices in Australia are largely being driven by global prices. The work that was done on the fuel-efficiency standard was largely done in DITRCA. They are the best department to talk to about this. But, as they indicated at Senate estimates yesterday, they have drawn on a number of overseas examples to look at the likely impact. That does show that there is no impact on the price of cars.

I think the other thing to keep in mind around the fuel efficiency standards, which was also included in the publicly released information, is that with significant increases with fuel efficiency comes lower prices for consumers, as they obviously need to purchase less petrol for their cars.

Senator McKENZIE: That's an upfront cost of \$40,000 to save on your fuel bill. That's the question I'm asking. Ms Reinhardt, I'm going to the assumptions that you've once again repeated what the transport department said on Monday, but the reality of the US market is there are subsidies to purchase the new cars that aren't in this proposed efficiency. So it's not apples with apples.

Ms Reinhardt: It's not apples with apples, but they have drawn on multiple overseas examples. For the US example you would have to talk to that department in more detail, but my understanding is it also is not a simple case of subsidies for all vehicles in the classes that you've indicated—so utes and heavy vehicles.

Senator McKENZIE: There are exemptions for some utes as well.

Ms Reinhardt: There are different treatments for different classes of utes, and they are not all exemptions. I think that comparison is not direct, and they've drawn on a number of markets to draw their conclusions around the likely impact on Australian car prices.

Senator McKENZIE: So what behaviour would Treasury expect to see from an economic perspective from a car manufacturer in pricing new cars under the fuel efficiency standards?

Ms Reinhardt: It would really depend on how those car manufacturers are drawing on overseas markets and overseas car production, and how they are pricing relative to the changes they have to do overseas to their cars there versus the cars in Australia. It may well be that it's cheaper for those manufacturers to follow the same standards or improve standards from overseas. So it's not at all obvious that you would see an increase in prices as a result of this.

The other thing I'd note is that the arrangements for the scheme, as the secretary also described this morning, are not a simple 'a car has to meet the standard'; the proposal—I should be clear it's not actually an agreed policy; it's a consultation paper.

Senator McKENZIE: Yes, that point's been made.

Ms Reinhardt: The proposal is that the average fuel efficiency for vehicles in the fleet meet a certain standard, so there's obviously scope for manufacturers to have a combination of very efficient vehicles than those that are not that efficient and meet that across the vehicle class.

Senator McKENZIE: Is Treasury confident that this standard, as it's structured, will see the desired behaviour change in the time period that it's been set out across?

Ms Reinhardt: To be honest, I don't have in front of me the indications around the time frame of behaviour change.

Senator McKENZIE: By 2029, the make-up of EVs and the omission reduction claims that are being made in the impact analysis—that's going to require quite a behaviour change in the purchase of cars in this market because of the way Australians think about their cars, but also the pricing will come into that. I just want you to go to that detail.

Ms Reinhardt: I might just check with my division head to see if she has something to add.

Ms Zaheed: Again, these are questions that the department of transport—

Senator McKENZIE: But they couldn't answer them.

Ms Zaheed: I think it's a bit around the market will evolve. There are a number of forces in this space that are driving both consumer behaviour and manufacturer behaviour. So there are supply- and demand-side dynamics. It's a little bit difficult, given the proposals themselves are subject to consultation—the actual caps will be set and subject to review in 2026—to go as far as to say exactly what the outcome would be. Treasury is not in a position to comment on that. But there are a number of drivers beyond just the fuel efficiency standard that are going to impact the car manufacturing market and also consumer behaviour. That's something that the assessment and the review in 2026 will also indicate. So it's a little bit hard for us to sit here and give you a definitive answer of how the market will look in 2029.

Senator McKENZIE: This starts next year. Can you give me an example of market behaviour change at this speed, the level of market behaviour that is being asked for through this policy, that's been achieved?

Senator Gallagher: We're out consulting on this policy at the moment.

Senator McKENZIE: That point has been made, Minister.

Ms Reinhardt: I think it is often the case that governments will put out a consultation paper on changes to standards around markets and fuel efficiency. It's a consultation paper, and implementation will follow that. I am not sure—

Senator McKENZIE: Have you modelled the impact of revenue to be raised from the penalties for car sales above the new vehicle efficiency cap?

Ms Reinhardt: I think DITRDCA might have made it clear. If they haven't, I will certainly say that our understanding is that the penalties are not intended to raise revenue. They are not estimated in terms of revenue raising. Further to that, because they are not a tax measure, they are not something that Treasury would estimate. That would be Finance or the relevant department. First of all, it's not something we as Treasury would comment on, but, secondly, they are not intended to be revenue raising.

Senator McKENZIE: I know that's not the intention, but I want to understand if there's been any modelling on the potential budget impact of this policy.

Ms Zaheed: No.

Senator McKENZIE: Has Treasury done any work on the ability of this market—manufacturers, in particular—to change the mix of offerings to the Australian market within the eight months that this scheme is proposed to start?

Ms Zaheed: That work would have been undertaken by the relevant department.

Senator McKENZIE: Have you been liaising with them?

Ms Zaheed: We have been liaising with them, but that analysis and the level of detail of that work would have all been done through DITRDCA.

Senator McKENZIE: So, if they have been unable to answer me, you are not going to answer me either?

Ms Zaheed: I don't think I'm in a position to be able to provide a level of detail beyond the department. One thing I will say, though, is that, as proposed, the scheme allows manufacturers to meet those obligations by changing their own vehicle mix.

Senator McKENZIE: Yes, but these aren't decisions manufacturers make within the time frame they are being given. Many of the vehicles that the government is assuming will make their way to our shores are still in the design and planning phase for manufacturers, for instance, and won't be making their way to the market until 2027. What confidence does Treasury have regarding the impacts on Australian consumers given the system is described by your colleagues in the transport department as based on the US system? Do you have confidence? Ford has reported that it's losing US\$36,000 on EVs because people aren't buying them. The US government has also provided production subsidies to that market. That's not been factored in to this US-style efficiency standard. The US government is also providing consumers with a subsidy in order to do the purchasing. That's another factor of this efficiency standard which hasn't been factored in. So how—

Senator Gallagher: Treasury aren't the lead on this policy—

Senator McKENZIE: No, I appreciate that, but—

Senator Gallagher: so it is difficult for them to get into some of that. It also sounds like these are issues that you should be feeding back through the consultation process.

Senator McKENZIE: I am not going to be making a submission. Will Treasury be re-examining the work they did in the *Intergenerational report* on fuel excise revenue given that the fuel efficiency standard as outlined by the government wasn't part of the thinking going into that report?

Ms Reinhardt: At the next *IGR*—the government has brought the frequency of the *IGR* forward, so the next one will be in less than two years; they are every three years—we will look at this as one of the factors of the likely phase-in of electric vehicles, asking, 'Do we have any more information on the likely impact on excise?' So, yes, that will be taken into account at the next *IGR*.

One other thing I'd note is that Australia is one of the last countries to introduce fuel efficiency standards. It is probably well behind a lot of other countries. We can learn from their experiences, but it is an important reform for the transition.

CHAIR: Thank you, Senator McKenzie. Senator McKim has assured me he's going to be relatively brief.

Senator McKIM: I will! We'll see how we go. It often depends on how long the answers are. I had some questions around the Commonwealth Grants Commission and the calculation of GST relativities and specifically—we've discussed this here before—around the grant from the federal government to the Tasmanian government of \$240 million for the redevelopment of Macquarie Point, including an AFL stadium. I think we've

discussed this at the last two estimates, so hopefully this might be the last time. Obviously, you've previously given evidence that the Tasmanian Treasurer wrote to Mr Chalmers and asked him to exempt that grant from the GST relativity calculations. Where are we in that process, and has Mr Chalmers written back to Mr Ferguson with a response to that?

Ms Reinhardt: Ms Horvat is responsible and might like to add some detail. I will just say that the Treasurer wrote out with the annual terms of reference for the GST allocation. That was not included in those terms of reference, as you're aware, and there's been no change in that position.

Senator McKIM: Has that been directly communicated by Mr Chalmers to the Tasmanian Treasurer?

Ms Horvat: Those terms of reference were sent to all treasuries.

Senator McKIM: When was that sent?

Ms Horvat: That was in December last year.

Senator McKIM: Do you have a date?

Ms Horvat: Yes, I do.

Senator McKIM: Thanks.

Ms Horvat: That was on 13 December.

Senator McKIM: So just to be clear, on receipt of that—actually, I won't ask you to talk to the Tasmanian Treasurer's state of mind, but it was clear in that letter that the effect is that that grant will not be exempt from the Commonwealth Grants Commission's calculation of GST relativities. Is that correct?

Ms Reinhardt: That's correct.

Senator McKIM: Where do we go from here? The CGC will do those calculations. Is that underway, as we speak?

Ms Reinhardt: Yes.

Senator McKIM: They are underway?

Ms Reinhardt: That is correct.

Senator McKIM: And there's no further decision point here for the Treasurer, or is there?

Ms Reinhardt: The CGC makes a recommendation to the Treasurer. Strictly speaking, there is a decision point, but that is a standard recommendation which is usually implemented in full.

Senator McKIM: Roughly, when might that recommendation be expected to be made?

Ms Horvat: We would expect to receive those draft relativities, which would factor in decisions such as the one you speak of, in March.

Senator McKIM: Ms Horvat, you describe them as draft relativities. Is that because they are simply recommendations to the Treasurer?

Ms Horvat: Yes—to the Treasurer.

Senator McKIM: Then the Treasurer will accept or reject, and you said what you said about that, Ms Reinhardt. Once that is accepted or rejected by the Treasurer, that is the final decision point on these matters, is that correct?

Ms Reinhardt: Then they are included in the budget.

Senator McKIM: I understand there were some grants around the country exempted from the calculations. For example, there were some in Queensland from memory on Olympic infrastructure, I think. If a grant was exempted from the relativity calculations, all other things being equal, would you expect the GST flows to that state to be higher than if the grant was not exempted from the calculations?

Ms Horvat: It's difficult to say. It depends on what other states have received or not received—

Senator Gallagher: Not necessarily.

Ms Horvat: and it also depends on a three-year average. The CGC relativities reflect a three-year average.

Senator McKIM: But all other things being equal?

Senator Gallagher: But they never are. That's the issue.

Senator McKIM: I understand that, Minister. I'm not trying to be tricky here. I'm just trying to lay it out for folks. It's a complicated process. The reason that the Tasmanian Treasurer wrote requesting that that grant be

exempted from the relativity calculations is that he believed it would be advantageous for Tasmania if that were to happen, obviously; otherwise he wouldn't have done it.

Senator Gallagher: Yes, presumably.

Ms Reinhardt: I think that is where it gets complicated and where we're very hesitant about accepting the *ceteris paribus* assumption. That is because as soon as one domestic sporting infrastructure is exempted then all of the other states will also expect that, so that will not necessarily be good for Tasmania.

Senator McKIM: I do understand that, but nevertheless that request was made. Someone—it might have been you, Ms Reinhardt; I'm not trying to verbal anyone here—gave that evidence that the Tasmanian Treasurer had written to Dr Chalmers asking that that \$240 million grant be exempt from the calculations. No treasurer as a political figure in their right mind would do that if they thought it would be disadvantageous to the people that they represent. Anyway, that's my comment, not yours.

Senator Gallagher: But this is the point that officials are making—I guess the Tasmanian Treasurer can see a one-off Tasmanian point of view, but the whole way the relativities work is that all states and territories are interconnected, so it can't be seen in isolation.

Senator McKIM: I do understand the point that's being made, but nevertheless my point remains. Let's just move on from that. Has there been any further correspondence received from the Tasmanian Treasurer about this matter that you're aware of?

Ms Reinhardt: We understand the Tasmanian Treasurer has written in the last couple of days to the Treasurer.

Senator McKIM: Asking for the decision to be reconsidered?

Ms Reinhardt: That's right.

Senator McKIM: Are you able to give us the date of that letter?

Ms Reinhardt: 13 February.

Senator Gallagher: Yesterday.

Ms Reinhardt: I'm not sure whether that was when it was written or received. That is the date I have.

Senator McKIM: These types of things are just sent by email these days, aren't they?

Ms Reinhardt: Quite possibly.

Senator McKIM: So your evidence is that that letter is asking for a reconsideration of the decision?

Ms Reinhardt: That's right.

Senator McKIM: And obviously it's too early for the Treasurer to have provided a response to that letter?

Ms Horvat: I received it in my inbox this morning.

Senator McKIM: The letter?

Ms Horvat: Yes.

Senator Gallagher: The Treasurer probably doesn't even know about it. Well, he will now.

Senator McKIM: No, he probably doesn't, and that's fine. I have no adverse comment there for any official or the Treasurer, I just want to hasten to add. But, to be clear, the Treasurer has already sent his instructions to the Commonwealth Grants Commission, has he not?

Ms Horvat: That is correct.

Senator McKIM: And the CGC has been working on that basis. When were those instructions sent?

Ms Horvat: In December.

Senator McKIM: So the CGC has been working on that basis for about two months.

Ms Horvat: Correct.

Senator McKIM: And their final draft recommendations are due in about a month, correct?

Ms Horvat: Yes.

Senator McKIM: Roughly?

Ms Horvat: Roughly.

Senator McKIM: It's very late for an intervention. You don't need to respond to that. So, just to be clear, the Tasmanian Treasurer received a letter from Dr Chalmers, along with all the other treasurers.

Ms Reinhardt: No, it was the Treasury that provided the information on 13 December, as per the usual process.

Senator McKIM: So it wasn't from Dr Chalmers; it was from Treasury. Do you sign that? Is that from you, Ms Reinhardt?

Ms Horvat: It would normally be from me or my team.

Senator McKIM: That was sent to your equivalents—

Ms Horvat: My peers.

Senator McKIM: in the state public sectors, who you would then presume would—

Ms Horvat: Which is standard practice.

Senator McKIM: Yes, understood. That was sent on the 13th, and that was very clear that that grant would not be exempted from the CGC calculations. Correct?

Ms Horvat: That's correct.

Senator McKIM: And then, two months later, you received yesterday the letter from the Tasmanian Treasurer asking for that to be reconsidered. Is that correct?

Ms Horvat: Yes.

Senator McKIM: And that's a letter to Dr Chalmers from Mr Ferguson?

Ms Horvat: Yes.

Senator McKIM: It's interesting because there's just been an election called and all in Tasmania. Anyway, that's again my comment, so please don't respond to that. I appreciate your assistance to the committee. Thank you.

Senator HUME: I just want to follow up on some questions that were asked by Senator Smith before the break. Minister Gallagher said that the decision of government was to agree to a campaign of up to \$40 million over two financial years in relation to the tax campaign. I want to confirm \$40 million is the right number.

Senator Gallagher: A \$40 million provision has been made over two years in the portfolio additional estimates statements, but campaign cost itself has not been agreed because it has not been developed or gone through any of the processes and, indeed, the legislation hasn't passed.

Senator HUME: But, in fact, you can spend up to \$40 million on a campaign.

Senator Gallagher: A provision has been made.

Senator HUME: That's what that means though, isn't it?

Senator Gallagher: Should, once we've gone through all the required processes—

Senator HUME: Have you released the money to Treasury though?

Senator Gallagher: It's been provided for in their portfolio additional estimates statements.

Senator HUME: So that's what that means. The minister then said—and I'm quoting you here, Minister:

It will be done as it was done in the original government personal income tax plan, where there was a campaign around that in 2019, and in the economic response advertising that was done in 2020 and other public information campaigns. The expectation is that it will be of a similar size and scale and it will be handled in accordance with standard processes, including the independent campaign committee's review of any public information campaign.

Senator Gallagher: Approval—I actually said approval.

Senator HUME: My understanding—and I think this is probably something better directed to officials—is that campaigns associated with the original personal income tax plan—tax and the economy: phase 1 and phase 2—over 2019 and 2020 actually cost a total of \$23.7 million, with \$16.1 million for phase 1 and \$7.6 million for phase 2. That was confirmed by the campaign advertising for Australian government department and entities reports going back the last few years. Is that something that anybody at the desk can confirm?

Senator Gallagher: I'm not sure we've got the right officials here for that.

Senator HUME: I'm sure they're on a phone somewhere or listening in intently.

Senator Gallagher: I'm just looking, because I did have it in front of me.

Senator HUME: Perhaps we can get it confirmed by somebody in the room.

Senator Gallagher: I did have those campaigns—

Senator HUME: In fact, from doing a thumbnail analysis myself a moment ago, it also showed that the COVID economic response campaigns over three years totalled less than the \$40 million that you have provisioned for this small reversal of an election commitment.

Senator Gallagher: Sorry, I'm just trying to pull up some information here.

Senator HUME: JobKeeper, instant asset write-off, accelerated depreciation—

Senator Gallagher: \$24 million—

Senator HUME: and business loans: they were all during COVID and were all emergency measures which did require public campaigns and understanding, because for many of those measures you had to actively apply. The combination of those three years of campaigns cost less than the one campaign you're going to do over a backflip on an election commitment. Is that right?

Senator Gallagher: When we look at all public information campaigns, in the last year you were in office, \$239 million was spent across public information campaigns. In our first year, it was about \$100 million less than that. So, in terms of public information campaigns—

Senator HUME: So you're just playing catch-up. Is that what it is?

Senator Gallagher: we have been much more conservative than you were when you were in government.

Senator HUME: Do you think that this is a worthy initiative to have a campaign on—

CHAIR: Senator Hume, let the minister finish.

Senator Gallagher: We have approved a provision. Because it hasn't been determined, we have agreed a provision up to \$40 million. It was \$239.6 million in your last year in government. Total expenditure for the 2022-23 financial year was \$131 million. In relation to those other campaigns, I've got \$24 million for the government's personal income tax plan. That was five years ago, so, obviously—

Senator HUME: That was over how many years?

Senator Gallagher: I don't know how many years that was over.

Senator HUME: I can tell you because I've got the reports in front of me. That was over three years, and you're intending to do, on one small measure that nobody has to apply for—

Senator Gallagher: Well, that's your view.

Senator HUME: Nobody has to apply for it, do they?

Senator Gallagher: If it's so small, why is it creating so much controversy—

Senator HUME: Do you have to apply for a tax cut?

Senator Gallagher: for estimates? I mean, why haven't you stopped going on about it for the last three weeks if it's so small?

Senator HUME: Can I just have my question answered. Do you have to apply to get a tax cut?

Senator Gallagher: No, but we are providing accurate information—

Senator HUME: \$40 million!

Senator Gallagher: as opposed to some of the information that is circulating. A government information campaign will be a public information campaign, will be accurate and will go through all of the established processes, as it should, and all expenditure on it will be reported.

Senator HUME: Will the advertising campaign simply be for tax changes, or will there be other measures?

Senator Gallagher: The campaign hasn't been finalised, but the decision was around the changes to stage 3— a public information campaign about that—

Senator HUME: So, no other measures—

Senator Gallagher: But the Treasury officials who were here earlier, who have now been discharged, also spoke of the allocation within that \$40 million for Treasury staff working on information campaigns, including ones—

Senator HUME: That was departmental allocation. That's not what I'm asking.

CHAIR: Senator Hume—

Senator Gallagher: Yes, because that was in the \$40 million. That is in the money that we are talking about.

CHAIR: Senator Hume and Minister, we're getting to one of those points where it's difficult to discern the difference between the question and the answer. I also note that we have released Corporate and we now have

Fiscal, and we're quite a long way behind already, and there is a repetitive nature to the questions that you're asking.

Senator HUME: I understand. Are you ruling my questions out, Chair?

CHAIR: I'm just asking you to conclude this line of repetitive questioning, which belonged in the previous panel.

Senator HUME: Will the tax-change \$40 million advertising campaign include—

Senator Gallagher: You're misrepresenting me. Within that \$40 million is—

Senator HUME: You were the one who said there is—

CHAIR: Senator Hume.

Senator Gallagher: There are departmental costs in that, and we have approved that provision. We have not finalised any campaign. So, you're misrepresenting my evidence.

Senator HUME: Will it include measures that have been decided but not announced?

Senator Gallagher: The campaign hasn't been finalised, but I've told you—

Senator HUME: That's not what I'm asking.

Senator Gallagher: Well, if you'd let me finish—I've told you that the public information campaign is about the changes to the income tax arrangements in this country.

Senator HUME: Can I also ask when the government took the decision to spend that \$40 million on the ad campaign? Was it in the MYEFO process or was it after that?

Senator Gallagher: No, and that question was answered earlier by Senator Smith.

Senator HUME: Can that be confirmed by the department, please?

Senator Gallagher: It was confirmed by the department, before lunch.

Senator HUME: I'm asking the department to confirm that it was not part of the—

Senator Gallagher: The officials who are responsible for that are no longer here—

Senator HUME: I'm happy for them to take it on notice. I'm sure—

Senator Gallagher: They've already answered it!

Senator HUME: they will read the transcript, and I would like that confirmed. Thank you.

Senator Gallagher: They've already answered it, and they gave the date.

Senator HUME: Can you name a single campaign that Treasury have ever undertaken of this size?

Ms Reinhardt: I'm very sorry, Senator: this is just not the area that we can talk to in Fiscal Group.

Senator HUME: It's alright. I wasn't asking you. I was asking the minister representing the Treasurer.

Senator Gallagher: This is the first public information campaign I have been involved with through the Treasury portfolio, so I am not in a position to answer that.

CHAIR: Do you have a different line—

Senator HUME: I'll ask you to take it on notice, Minister.

CHAIR: Okay.

Senator HUME: Sorry—can I just be very clear? Are you aware of another campaign by Treasury that has ever cost anything like \$40 million?

Senator Gallagher: I am aware of other government information campaigns which have been of that order. Yes, I am. And I'm happy to provide them, including the breakdown of the \$239 million that was spent in the final year of your government—a record high—

Senator Hume interjecting—

CHAIR: Alright. Enough.

Senator DEAN SMITH: I want to go back to the \$23 billion cost-of-living relief package. The Treasurer, Dr Chalmers, has often commented that the \$23 billion cost-of-living relief package has been carefully calibrated and methodically designed. It often talks about his 10-point plan, delivering \$23 billion worth of support that's targeted to where it's needed the most. Then in January this year, at the National Press Club, the Prime Minister announced that he had changed the government's position with regard to the stage 3 tax cuts. I'll quote the Prime Minister:

... because the cost of living pressures has lasted for much longer than people thought and the range of measures that we put in place had not as effective enough.

Page 51 of the 2023-24 MYEFO states that the government's cost-of-living polices are expected to directly reduce—

Senator Gallagher: Very familiar—

Senator DEAN SMITH: It does sound very familiar, Senator Gallagher, yes, because that was the question I was asking earlier, where we got answers. But my questions for this part of the estimates go to the profiling of the \$23 billion package. So—

Senator Gallagher: Finance was asked about this last night, and they've taken that on notice.

Senator DEAN SMITH: I wasn't at finance last night, and I'm—

Senator Gallagher: I know, but I'm just telling you that they're—

Senator DEAN SMITH: I would like to correlate what Treasury gives me with what finance might give last night's committee.

Ms Reinhardt: I'm very hopeful that we'll provide the same things to you—

Senator Gallagher: Me too!

Ms Reinhardt: They do a very—

Senator DEAN SMITH: I suspect I'll end up being the judge of that!

Ms Reinhardt: Yes. The cost-of-living relief, as you know, Senator Smith, was delivered over budget MYEFO. It included things like the energy price relief, which was \$1.5 billion; cheaper child care, which was \$4.6 billion; Commonwealth rent assistance, which was \$2.7 billion; income support payment changes of \$4.7 billion; cheaper medicines at \$696 million; Medicare bulk-billing changes, which were \$3.5 billion; affordable housing changes, which, as you know, in some cases have an UCB impact and in other cases don't have an UCB impact; fee-free TAFE; paid parental leave; and the employment income nil rate. All of those are listed in the budget papers with the annual appropriation for each of those items, or the annual UCB impact.

I'm confident that we'll be able to give you the full details of that and that they'll align with answers from finance. But they're very transparent in terms of the measures and the UCB impacts. I would say—and I think that the secretary spoke about this this morning—that some of these actually have an impact in reducing the headline CPI. That's an important factor in how they were designed, and also in terms of the stage 3 tax cuts, but I think my colleague spoke about the inflation impact this morning and I wouldn't like to stray too much into his space.

Senator DEAN SMITH: Are you able to table the document you read from?

Ms Reinhardt: I'm able to table the details of that, yes.

Senator DEAN SMITH: Great. Was there an individual assessment on the inflationary or deflationary impact of each of those 10 measures?

Ms Reinhardt: I'm not the right person to talk to on that, so we'd probably have to take it on notice. I think there probably was for some of the larger ones—the energy price relief. I think that the majority of them were done as an overall impact.

Senator DEAN SMITH: For each of those 10 measures, could you take on notice if there was an individual inflationary or deflationary impact calculated? Could you provide that as well?

Ms Reinhardt: It won't be me, but I'm happy to take it on notice.

Senator DEAN SMITH: Thank you very much. In thinking about those 10 measures and the quantum that you've read out to me, what proportion of each of those measures has been expended in the 2023-2024 financial year? And what proportion of each of the measures was expended in the 2022-2023 year?

Ms Reinhardt: Finance has said that they'll take that on notice, and we're happy to take that on notice as well. Given that the majority of those were announced in the two budgets last year—were they both last year?

Senator Gallagher: In October and May.

Ms Reinhardt: In October and May. A limited amount of that would have hit in 2022-23, because, as you know, it takes a while to roll out expenditure. The majority of that would be flowing in the following years.

Senator Gallagher: And when we say 'carefully designed', it was designed for support to come at times when inflation wasn't at its highest, which was in the 2022-23 year. Some are phased over two years, and some are phased over four. You can do it from the published papers, but I think Finance undertook last night to try and provide it in a format that's easier.

Senator DEAN SMITH: I don't want to scare you Senator Gallagher, but you are reading my mind at the moment, so—

CHAIR: We're all disturbed!

Senator DEAN SMITH: I am interested in understanding: what does that quantum figure look like for 2022-23? You said limited—was that the word you used?

Senator Gallagher: Well, some of them—

Senator DEAN SMITH: I'm trying to understand, of the \$23 billion, are we looking at \$4 billion, \$5 billion or \$6 billion in that 2022—

Ms Reinhardt: We'll take that on notice, but it's likely to be less than a billion.

Senator DEAN SMITH: Following your train of thought, Senator Gallagher, are you able to, for each of those 10 initiatives, provide a profile for—

Senator Gallagher: I think that's what Finance has undertaken to do.

Senator DEAN SMITH: As I said, I wasn't there yesterday—

Senator Gallagher: I know, but that—

Senator DEAN SMITH: I'm happy to take your word, but I just—

Ms Reinhardt: They'll essentially be drawing from the budget papers.

Senator Gallagher: I'm just letting you know we have undertaken to do that already.

Senator DEAN SMITH: I'm just really keen to be satisfied for myself.

Senator Gallagher: Yes, for sure. I'll personally make sure you get a copy of that question on notice, sent directly—stat—to your office.

Senator DEAN SMITH: So will the profiling of those 10 be over four years, or can you go beyond four years?

Ms Reinhardt: It'll be over the budget period for the budget where they were announced, I would have thought. Generally, there's—

Senator Gallagher: It depends. Energy bill relief is over two years. Child care is over four and ongoing. Medicare bulk-billing is over four. So it depends.

Senator DEAN SMITH: You'll be able to provide that for us in a composite form.

Senator Gallagher: Yes.

Senator DEAN SMITH: How did the Prime Minister come to the view that his range of measures had not been effective?

Senator Gallagher: We have a disagreement about that, which Senator Hume and I went through yesterday. The request the Prime Minister made of departments, of myself, as finance minister, and of Dr Chalmers, as Treasurer, was, following on from these cost-of-living measures, to look at other options that would provide more relief to a broader population across Australia. These were targeted, and we made no secret about that. Many of the measures, if you look at income support, are for people on very low incomes. If you looked at energy bill relief, that was going to people who had various concessions in place. Options were sought that reached people who hadn't been the beneficiaries of those measures—so a broader range of people.

Senator DEAN SMITH: No, I think an accurate reading of the Prime Minister's statement to the National Press Club goes this way: The Prime Minister said, 'We changed our position on Tuesday.' That was his quote.

Senator Gallagher: Yes, I was there.

Senator DEAN SMITH: Then he says 'because'—and there are two because. One element of the because is that 'cost-of-living pressures had lasted for much longer than people thought'—much longer than the government anticipated. The second because is that 'the range of measures that we put in place had not been as effective'.

Senator Gallagher: 'Enough'.

Senator DEAN SMITH: No.

Senator Gallagher: Yes.

Senator DEAN SMITH: 'As effective enough'—yes.

Senator Gallagher: There was a missing word. I have already been through this, but there is an interpretation you would like to put on versus an interpretation from someone sitting in the room listening to that whole address

and the Q&A session, which is that those measures had been targeted and designed to reach a particular part of our population and the Prime Minister had sought options about how to provide relief to more people, a broader range of people, who weren't in receipt of those initial cost-of-living measures.

Senator DEAN SMITH: So the government misunderstood the size of the cost-of-living problem that this country was facing.

Senator Gallagher: No. He went to that in his speech—

Senator DEAN SMITH: It did. You had a targeted program only to discover that the cost-of-living pressures were more broad.

Senator Gallagher: The increasing cost of living has been our priority since we formed government. We inherited a budget in very poor shape. We inherited an economy where the highest quarter of inflation was the last months of your government. So we inherited a very difficult situation, of trying to repair the budget, provide relief where we could and not add to the inflation problem in the economy, and we have been very successful in dealing with that, but there is more to be done.

Senator DEAN SMITH: So how does the government monitor the effectiveness of each of those 10 cost-of-living relief measures?

Senator Gallagher: That's ongoing.

Senator DEAN SMITH: How?

Senator Gallagher: Through advice from departments, through economic datasets and through discussions we have with stakeholders. It's us doing our job.

Senator DEAN SMITH: Ms Reinhardt, what is the form that that advice to the government takes, in terms of keeping them updated on the effectiveness of each of those 10 measures?

Ms Reinhardt: It's individual, by measures. For example, in cheaper child care, the ACCC has recently reported to the government that the changes and assistance that were provided have had a significant downward impact on prices for families with children. In the case of energy bill relief, it is about the relief that has been provided via states to consumers. So it's really individual for each of those measures, as to how we're looking at them, receiving reports and providing information to government. The ABS's recent reports on the impact on CPI around Commonwealth rent assistance and energy bill relief and the reduction in headline CPI also feed into that reporting. So it really depends on the particular item.

Senator DEAN SMITH: How frequently is that provided?

Senator Gallagher: We get this sort of information all the time.

Senator DEAN SMITH: Is it provided in a composite form every month or every six months?

Ms Reinhardt: It doesn't tend to be provided in a composite form, but it is provided in a composite form in some regards. You will have seen, from the report the Treasury provided to the government on the stage 3 tax changes, that there was information in there about the impact, on different groups, of cost of living. So it would feed into that work as well. I really can only say that it is ongoing and very frequent, but the individual measures are reported on, usually, in multiple ways.

Senator DEAN SMITH: Given that you reported on it in multiple ways, can you rank the 10 cost-of-living relief measures, in terms of their effectiveness, from one to 10?

Senator Gallagher: We haven't sought to do that. Each stands on its own in terms of merit. Each has a different purpose behind it, whether it be providing sole parents, particularly women, with some extra money while they are balancing looking after their children in a sole-parent household with other demands, or whether it be pensioners getting energy bill relief. They stand on their merits. But they've also been incredibly successful in putting downward pressure on inflation, which has been another part of our area of focus. I can tell you, from the Treasurer's point of view and my point of view, in terms of how these measures are working, impact on cost of living and broader discussions about cost of living, that is a daily conversation for us. Whether it be advice from our departments or stakeholders, or looking at the economic data coming through, that is our daily job.

Senator DEAN SMITH: What is the risk that the \$40 million that will be used for the communications campaign on the stage 3 tax changes becomes broader, to include these cost-of-living measures?

Senator Gallagher: The provision in the decision the government's made on that is that it's around the changes that will be made to the income tax system.

Senator DEAN SMITH: But the program, in your own words, hasn't yet been confirmed, so it could actually—

Senator Gallagher: But the decision from the government is clear. The campaign itself hasn't been determined, but the decision is clear: it's to support—

Senator DEAN SMITH: So \$40 million—

Senator Gallagher: a public information campaign—

Senator DEAN SMITH: only on—

Senator Gallagher: on the income tax changes that will come into effect on 1 July.

Senator DEAN SMITH: Forty million dollars, on one government initiative?

CHAIR: Okay. Senator Smith, I'll—

Senator Gallagher: There are other government public-information campaigns of a similar size, and we are—

Senator DEAN SMITH: [inaudible]

Senator Gallagher: still well under the budget that your government exceeded, at historic levels, at \$239 million, in the final year you were in government. We are well below that—like, \$100 million below that.

CHAIR: Okay. Thank you, Minister.

Senator DEAN SMITH: Sorry—one last question—

CHAIR: Okay; sure.

Senator DEAN SMITH: Ms Reinhardt, just to clear: 10 measures, \$23 billion, but you can't give me today a number that represents how much of that \$23 billion was expended in 2022-23?

Ms Reinhardt: I think we'll take that on notice and make sure we have the accurate information for you on that.

Senator Gallagher: Treasury and Finance officials don't tend to speculate or say, 'It was around this much.'

Senator DEAN SMITH: I just wanted to be clear.

Senator HUME: You said the majority.

Senator Gallagher: All of them!

Senator DEAN SMITH: It's the sort of thing I probably would have carried around if I were in Senator Gallagher's position.

CHAIR: Senator Roberts.

Senator ROBERTS: Thank you to the officials for being here today. The 2022-23 budget, delivered in October 2022, predicted that net overseas migration would be 235,000 people for the financial year 2022-23. Can I ask whether the Treasury's definition of net overseas migration differs from the Australian Bureau of Statistics' definition of overseas migration?

Ms Reinhardt: Sorry; can you just—

Senator ROBERTS: Do you have the same definition of net—

Ms Reinhardt: Yes, we do.

Senator ROBERTS: I want to go to your department's immigration forecasts. I notice that in the October 2022 budget papers, four months into that financial year, you were predicting net overseas migration at 235,000 people for the year. Instead, the Australian Bureau of Statistics says Australia had 737,000 migrant arrivals, for a net overseas migration of 518,000—well over double what you said.

Ms Reinhardt: In the budget, we had a figure for net overseas migration of 400,000. The MYEFO had 510,000, and I recognise that that is a significant miss. I would, however, flag a couple of things around that. The first is that the UK in the period between March and November last year had to double their NOM forecast, and New Zealand had a similar adjustment. There has been a significant uptick in student arrivals post-COVID in most countries—Canada, Australia, UK and New Zealand. There was, I guess, a catch-up that was much faster than any of those countries predicted. We are still below where we would otherwise have been had COVID not occurred. But I think you're right in saying those forecasts could have been better, if that's the point you're making. I would say we are in company. I don't say it's good company, but we are in company, and that is something we do need to look at.

The other point I'd make is that there have been some really significant changes that have been introduced in the last six months. They're around closing off the pandemic event visa; introducing really significant integrity changes around student visas; looking at ways of targeting better temporary skilled migration; and indexing the

TSMIT, the temporary skilled migration income threshold. We would expect those changes to have quite a substantial impact on arrivals and the NOM numbers.

Senator ROBERTS: Thank you. I'll stay with you, Ms Reinhardt. I think you talked about catching up on the pre-COVID-era statistics. My understanding is that we had 1.9 million people on visas before the COVID, and by October 2023 we had 2.3 million—we'd already caught up, well and truly, at the start of that year. I can't tell you which group of visas—

Ms Reinhardt: We haven't fully caught up, but, in terms of visa numbers, I'll see if my colleague—

Senator ROBERTS: No, we've more than caught up in categories of working visas.

Ms Horvat: No.

Ms Reinhardt: No, not in terms of the stock of—

Senator ROBERTS: In working visas?

Ms Horvat: We look at net overseas migration in total—

Senator ROBERTS: I've shifted to working visas.

Ms Horvat: but Ms Reinhardt's statement is correct, as we have not caught up to pre-COVID for total net overseas migration.

Senator Gallagher: But Treasury don't look at what particular visa type you're on; that would be a matter for Home Affairs.

Senator ROBERTS: Thank you for pointing that out. Nonetheless, this huge increase in people has a huge impact on the people who are already here. What happens to the prices of houses, rentals, accommodation generally, energy, groceries—cost of living? There's a huge impact on all of those things when we have so many people flooding into the country.

Ms Reinhardt: I'm really not best placed to answer the broader inflation questions, but I would say that net overseas migration has really significant positive impacts for Australia. That's been shown in the analysis year after year. We have maintained a very low unemployment rate in Australia whilst having pretty long-term migration to Australia for several hundred years, and that's been a really important factor to our economic success. It has also, in recent times, not resulted in any substantial uptick in unemployment, and at the same time we've seen really high participation rates for Australians. So I would push back on the idea that that is an absolute negative for Australians, as it's delivered substantial economic benefit to Australians.

Senator ROBERTS: It would be, potentially, if it were done in a carefully calculated way and with infrastructure spending to match, but we haven't build a dam in how many decades for water supply?

Senator Gallagher: We're moving into a different area.

Senator ROBERTS: That's right. I'm directing my question to you, Minister. This has a huge impact on people's livelihoods.

Senator Gallagher: The evidence that you've been given is that migration to this country has supported economic growth across the country for many years. We agree that we needed to tighten up some of the arrangements that we're seeing, particularly around international students and some of the loopholes that were being used—some of the behavioural responses post COVID—and that work is being done. Because of those reforms, there will be 180,000 fewer people over the forward estimates than there would've been if we had left the situation unattended to, but there's a huge amount of work.

Senator ROBERTS: That's still a large number.

Senator Gallagher: It comes down to, I think, 250,000 in the final year of the forward estimates. The work that the Minister for Home Affairs is doing in the migration space has been complex. She inherited a lot of issues in that department—that's probably putting it politely—and we're working through them bit by bit. But those reforms are in place.

The issues that you raise around infrastructure are real. I don't think you can blame all of those, again, on overseas migration to this country. Infrastructure requires long-term planning. It involves investments from states and territories. Some of the pressures we're seeing in housing supply haven't happened overnight or in the last two years. It's been a build-up over a much longer period of time, when we weren't experiencing those high levels of overseas migration that we've seen in the last two years. It's more complex than that. But, yes, we have to work on housing supply; we have to ensure that we're building infrastructure that's right for people in cities, towns and regions across Australia; we've got to fix the migration system; and we've got to make sure that it works for everybody.

Senator ROBERTS: That's my point, Minister: just adding more people without doing all the other creates a problem. Sure, it increases economic growth, which looks good in a book or on a whiteboard—

Senator Gallagher: It supports jobs and incomes in this country, so it is interlinked. What I'm saying is, we will always want to have a migration program. We want to attract people to this country. We want them to live here and come from any country around the world. There are good social and economic reasons to have an approach like that, but, at the same time, you have to be looking after your back garden as well. You have to be making sure the infrastructure is there and that you're building the housing, and we're doing all of those things.

Senator ROBERTS: Thank you, Chair.

Senator HUME: I've got some questions around NDIS. We have discussed the eight per cent spending growth target that the government's put in place in the NDIS a few times here. Does Treasury remain confident in that costing?

Ms Reinhardt: The eight per cent target is the government's target post 2026-27. The government's introduced a range of measures in the 2023-24 budget. It's also reached an agreement with the state governments around changes where there'll be an expansion in foundational supports, which will allow some pressure to be taken off the NDIS and better access for those groups where foundational supports are more effective. It's also indicated it will be looking at substantial legislative changes which should support that eight per cent. From Treasury's perspective, there is a vast amount of work being done in a very complex area, where there is a need to engage heavily with stakeholders. We think there's a great deal of work going on in that space to support the target of eight per cent.

Senator HUME: Is it Treasury's position that the Commonwealth will meet that target after July 2026?

Ms Reinhardt: Sorry, I'm slightly deaf. Can you just—

Senator HUME: That's all right. Normally it's me asking other people to speak up. I'm sorry if I'm mumbling. Is it the Treasury's position that the Commonwealth will meet that eight per cent spending growth target after 1 July 2026?

Ms Reinhardt: That's our expectation.

Senator HUME: There was an article in the *AFR* very recently by Phil Coorey that said that the costs of the NDIS expanded by 23 per cent in 2022-23. Is that something that you are familiar with?

Ms Reinhardt: No, but I can check with my division head.

Ms Long: Yes, I am familiar with that *AFR* article.

Senator HUME: Yes, and the 23 per cent—where does that come from?

Ms Long: My understanding is that the figures in that article are sourced from the 2023 baseline series that comes from the independent peer review of the *Annual financial sustainability report 2022-23*. There's an annual financial sustainability report, which is done by the scheme auditor, and there is a peer review of that, which is done by the Australian Government Actuary. It is the peer review that has been done most recently that has some figures, and my understanding is that the figures in that article are sourced from there.

Senator HUME: So is it your understanding that that figure is correct—the 23 per cent?

Ms Long: I'm not able to comment on the correctness of those figures. If they are sourced from that report, that would be for the Australian Government Actuary.

Senator HUME: Have you seen those reports?

Ms Long: The report is publicly available.

Senator HUME: I know, but have you seen at?

Ms Long: Yes, I have seen it, but I haven't gone through the detail of that report.

Senator HUME: If the report is publicly available and both of those figures that add up to the 23 per cent are publicly available, while I am asking some other questions, perhaps you could just put the two together and say, 'Yes, that does sound accurate.' Can you do that?

Ms Long: I think I'd like to take that on notice just to make sure that I am correlating the right figures.

Senator HUME: Okay. The measures that are intended to ensure that the eight per cent target is hit are still in the process of being developed. Is that right?

Ms Reinhardt: Particularly the legislative reform measures. That's correct.

Senator HUME: Right. Once they are fully developed and introduced as measures and, potentially, as legislation, will they then go through a recosting process so that they can be set out in the budget books, or are they a cost that's included in the EM of the legislation?

Ms Reinhardt: I'm not sure I can really answer that. I think the normal process would not be to recost them. They would be included in the budget as a normal part of the budget, so it would effectively be costed as a measure being delivered. But how they're included in the EM is probably a question for the relevant department and minister.

Senator HUME: What if the measures that are put together don't add up to an eight per cent spending target? What if they are nine per cent—

Senator Gallagher: I think that's a hypothetical question.

Senator HUME: I'm just wondering how they get costed and how they get accounted for—if it's seven per cent or if it's nine per cent.

Ms Reinhardt: They will get included in the budget over time as they're introduced. I would've thought that would be the process.

Senator Gallagher: And their impact on scheme cost will be considered.

Senator HUME: So, essentially, that budget save that has been booked and banked could move about?

Senator Gallagher: No, because we've set the target at eight per cent. That's the government's policy, and we are shaping reforms around that. It's eight per cent growth in scheme costs.

Ms Reinhardt: Just to be clear, it's really the case for all measures that require legislation that there is a costing included in the budget, and, when the legislation goes through, it is almost never—I'd almost be prepared to say 'never'—the case that the final costing exactly matches the original costing.

Senator HUME: But it is unusual, would you not say, Ms Reinhardt, for policies that haven't been developed, let alone costed, to be included and banked as saves?

Ms Reinhardt: It's not unusual for government policy to be included in a budget.

Senator HUME: Without it having been developed?

Ms Reinhardt: It's not unusual for government policy announced and articulated—

Senator HUME: But it's not government policy.

Senator Gallagher: It is government—

Senator HUME: The initiatives haven't been developed yet. You just said so.

Senator Gallagher: The government's policy is that, in, I think, the 2026-27 year, growth in NDIS costs be contained to eight per cent. That is the government's policy.

Senator HUME: Does that include the foundation supports or not?

Senator Gallagher: No. We went through that last night.

Senator HUME: I'm just confirming that it doesn't include the foundation supports.

Senator HUME: Is there a plan for ongoing monitoring and evaluation of those policies and measures under the NDIS Financial Sustainability Framework to ensure that they remain not only effective but also aligned with that eight per cent spending growth target over time?

Senator Gallagher: There will be a huge amount of work done on that.

Senator HUME: I'm sure there's an enormous amount of work to be done.

Senator Gallagher: Yes, there is.

Senator HUME: It's a very big job.

Senator Gallagher: It is.

Senator HUME: How does the ongoing monitoring and evaluation of the policies and the measures work? Who does that?

Senator Gallagher: It's a whole-of-government effort, really, but the critical departments will be DSS, obviously the NDIA, Treasury, Finance and PM&C—am I missing anyone there? They would probably be the key agencies involved. Everyone is working together to achieve that. But it's not even just about achieving the targets; it's about ensuring the sustainability of the scheme so it's able to do what it was always intended to do, which is to be there for people who need extra support but not be the only choice.

Senator HUME: I understand that, and that's exactly what my colleague Senator Reynolds is asking in the appropriate committee right now. I suppose what I'm asking about is the dollar figures that are attached to that commitment and how they are accounted for. My concern is, if that target does turn out to be fanciful, how you go about changing it. When do you work out that—I don't want to give you hypotheticals, but—

Senator Gallagher: Yes, but that is hypothetical. It is difficult to not to be hypothetical, because you're essentially asking, 'What if the government policy doesn't work?'

Senator HUME: But you haven't got a government policy; you've got a spending cap.

Senator Gallagher: We do have a policy, and we are—

Senator HUME: It's to not spend as much as you do.

Senator Gallagher: There are reforms underway to contain scheme costs. There is more work to be done. That will be coming through legislation. The impact of every reform and what that's having on scheme costs will be monitored, as it has been. I think it's pretty well understood that some of the cost drivers in the scheme through the various assessments that are being done, whether it be the actuarial assessment that's done each year, whether it be the monitoring that the NDIA do—there is a lot of work that's happened before. We've got more work to do to get there, but it's essential that we reach or contain—it's not even reaching the target; it's containing—the growth of the scheme.

Senator HUME: The last quarterly report for the NDIS provides updated data for the last four months. That information is exactly the sort of thing that we would normally discuss at estimates—that's exactly what estimates is for—however, it's become clear in another committee that, because that report has gone to disability ministers, officials will not reveal what that data is. Has that data about the costs of the NDIS in the last four months gone to Treasury?

Senator Gallagher: What report are you talking about?

Senator HUME: There is a quarterly report that has gone to disability ministers which has data of the costs of the NDIS in the last four months. This is the sort of thing that we would normally ask questions about at estimates and get answers, but officials have refused to provide those answers today. I want to know whether that's the sort of information that Treasury would have access to when they make—because they obviously have to make decisions as to whether that eight per cent spending cap is fanciful or not, and I would imagine that what the costs are today would be a significant factor in that consideration.

Senator Gallagher: Essentially, containing the cost to eight per cent has been made with information about what's happening currently within the scheme. So Treasury would have access to information about costs within the scheme. It's ongoing work, for sure.

Senator HUME: Does anybody here have access to the NDIA's data for the last four months about the cost to NDIS?

Senator Gallagher: I'm not sure.

Ms Reinhardt: We don't have access to that, but it's certainly the case that the ongoing information on the NDIS over the last few years has indicated a need for action in this space. There is significant action taking place. That will take time to play out, in terms of how it impacts on costs for the NDIS. So it would be surprising if you had major changes in the short period over the last few months.

CHAIR: For everyone's convenience and for people who may be watching and waiting, we're in Fiscal. We're an hour and a bit behind calling Revenue. Senator Hume, I understand both of your colleagues have a block of questions as well. You're almost at the 15-minute mark.

Senator HUME: I'm done.

CHAIR: Deputy Chair?

Senator BRAGG: I do have a few questions. Sorry, I've just got to get my papers organised.

CHAIR: I snuck up on you there, didn't I?

Senator BRAGG: Yes, that's part of the strategy. This is Fiscal Group?

CHAIR: For quite some time.

Senator BRAGG: I'm just checking—just trying to be courteous. Last time, I asked you about the *Intergenerational report*. Who did I talk to about that?

Ms Reinhardt: It would have been Pip Brown and me.

Senator BRAGG: Ms Brown, I think I asked you or one of your colleagues whether there were any other members of the parliament or the government consulted in the same way that the member for Parramatta was. I'm just wondering what the answer was. I think you took it on notice, and you haven't come back.

Ms P Brown: I believe we have responded to that question on notice, but it may not have made its way through to you. I—no other members of parliament were consulted.

Senator BRAGG: Who were they?

Ms P Brown: No other members.

Senator BRAGG: Just one member of parliament, the member for Parramatta, was consulted but no-one else?

Ms P Brown: That is correct.

Senator BRAGG: The reason for that consultation with one member was—

Ms Reinhardt: I think that the secretary indicated at last estimates that that was because he suggested it would be worth having a chat to that member because of his previous experience in articles in this space, and that he might have a view that would be helpful to our consideration.

Senator BRAGG: Thanks for clearing that up. I want to ask about the COVID inquiry. I know that that's something that's being run by PM&C, isn't it?

Ms Reinhardt: That's right.

Senator BRAGG: Did you, as a department, have any input into the composition of the panel?

Ms Zaheed: No.

Senator BRAGG: No engagement at all?

Ms Zaheed: Not to my knowledge.

Ms Reinhardt: Not to my knowledge, either.

Senator Gallagher: Have you got an issue with that?

Senator BRAGG: I'm just asking.

Senator Gallagher: It's alright. It's just the face you were pulling—

Senator BRAGG: That was my nice one!

Senator Gallagher: I was trying to read it.

Senator BRAGG: This inquiry will look at economic matters in some form.

Ms Zaheed: Yes. I believe the terms of reference are public.

Senator BRAGG: They are. The Treasury wasn't consulted on it?

Ms Reinhardt: We may have been consulted on the terms of reference; I'll have to take that on notice. I'm not aware that we were consulted on the panel. They are broad-ranging terms of reference—we may not have been consulted on them—which leave that inquiry to look at factors across the board associated with COVID, as far as I understand it.

Senator BRAGG: An inquiry into COVID, which I imagine would look at the economic policies that were deployed by the treasury department, would be a matter of interest to the Treasury, would it not?

Ms Zaheed: Yes.

Senator BRAGG: I want to ask you about one of the appointments, Dr Angela Jackson, who said, 'If the OECD appoints Mathias Cormann as its next head, it will weaken the institution.' She said of Malcolm Turnbull, 'What a shameful PM', and 'Turnbull has made himself a laughing stock'. This is a person who has engaged heavily in a character assassination of various Liberal Party people over their time but was appointed to review the economic policies of that period. Do you think that is an appropriate appointment?

Senator Gallagher: I have no doubt that the three eminent and well-qualified individuals appointed will conduct their work in accordance with the terms of reference and in a very professional and appropriate capacity.

Senator BRAGG: Okay. Do you think this inquiry will look at JobKeeper?

Ms Reinhardt: I think it has a scope to look at JobKeeper, should it choose to. We have also done a separate evaluation in Treasury of JobKeeper.

Senator BRAGG: And that is your expectation, Minister, that it will look at JobKeeper?

Senator Gallagher: I think the terms of reference would allow it, but it is an independent panel, so I think they are also able to choose the matters they look into.

Senator BRAGG: You say 'independent'. How can you be independent when you are spending—

Senator Gallagher: They are independent—

Senator BRAGG: So much of your career arguing little lines.

Senator Gallagher: They are independent of government in that sense around directing what they can and can't look at, is the comments I was making. I accept you don't accept the appointment of Dr Jackson, but I think if you look at her CV, she has more than adequate, more than suitable qualifications to have been appointed to this role. The other appointments definitely have similar merit. They are three eminent Australian women doing a very professional job.

Senator BRAGG: You say 'independent of government', but when you appoint someone who has been so politically partisan, how can you expect to get an independent outcome?

Senator Gallagher: I will go back to my first answer, which is that the panellists as appointed would, I have no doubt, do a very professional job and conduct themselves in appropriate ways in accordance with the terms of reference.

Senator BRAGG: I want to take you to one of the details here then, because I think everyone agrees this inquiry would have to look at JobKeeper in some form. Dr Jackson said, 'The design of JobKeeper was so flawed', but the Ray inquiry by the Treasury has said that it had been a value-for-money program and had delivered broad societal benefits. So, you have appointed someone to review JobKeeper who said it was a terrible idea, but your own independent review of Treasury has already said it was a good idea.

Senator Gallagher: All that information will be available to the panel through their work.

Senator BRAGG: Do you think that damages the credibility of their review?

Senator Gallagher: No, I think you are trying to damage the credibility of the review right now. So, no, I don't accept that.

Senator BRAGG: I'm asking questions of you—

Senator Gallagher: I know, and I'm answering them.

Senator BRAGG: As someone who has played a role in appointing people to do a so-called independent review, an evaluation of a program where they have already expressed public views about it—

Senator Gallagher: This is not a review into JobKeeper. It may look at JobKeeper. I imagine it probably will. It is to look at the COVID-19 response. As an independent panel, people have incredibly extensive experience in all of the areas required, whether it be public health, social services or economic policy. And I have no doubt that the three panellists will do an excellent job and I think you should wait until the review is finalised, frankly, before you try and tear it down.

Senator BRAGG: Well, let's see. We won't take any of the recommendation it makes about JobKeeper very seriously because of the statements that you have already made.

Senator Gallagher: What if they say it was excellent? Will you take that seriously?

Senator BRAGG: The appointment already of the—

Senator Gallagher: This is how ridiculous this conversation is.

Senator BRAGG: It is not ridiculous. This person has already said it was a bad scheme, a poorly run scheme. You stand by your appointment, do you?

CHAIR: The same question has been asked multiple times.

Senator Gallagher: Of course the government does. And I think the only person trying to discredit the review at the moment is you, Senator Bragg. I have not heard anyone else who has engaged with the review raising a similar concern.

Senator BRAGG: I don't think I'm going to be the only person. The reality is you appointed someone who's already expressed their view publicly about a scheme which you've now asked them to review.

Senator Gallagher: We've appointed them to be part of a panel. We've employed three people to be part of the panel that looks at the Australian government's response to COVID-19. They are eminent Australians qualified in their own right, and I have no doubt they will conduct themselves in an appropriate way that hands an independent inquiry to government. Then, once it's handed down, by all means, have a crack. It's pretty cheap to do it beforehand.

Senator BRAGG: No-one will take it seriously. Thank you very much.

Senator DEAN SMITH: I will ask some questions on behalf of a colleague, so I don't want to be misconstrued as advocating for a change in GST arrangements for Tasmania. It's in reference to question on notice No. SBE073, which I think might have referred to correspondence received by the Treasurer from Tasmanian federal Labor members of the House of Representatives or Tasmanian senators and members of the Tasmanian Labor opposition. It regards the exemption of the \$240 million Macquarie Point redevelopment in Hobart from Tasmania's GST. Are you familiar with that question on notice?

Ms Reinhardt: And what is your question?

Senator DEAN SMITH: Are there any further updates to the answer that you provided to that question?

Ms Reinhardt: I think I probably gave those updates in my answers to Senator McKim.

Senator DEAN SMITH: There's a letter from the current Tasmanian Treasurer?

Ms Reinhardt: Yes.

Senator DEAN SMITH: I have a second question. Given the \$730 million of federal funding for the Mersey Community Hospital some time ago in Tasmania's north-west, given that that was exempt from GST calculations, does the minister agree that GST exemptions can be made to projects?

Senator Gallagher: I certainly am aware from my former role as Chief Minister that Commonwealth governments have exempted projects from GST, which is why every state government always asks for them to be exempt. It's because of that history.

Senator DEAN SMITH: Okay. I'll come to that shortly. We can keep this tight.

Senator Gallagher: It's no surprise the state government—

Senator DEAN SMITH: Yes, yes. I'm doing a colleague a favour. I'm happy to talk about how safe WA's GST deal is, but we don't need to waste the committee's time. Is any Brisbane Olympic infrastructure funding exempt from GST, or has the government committed to exempting any future Brisbane Olympics projects?

Ms Horvat: The terms of reference do exempt payments for international sporting events such as the Olympics. That is standard practice.

Senator DEAN SMITH: Is any Brisbane Olympic infrastructure funding exempt from GST? The answer to that question is 'yes', because that's a standard arrangement for Olympics.

Ms Horvat: That's correct.

Senator DEAN SMITH: Has the Albanese government committed to exempting any future Brisbane Olympic projects?

Ms Horvat: That would not be a question for me. That would be a question for government. But the terms of reference are generally decided by the Treasurer at the end of the year, prior to the year that they're considering.

Senator DEAN SMITH: Minister, has the government committed to exempting any future Brisbane Olympic projects?

Senator Gallagher: I think we've answered. The terms of reference allow for that as normal practice, as I understand it. I'm not aware of any specific decision that's been made, but, if there's further information, we're happy to provide that.

Senator DEAN SMITH: Has the government made any other GST exemptions to any other states since it's been elected?

Ms Horvat: Yes—

Senator DEAN SMITH: Would you like to read those out?

Ms Horvat: For 2025, some of the exempt payments include—as I've already mentioned—payments to Queensland sporting venue infrastructure for the Olympics. All state payments for the Energy Bill Relief Fund have been exempted. All state payments for the Social Housing Accelerator program have been exempted. And payments to the Northern Territory for on-country learning have been exempted. Last year, contribution to Tasmania's hydropower station redevelopment were exempted.

Senator DEAN SMITH: On notice, can you please provide a list of sporting infrastructure projects that have been exempt from GST calculation since 1 November 2007?

Ms Horvat: I can table the document that has all exemptions since 2000, if you'd like it.

Senator DEAN SMITH: Excellent, yes. I'd enjoy that, and Senator Duniam might as well.

Senator HUME: I want to unpick what's meant by the following line in the government's fiscal strategy:

Allowing tax receipts and income support to respond in line with changes in the economy and directing the majority of improvements in tax receipts to budget repair.

Is it correct to interpret that as the automatic stabilisers in the budget being able to run their course? Is that what that means?

Ms Reinhardt: That would be my interpretation of the first part of that.

Senator HUME: So payments will be allowed to increase in line with inflation?

Ms Reinhardt: No, 'automatic stabilisers' refers to the fact that when you have higher rates of unemployment you get higher rates which come with lower aggregate demand—higher unemployment, higher benefits. That's the usual interpretation of that, and vice versa: lower unemployment, lower rates of payments, lower stimulation of aggregate demand.

Senator HUME: So when we're talking about 'automatic stabilisers', does that apply to the receipts? Will receipts be allowed to increase in line with inflation as well?

Ms Reinhardt: It's not that they will be allowed to, but that that's usually what occurs.

Senator HUME: They just do—that's what that means. That's good, I wanted to clarify that. I also want to ask about a claim by the Treasurer in the MYEFO that 92 per cent of upward revisions to revenue have been returned to the budget. What does 'returned to the budget' mean?

Ms Reinhardt: It means 'not spent on new policy decisions'.

Senator HUME: Is that the figure that is derived using the same formula that is outlined in an answer to question on notice BET043, which you should have in front of you, from the May 2023 estimates?

Ms P Brown: Sorry, I don't have the answer to that question on notice in front of me.

Senator HUME: Perhaps you could walk me through how Treasury counts parameters and other variations to tax receipts but then divides only by policy decisions; does that sound right?

Ms P Brown: I think what you're referring to is that if there is an upgrade in the estimates for tax revenue then we look at what proportion of that is reflected in policy decisions, and that gives us the revenue banked figure.

Senator HUME: That's right?

Ms P Brown: Yes, that's correct.

Senator HUME: Are policy decisions the only spending element of the budget that effects the underlying cash balance?

Ms P Brown: No.

Senator HUME: When it's returned to the budget, that doesn't actually preclude it being spent as a result of parameter variations, does it?

Ms P Brown: A policy decision is the element of the spending that reflects an active decision of government; the parameter variations that happen due to—

Senator Gallagher: They happen automatically.

Senator HUME: Right, but that is the case.

Senator Gallagher: Where the government made a decision, parameter variations occur without a decision of government.

Senator HUME: But parameter variations are allowed to run. The government's fiscal policy:
... will be underpinned by the following elements:

- Allowing tax receipts and income support to respond in line with changes in the economy ...

Senator Gallagher: Yes, that's exactly right, but parameter variations don't require a decision of government.

Senator HUME: Doesn't that essentially imply that you're saying you're returning money to the budget but actually it's being spent?

Senator Gallagher: We are returning money to the budget.

Senator HUME: But it's actually being spent, if those parameter variations are right.

Senator Gallagher: There are other costs on the budget, yes, through those estimates variations. They happen automatically. They're not a decision of government. Where we've got control over the decision we have been very frugal with our spending and returned other receipts to the budget. Our debt is lower. Our deficits are lower. In fact we've had the first surplus in 15 years. We've improved the bottom line. The variations happen. We've been able to make new investments where we can, but we've had a very clear fiscal strategy.

Senator HUME: If you include those payment variations in your calculations, what percentage is actually being returned to the budget?

Senator Gallagher: We don't do that. It's not a measure—I don't think that that would have been done.

Ms P Brown: I'm not sure if I've got that figure. Perhaps a useful one is the cumulative improvement to the underlying cash balance, which in MYEFO was a \$39.5 billion cumulative improvement to the underlying cash balance.

Senator HUME: Is it possible to calculate what the percentage that is returned to the budget would be if you included those payment variations?

Ms Reinhardt: That would be a different calculation. It's possible, though—

Senator Gallagher: There are ons and offs as well. I don't know how you would do it. Sometimes they improve, if there has been an underutilisation of a particular demand driven program, and sometimes, if they get indexation, there's a bigger impact on what you're spending, so I'm not sure how you would do it. You want to say the government isn't returning 92 per cent of upward revisions to revenue to the budget, so I see where you want to get to, but I'm not sure how you can just collapse the estimates variation into that, add it into government decisions and then come up with a number, because it wouldn't be accurate.

Senator HUME: I understand that you and I might not be certain how we can do that calculation, but I imagine there are people at the table that can.

Ms Reinhardt: It probably wouldn't be very meaningful because it wouldn't be relative to GDP and other factors. It would be possible, but it wouldn't be a meaningful figure.

Senator HUME: On notice, could you calculate it for me, and as part of that question on notice explain to me why you don't think it's an appropriate number to use.

Senator Gallagher: We'll see what we can do.

CHAIR: Thank you, Senator Hume. I believe the committee is now ready to release the Fiscal Group and move to the Revenue Group, ATO, Tax Practitioners Board, and the Australian Charities and Not-for-profits Commission. Ms Reinhardt and team, thank you very much for answering our questions. We'll have a very brief suspension while we change personnel.

**Australian Taxation Office
Tax Practitioners Board
Australian Charities and Not-for-profits Commission**

[15:57]

CHAIR: The committee will now resume. The committee welcomes representatives from the Department of Treasury's Revenue Group. Welcome, Ms Brown and team. The committee welcomes representatives from the Australian Taxation Office. Commissioner Jordan, welcome. We acknowledge that this may be your last estimates appearance in this role, and I suspect you may in a moment have an opening statement that you may wish to give us.

Mr Jordan: Yes, I have a very brief one.

CHAIR: Excellent. We also welcome Mr O'Neill and team from the Tax Practitioners Board and Commissioner Woodward from the Australian Charities and Not-for-profits Commission. Does anybody apart from Commissioner Jordan have an opening statement that they'd like to give?

Senator Gallagher: I just want to jump in before Commissioner Jordan to acknowledge this historic moment of Commissioner Jordan's final appearance before an estimates committee. I want to put on record the government's thanks and appreciation for his more than a decade in the role of Commissioner of Taxation and for his distinguished public service through some pretty exciting and difficult times over the past decade, and to wish him all the best for the future. He has performed at a high level for many, many years, and the government is deeply appreciative of his performance and his public service.

CHAIR: Thank you, Minister. On behalf of the committee, and I'm sure for all sides of politics who are here with us today, we associate ourselves with those comments. We thank you for your decade of service, Commissioner Jordan, and we turn to you for your last opening statement in your role in estimates.

Mr Jordan: Thank you—

Senator Gallagher: Tell us what you really think!

Mr Jordan: I've got about two hours to go, so it's a risk!

CHAIR: I believe a National Press Club address may provide more detail!

Mr Jordan: Yes, that's right. Thank you for those kind words. It is a great opportunity that I thank you for, to be able to be here today for my 31st Senate estimates appearance. I've had 47 appearances before Senate inquiries, of which 31 have been before the estimates. It really has been a privilege to be the Commissioner of Taxation. I've been proud to represent the interests of all taxpayers, both here at Senate estimates and at a range of other forums over my 11 years. I have appreciated and really have been honoured to be able to directly interact with senators as part of our democratic processes. I'll have more to say about the 11 years at the National Press Club week, but, for now, the ATO remains committed to our purpose, and I have my executive team here with me to answer your questions. Thank you.

CHAIR: Thank you very much. We will proceed now to questions. I'm going to Senator Hume.

Senator HUME: On behalf of the coalition, I give our sincere thanks for your 13 years in that chair. I didn't realise that you were counting the number of committees that you had attended. That's pretty exceptional. The changes that you have overseen—single touch payroll, the modernisation of our tax system, the multinational tax avoidance changes, which were so important in the last government, and, of course, the COVID measures, particularly the implementation of JobKeeper, which kept so many thousands of businesses afloat and people attached to their employers—were extraordinarily important and wouldn't have been possible without you there to help steer the ship. So I thank you very much on behalf of a very grateful coalition.

Last week, the secretary confirmed—this is probably a question that's not necessarily directed to you, Mr Jordan—that the Revenue Group is looking at all parts of the tax system. Is that correct, Ms Brown?

Ms D Brown: Yes, we do look at the operation of the tax system as a whole.

Senator HUME: Does that include the development of possible policy proposals?

Ms D Brown: Yes, it would.

Senator HUME: Are you looking at anything now that has been previously ruled out?

Ms D Brown: I think the secretary said earlier this morning that it's challenging for us to comment on what we are and aren't working on. It makes it challenging working with government and for there to be a deliberative process where we can be open and frank with government.

Senator HUME: We're only talking about things that you have looked at. They were the secretary's words. He did say that Revenue Group has looked at all parts of the tax system. Using the secretary's words, have you look at negative gearing?

Ms D Brown: I can only repeat what I've just said. Playing rule-in and rule-out, we look at the operation of the tax system as a whole, but being specific about that does make it challenging for us to continue to have an open conversation.

Senator HUME: So is negative gearing part of the system as a whole?

Ms D Brown: Yes, it is.

Senator HUME: Is capital gains tax part of the system as a whole?

Ms D Brown: Yes, it is.

Senator HUME: Is tax on family trusts part of the system as a whole?

Ms D Brown: Yes, it is.

Senator HUME: Are franking credits part of the system as a whole?

Ms D Brown: Yes.

Senator HUME: If you have looked at all parts of the tax system as a whole, then I think we can safely say you have considered all of those elements of the tax system.

Ms D Brown: Each year, we put out a tax expenditure and insight statement, and all of those things that you've mentioned are referenced in there.

Senator HUME: All of those parts of the whole that you have looked at—have you done that on your own initiative, or has that been part of an instruction? Is your instruction to look at the tax system as a whole, including all elements even if they have been ruled out?

Senator Gallagher: The tax expenditure statement looks at all aspects of the tax system.

Senator HUME: It was a question to Ms Brown.

Ms D Brown: Our role at Treasury is to provide advice. In Revenue Group it is to provide advice on the operation of the tax system, and so we do monitor how the tax system is operating to understand how it operates across various economic cycles and how it might be impacting certain demographics, through distributional analysis. As the minister said, each year we do a tax expenditure statement. That has recently been changed to the *Tax expenditures and insights statement*, and that has provided some further information on things that weren't previously in the report.

Senator HUME: Has the Treasurer, or his office, specifically ruled out looking at changes to any part of the tax system? Has he said, 'Don't bother bringing something to me about X'?

Senator Gallagher: I'm not sure Treasury are here to go into the discussions they have with the Treasurer, but we've made it clear that we are not looking at negative gearing or capital gains tax, and we have not—

Senator HUME: But you made it clear that you weren't looking at changing stage 3.

CHAIR: Senator Hume.

Senator HUME: I think the jig is up on that one.

Senator Gallagher: And we fronted up and explained why we changed our position on that.

Senator HUME: And you may well front up and explain why you changed your position on negative gearing or on capital gains.

Senator Gallagher: You're asking us a question now, and I'm being clear: we're not working on it. It is not factoring into our thinking. We have a number of tax measures before the Senate which we are seeking to get through. We have the income tax plan that we will seek to pass and have in place as soon as possible. That is the government's policy.

Senator HUME: On that, on 26 July 2021 in a media release the Prime Minister said:

... Labor in government will uphold the legislated changes to personal income taxes and maintain the existing regimes for negative gearing and capital gains tax.

Given that you have now broken your promise on the stage 3 tax cuts, can the Prime Minister rule out breaking any more promises from that press release?

Senator Gallagher: We have changed our position—as have you, Senator Hume. If you want to talk about breaking promises, you have also changed your position on stage 3. We have fronted up and explained the reasons why.

Senator HUME: That wasn't the answer to the question. Can you now, please, given that broken promise, commit to not breaking any further promises on the taxes that are mentioned in that particular release?

Senator Gallagher: I have explained to you already that we are not contemplating that.

Senator HUME: So no.

Senator Gallagher: We are not working on it. We have a range of measures before the parliament that don't include the two that you've referenced there. Where we have changed our position—and indeed where you have changed your position—is on income tax, to make sure that more people get a bigger tax cut come 1 July.

Senator HUME: Have you had any conversations with the Treasurer about changes to negative gearing?

Senator Gallagher: I'm not going into discussions I've had with the Treasurer. I speak to him on an almost daily basis, and our conversations are always about how we can work in the best interest of the Australian people.

Senator HUME: Do you ever have conversations with the Treasurer about how important it is to stick with your election commitments?

Senator Gallagher: I'm not going into conversations I have with the Treasurer. Rest assured, we work closely together. We've got a full agenda that we're seeking to implement through the Senate, and it has been guided by our commitment to make a difference to ease cost-of-living pressures on the Australian people.

Senator HUME: When you say 'we have no plans' or 'we're not proposing' or 'not on the agenda' around changes to negative gearing, is that the same as when the Prime Minister and the Treasurer said—over a hundred times—about stage 3 tax cuts that they had no plans and it wasn't on the agenda or that there were no proposals to change?

Senator Gallagher: Our shared policy, in relation to the revised stage 3, has been explained—why we have changed our position on that. We have been upfront with people, literally from the days after that decision was taken. We knew it would attract interest. We knew politics would be played with it, but, at the end of the day, we had to weigh up what the right thing to do was, and that's why we changed our position in that regard. We now

have a revised plan, which you have now adopted, and you've adopted it for the same reason: because you realise it's the right thing to do.

Senator HUME: On 25 October 2022, the Treasurer said in relation to the stage 3 tax cuts: 'We're not proposing to change them.' Obviously you have now changed them. That was in an interview with Peter van Onselen. On Sky News on Sunday, when asked about the changes to negative gearing, the Treasurer curiously said exactly the same words. He said, 'That's not something we're proposing.' Knowing that the same phrase was used about two different taxes, one of which was backflipped on and the other of which remains, can you rule out changes to negative gearing?

Senator Gallagher: I've already answered that question.

Senator HUME: No, you haven't. You haven't ruled it out.

Senator Gallagher: You're asking me the same questions in different ways.

Senator HUME: I know, and you have weasel-worded your way out of it every time—

Senator Gallagher: The comments the Treasurer made were accurate, so—

Senator HUME: the same way you weasel-worded out of it—

Senator Gallagher: No, I'm not weasel-wording out of it.

Senator HUME: out of stage 3 tax cuts prior to the election, after the election and even after 11 December, when you knew that they were going change.

Senator Gallagher: Well, I can sit here and ask you to rule in and rule out a whole range of things too. It's a game that politicians like to play. I get it.

Senator HUME: This is scrutiny of government.

Senator Gallagher: I am answering this honestly. I am explaining to you that the government has no proposal, it is not working on any proposal, in relation to the measures that you raise. Where we have changed our position, we have, within days, come out and explained that position, and we have been so convincing on that that you have adopted it as well.

Senator HUME: Does it worry you that no Australian will ever believe a single thing you have to say about tax again?

Senator Gallagher: I'm confident that the Australian people understand that their government is there to make the right decisions at the right time. I don't think you give them enough credit if you think that they've interpreted our change in position in the way that you outline.

Senator HUME: I don't think they give you any credit.

Senator Gallagher: The Australian people are not silly.

Senator HUME: That's right. They're not.

Senator Gallagher: So they understand—

Senator HUME: They can see through a lie.

Senator Gallagher: Well, they understand that—

Senator HUME: They can see through a lie.

Senator Gallagher: when the situation changes, they expect their government—

Senator HUME: To tell the truth.

Senator Gallagher: to put people before politics.

Senator HUME: To stand by its commitments.

Senator Gallagher: You are playing it out almost exactly as I thought you would.

Senator HUME: Ah, as you planned!

Senator Gallagher: No. As I thought you would. That's what I said. I thought you would adopt our policy—

Unidentified speaker: While whingeing about it.

Senator Gallagher: while whingeing about it, exactly.

Senator HUME: This was intentional. It was an intentional last-minute backflip before a Dunkley by-election, and it's playing out exactly as you planned.

Senator Gallagher: I just don't understand your arguments on this at all.

CHAIR: Minister, I don't—

Senator Gallagher: They're so inconsistent and incoherent. On the one hand, it's this terrible thing—

Senator HUME: That's what happens when you trust people.

Senator Gallagher: and, on the other hand, we did it for political popularity. I don't understand that at all.

CHAIR: Order!

Senator Gallagher: I trust the Australian people.

Senator HUME: The Australian people trusted you, Minister, and you lied to them.

Senator Gallagher: I trust them to understand that their government has to make decisions based on—

Senator HUME: You lied to them.

Senator Gallagher: the right thing to do at the right time.

Senator HUME: They'll never believe you again.

CHAIR: Alright. Thank you, everyone. That was a more-than-10-minute block on, essentially, the same question asked over and over again, and there was a bit of a tone developing there that I think senators will want to check. We do want to set the standard and have an orderly, respectful and courteous discussion. To that end, I'll give the call to Senator Barbara Pocock. I think we can count on you.

Senator BARBARA POCOCK: Thank you for being here and congratulations on your retirement, Commissioner. Thank you for all your years of service and for the many billions of dollars that you have collected for the Australian taxpayer that have enabled us to—

Mr Jordan: I wish I'd worked on a commission basis!

Senator BARBARA POCOCK: Sadly, I want you to talk about an issue that you would rather leave in the past, I'm confident—in relation to PwC and the relationship and the treatment of this matter within the ATO. I want to start with a question to Mr Hirschhorn. Mr Hirschhorn, you agreed on Friday that it would be a very serious matter if an attempt had been made to penalise or threaten the position of the person leading the investigation into PwC. Is that still your position?

Mr Hirschhorn: Yes. I stand by my testimony from Friday.

Senator BARBARA POCOCK: You went on to deny that anything like that had happened. You said that proposed changes to the position of the CEO of the Tax Practitioners Board would not apply to Mr O'Neill but only to subsequent CEOs, and you denied there was no-returns policy in relation to a return to the ATO for all of the officers who were seconded into the TPB, including the CEO. You denied that, and you repudiated the processes that essentially were laid out within the *Financial Review* the day before we met. They described four particular processes that were applied to Mr O'Neill and affected his job security and raised other matters in the middle of that investigation into PwC. Is that still your position?

Mr Hirschhorn: I stand by my testimony of Friday, but I think—

Mr Jordan: Can I just make some clarification there, Senator? I'm not sure Mr Hirschhorn repudiated a so-called no-returns policy. It may well have been a repudiation of that policy as it could apply to Mr O'Neill. Clearly, that policy could not apply if there were such a defined policy, because it was meant to be that, if the ATO had no input at all into the selection of a very senior officer—what's called an SES band 2—which are deputy commissioners in the tax office, we would potentially have a concern with taking that person into the ATO and finding such a senior role if we had no say in the choice of that person. Clearly, that could not have applied to Mr O'Neill, because that was not the situation. I was a referee for Mr O'Neill going into that role. I have been a strong supporter over my period and have acted as a referee for him.

I just wanted to clarify that, because it never actually got implemented or seen. I would have had to have been the person to have approved any such thing. I never saw any documentation on it. I just wanted to say that, yes, there was talk about us having a concern about such a senior person being taken on by us and finding a position—that is, 24 out of 20,000 people—where we wanted to have the right to see whether they could be absorbed.

Senator BARBARA POCOCK: Thank you for clarifying and indicating your very strong support for Mr O'Neill given his 30 year history as a warrior for tax collection at the cutting-edge of the work of the ATO before coming across to be CEO at the TPB. Your endorsement was very enthusiastically rehearsed on Friday at our hearing by both Mr de Cure and Mr Hirschhorn, who spoke about his exemplary record. However, Mr O'Neill directly contradicted the picture that you have just described and was put by Mr Hirschhorn on Friday, where there clearly was tension between the ATO and the TPB. Mr O'Neill—and I will get to Mr O'Neill—said that a contract was put to him that included a provision that was a no-return element. I hope I am not verballing you

unfairly, Mr O'Neill. That was reported in the *Financial Review* that evening in some considerable detail where it was pointed out that there were real contradictions with the evidence put to us on Friday. Several of us in the room were there. That is the piece of evidence that is very contradictory and for which I want to hear the response. I am surprised to hear that there is no further information to be provided by Mr Hirschhorn to clarify.

Ms Curtis: I might be able to help with regard to the contract issue. I'm a little bit hoping not to say too much about employee matters, because normally we would keep them confidential, but I'm trying to help here, so I will speak to the facts, particularly around this issue. My understanding is that we were approached by the Treasury when this matter of the change in the delegations was being discussed to provide a blank contract that we would use if we were to engage an SES officer on a non-ongoing basis. We provided that to the Treasury because our understanding at the time was that they wanted to work through what the mechanics of having a delegation like this would mean in practice. Our SES unit did provide that, and beyond that point we do not know what happened with that contract. We would not be aware of that being presented to Mr O'Neill. But we did provide a blank copy.

Mr Jordan: We should say that contract was blank, had 'sample' on it and had no reference to Mr O'Neill whatsoever.

Senator BARBARA POCOCK: So a contract was prepared, magically moved from one part of the ether to the other and landed, I understand, on Mr O'Neill's desk. Is that the case, Mr O'Neill?

Mr O'Neill: Can I clarify something you said before? The draft contract I received did not contain a clause that said 'no returns' or words to that effect. What was told to me was this: that the proposal that was to be announced by Mr Sukkar—as the then assistant Treasurer—was contingent on a few things. The first was a delegation from the commissioner to the chair of the board, the second was a new contract and the third was legal advice to ensure that the no returns policy would be lawful. It was made clear to me that that proposal would apply to me.

Senator BARBARA POCOCK: So it wasn't in the contract, but it was verbally conveyed to you. Have I understood that correctly?

Mr O'Neill: Yes

Senator BARBARA POCOCK: Can the ATO and the TPB provide all the correspondence documents that are related to this now controversial element. Just be aware, for those following along at home, that this is not just about an employment contract. It's an employment contract in relation to the CEO of an organisation that's conducting an investigation into PwC, so putting a question mark over the security of the employment of the person leaving that organisation is of real concern.

Mr Hirschhorn, you agreed with that when you said on Friday that it would be a very serious matter if an attempt had been made to penalise or threaten the position of the person. That is why I'm asking for those documents, so we can have more confident about what's going on.

Senator Gallagher: Presuming the evidence that's just been provided will have addressed some of that, in the sense of what's just been provided about a blank contract that didn't go from tax to Mr O'Neill.

Senator BARBARA POCOCK: Minister, I have very serious concerns about what actually happened. We've just heard a suggestion—I hope it's not a misdirection—that there is a blank contract and there's nothing to see here, but we have heard about a verbal expression that the contract was to be a no returns contract. I've been around the employment relations area long enough, and I know you have too, to know there are ways in which such information is conveyed, whoever conveys it—whether it's a senior officer in the TPB or in the ATO. A message of insecurity, amongst a range of other inquiries and processes which have been documented in the *Financial Review* and which were upheld, I believe, in the evidence last Friday. So I remain concerned about this. It's very important because it goes to question of the confidence that someone can have to actively pursue a really important case.

Ms Curtis: I can assure you we can provide you that documentation. We have very good records on this and I'd be very happy to provide that to you.

Mr Jordan: One point of clarification here, I would have had to approve any clauses in this delegation. It was a delegation from me being proposed to the chair of the TPB. The first I heard of any such draft contract was in the evidence on Friday. I would have had to approve it. No-one raised anything about this with me prior to me hearing that on Friday.

Senator BARBARA POCOCK: So, it must have been very perplexing for you to hear that.

Mr Jordan: It was.

Senator BARBARA POCOCK: How do you react to the very direct contradiction between evidence that we've heard—

Mr Jordan: No, it's not the direct contradiction of evidence, because all I'm saying is that us being asked by Treasury for a document to look at how a delegation of power may be drafted—and that's turned into a conversation, presumably, about a contract—was a bit perplexing because that was acting without any authority from me, and I'm the person that would have had to do that.

Senator BARBARA POCOCK: And yet it happened. There were conversations.

Mr Jordan: I don't know. I'd be very pleased to see that.

CHAIR: Senator Dean Smith?

Senator DEAN SMITH: Minister, on 11 February last year, the Treasurer Dr Chalmers sent a proposal for an inquiry into philanthropy in Australia to the Productivity Commission. The Productivity Commission has released a report, and that report includes a proposition to remove the DGR status of school building funds. Are you familiar with that?

Senator Gallagher: Yes—not fully, but I am aware.

Senator DEAN SMITH: Are you also aware that, if agreed, 5,000—I'll say that number again: 5,000—school building funds across Australia would be negatively impacted?

Senator Gallagher: I saw the article at the time. My understanding is that this is an interim report released for consultation. We haven't received the final report, and I understand stakeholders are engaging, as you would expect, with the assistant minister for competition.

Senator DEAN SMITH: I'll come to that in a minute. So are you aware that 5,000 school building funds across Australia would be negatively impacted if this recommendation were agreed?

Senator Gallagher: I'm aware of the draft report and the issue that it raises. It's a Productivity Commission report; it's not a government report.

Senator DEAN SMITH: Not yet.

Senator Gallagher: Presumably, when they finalise it they will send it to government, but it remains a Productivity Commission report.

Senator DEAN SMITH: Are you also conscious that, in the 5,000 school building funds that would be negatively impacted, almost 1,200 are public school building funds?

Senator Gallagher: Yes, I did see that.

Senator DEAN SMITH: Jacinta Collins, the former senator—who will be familiar to you—before a different committee of this parliament was asked to reflect on the Productivity Commission draft report. She said that she will be appearing before the Productivity Commission:

... highlighting my concern that they've barely touched the surface of the implications of dealing with this, and that we need to go back to the consideration of school infrastructure and capital that commenced with the Gonski review ...

She went on to say that she was 'very shocked and surprised that this issue was canvassed in the way that it was' by the Productivity Commission. Then she went on to say:

But this attempt to deal with deductible gift recipients status is one of the most shoddy pieces I've ever seen from the Productivity Commission.

She prefaced that statement by saying that she was generally a supporter of the Productivity Commission.

In today's *Australian* newspaper, they carry a comment that says:

The Albanese government is unclear about whether it will support the commission's proposal.

Dr Chalmers told journalists last month, 'That's not something that we're considering.' The *Australian* newspaper goes on to say that, after further inquiry:

Dr Chalmers' office referred the question to Assistant Minister for Charities Andrew Leigh, who said 'the final report has not yet been provided to government and the draft recommendations do not represent government policy'.

Why is it necessary for parents, teachers and other community members, who support the 5,000 school building funds, to have to live in doubt and anxiety about what will happen to the DGR status of school building funds? Why is it not possible for the government to rule it out now, given that Dr Chalmers had previously said, 'This is not something that we're considering'?

Senator Gallagher: If you look at the comments from Assistant Minister Leigh, he says, 'The draft recommendations do not represent government policy.' So I don't know what's unclear about that.

Senator DEAN SMITH: So is your word your bond?

Senator Gallagher: I don't know what's unclear about that. It's a Productivity Commission report. It is not unusual—I have been around the education sector for a while—for education stakeholders to come in, if there are even suggestions of changes to a draft report, and lock in behind arrangements and lobby hard on those. That seems to me to be what is happening, which is fine, and—

Senator DEAN SMITH: So is it a proposition that the government could possibly accept?

Senator Gallagher: It is a Productivity Commission draft report; it is not government policy. I don't know what is unclear about that.

Senator DEAN SMITH: But if it comes forward as a recommendation by the Productivity Commission—

Senator Gallagher: Well, who knows? It's a draft report. It's not the final report. How about we wait and see what the final report says?

Senator DEAN SMITH: But this goes to my point. In a cost-of-living crisis when parents and teachers are facing increasing levels of financial anxiety, why should that anxiety be topped up by a lack of clarity from the government about whether it will or will not retain DGR status for school building funds—5,000 school building funds, 1,200 of them public schools?

Senator Gallagher: The draft recommendations are not government policy. It is not a government report; it's a Productivity Commission draft report. It's out for consultation. It does not reflect government policy. They're draft recommendations.

Senator DEAN SMITH: Can I, on behalf of these 5,000 school building funds, and can Senator O'Neill and Senator Walsh go out into the community with great levels of confidence to 1,200 public school building funds and 5,000 across the country and say that that there is no risk and no threat to the DGR status of school building funds under this government? Is that something that they can say?

Senator Gallagher: I have answered your question.

Senator DEAN SMITH: Is that something that you can say—

Senator Gallagher: I've answered your question.

Senator DEAN SMITH: to the public school funds in the ACT?

Senator Gallagher: We are going to get into a world where nobody can say anything, look at anything, review anything or do anything without somebody having to rule it out before anything's finished. Are we in this ridiculous world now where nothing can ever be explored?

Senator DEAN SMITH: No, I think—

Senator Gallagher: I've already told you that the draft recommendations do not represent government policy. That is quoted in the *Australian* article by the relevant minister. I don't know how much clearer the government can be.

Senator DEAN SMITH: Has the fact that that draft recommendation is not government policy been communicated to the Productivity Commission?

Senator Gallagher: We don't monitor the Productivity Commission, if that's what you're asking. We don't tell the Productivity Commission, 'You have to have the government's view in the work that you do.'

Senator DEAN SMITH: No, but—

Senator Gallagher: We are revitalising the Productivity Commission and we want it to work—

Senator DEAN SMITH: But it would be a waste of the Productivity Commission's time and the time of other submitters if a recommendation like this came forward with such significant ramifications and the government knew that it was never going to accept this recommendation and made school building funds, parents, teachers and community leaders wait for a year before there was some clarity over this matter. That's not fair.

Senator Gallagher: I've been around long enough to know that, when the Productivity Commission released the five-year productivity report before the last one, your government didn't implement one of their recommendations, and they had spent years on that report. So I don't think it's unusual for a Productivity Commission to—and they should be able to—do their reviews without political interference and then finalise their reports. I don't subscribe to the theory that we should be ringing up the Productivity Commission and saying, 'We just saw something and we are a little uncomfortable with that, so how about you look the other way.' I don't think that's the way we are going to interact with the Productivity Commission—

Senator DEAN SMITH: But does the former Labor senator—

Senator Gallagher: and we have already explained—

Senator DEAN SMITH: Does the former Labor senator—

Senator Gallagher: I know your government, when in government, used to go around monitoring people and getting them to sign gag clauses and not allowing them to have a different opinion to government policy. That is the way you operated. That is not the way we operate. They are doing a draft report. We have said it's not government policy. They are engaging with stakeholders, and the education stakeholder community is very adept at being involved in those consultations and advocating for themselves. The assistant minister is also meeting with those stakeholders, as is appropriate. That is what good governments do and that is the approach we take.

Senator DEAN SMITH: The story today in the *Australian* also goes on to say that:

Potential donors—

that is, those people that would use the DGR mechanism—

are most likely to be people directly involved with the school and benefit directly from donations, such as students, their parents or alumni.

So you are prepared for those parents, students and alumni to sit in limbo for the next 12 months—

Senator Gallagher: I have answered your question. You are trying to beat up a story where there is none.

Senator DEAN SMITH: and you are not going to give any clarity—

Senator Gallagher: You are trying really hard. I get what you are trying to do.

Senator DEAN SMITH: This is not the end.

Senator Gallagher: I answered your question. It hasn't been quite the answer you wanted.

Senator DEAN SMITH: Consider this the first act. It is not the end.

CHAIR: Alright.

Senator Gallagher: I know you—

Senator DEAN SMITH: You know; you know. Five thousand school building funds.

CHAIR: Okay.

Senator DEAN SMITH: Five thousand.

Senator Gallagher: I know you'll say—

CHAIR: I would like to advise that the—

Senator DEAN SMITH: It should be ruled out—

CHAIR: committee tables—

Senator DEAN SMITH: is my point.

Senator Gallagher: We're not—

CHAIR: I would like to advise.

Senator Gallagher: We're not correcting the Productivity Commission—

CHAIR: I'm giving myself the call to transact some administrative business here from the previous session. I neglected to table a document provided by Ms Horvat. Somebody needs to contribute to our chocolate fund for that. I table the document provided by Ms Horvat, and I'll go to Senator O'Neill.

Senator O'NEILL: Thank you very much. I note the love in the room on this Valentine's Day. Tomorrow is an anniversary. It's 15 February. Last year was the day I asked questions of the TPB about what happened at PwC and was shocked along with the rest of the country to find out that Mr Peter-John Collins had used confidential information, and the rest of the saga has unfolded over the course of a year. A year later, my questions go to what the response has been in terms of tax integrity, because serious risks to tax integrity were revealed through the PwC saga. What reforms has this government undertaken already in response to that revelation one year ago tomorrow in this room?

Ms D Brown: Maybe Treasury can take that question, given the government has done quite substantial reforms. I might kick off, and then some of my team either might elaborate or might be able to come up. There's been legislation introduced by the government that was introduced late last year, 16 November. They were aimed at strengthening tax system integrity. The bill had six parts to it, I think. It went to amending the promoter penalty laws to increase the time the ATO had to bring applications for civil penalty proceedings as well as raising the maximum penalty. It also looked to change the scope of those promoter penalty laws. It also importantly started to address the ATO and TPB secrecy provisions in order to allow the misconduct you were referring to to be better

detected and regulated. Possibly, my team can elaborate on how that's being done. It also went to increasing the power of the ATB to refer ethical misconduct to professional associations that they may be a member of, for them to do disciplinary action. And there were also provisions around whistleblower laws. Ms Berger-Thompson may be able to expand more fully on that bill, and, while she's talking, she may also talk about the consultation paper that was put out on 10 December, late last year, around the new sanctions regime currently being consulted on.

Senator O'NEILL: That's a fair degree of action and response to what was revealed here in Senate estimates. I've been in the parliament for a while, and I'm frankly proud and a little shocked at how quickly there has been a practical response to what was uncovered here. If you can add anything further, Ms Berger-Thomson, I'd welcome your evidence on the record today.

Ms Berger-Thomson: I can provide a little bit of additional information in terms of some of the legislative interventions we've done. There was the Treasury laws amendment bill (TLAB 1) which received royal assent on 27 November 2023. This was the bill that gave effect to a number of recommendations from the independent review into the TPB. That was modernising and updating the objects clause, creating financial independence for the TPB from the ATO, preventing the employment of a disqualified entity without the TPB's approval, conversion to an annual registration period, and enabling the minister to supplement the existing code of professional conduct. There's an additional bill which is currently before the Senate Economics Legislation Committee—

Senator O'NEILL: Shout out to the chair!

Ms Berger-Thomson: which has a number of what we would frame as the short-term measures. That's, as Ms Brown said, the information-sharing, whistleblower protections, reform of promoter penalty laws and additional TPB reforms. The team has done a number of consultations on additional measures. We've done a consultation on the sanctions regime. That ran from 10 December to 21 January. We received a number of submissions from interested stakeholders. We're currently reviewing those submissions, with the intent to provide feedback to government.

Senator O'NEILL: In summary, it's fair to say that there has been a fair degree of work, a high level of consultation, action by the relevant ministers and the introduction and passage of legislation, with further consultation and further legislation underway. It's been an action-packed year.

Ms D Brown: That's right. And there are a few more consultation papers being released in the second half of this year.

Senator O'NEILL: Why was it so important to act on the evidence that was revealed about PwC? For those who haven't been following the bouncing ball, I'm referring, in particular, to the improper disclosure and misuse of confidential information with the aim of helping potential clients, in a project called Project North America, circumvent new multinational tax integrity rules. I want to get to a point where you give me some understanding and put on the record today: To what extent is multinational tax avoidance still a live issue today? How has the integrity of the tax practice of Australia with multinationals been supported by the government's action in this last year?

Ms D Brown: We can probably split that between the ATO and Treasury. If the ATO would like to kick off on what they're doing, we can start there.

Mr Hirschhorn: The ATO remains very firm and present in ensuring that multinationals pay the appropriate amount of tax. We continue to have very significant resources and an expansion of resources focused on that market funded by the Tax Avoidance Taskforce, which has recently been extended to 2029. It will have been in existence for 13 years. As I testified on Friday, the Tax Avoidance Taskforce has helped contribute to compliance collections of almost \$30 billion since its inception.

Looking at it another way, we measure what is called the tax gap, which is where we attempt to not just estimate the tax performance of what we catch but measure how much we do not catch. It is fair to say that over the life of the taskforce our estimate of large-market tax performance has increased from 93 per cent to 96 per cent. Our short- to medium-term strategy is to increase that performance to 98 per cent, noting that it is almost a truism in tax that you'll never get tax performance to 100 per cent.

I might go back a step. Very few revenue authorities measure the tax gap. Very few tax authorities have the confidence to publish the tax gap and make it available to their community to better understand the health of their tax system. We do. Ninety-six per cent is absolutely world-leading. We are not resting on our laurels. We want to get that up to 98 per cent in the short to medium term. The work in relation to the role of large firms is critical because the role of the big firms can be a positive effect on tax performance of large companies. It can also be a

negative effect on the tax performance of large companies. Ensuring that they are operating in a way which is pro system is very important to the health of the large-market tax system.

Senator O'NEILL: So the large-market tax system captures not just companies here in Australia but those internationally?

Mr Hirschhorn: Yes. I probably won't get this precisely right, but if you think about that segment being companies with more than about \$100 million of revenue which are not private.

Senator O'NEILL: When you refer to 'large firms', the advice that these large companies receive in how they decide to manage their tax comes from four major advisory entities. Is that correct?

Mr Hirschhorn: Yes, in the Australian tax environment, it is dominated by the tax advisory functions of the big four firms.

Senator O'NEILL: Which are PwC, Deloitte—?

Mr Hirschhorn: They are PwC, Deloitte, Ernst and Young and KPMG.

CHAIR: This is your final question.

Senator O'NEILL: Thank you, Chair. You've talked about making sure that Australians get a fair share of the taxation, rightly so, from companies that are making profit here in Australia from their action in the Australian economy. I have two related questions. How much tax revenue was at stake if the ATO hadn't stopped the implementation of the awarded scheme marketed by PWC, just to get a sense of the scaling—one instance? And—slightly related—can you remind us what we learned about operation of tax secrecy rules through the handling of PwC matters since the ATO became aware of wrongdoing?

Mr Hirschhorn: I might start off with a minor refinement, which is that our job is to collect the tax payable according to law. We obviously don't double-guess the policy implemented by government. But in the multinational anti-avoidance law which was subject to this breach of confidentiality, our estimate is that the schemes that were proposed had the potential to eliminate any of the additional tax collections that we ultimately obtained from that law, which we estimate to be about \$100 million income tax per year and about \$80 million net GST per year, so the tax at risk from this behaviour was around \$180 million per year. If I reflect on tax secrecy, I think what has become apparent through this last year is that, appropriately, secrecy laws should apply in relation to tax information for a multitude of reasons. But what has been demonstrated is that those secrecy laws applied in ways which seem very strange in this circumstance; the fact that they restricted us telling, for example, Treasury, appears strange to many. Also, a point raised in the Senate hearings has been a sense that some sophisticated stakeholders have taken advantage of the ATO's strict approach to secrecy and have effectively exploited the fact that we take a principled approach to secrecy.

Senator O'NEILL: That can't continue, though.

Mr Hirschhorn: Again, I cannot comment on the merits of policy proposals, but the package of measures which Ms Brown and Ms Berger-Thomson mentioned very specifically go to a couple of those limitations which were revealed over the course of the last year.

Senator O'NEILL: Australians are getting a tax return increase. No-one minds paying their fair share, and I'm sure that people are going to appreciate the cost-of-living relief they get after 1 July. But every Australian hates a scammer, you know? Just pay your fair share. That is what this legislation is going to make happen for those who have been abusing knowledge and avoiding paying their fair share. Is that a fair back-of-the-envelope calculation of what is going on with this change in legislation?

Mr Hirschhorn: Yes, it is fair to say that an advantage that we have here representing the Australian Taxation Office compared to our peers overseas is that the Australian community has what is described as high tax morale, which is they are happy to pay their tax as long as others are also paying their tax, and that it is easy for them to pay their tax. It is fair to say that the system relies on a confidence, so measures which boost the confidence that all stakeholders are being held to account certainly supports tax morale across the entire system.

Senator O'NEILL: Thank you, Mr Hirschhorn. Thank you, Chair.

Senator BRAGG: I have a few random things, so I'll try to be efficient. Firstly, on non-resident housing, where am I looking? I'll ask the question and see how we go. In the last year we have data, which is 2021-22, there were 4,228 houses purchased by non-residents. Does that sound right?

Mr Thompson: We do have that number, so I can confirm. For 2021-22, last year, we have records for 4,288.

Senator BRAGG: How many?

Mr Thompson: There were 4,288 purchases of residential real estate by foreign investors.

Senator BRAGG: Do you know how many of those were purchases by temporary onshore residents?

Mr Thompson: No, I don't. I can't split the data by visa class. I can split the data between new dwellings, established dwellings and vacant land but not by visa class.

Senator BRAGG: So that means you don't know the data split going back prior years, do you?

Mr Thompson: That's correct.

Senator BRAGG: It's just not available.

Mr Thompson: It's just not data we pull out of the system, no.

Senator BRAGG: As you know, this has been an area where compliance has been a problem, and the government has announced a new policy in this space. I am interested in the compliance arrangements here. What are the main compliance policies you have?

Mr Thompson: If you are referring to the additional funding that was provided late last year for the ATO, one set of circumstances we have is that when someone's visa status changes, there may be a requirement for them to divest a property that they have gained approval for. Obviously, during COVID there were significant disruptions to people's physical whereabouts and travel restrictions and a range of visa issues that arose. It is one of the more manual elements of our compliance program, so that additional funding will enable us to follow up with people that have received approval under the Foreign Acquisitions and Takeovers Act and determine if they are still entitled to—

Senator BRAGG: Okay, that makes sense. Do you know how many purchase requests have been declined in the past year?

Mr Thompson: Do you mean how many applications?

Senator BRAGG: Yes, how many have been denied?

Mr Thompson: I don't have that data with me. I suspect it is a very small number. The application process for residential real estate is fairly mechanical; you either meet the criteria or you don't.

Senator BRAGG: Do you want to take it on notice?

Mr Thompson: I will take it on notice, yes.

Senator BRAGG: Can you also take on notice, unless you have some historical data in relation to how many houses have faced a forced sale because of non-compliance.

Mr Thompson: We do publish that data. That data appears in the Treasury annual report. For example, in 2022-23, there were 55 divestments; in 2021-22, 125 divestments; 2020-21, there were 57 divestments. Then we do have a cumulative total. Since the ATO assumed responsibility of foreign investment, it has forced foreign investors to dispose of illegally held interests in over 678 Australian properties valued at around \$685 million, and that figure is current to 31 December 2023.

Senator BRAGG: That is very helpful, thank you. I want to ask you about stage 3. When was the ATO made aware that changes to stage 3 tax cuts were being developed?

Ms D Brown: That would be a question for Treasury. We were conscious to talk to the ATO around how long they would require to implement changes. There were some conversations towards the end of last year at a more high level, just to understand how they would implement tax scales, and then there was a more specific conversation towards the finalisation of the cabinet submission.

Senator BRAGG: This year?

Ms D Brown: This year.

Senator BRAGG: Did the ATO provide any advice on the stage 3 redesign?

Ms D Brown: No, it was around implementation issues—so how long do you need to make the system changes the ATO would need to make, and how long, ordinarily, do business providers need to incorporate those changes. It was more around the practical implementation.

Senator BRAGG: There have been claims that stage 3 needed to be legislated quickly because of administrative matters. Was the ATO asked to provide advice on how long it would take to implement the changes?

Ms D Brown: We did seek that information. I might see if Ms Berger-Thomson can help with the advice we heard from the ATO.

Ms Berger-Thomson: Yes, we did seek advice on how long it would take for the ATO to make those changes.

Senator BRAGG: How long is required?

Ms Berger-Thomson: It's a bit complicated—and the ATO can correct me if I get this wrong! If we're talking about changes to just your PAYG withholding, my understanding is it's about six weeks.

Senator BRAGG: This can't be solved through software updates, through single touch?

Ms Fish: The ATO is very experienced in implementing tax rate changes but it takes time to do that. We have to publish withholding schedules; they usually take about three to four weeks to prepare, and they're released as legislative instruments. Digital services providers say they need between four and eight weeks to update their software, for employers to have fully downloaded it—so, in order for the effect of any rate change to flow through to employees, that needs to occur as well. To implement any rate changes, we have to change the withholding tax schedules and we also have to change the pay-as-you-go instalment rates as well as tax time assessments. For all those changes to be made for 1 July 2024, the legislation needs to pass by mid-May.

Senator BRAGG: There are still 20 weeks at the moment, aren't there?

Ms Fish: Twenty weeks until then, yes. For us to be ready to go, we need law change to be certain in order to publish those schedules and make changes to the withholding that employers will undertake but also the instalment rates in particular.

Senator BRAGG: When do you expect to publish the PAYG guidance for 2024-25?

Ms Fish: We usually publish the guidance sometime in June, as I understand it, but I will confirm that.

Senator BRAGG: Will that be the same this year?

Ms Fish: If the law is changed prior to mid-May, then we can publish the changed withholding schedules in time for 1 July.

Senator BRAGG: You don't think you'll bring it forward?

Ms Fish: We can bring it forward if the law is passed earlier. We can be ready to do that.

Senator BRAGG: But you only need six weeks before; is that right?

Ms Fish: We need four to six weeks to change the withholding tax schedules.

Senator BRAGG: So, Minister, this announcement was more about the by-election, wasn't it, than anything else?

Senator Gallagher: No; it was about announcing as soon as we could that our position had changed—making the right decision for the right reason, and announcing it pretty much immediately after that.

Senator BRAGG: But there's no great rush to pass this bill, is there?

Senator Gallagher: We would like it passed by the end of February. I don't see any reason why—

Senator BRAGG: You just heard the evidence. The official said 'six weeks before 1 July'.

Senator Gallagher: A minimum of six weeks is what they would need. And now that you support it, I don't see that there is any reason why it can't be whipped through the Senate in that final sitting week in February. It gives people certainty about what's going to happen and it gives officials more than enough time to implement the changes.

CHAIR: We're going to Senator McDonald.

Senator McDONALD: Has the department been asked to undertake any analysis or work on any changes to minerals or resources tax?

Ms D Brown: I think we had this discussion before you arrived. Treasury looks at the operation of the whole tax system. We're always looking at how the tax system could be improved, but we're not going to indicate with any great specificity what work we're doing, because that could frustrate or limit or diminish the ability to have open and frank conversations with government and effect their delivery of process and the policy and decision-making process.

Senator McDONALD: Can I ask, though, if the document conducted this work of its own accord or if it was on instructions from the government.

Ms D Brown: What work was that?

Senator McDONALD: The work that you're not going to tell me what it is but if you are reviewing taxes on minerals or resources taxes.

Ms D Brown: Our work is to understand the system. We're approached by stakeholders for meetings all the time. Sometimes it's to let them talk to us about what they're finding might be administratively challenging with

the tax system. Sometimes it's to make sure we understand changes in their operating environment that might be relevant to our understanding of the operational tax system. That's part of what I mean when I say we're always looking at the tax system as a whole. It could involve meetings with stakeholders. Yes, we do meet with people from the mining industry from time to time.

Senator McDONALD: What about the PRRT?

Ms D Brown: That was a government announcement. We're happy to talk about that.

Senator Gallagher: There's legislation in the parliament now, so that is the government's position.

Senator McDONALD: I guess the question was really around: what analysis and work have you been asked to do on changes to minerals or resources taxes? That was my question, and you—

Senator Gallagher: We've got the changes to PRRT in the Senate.

Senator McDONALD: started a very broad conversation about what you weren't telling me, and I said, 'What about the PRRT?'

Senator Gallagher: Yes, there are changes in the parliament which outline our changes that we would like to make to PRRT. That is the government's policy.

Senator McDONALD: Had the department conducted this analysis, or was it directed by the government?

Ms D Brown: The work on the PRRT was announced by the government in the context of the May budget, and that was making decisions around a review that Treasury had done of gas transfer pricing rules. That work had started under the former government as a result of looking at the Callaghan review. They suggested there be some further work by Treasury looking at gas transfer price rules, and that work had occurred. It had been delayed because of COVID and was recommenced in 2022.

Senator McDONALD: Does the department know the impact of an MRRT or equivalent would have on the resources sector?

Senator Gallagher: Is that—

Senator McDONALD: It's not an opinion. I'm asking: does the department know what the impact would be of the minerals resources tax on the resources sector?

Ms D Brown: It would depend on its design.

Senator Gallagher: What do you mean? There isn't one.

Senator McDONALD: I'm just asking. You don't need to run a protection for the department.

Senator Gallagher: I'm not running a protection. I'm the minister at this table. I'm able to answer.

Senator McDONALD: My question for Ms Brown is whether or not there's been work done to understand what the implication of the mining resources tax would have on the resources sector.

Ms D Brown: I think I would have to reply as I did earlier—that we're not indicating with great specificity the type of work that we're doing ruling in and ruling out. If people want to come and talk to us about the mining resource tax, because we'd take the meeting just to make sure we were up-to-date with the latest literature or what's happening overseas. So we would have conversations should they arise, but whether we're looking at it I'm not—

Senator McDONALD: What meetings would you have had with people coming to see you on mining resources tax?

Ms D Brown: That was just an 'if' statement.

Senator McDONALD: Has the department been asked to undertake any analysis or work on changes to the fuel tax credits scheme?

Ms D Brown: Again, it's very hard for there to be proper government processes and for us to support delivery of process if we're saying what we're doing and what we're not doing. We look at the operation of the tax system as a whole. There have been a range of reports on that issue. Obviously we stay up to date on reports and literature, so it's something we keep aware of but I'm not saying anything further than that.

Senator McDONALD: So that's work you've done not directed by the government; that is work that you're doing to stay up to date with current literature. You would be aware of a very widespread advertising campaign last year. I assume that that prompted some research, discussion and analysis?

Ms D Brown: I was, in my mind, thinking of the Grattan report that came out in maybe 2022 or 2023, but there have been other reports that have come out as well.

Senator McDONALD: Yes there have. So you've stayed current with those kinds of analysis and literature by analysing what the impact would be on the tax revenues?

Ms D Brown: Not necessarily. You're getting a little bit specific again. It is just staying up to date with what people are saying is happening in the tax system.

Senator McDONALD: Does the department know the impact that removing or changing the scheme would have on the resources sector, the agricultural sector or any other industry that relies on the fuel rebate—fuel tax credits scheme?

Ms D Brown: I have seen correspondence to that effect, so we are aware of people's interest in that issue.

Senator McDONALD: Minister, will you unequivocally rule out any changes to the fuel tax credit scheme or a mining tax?

Senator Gallagher: I think we've been through this with Senator Hume—the rule in, rule out game. I can be clear about the tax plans for this government: the income tax changes which have been announced, we've got high-balance super account changes, multinational tax reform and the PRRT. They are the changes where government has made an announcement on tax.

Senator McDONALD: We've seen today some real dodging and weaving on what will be introduced and what won't be introduced.

Senator Gallagher: No, I don't agree.

Senator McDONALD: Can we take that as a sign that industry should brace itself for changes?

Senator Gallagher: No. I can see the attempt of coming in and trying to stir up scare campaigns which you want to then leave this building and go and raise alarm, but no.

Senator McDONALD: Minister, you told the Senate on 8 February that you had a full book of tax reform. Can you please expand on what other tax reform is in this full book?

Senator Gallagher: I've just explained that.

Senator McDONALD: Is the book closed? Is it finished and you've signed the last page?

Senator Gallagher: I've explained what it is. I've used that term many times, so I don't know why people have gotten so excited about it. I've explained, and indeed I explained in that question time in that answer and probably in the answer to the question that came after it, what that meant. It meant PRRT, high-balance super accounts, multinational tax reform and the income tax changes. All of those are before the Senate, I believe, or the income tax will be pretty shortly. You're not engaging or supporting a couple of those, so that's a pretty substantive agenda to get through a minority chamber.

Senator McDONALD: Do you commit then, without caveat, that you'll not make any more tax changes in this term of government?

Senator Gallagher: I'm committing to the tax changes that we have outlined. We've been clear on what those areas are. Where we changed our position on income tax, we fronted up and explained why we had changed our position.

Senator McDONALD: You've already proven that your commitments are not able to be relied upon.

Senator Gallagher: That's not true.

Senator McDONALD: You're dodging and weaving on what future changes there are.

Senator Gallagher: I don't accept that at all. You can editorialise as much as you like.

Senator McDONALD: What are your secret plans—

Senator Gallagher: You can editorialise; I don't agree with you.

Senator McDONALD: What are your secret plans that Australian people in resources industries should be worried about?

Senator Gallagher: I think you should be able to move on your feet to change your questions if I've given an answer. There is nothing. I can see that you're trying to stir up anxiety. I think that's pretty irresponsible. The government has been clear on what our tax reform agenda is. It's there for all to see. I've been clear about that, the Treasurer's been clear about that and the Prime Minister's been clear about it. I think the Australian people have understood the difficult decision that we took to change our position on income tax because it was the right thing to do. And because it was the right thing to do, you've all agreed to it as well.

Unidentified speaker: There's a lot of whinging.

CHAIR: Final question, Senator McDonald.

Senator McDONALD: Minister King ruled out changes to the fuel tax credits. Why won't you stick with her commitment and commit to ruling it out?

Senator Gallagher: I have not been inconsistent with Minister King.

CHAIR: I've got a number of people on my list. We're headed towards a break. Senator Colbeck, you're next on my list. Are you ready to go?

Senator COLBECK: Yes, I am, thanks. I just want to get to the bottom of what appeared to members of the references committee to be a difference in evidence from last Friday between Mr Hirschhorn and Mr O'Neill. It was concerning that there was a perception created to the committee that Mr O'Neill had been leaned on. I think the evidence and our support for the work of Mr O'Neill—I don't think I'm verballing my colleagues on the committee at this point in time—is absolute, because we think he did terrific work to get an outcome with respect to the investigation that the TPB undertook. Whose responsibility would it be to put a new contract in front of Mr O'Neill? He said he did have a new contract put in front of him. Is there any dispute of the fact that there was a contract put in front of him? Whose role would it be to do that? Would it be the TPB management's role or the tax office's role? It's a complicated arrangement, I understand, because he's seconded from the tax office as an employee of the tax office to the TPB.

Ms Curtis: Mr O'Neill is an employee of the tax office, but he is seconded to the TPB. So what would normally happen is the TPB would seek from us advice on how to go about putting a contract in place, if there were to be a new contract. However, given that Mr O'Neill is an ongoing employee, it's a hypothetical because he is already employed as a substantive SES officer. If there was a contract for a new CEO, they would seek advice from us, and we would prepare the contract for them. Then it would be up to them to actually work through that with Mr O'Neill. But we would support the TPB through our SES service's unit.

Senator COLBECK: Who was it that put a contract in front of Mr O'Neill, given the evidence is that that's what happened?

Ms Curtis: I think you'd have to ask Mr O'Neill.

Senator COLBECK: Can you answer that question, Mr O'Neill, please?

Mr O'Neill: I think I received it from another colleague of mine in the TPB, Ms Luu, who'd received it from either a Treasury colleague or an ATO colleague. I'd have to check the exact derivation of that.

Senator COLBECK: You did say earlier that it didn't have a non-continuation clause in it.

Mr O'Neill: It didn't specifically refer to the no returns policy. To clarify that, it was made clear to me that these changes would apply to me. It was just uncertain as to how those changes would apply to me because it was contingent upon a range of things, including some legal advice to confirm how it had all come together.

Senator COLBECK: What happened to that contract?

Mr O'Neill: Those contingencies that were necessary for that change to happen—as the commissioner said, a delegation from himself to the chair, the legal advice—there was a change of government, as you know, and those things were not implemented. I'm not sure if there was ever legal advice finalised on that question. If so, I've not received it.

Senator COLBECK: Fundamentally, the things that were contingent on a new contract being required didn't occur, so there was no requirement for a new contract.

Mr O'Neill: Yes. There was uncertainty as to how this new arrangement would apply to me, but it was made clear to me that it would be applicable to me.

Senator COLBECK: My difficulty is actually reconciling where we sit with the differences between the ATO, Mr Jordan and you saying that it wouldn't and Mr O'Neill's very clear perspective that it would. How do we, sitting on this side of the table, reconcile what appears to be a difference of opinion? One of the things that I said at the committee last Friday was that I was concerned that Mr O'Neill would be completely unconstrained and unencumbered in what he was saying, and I walked away with the perception that he wasn't, despite the fact that it's important that he is.

Ms Curtis: Perhaps I could provide some additional assistance here. I think we could definitely talk to our SES unit to see whether a draft blank contract was provided to anybody else and whether it was provided through a different avenue to the TPB. But I can say that the SES unit was never approached for advice about providing a new contract to Mr O'Neill, and I think if we look through our records we will find that there was never any advice provided to the chair of the TPB through our avenues. So, all the ATO can say is that we provided a blank

copy of the contract of employment to the Treasury. We can check to see whether it was provided to anybody else in the TPB. But I think you would need to ask the previous chair of the TPB or somebody in the TPB who had that conversation with Mr O'Neill as to how they went about introducing that as a possibility, because it certainly wasn't provided with advice from the ATO.

Senator COLBECK: Okay.

Ms D Brown: I can also offer some assistance. As Mr Jordan said earlier, this was an issue that I wasn't aware of until the Friday hearing. It sounds like events that occurred before I was in the role. But Treasury has been mentioned a couple of times today. So, Treasury is also happy to look to see what correspondence it may have sent to Mr O'Neill or received from the ATO and see whether that can help the committee in this matter.

Senator COLBECK: Thank you, and I'd appreciate understanding what went on, because, I have to say, I have the perception that Mr O'Neill was leaned on. I'm really shitty about that. I'm trying to be careful with my language. I got into trouble last time! But this is an important matter for us, because there's been some change to the legislation, as Senator O'Neill has discussed, and I'll come to that in a second. The effective operation of our system here is really important. And I acknowledge that the ATO referred this in the first place, but there are some concerns about the process of actually getting to where we got to today—which is a good result, and I think members of the other committee, who are all sitting in the room here today, attribute that to the persistence of Mr O'Neill in doing his job. I think it's important that that's on the record from our perspective.

I want to go to the pursuance of PwC more broadly. We talked last week about international investigations, or conversations you're having, and you to Mr O'Neill, in this space. The Federal Police confirmed to us last night that they're doing a local and an international investigation on this. That is what it is. We were pleased that they were able to give us the evidence that they did last night. But can you tell us what bodies you're talking to in relation to this matter with PwC and what avenues might be available for you to pursue the elusive Linklaters report through other jurisdictions, given that they—I'll say 'appear'—appear to be using legal professional privilege again to protect that from the AFP, even. So, their entreaties to us that they're cooperating with the process don't stack up in that sense. But can you say to us who you are talking to? You were talking to colleagues in the US and the UK, for example, and like bodies—and also the professional bodies that oversight the registration of this organisation. I was just looking at some penalties that have, for example, been applied by the Public Company Accounting Oversight Board in the US, which has fined them \$3 million for things they did in Greece and \$4 million for things they did in Hong Kong. Can each of you give us some insights as to what's happening in that space?

CHAIR: We're five minutes overdue for a break, and I was wondering how you would feel about us taking a break and resuming with the answers to that question.

Senator COLBECK: I'm comfortable if that would assist the people who are assisting us.

CHAIR: That would be of great assistance and appreciated.

Senator COLBECK: That will give the officials some time to compile what they're doing.

CHAIR: We'll return with the same panel. Thank you, Senator Colbeck.

Proceedings suspended from 17:20 to 17:37

CHAIR: The committee resumes with revenue, ATO and related. I'll advise those watching along at home, or waiting for us in the green room back there, that the committee has had some discussions about how to try and get the program back to time. We think we'll be with this group until about 6.30, at which point we'll go to markets. It's an aspiration to get to APRA before the dinner break—that is the aspiration.

Before the break, Senator Colbeck kindly allowed us to return to his questions after the break. Am I coming to you, Mr Hirschhorn?

Mr Hirschhorn: Yes.

CHAIR: Thank you.

Mr Hirschhorn: Senator, I might start off, with forbearance, by answering your questions in a slightly roundabout way and referring a little bit back to the testimony of Friday. There's been a lot of discussion about legal professional privilege, and I think it's very important to remember that legal professional privilege is not the lawyer's privilege; it is the client's privilege.

Senator COLBECK: I understand.

Mr Hirschhorn: So, when somebody says that they will not provide a document to you on the basis of legal professional privilege, it's really saying, 'I don't want to provide you the document and you can't make me,' which is the exact opposite of cooperation. I will just make that observation.

Senator COLBECK: I think we're on the same page there.

Mr Hirschhorn: I would also make the other comment from the testimony from Friday that PwC Australia has the emails—maybe not all the emails, but it has all the emails from itself to other countries involving partners. There might have been emails between two other countries that they were not copied in on, but PwC Australia has many of those emails, so it should have a very good idea of partners overseas that were involved in the confidential information, and that is knowledge of PwC Australia directly. We, at the tax office, have seen some of the emails.

Senator COLBECK: I think you're misconstruing my question. There are professional bodies, and you have sister bodies. We've talked about the fact that you've discussed this in some of those international forums. PwC deserve to feel as much pain as possible, locally and internationally, on this. This wasn't just a local exercise; it was an international one. I'm more interested in what avenues you have and who you're talking to—IRS, for example, and Treasury, or whatever the right agency is in the UK—for them to look at this as well. Clearly this has international implications. It was called Project North America. It's in the emails. We've seen all that. You've seen the emails; we haven't, because our set are redacted. As well as the work that's being done here—there are nine investigations underway with the TPB, for example—is it possible that the Public Company Accounting Oversight Board, which I think is based in the US, could also be looking at this because it has implications in the US for professional behaviour?

Mr Hirschhorn: I will focus in on that aspect of your question. We have been in discussion for a while now with what we call the large business five, which is the five leading tax jurisdictions, both at a conceptual level around the large firms and, increasingly, at a more detailed level in relation to the PwC matters, and we have commenced sharing information with several of those revenue authorities.

Senator O'NEILL: Can you name the five?

Mr Hirschhorn: We can certainly name the five. I'll leave that to Deputy Commissioner Saint, for fear that I'll miss some out. It is fair to say that we are very interested in three jurisdictions in particular: the US, the UK and Ireland, Ireland being the jurisdiction where the IP of many of these companies is based.

Senator COLBECK: Which goes to the issue around tax avoidance.

Mr Hirschhorn: With the proviso that, when we share information with other countries under treaty, we have additional obligations under the treaty—sometimes not even disclosing that we have had information under the treaty—I might pass that point across to Deputy Commissioner Saint, who is intimately involved in those discussions.

Senator COLBECK: Thank you.

Ms Saint: As Mr Hirschhorn has outlined, we do have engagement through the large business five. The countries in the large business five are the UK, Canada, the US, the Netherlands and Australia. We have had conversations in that forum around developing a general strategy directed at advisers in the large market sector, and we have been working on a program of work through that body in terms of how we can improve detection, coordination and treatment of adviser behaviour throughout those networks of those countries. In addition to the general program of work that we've been coordinating with those groups, we've also been having, where relevant to activities in particular countries, specific bilateral conversations with particular countries about what we've observed specifically in that country, and we've also made information exchanges to the extent that we're able to under the treaty. I think what's very important to understand is that we cannot exchange all of the information we have. There are criteria under the treaty, and it has to be relevant to the domestic tax of those countries, but nonetheless we've tried to be as expansive as we possibly can with those exchanges.

That has occurred with the large business five. There has also been at least one information exchange with a country outside of the large business five. To the extent that we identify activities in other countries and we have the ability to share information under the treaty network, we will look to do that as well. We also have conversations with those countries to make sure that they understand the information that we're handing over. As you can appreciate, as you've seen over the last year, just handing over a bundle of emails doesn't necessarily provide all of the context or the broader framework or picture that you require to be able to understand the relevance of those emails in the broader relationship or activity of the particular firm. So that has occurred as well.

More generally, if we step back, we've also been engaging at a general level with standards setters internationally. I think I mentioned last week about the international ethical standards boards. Of course, we do not have the ability to share protected information or PwC-specific information, but we certainly engage in those processes. We engaged in the review that occurred last year, and we will also participate in their recently announced review around firm governance and culture. So certainly we do like to take our learnings and feed those into those processes. From our perspective, to achieve long-term, lasting change in relation to adviser behaviour, we do need to influence the standard setters both internationally and in Australia. We've also been engaging locally as well.

But we also need to make sure that we're very clear about expectations and guardrails, which is why we've also undertaken to do activities like the Large Market Tax Advisor Principles, which I think we undertook last week to give you some more information on, as well as the LPP protocol. In the process of developing both the large market principles and the LPP protocol, again, we couldn't share specific information with stakeholders, but some of the issues that you've explored over the last 12 months are issues we've absolutely discussed at a general level within those forums.

Those forums did involve other regulators. The large market adviser principles working group included us, the Tax Practitioners Board and CA ANZ. There was also an observer from Treasury for part of that dialogue and the development of those principles as well. For the LPP protocol, we engaged very heavily with the Law Council and also with other stakeholders, but the bulk of that consultation was with the Law Council, and then we went out and did broader consultation with other affected stakeholders as well. So there has been a lot of engagement domestically around both standard setters and those that might regulate behaviour, but also we've sought to do it at that international level either directly ourselves or to assist the other jurisdictions with their engagement through their own local forums as well.

Senator COLBECK: Thank you. Mr O'Neill?

Mr O'Neill: Just apropos of your frustration about the Linklaters report, I share that. Also, without prejudicing the scope of our investigation into the individuals of the firms, the suggestion that the Linklaters report lands on six people in the international firm is not consistent with our analysis of the documents. To put that a bit more clearly—

Senator COLBECK: So there are more than just the dirty six?

Mr O'Neill: Our understanding is much broader than that. If I can explain a couple of things, we have written to the PCAOB and explained our role and obviously the shared risk in their regulatory role. They've kindly responded and said that their statutory system means that they can't give us specific investigative material. They can give us material they put on the public record. So that avenue doesn't appear open to us.

Nonetheless, if I just back up to the whole base erosion and profit-shifting program and multinational tax avoidance, as you remember, there was a whole OECD/G20 program on it. There was wide-ranging consultation, both at a public and a private level. In Australia, that involved the Treasury, the ATO and firms. It does appear to us that the communications from PwC Australia to PwC internationally blended issues around the private and the public consultation so that the firm could internationally have a significant influence on the shape and size of the base erosion and profit-shifting reforms that were being led by the G20 and the OECD.

Senator O'NEILL: That's the BEPS scheme, and that's historical. What's happened now, Mr O'Neill? Has that been replaced by something called GloBE? Is that correct? Or is it continuing as BEPS 2.0?

Mr O'Neill: The BEPS issues are really just an acronym for the multinational profit-shifting issues. Our investigation is really targeting the communications that happened at that time between the Australian firm and the international firm. It'll be one of the issues that we'll need to be engaging PwC on to understand whether that raises regulatory issues under the Tax Agent Services Act.

CHAIR: I'm going to have to share the call, so this will be your last question, Senator Colbeck.

Senator COLBECK: Okay, I'll think carefully about which one it is.

CHAIR: I know Senator Pocock is on my list and will have further questions as well, Senator Colbeck.

Senator COLBECK: I just want to go back to what you said a moment ago in relation to the sharing of information backwards and forwards within the system, which is in the emails and probably more visible to you than to us in trying to interpret it with the redactions that we have, and the attempts to influence where the whole process was going, not just what we were looking to do, here in Australia, to the benefit of their clients—and, I'm presuming, to then be able to market it?

Mr O'Neill: That is my understanding, yes.

Senator COLBECK: When you really drill down into what was going on, it wasn't just that they were looking to gain advantage for clients here in Australia; it was about gaining advantage and influencing what was going to happen in the development of this policy on an international basis.

Mr O'Neill: More broadly, correct; that's my understanding.

Senator RENNICK: Hi guys, how are you going? My first question is for the Revenue Group. I want to talk about the *Tax expenditures and insights statement*. I note that there are a number of provisions that give tax breaks to foreigners, namely: section 880, which gives sovereign funds investing here in Australia, a tax break; section 128B, which gives foreign banks a withholding tax break; and section 855, which gives foreign holdings in non-portfolio interests a capital gains tax break. These tax breaks total about \$4 billion. Do you think, given that we are looking at reforming the tax act, that it's right that these foreign entities get tax breaks that are not available to Australian entities? In particular, I refer to 128B, the public offer test, where banks don't have to pay withholding tax. Given that they are closing branches in the regions and not upholding the banking code of conduct, should we really be giving them a tax break?

Ms D Brown: As I said to other senators, we look at the tax system broadly—we're not going into the specifics of what we look at—but I can say that those provisions are not immediately familiar to me.

Senator RENNICK: Okay, I thought you were responsible for that. Mr Jordan, you might be familiar with the provisions, at least. I know you're not responsible for the policy, but there are a number of policies in the tax act that give tax breaks to foreigners that aren't available to Australian companies. I'm a bit disappointed that you didn't know about these particular tax sections because I thought Treasury were the guys who designed the tax policy. Perhaps you can make yourself familiar with these sections of the tax act because they're giving a tax break to foreign entities, particularly foreign banks. They are big figures in B57 and B58 of the tax expenditure statement. Some of those are very big tax expenditures. Perhaps you could come up to speed on them. Minister, I'll ask it of you then because you're obviously responsible for policy. Do you think we should continue to give tax breaks to foreign entities that give them a competitive advantage in the Australian economy?

Senator Gallagher: We haven't made any changes to those, as I—

Senator RENNICK: No, they're inherited. I'll admit it's been going on for decades.

Senator Gallagher: They currently operate as they have previously. It has not been our policy to change them.

Senator RENNICK: So you're not interested in looking at removing the arbitrage between onshore and offshore profits?

Senator Gallagher: The government looks at the tax system. Obviously, the Treasurer is briefed by the Treasury around the tax system as a whole. We haven't made any changes in relation to the ones that you raise, if that's—

Senator RENNICK: The fact that your representative from the Revenue Group is not aware of them—I'd suggest you become aware of them, because it's in the document. Anyway, I'll leave that.

In the prior set of estimates, I put a question on notice asking for the amount of Treasury revenue forgone as a result of tax breaks to universities for foreign students and tax breaks to Aboriginal land councils for native title payments and mining royalties. Given that both of these entities, Aboriginal land councils and universities, release annual reports, how is it that you can't cost the tax revenue forgone from the profits that these entities make?

Ms D Brown: I might see whether Dr Cai can answer that question. It might come down to whether or not there are tax expenditures. They're only tax expenditures if they're not part of the benchmark. But I'll leave that to Dr Cai.

Dr Cai: I'm responsible for some of the SMEs. As you mentioned, some of the tax treatments, especially NANE, are actually part of the tax benchmark, so by definition they are not tax expenditure. That includes section A55 for mining rights and foreign capital gains kind of tax treatment. And for—

Senator RENNICK: But it's revenue forgone because we're giving a competitive tax advantage to foreigners over Australians. They don't have to pay tax; they can offer a higher price and get a higher weighted average cost of capital return because they don't have to pay tax.

Ms D Brown: The tax expenditures statement just measures tax expenditures relative to a benchmark. The benchmark involves some judgements. Different people would use, potentially, different benchmarks. I think here we've just taken a view of a benchmark.

Senator RENNICK: Sure, and this is broader than just the statement itself; this is about Australian companies being competitive in their own country. They're trying to compete against foreign companies that don't pay the

same rate of tax within Australia. But I've moved on from that. I want to talk about the universities and the Aboriginal land councils.

Dr Cai: And for Aboriginal land, with regard to section 59-15, that's actually covered in this new *Tax expenditures and insights statement*. B20 covers it.

Senator RENNICK: Can you tell me how much revenue is forgone?

Dr Cai: Because of the data availability, we couldn't give a very accurate estimate.

Senator RENNICK: That was the answer you gave me last time—you said there was a lack of data—but I'm saying that these entities do release annual accounts. So surely you should be able to cost it, because there is data available there.

Dr Cai: We do have the order of magnitude estimates. So, if you look at the table, there's a 1+ in there. That indicates that the cost of the broader thing is roughly under \$10 million.

Senator RENNICK: Under \$10 million? So you're saying that universities—

Dr Cai: Sorry; I'm talking about Aboriginal land, which is item B20.

Senator RENNICK: Which one is item B20?

Ms D Brown: B20 is the exemption for payments for mining on Aboriginal land.

Senator Gallagher: The Aboriginal land councils.

Senator RENNICK: Okay. Can you give us the one for universities? I'd like to know how much they earn from foreign students.

Dr Cai: Universities and hospitals are actually covered in a much broader item, which is B59 on page 105. Because it's so broad, the order of magnitude, our estimate, is that it's going to be under \$1 billion, so it's pretty large.

Senator RENNICK: Under \$1 billion?

Ms D Brown: Is it under or over, Dr Cai?

Dr Cai: Under.

Ms D Brown: Under \$1 billion.

Dr Cai: It's up to.

Senator RENNICK: So, given that the company tax rate is about 30c, you're saying that universities earn about \$3 billion from foreign students.

Dr Cai: We don't have the data. That's very specific data, to see how much of that goes to the universities.

Senator RENNICK: But surely you could start doing something about getting universities to disclose more information in their annual reports about how they derive their revenue and breaking that up by domestic income and foreign student income?

Ms D Brown: We do, each year, try and see whether we can improve our data sources—

Senator RENNICK: I accept that you may not be able to get access to it, because we need to go back to whoever it is—I think it's the state governments—that monitors it.

Ms D Brown: But we can note your interest in that.

Senator RENNICK: Thanks for that. This is my last question. I like to go through multinational accounts and see if they're paying their fair share. I've come across one multinational company who has an onshore operating profit ratio of seven per cent and a worldwide operating profit ratio of 34 per cent. That sounds alarm bells to me because it suggests that they're claiming 93 cents in the dollar here in Australia yet worldwide they're claiming on 66 cents. Given that they're pretty much nothing more than a distribution company, because the government does most of their advertising here in Australia, do you have a process, Mr Jordan, where you go through all the multinationals that invest in Australia and you look at their worldwide operating profit ratio, compare that to the Australian operating profit ratio and make sure the profit ratio here in Australia lines up, within a reasonable degree, with the worldwide operating profit ratio?

Mr Jordan: I'll hand over to my colleagues here at the table, because it does get a bit confusing at times. Our taxing rights for foreign-owned companies, especially—I think you said pharmaceutical companies?

Senator RENNICK: It could be.

Mr Jordan: You could take one view that all they do is ship boxes here to Australia, and not much happens here, not much value is created here in Australia, so there's not much that we can tax. If a company carries all

their risk in their home jurisdiction, does all their R&D and has a lot of expenses, that country would want to make sure that they were leaving sufficient profit in their home jurisdiction, reflective of where the risk lies.

Senator RENNICK: That's a good point, because this particular company carries no risk. The Australia government has actually indemnified it from risk. In that case, you'd have to think that—

CHAIR: I do need to share the call. Is there any final contribution on this?

Mr Jordan: We have to have a fairly complex process of looking where value is created in the supply chain: where something is created, invented or manufactured, how it has got here and what activities are here. There's conflict between a mispricing scenario that my experts to the left here would be able to explain much better than I have just tried to.

Mr Hirschhorn: First, I'll reiterate the Commissioner's comments: under the international tax framework, we get to tax only the value added in Australia, not on the Australian supply chain as a whole—not on the end-to-end supply chain—which often means that, if only distribution activities are occurring in Australia, we don't get to tax the R&D profit and we don't get to tax the manufacturing profit. We are highly focused on this question. We are highly focused on companies which say they are a riskless box-shifter in Australia when, in fact, more significant value is added in Australia. The codeword which rings alarm bells at the office is when somebody says they are just a limited-risk distributor. This is a real sign that they are trying to push all the commercial returns out of Australia, and Australia are dumb box-deliverers.

We have a practical compliance guideline around most of the inbound distributions, which say in different markets how much we think an inbound distributor—for example, pharmaceuticals, electronic goods or whatever—should be leaving in Australia for the sophisticated distribution which happens in Australia. It's fair to say that those guidelines are not universally loved by some jurisdictions overseas and some multinationals, but we have been very effective in getting those sorts of returns, which are significantly above some of the discussion which has been going on under the BEPS process.

The other thing you asked is: do we compare to the margin globally? Absolutely. We are particular focused on something we call 'effective tax borne'. The concept here is that if a company is paying high rates of tax all around the world on all of its supply chain, we want to know that because there's not much in it for them to play games on their pricing. But, if they are seeking to land a significant chunk of their profit in a low-tax or zero-tax jurisdiction, we know that there is a high risk that they will seek to artificially reduce the return in Australia. So this is another one of our safeguards to make sure that we are very focused not just on the Australian element and some sort of sterile analysis of what is done in Australia but on understanding that picture in conjunction with the picture that they are trying to tell to other jurisdictions.

Senator RENNICK: Thanks. I'll just add: they parked about a billion of their profit in Ireland, but I'll leave that as a comment. Thanks, Chair.

Ms D Brown: If we could just make one quick correction?

Dr Cai: Sorry, I just have to correct myself. On the tax expenditure of income tax exemption for prescribed entities, which includes universities: the order of magnitude should be over a billion.

Senator RENNICK: Over a billion. Thank you very much. Thanks, Chair.

Senator BARBARA POCOCK: Thanks for all of your answers. I want to go back to the PwC investigation. I think we all agree that any attempt to penalise or threaten the position of those leading the PwC investigation is a very serious matter. We've heard Mr Hirschhorn say he thinks that it's a serious matter, as did Senator Colbeck, and certainly I know Senator O'Neill and I do. This is a contested matter, and we're focused here today on the question of Mr O'Neill's contract, with differing perspectives about what's going on.

We have heard of multiple processes and events that actually could be perceived as having threatened the inquiry or affected its conduct. I'm going to get to my question—sorry, it's a long preamble. Firstly, an internal investigation by the fraud team into Mr O'Neill, which has been alleged to have been proposed by the ATO, that did not proceed. Secondly, a board member review into TPB, remembering that the board, as I understand, held different perspectives about the vigour of the TPB investigation, I understand was conducted by Mr Greg Lewis and Ms Debra Anderson. Thirdly, an inquiry into bullying claims against Mr O'Neill, which cleared him. Fourthly, an external review of the TPB, which also cleared Mr O'Neill.

So there's a range of processes, and they all occurred before the matter we have been discussing. I don't want to go back to the contract discussion. It was after all of that, as I understand it, that Mr Michael Sukkar announced a change in TPB arrangements to allow the board chair to hire and fire the CEO, with a communication to Mr

O'Neill, which we've heard about this afternoon, that he could not return to the ATO after his secondment. These are complex and contested matters.

I want to build on Senator Colbeck's request for documentation and assistance going forward. On notice I ask the ATO, Treasury and specifically Mr O'Neill, as CEO of the TPB—not the board and not the board chair, because there were diverse opinions in that board, so I'm asking you, Mr O'Neill—to produce not only all documents, records and notes related to the contract change which was announced by Mr Sukkar in March 2022 but also any documents, records or notes related to the other four processes which I've just referred to. That's just a question on notice.

I want to go back to the consequences for PwC out of the events of the last year. It is great that so much is happening on the Australian front, but what I'm hearing from a lot of people within PwC is that there is a perception that PwC Global is throwing PwC Australia under the bus. A billion-dollar business being sold for a dollar is unusual. There are a whole lot of changes happening in PwC Australia which look like an abandonment of the ship, but the mass protection, the really big operations, are at the international level. My question is to Ms Saint or anyone else who wants to answer it. What are the levers available to discipline PwC Global? Where do they lie and who holds those levers? That's where we need to see some action, clearly. We are being laughed at by PwC Global.

Ms Saint: Thanks, Senator. Our conversations that we have at an international level are done within the framework of the tax systems of those jurisdictions. If you look at the countries involved in that large business five, there are very different regulatory settings in terms of how the tax profession is actually regulated in those home jurisdictions. Some will have purely self-regulation systems. Others will have a mixture of both self-regulation with some sort of government regulation as well. I think it really depends on which jurisdiction you are actually referring to.

Senator BARBARA POCOCK: I'm not referring to a jurisdiction. I want to know who on the globe has levers and how are they exercised. Can they only be exercised within those national systems, and how adequate are they? Are they levers that have meaningful effect on PwC Global?

Ms Saint: I think that's a really broad-ranging question, which is why it's difficult to actually answer, to be fair. I think to the extent that other jurisdictions or regulators in other jurisdictions are able to do anything, it's really dependent, first of all, around the activity that's occurred in that jurisdiction: What is the offence? Is that a tax offence or is that some other form of offence in that jurisdiction? That's going to be dependent around what actions and activities have occurred. I would reflect—again, being very careful about our treaty obligations—the jurisdictions that we talk to are very interested to understand what's happened, and I think we certainly wouldn't be the only stakeholders that they would be engaging although, clearly, we are a very important stakeholder in terms of being able to obtain information. As we said last week and Mr Hirschhorn confirmed again today, whilst there is a level of interest in that Linklaters report globally, the ability of regulators to be able to see that or access that is somewhat hampered by the fact that it is going to be privileged.

Senator BARBARA POCOCK: Clearly the question of who and how many people is a larger project than what's in the Linklaters report. You wouldn't want to put all your eggs in that basket.

Ms Saint: That's right. I think the question—and this is what Mr Hirschhorn was alluding to earlier today in his testimony—for PwC Australia is: if you haven't seen the report, how do you know that the investigation has actually occurred and identified all of those partners in that chain? That's certainly something that we would be expecting PwC Australia to have a great level of interest in.

Senator BARBARA POCOCK: You're singing from our song sheet, Ms Saint! We are all very interested to know that. I want to turn now to very concerning allegations reported yesterday that at least 150 Australian tax office officials have been investigated over a far-reaching GST fraud scheme, with 12 terminated or facing criminal prosecution. The findings were revealed in an Auditor-General's report. It raised important allegations about the management and oversight of fraud control arrangements for GST as 'lacking', while the internal risk framework in the tax office is 'not fit for purpose'. I understand it has cost us \$2 billion according to that report. Commissioner, how is this possible, and how were you alerted to this fraud occurring within the ATO?

Mr Jordan: It was something that was obviously extraordinary: to have 57,000 people in Australia mostly using their own name to commit a fraud—they're real people with real addresses that we can check—registering for an ABN and GST. Clearly our system for identifying fraud at that scale was not fit for purpose, as the report stated, because it was never foreseen that within such a short period of time that 57,000 people, such a significant part of the community, mostly using their own name would attempt such a fraud. Obviously, we have reflected on that, and we've focused much more strongly on understanding the community's appetite to commit fraud post

what we think was the stimulus package—the amount of money that was coming from government to individuals. It appears an appetite to take money from government—

Senator BARBARA POCOCK: Sorry, Mr Jordan. That's a little bit of a diversion from the focus on your own systems. Bad people do bad things. Your whole system is built on catching them. That did not happen. What action are you taking?

Mr Jordan: It did catch them, and we did stop it. However, it's clear that the system was never designed for such a mass short-term social media marketed fraud—in their own name. I could maybe pass over for a more finite response. But I just wanted to set that picture.

Senator BARBARA POCOCK: Yes, I have that now.

Mr Jordan: I'm not dodging the fact that I'm responsible.

Senator BARBARA POCOCK: But it's our systems that need to be ready to respond.

Mr Jordan: I absolutely agree. It was extraordinary and I'm—

Mr Hirschhorn: I might just add a little bit of context and then our response, because I think that's what you're interested in and what's very important. GST fraud—so people lodging fake BASs in the Australian system—is a universal feature of GST and VAT systems. Types of fraud are a lot like viruses. At all times, there is a low-grade level of this sort of fraud in the community, and we have historically addressed that through some risk models, some risk filtering and some pre-lodgement work, but mostly after lodgement. We've always had about 150 people addressing GST refund fraud. It is a feature of the system.

There's a balancing thing here because legitimate start-up businesses need their GST refunds quickly, and, under a self-assessment system, we generally try to trust people and get them the refunds they need very quickly. So you have a balancing act between whether to stop lots of refunds and hurt a lot of innocent businesses or to stop a few refunds and then try to clean up the mess of the ones you've paid out that you shouldn't have. And at that time the balance was clearly in favour of getting refunds to legitimate businesses and cleaning up the fraud ones after the event. That was reinforced by legislation following a case called the Multiflex case, which says we have to pay out a refund in two weeks if we haven't made a decision that it's fraudulent.

Mr Jordan: And there was a law because—

Mr Hirschhorn: And a law which followed the Multiflex decision.

Mr Jordan: we were criticised for being too slow. And that 14 days, I understand, converts to about eight days to make a decision on whether to pay that refund or not, because of postage—if you've got to post it. We have to have that out to the people in 14 days. It's something we are seeking to change. I probably shouldn't say that, but I want to assure you that we are. That was done because of people thinking we were too slow. Eight days to make a decision on whether this stays or goes is just not enough, and that's why most GST fraud compliance actions happen after the money is paid. A large number of these people, something like 57 per cent of the people doing this, were welfare recipients.

Senator BARBARA POCOCK: Well, 150 of them were ATO employees. What do you say about that?

Mr Jordan: If I could put some clarity around that 150—

Senator BARBARA POCOCK: I'm asking for your solution.

Mr Jordan: Two minutes—

Senator BARBARA POCOCK: I don't want to hear it.

Mr Jordan: Two minutes—because this is very important.

Senator BARBARA POCOCK: Dumping on welfare.

Mr Jordan: We did a scan of about 60,000 people who represented current employees, contractors and anyone that worked for, or as a contractor to, the ATO in the last five years—so 60,000 potential people—and we found 150 out of that 60,000 who had worked at the ATO over the five years prior to this fraud occurring. And they included contractors. Out of that 150, at October 2023, there were 12 who were current employees or contractors. Of that 12, there were three ATO employees who attempted or did the fraud while they were employed at the ATO—and nine contractors.

Senator BARBARA POCOCK: I thought 12 were terminated. Anyway, it doesn't matter.

Mr Jordan: Twelve were a contractor to or an employee of—so a contractor could be a person in a contact centre that has user access rights to part of our system to answer the phone and answer queries from people. There were 12 either contact centre type contractors or employees. There were three employees. They were terminated,

and obviously the contracts ended. There were 12 all up that were current. We explained this to the Auditor-General, but they chose to only put the 150 figure in there. We think—I think—it would have been better to have had broken it down like I have done. That 150 was five years of anyone—

Senator BARBARA POCOCK: Thank you.

Mr Jordan: that had a user access right, like contact centres or whatever, and three employees.

Senator BARBARA POCOCK: Minister, can I ask you—

Mr Jordan: It is horrifyingly bad. It is very bad. This is terrible.

Senator BARBARA POCOCK: Thank you. Minister, what's your view about what needs to happen on this front?

Senator Gallagher: There's a taskforce that's being set up, and the matter is being handled appropriately. I've been briefed, the Assistant Treasurer has been briefed and we will work through it.

Senator BARBARA POCOCK: Do you intend to take early action, as the commissioner has just said, in relation to that turnaround time, which has been put forward as a major explanation, if I understand Commissioner Jordan?

Ms D Brown: We've been having discussions with the ATO more broadly about fraud, particularly identity fraud. Mr Hirschhorn and I have had quite a few discussions, and it's something we're taking very seriously.

Senator BARBARA POCOCK: Okay. Thanks, Chair. Thanks, everyone, for your answers.

CHAIR: I have a number of people on the list. We have aspirations to conclude with revenue and related, so we'll move to five-minute blocks now. I'm going to go to Senator Henderson.

Senator HENDERSON: Commissioner, good evening. I want to take you to question SBE050. Regrettably I need to raise concerns about incomplete answers from the ATO, as I did at the last estimates. I am profoundly disappointed that I'm again coming to you saying, 'Why haven't you provided the information that we sought at estimates?' I sought responses in relation to any briefings to the Minister for Education's office about the HECS ATO repayment system. I asked:

If so, on what dates were briefings provided? Please include briefings of a formal nature, emails, and media material including background documents, talking points and media releases.

These are quite detailed questions, none of which were answered. This is the second time I've raised this, and, frankly, this is a breach of the Senate rules. Your answer simply said:

Questions about the intent of the law or the underlying policy are best placed with the Department of Education ...

That's not the information that I was seeking. Can I ask you: did the ATO provide any briefings to the Minister for Education's office about the HECS ATO repayment scheme, including the minister's commitment to review the scheme?

Mr Allen: I can say, categorically, that we provided no briefing to the Department of Education or the minister in relation to the HECS matter.

Senator HENDERSON: Is there any reason why you didn't answer that question on notice, then?

Mr Allen: Apologies, I thought we'd made that clear.

Senator HENDERSON: Did you provide any briefings of any formal nature? Was there any email correspondence or were there any other documents between you and the Minister for Education?

Mr Allen: No.

Senator HENDERSON: Did you provide any briefings to any other department on this matter?

Mr Allen: No.

Senator HENDERSON: Or any other minister's office?

Mr Allen: No.

Senator HENDERSON: Commissioner, I'll return to you. The Minister for Education committed to reviewing this matter. How can a review take place when there has been no—are you suggesting that there's been no communication with the ATO?

Mr Jordan: I don't know that detail, but I just heard—

Mr Allen: I'm happy to answer that. Going back to your previous question in terms of briefings, there have not been any formal briefings between the Department of Education and us. What we have been doing is providing, informally, through some of our lower-level officers, some information to the Department of

Education in terms of describing the system and how it works, particularly around the withholding tax regime. But there's not been anything formal.

Senator HENDERSON: I didn't designate that it needed to be formal. I was asking: were there any briefings provided—including briefings of a formal nature—including emails and media material, including background documents, talking points and media releases. If there have been so-called informal briefings, I think that is a very major misstep by the ATO that that information was not provided.

Mr Allen: We can rectify that.

Senator Gallagher: I haven't got the question in front of me, but the interpretation of 'briefings' would lead you to believe that it's formal. 'Briefings' stand for an in-person engagement or a piece of paper that goes to a minister; that would be my interpretation of 'briefing'.

Senator HENDERSON: I said 'including formal briefings'. It was an inclusive definition.

Senator Gallagher: I'm sure there's been no intent to not provide the information.

Senator HENDERSON: Why I am raising deep concerns about this is this is the second estimates I have come here seeking information about this matter, and the ATO has consistently declined to be fulsome in its answers. I also raised concerns about another question that I raised in relation to the issue where repayments of student debt are not accounted for in real time—so that can result in someone fully repaying their HECS debt and them being hit with an indexation charge, even though they fully repaid the debt, or they might start off with a debt of \$10,000 and they pay \$2,000 off during the year but they're indexed on the \$10,000 amount. I asked about that, and, in the answer, the ATO misrepresented the question I had asked and said that it related only to identification of any issues with the incorrect application to accounts—so there was a misconstruing of my answer and, therefore, the answer to the question was that no contact had been made and that the ATO had not met with the Department of Education. Again, I think that's an attempt not to provide full information, and I would ask that that information be provided immediately, please, Mr Allen. You've been on notice for at least four months.

Senator Gallagher: I'm sure the ATO can have a review of those issues and see what can be provided, but, with the work that's underway in Minister Clare's portfolio—and I'm only speculating—perhaps some of the engagement between departments would be to inform cabinet processes. I'll leave that to the ATO to explain.

Senator HENDERSON: I don't think there's any suggestion, and I certainly wasn't asking for any cabinet-in-confidence—

Senator Gallagher: Sure, but some of those discussions might be deliberative in nature.

Senator HENDERSON: I've got limited time, so I will have to quickly move on.

CHAIR: If you've got a final question—

Senator HENDERSON: I was seeking 10 minutes. I have waited close to two hours to get the call.

CHAIR: I will go to Senator Smith and come back to you, unless you've got one question.

Senator Gallagher: Senator Smith might cede his time!

Senator HENDERSON: No, I don't want Senator Smith to cede his time. I was seeking 10 minutes, and I think it's fair enough. I have waited nearly—

Senator DEAN SMITH: I'm happy to, because Senator Henderson has been here for—

CHAIR: Are you ceding?

Senator DEAN SMITH: I'm ceding my time, but I still have my questions.

Senator HENDERSON: We can't cede time; we are here to ask questions.

Senator DEAN SMITH: Senator Henderson will have other places to be; that's what I'm saying.

Senator Gallagher: That's all I was suggesting.

Senator HENDERSON: If I could have another five minutes or so.

CHAIR: Sure.

Senator HENDERSON: I just want to turn to the substantive issue of reform. In my question SBE047, you've provided quite a detailed answer about why the ATO HECS payment system could not be reformed so that HECS repayments could be accounted for in real time. Does that mean that there will be no reform happening under this government?

Mr Allen: In the answer that we've provided, we focused very much around the current pay-as-you-go withholding system. We were providing some detail around why any amendments to that current regime would be

quite difficult because we'd need to change STP, the software and all that. I think we were just trying to communicate the changes to the current system would be quite complex and expensive. In terms of other options, we've not considered other options because that's being managed by the Department of Education. We're happy to comment on those through the normal process. In relation to that question, it was very much just talking about the current state and what we would do to change that.

Senator HENDERSON: Can I take from that that there is no proposal to reform the ATO HECS payment system?

Mr Allen: I'm not aware. That would be a matter for the Department of Education, in whether they wish to make a policy shift.

Senator HENDERSON: You've set out very detailed reasons why this would be very difficult.

Mr Allen: In relation to changes to the withholding scheme.

Senator HENDERSON: Minister, are you implementing any reforms of this system to make it fairer for some three million Australians who have suffered very significantly under your government, being hit with a 7.1 per cent increase in student debts across the country?

Senator Gallagher: My understanding is the arrangements around indexation or HECS have not changed.

Senator HENDERSON: That wasn't my question.

Senator Gallagher: I know, but I'm pointing out the fact that we have not changed any of the indexation arrangements in that system that have been in place for some time. Because inflation has been high we have seen that higher, and when inflation is low that has an impact on debt as well. These are matters that are quite properly put to the Minister for Education.

Senator HENDERSON: Minister, the ATO is within your portfolio. The question I did in fact ask was: is there any plan to reform the ATO HECS payment system?

Senator Gallagher: Not that I'm aware of, but I'm sure there are officials here who can, if they need to change that—

Mr Jordan: Not that I'm aware of.

Senator HENDERSON: Commissioner, do you have any idea about what the HECS indexation rate will be for this year?

Mr Jordan: I think it depends on the yearly CPI—

Senator HENDERSON: I understand you can't be definitive because the year has not—but do you have any idea about what it might be?

Mr Allen: We're not doing any forecasting or analysis as to what it is. We entirely rely on—

Senator HENDERSON: It's not going to be one per cent or two per cent, is it?

Mr Allen: We rely on the ABS providing the number and whatever the CPI is for the year.

Senator HENDERSON: So what, roughly, do you believe it will be?

Mr Allen: Honestly, I don't know.

Senator HENDERSON: Do you have any information in that regard?

Mr Allen: No. It's not something we're monitoring or analysing.

Senator HENDERSON: Minister, do you have any information about what the indexation might be?

Senator Gallagher: No.

Ms D Brown: The forecast for the CPI headline for 2023-24 is 3¾.

Senator Gallagher: That's in the budget papers. I'm not sure how it's settled in terms of—

Ms D Brown: I'm not quite sure how that translates to the indexation, but that gives you a sense of the rate of inflation.

Senator HENDERSON: There were a number of errors made when the Department of Education identified a number of students whose loan records were not transferred to their ATO loan account. Indexation was waived in relation to those errors. That cost \$74 million. Have there been any other similar errors along those lines?

Mr Allen: No, not that we're aware of.

Senator HENDERSON: Has there been any waiving of student indexation?

Mr Allen: No.

Senator HENDERSON: Commissioner, in relation to the failure of the ATO to provide the answers that I asked for: can you give me a commitment as to when that information can be provided? Mr Allen is very much across what that information is. We have education estimates tomorrow, and our job to scrutinise the government, and it's just not good enough that we are being stonewalled. This has been two estimates in a row.

Mr Jordan: I don't think it's been intentional, but if I could—

Senator HENDERSON: It doesn't look good, I have to say.

Mr Jordan: What's the best effort—

Mr Allen: We're happy to review those questions and—

Senator HENDERSON: Is there any way you could provide some of that information this evening?

Mr Allen: We'll have a look at that.

Senator HENDERSON: In my capacity as the shadow minister for education, I am going to be—no, I'll put that on notice.

Senator DEAN SMITH: I will follow up on two matters. Earlier today, Deputy Secretary Reinhardt and I had an exchange in regard to the 10 cost-of-living relief measures totalling \$23 billion. The deputy secretary was reading from a document, and I asked if she would be good enough to table that document, and she agreed to table that document but I don't think it has been provided to the committee.

Senator Gallagher: I don't think she agreed to table the document.

Senator DEAN SMITH: I think she did.

Senator Gallagher: I was listening. She said, 'I'm happy to table the information', or something like that. I don't think she agreed—

Senator DEAN SMITH: No. I was sitting right here and I'm sure she nodded to me in approval.

Senator Gallagher: Yes, I was too; I was listening as well. I can check the *Hansard*, but she did say she would table the measures—or the content, essentially.

CHAIR: That's right, yes.

Senator DEAN SMITH: So you'll check the *Hansard*?

Senator Gallagher: I'm not going to check the *Hansard*. That's my recollection of it.

Senator DEAN SMITH: My recollection is very different: I was sitting here and Deputy Secretary Reinhardt was right there.

CHAIR: I now know what you are referring to, Senator Smith, and—

Senator DEAN SMITH: No. We just had an exchange when I was very, very clear about what we were referring to and you were not so clear.

CHAIR: Yes, but I am now, and I remember her. She was reading from a document, and you said, 'Can you table that document?'—

Senator DEAN SMITH: Yes.

CHAIR: and she said, 'I can provide the information.'

Senator DEAN SMITH: And she nodded in agreement.

Senator Gallagher: Yes. She used different language than 'I agree to table the document.' She did.

Senator DEAN SMITH: That's not my recollection.

Senator Gallagher: It's lucky we have *Hansard*. Record everything!

Senator DEAN SMITH: So someone is going to check the *Hansard*?

Senator Gallagher: Well, that's my recollection. You're the one that's saying it's not accurate.

Senator DEAN SMITH: The deputy secretary can review her evidence and, if it's not as you think it is—

Senator Gallagher: We will see how we can assist you further, Senator Smith, as always.

Senator DEAN SMITH: If it's not as you think it is, then the deputy secretary can table that document.

Senator Gallagher: As always, we can see how we can assist you.

Senator DEAN SMITH: I will just go to another matter that we discussed earlier today, Senator Gallagher. That was in regard to the \$40 million spin unit. Mr Chalmers is on the record as having made some comments in regard to the matter, so I'm hoping that you can cooperate and answer two simple questions for me. What was the

date that the portfolio budget additional estimates statements were finalised? A second question is: what was the date on which they were released?

Senator Gallagher: I don't have those dates in front of me. Someone will provide them to me and I'm happy to read them to the committee.

Senator DEAN SMITH: Great. This evening?

Senator Gallagher: Yes, I'm sure.

Senator DEAN SMITH: That would be great. Thank you very much. I just want to turn to the government's commitments around charities. Can we have a progress update on the harmonisation of fundraising laws in Australia?

Ms Berger-Thomson: That's actually a question for marketing.

Senator DEAN SMITH: Do you have a level of familiarity with the issue?

Ms Berger-Thomson: Only very, very high level.

Senator DEAN SMITH: On notice then, what I'm interested to know for each and every one of the jurisdictions is: What is the status of the harmonisation of fundraising laws? If those laws are harmonised, on what date were they harmonised? For those jurisdictions where laws are not yet harmonised, what is the implementation plan and what is the government's understanding of the implementation plan for each of those jurisdictions?

The reason I say 'implementation plan' is that Minister Leigh's office sent me some information just this week which said that states and territories had confirmed that implementation plans are in place and legislation is advancing across jurisdictions, with commencement expected throughout 2024. That was his answer to my question about what the current status of harmonisation laws is. So his answer to me was suitably vague, and I'm hoping that your answer to me will be much more precise.

Can I ask also, then, about the status of the charity not-for-profit sector blueprint. I'm keen to understand what the Treasury's responsibilities are, as opposed to those of the Department of Social Services. On 1 November last year, the Minister for Social Services announced the release of an issues paper inviting sectorwide contributions, and the closing date for those contributions was 20 December 2023. A first question is: what's the delineation of responsibilities between the Treasury and the Department of Social Services?

Ms Baudinette: The Blueprint Expert Reference Group was tasked with delivering the NFP Sector Development Blueprint. Treasury attends meetings of the BERG only in an observer capacity. The BERG issued an issues paper.

Senator DEAN SMITH: The BERG being the blueprint expert advisory committee or group?

Ms Baudinette: The Blueprint Expert Reference Group, as we call it. They issued an issues paper on 1 November 2023, and consultation for this ended on 20 December 2023. DSS are leading that, and any questions on that issues paper should be directed to DSS.

Senator DEAN SMITH: So, at this point, there is still no blueprint?

Ms Baudinette: No.

Senator DEAN SMITH: Thank you. What is the expected—

CHAIR: Senator Smith, can this be your last question?

Senator DEAN SMITH: And then we can come back to me?

CHAIR: Yes.

Senator DEAN SMITH: What is the expected finalisation date of that blueprint document?

Ms Baudinette: There is no expected finalisation date yet, because they're still doing their consultation. They are hoping to speak to as many people as possible, and they haven't got a set date.

Senator DEAN SMITH: For the release of the blueprint?

Ms Baudinette: That's right, and you'd have to ask DSS further questions on that.

Senator DEAN SMITH: Don't you think it would be helpful for working groups and blueprint architects to have a deadline to be working towards?

Ms Baudinette: I think that would be a question for DSS.

Senator DEAN SMITH: I look forward to coming back.

CHAIR: Senator Shoebridge.

Senator SHOEBRIDGE: It's nice to see you all this afternoon. Can I ask the ATO: what have been the legal costs that have so far been expended on prosecuting poor old Mr Richard Boyle? What have been the internal costs, and what have been the external costs?

Ms Curtis: I think we're going to have to take that on notice. I know we don't have that in our estimates folders.

Senator SHOEBRIDGE: This is an ATO responsibility, though, isn't it? I was told by the Attorney-General's Department that it was the ATO which was the cost centre for paying for the legals to prosecute Mr Boyle.

Ms Curtis: I will have to take that on notice.

Mr Jordan: Let me clarify, because it's the CDPP that is carrying the case. They're doing all the legal work and briefings. So I'm not sure if it is our cost centre or if it's just the CDPP. I think—

Senator SHOEBRIDGE: Well, to the extent that there are any ATO costs, could you tell me the ATO costs, internal and external, and, to the extent that you've been kept advised by the CDPP, could you tell me what their costs are in relation to Mr Boyle? You see, the Attorney-General's Department were able to tell us the cumulative cost for prosecuting Mr McBride, but they were quite confident that you were the cost centre for prosecuting Mr Boyle.

Mr Jordan: We could well be.

Senator SHOEBRIDGE: Could I ask you quickly about a quite disturbing incident involving Catholic Bishop Christopher Saunders—and this is probably to the charities. There have been allegations raised against Catholic Bishop Christopher Saunders, who's from the Broome diocese. He was the person responsible for nine charities registered with your organisation, Ms Woodward. Most of them were basic religious charities, but one of them was in fact a registered not-for-profit, the Kimberley Native Mission Fund. Have you undertaken any investigations in relation to any of those charities, given that the allegations concerning Bishop Saunders include using church and charity funds to groom young men?

Ms Woodward: I am aware of that media article. We don't comment publicly, because of our secrecy provisions, about whether or not we're investigating any particular charity.

Senator SHOEBRIDGE: We've seen statements about investigating Hillsong, and we know that you're investigating Hillsong. I assume that investigation is still ongoing, Ms Woodward.

Ms Woodward: The reason we made a statement about investigating Hillsong was twofold. Firstly, it came in the context of correcting the record about the whistleblower claim to make it clear that we're not able to accept whistleblower complaints. Secondly, it was done with the consent of the charity in that case.

CHAIR: Last question, Senator Shoebridge.

Senator SHOEBRIDGE: How can the public or any of the people who donated to those nine charities for which Mr Saunders is listed on your website as being the responsible person have any satisfaction that something is being done about this if it's just silence from you as a regulator?

Ms Woodward: If my memory is correct, the register now shows that he is no longer a responsible person associated with those charities. I'm certainly happy to check the register.

Senator SHOEBRIDGE: Was that a result of regulatory activities that you undertook?

Ms Woodward: Because of my secrecy provisions, I can't discuss any investigation or whether any investigation was undertaken.

Senator SHOEBRIDGE: I assume you can't tell me whether there were any efforts made to recover the moneys that he allegedly spent from the charity to groom young men?

Ms Woodward: Criminal behaviour would obviously be a different organisation to us. We do not have criminal powers.

Senator SHOEBRIDGE: Recovery?

Ms Woodward: No, we don't have those powers. With criminal matters, we certainly work very closely with the criminal agencies.

Ms D Brown: Just so you are aware, there was an announcement in the 2023-24 budget by the government to reform those secrecy provisions, and we're in the process of reforming those secrecy provisions to allow some information about ongoing investigations to become public.

Senator SHOEBRIDGE: Do you have a time frame for achieving that?

Ms D Brown: There's actually a bill in parliament right now, the Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023. It's an element of that bill.

CHAIR: Thank you, Ms Brown. Thank you, Senator Shoebridge. I call on Senator McDonald.

Senator McDONALD: I've just provided the committee with a newspaper article from today that I'd like to table. These questions are to the department—to you, Ms Brown. It's with regard to an article in the *Australian* today headed 'Ross Garnaut and Rod Sims propose a \$90 per tonne carbon tax on fossil fuel companies, exports to fund green energy'. I don't know if you've had an opportunity to see that. Has the Treasurer's office asked Treasury to meet with the two professors to discuss their tax proposal reported in the *Australian* today?

Ms D Brown: I'm not aware that there was a request for a meeting. I am aware that we meet on occasion with both Mr Sims and Professor Garnaut. Given the subject matter, it would have most likely been a meeting with the deputy secretary for Macroeconomic Group. They have a climate change division, so I'm happy to take that on notice and check.

Senator McDONALD: Thank you. In the article, Mr Sims says that he briefed Treasury on the plan on Tuesday. Could you take this on notice: has Treasury been asked to do any analysis on this proposal, and has it been asked to report back to the Treasurer's office on this proposal?

Senator Gallagher: I'm sure we can see if there's anything further we can add, but I would point you to Minister Bowen's comments quoted in the *Australian* today: 'The Albanese government is not considering and will not implement anything like a carbon solutions levy.' I don't know if that helps to clarify that.

Senator McDONALD: I did read that. I also read Minister Husic's comments, and I couldn't help but notice the number of comments on those articles where people have referred back to the Rudd-Gillard-Rudd commitments or lack thereof. There's some concern that, the moment a minister absolutely rules something out these days, it's absolutely on the table.

Senator Gallagher: We've been playing that game all day today in this committee.

Senator McDONALD: It's the feeling of the community.

Senator Gallagher: I don't think it is. I think it's politics and scare campaigns, and when you've got nothing else, what do you do? You whip up another scare campaign and you try to put fear into people—

Senator McDONALD: We'll watch with interest—

Senator Gallagher: That's the opposition's way of operating, because you've got nothing positive to contribute.

Senator McDONALD: No, it's what the community is asking us, so we're trying to reflect that back and hold the government to account on being consistent with its commitments.

Senator Gallagher: I don't accept that. I think that's a convenient way of explaining your behaviour—

Senator McDONALD: That is the end of my questions.

Senator BRAGG: Can I ask you about some taxation legislation. There's a bill in the parliament seeking to impose a new tax on balances above a certain threshold. Will that apply to the politicians in this building like Mr Albanese and Ms Wong?

Ms D Brown: Taxation managed by superannuation is managed through Markets Group, and they're up next. You might want to save the question for them.

Senator BRAGG: Then they'll be prepared for my very excellent question! I have a couple more random things to ask you about. This is, perhaps, an easy one. I want to ask you about the YourSuper comparison tool.

Ms D Brown: Again, superannuation is Markets Group, but they appreciate the advance notice.

Senator BRAGG: I thought the ATO—

Senator Gallagher: I think markets—

Senator BRAGG: Who runs the comparison tool. Is it you?

Mr Hirschhorn: We do maintain the comparison tool; we effectively host it.

Senator BRAGG: Can I ask you a question about it?

Mr Hirschhorn: You certainly may, and I might bring up my deputy commissioner, Ms Rosenzweig.

Senator BRAGG: Does the comparison tool take into account the APRA performance test?

Ms Rosenzweig: The comparison tool only currently displays the MySuper products, and we publish the results of the APRA performance test for those products on the comparison tool.

Senator BRAGG: Have you not changed the measurement of investment performance from net returns to net investment returns, which aligns with the APRA process?

Ms Rosenzweig: That would be a question for APRA.

Senator BRAGG: But don't you run the thing?

Ms Rosenzweig: We publish the results. We don't undertake the assessments.

Senator BRAGG: It has been put to me by various people, including the Actuaries Institute, that the ATO's comparison tool does not take into account APRA's performance testing. Is that right or not?

Ms Rosenzweig: As I said, we publish the results that APRA provide us.

Senator BRAGG: So you think this is a question for APRA—or is it a question for markets?

Senator Gallagher: Wouldn't it be great to bring them on.

Mr Hirschhorn: I suspect it is a question for either or both of markets and APRA. You can think of us as basically hosting a website with data that we are provided. We don't separately manipulate or consider the data. We publish the data we are told to publish.

Senator BRAGG: Is that right, Minister—that I should talk to Markets Group about this? You think that's right. You've obviously thought about that deeply.

Senator Gallagher: I have. I thought about that for as long as it took Jeremy to nod at me!

Senator BRAGG: Thank you very much for that; that was great.

Senator Gallagher: Unconvincing.

Senator COLBECK: I have a couple of questions in relation to the consultation processes you were talking about before, on the legislation program, as I'll call it, from 10 December to 21 January this year. Did you get any requests for extensions to that consultation process? I had some feedback that there was some concern about capacity within the sector to look at it properly and then respond appropriately over the Christmas break. Living in the world of a right to disconnect, it became an issue.

Mr Maher: You're right that, with the consultation occurring across the Christmas period, that was something that was raised with us. We have done what we can to accommodate that. For example, we conducted a couple of roundtables with interested participants and were in constant—

Senator COLBECK: Were there Christmas bonbons on the table?

Mr Maher: Pardon me?

Senator COLBECK: Sorry. I'm being sarcastic; I shouldn't do that.

CHAIR: There's no time for that before 7 pm. We're nearly there.

Mr Maher: We did receive some requests for extension and accommodated those.

Senator COLBECK: Do you believe that you've had a reasonable response to the consultation, in terms of the people that you would normally deal with?

Mr Maher: Yes.

Senator COLBECK: I just want to go to another process, and then I'll come to Mr O'Neill on the same matter. What was the consultation process in relation to the restrictions that were legislated prior to Christmas on membership of the TPB?

Mr Maher: Are you referring to the amendments that were made—

Senator COLBECK: To the broad membership of the TPB.

Mr Maher: as part of the parliamentary process?

Senator COLBECK: Yes.

Ms D Brown: I think that was an amendment by the Greens.

Mr Maher: Yes, I think that was an amendment put forward by the Greens.

Senator COLBECK: So there was no process undertaken by the Treasury in relation to those amendments?

Mr Maher: In relation to those—

Senator COLBECK: That was the complaint of the accounting profession, for example: that there was no consultation.

Ms D Brown: Amendments moved during debate in parliament are really a decision of parliament. Ordinarily, consultation—

Senator COLBECK: Was there any consultation with you in relation to that, given that it was a negotiated process to get a piece of legislation passed? Were you consulted about those provisions and what their impact might be?

Mr Maher: I believe the department did provide advice to the government, to the minister in the usual way. That wasn't directly through my team, but we can take on notice anything further on that.

Senator COLBECK: If you could, please. Mr O'Neill, given that I'm rapidly running out of time, can you give us a sense of what the implications for that amendment are going to be for the TPB and whether or not, and perhaps how, it will restrict your access to skills to fill out your board, given that it limits the size of a business that somebody is working in to 100, I think. Anyone who works in larger businesses can't be a part of your board, as I understand it. How are you going to apply this?

Mr O'Neill: Ultimately, questions of who the board comprises are matters for the minister.

Senator COLBECK: I understand that.

Mr O'Neill: The community requirement—if I can summarise the amendment as the community requirement—says something about the size of a firm for practitioners who are appointed to the board and also says something about practitioners who are on continued benefits following retirement from a firm. So it raises some restrictions around both of those criteria. It still leaves it open to the minister to make a decision in relation to skilled people who would bring both tax practitioner and other regulator experience to the board, it seems. There have been three recent appointments by the minister to the board. All of them seem to be eminently qualified people in terms of their regulatory roles and their roles as legal practitioners. The amendments—

Senator COLBECK: It will limit your pool, though.

Ms D Brown: I think there are a range of skills that that board needs.

Senator COLBECK: I'm not saying that. I'm just saying that the—

Ms D Brown: The restriction imposed by that amendment will affect some of the skill sets of members, but there are a whole lot of other members, other pools, that the board could access to make sure it has the appropriate skills that it needs. So, yes, it applies some restriction, but I don't think it will be binding on making sure that the TPB has appropriate members with the appropriate skills and backgrounds.

CHAIR: Final question, Senator Colbeck.

Senator COLBECK: When you say 'binding', do you mean 'limiting'?

Ms D Brown: Limiting, yes. Look at who the commissioner's new appointments were.

Senator COLBECK: Were they made pre or post the legislation?

Ms D Brown: They were made pre. None of them would have been caught by the—

Senator COLBECK: So it's a moot point in that sense.

Ms D Brown: Yes.

CHAIR: Senator Smith?

Senator DEAN SMITH: I just have some questions in regard to governance standards and definitions then I want to go to a specific matter and then, very briefly, the consequence of the successful passage of the Treasury laws amendment bill, which will widen your ability to share information with the public. So when we are thinking about governance standards 3 and 6, could they be interpreted to include spreading false information about someone or someone else's business, or deliberately lying to or misleading the relevant charities, clients or other stakeholders?

Ms Woodward: Sorry, I'll have to ask you to refresh me what governance standard 3 is.

Senator DEAN SMITH: One is about public confidence—I forget if it is 3 or 6—and the other is about—

Ms Woodward: Is it about governance standards or objects?

Senator DEAN SMITH: It is about governance standards. Governance standard 3 is compliance with Australian laws, and governance standard 6 is maintaining and enhancing public trust and confidence. My question was: When thinking about those two standards, could either or both be interpreted to include spreading false information about someone or someone else's business, or deliberately lying to or misleading a relevant charity's clients or other stakeholders?

Ms Woodward: The government standard about complying with Australian laws is very broad, so it does include laws around defamation. I think that's what you are referring to. Obviously, it's the standard—

Senator DEAN SMITH: That answers the question. So is a broad approach taken to the operation of the standard?

Ms Woodward: It is a broad governance standard, yes.

Senator DEAN SMITH: My second question is: Would a referral that was made on the basis of proven misconduct in a court case typically be the kind of incident that you would be obliged to formally instigate if it was referred to you?

Ms Woodward: When we look at taking investigations, we obviously have a risk matrix. The evidence that comes to us and the quality of that evidence will be one part of the assessment. The seriousness of the particular breach of Australian law, if you like, would be relevant and, obviously, the resources we have and who is the best placed regulator to investigate. Some breaches of Australian law will involve state based regulators; it might be criminal investigations or it may be other parts of other regulatory bodies.

Senator DEAN SMITH: But a proven misconduct in a court case would have a high level of standing when thinking about an investigation?

Ms Woodward: In terms of the probity of the evidence that would be gathered in order to make it investigation, obviously a proven offence, if you like, would carry more weight. One thing I might add there is our responsibilities in relation to the charity. There are sometimes situations where court cases or offences are proved against individuals. They might be individuals who volunteer for the charity, might be employees, might be responsible people, which can change the nature of the remedies that we have which are against the charity itself.

Senator DEAN SMITH: I will come to a particular case very shortly. Is there a component of your standards that addresses those cases where a charity potentially interferes with or obstructs another organisation from carrying out its lawful business or making profits?

Ms Woodward: Sorry, I'm not quite sure I understand what you mean by that.

Senator DEAN SMITH: When we think about the six standards, is there a particular standard that sort of addresses cases where a charity potentially interferes with or obstructs another organisation from carrying out its lawful business?

Ms Woodward: If that's a breach of Australian law then that could bring that particular standard into question, yes.

Senator DEAN SMITH: In the judgement of Federal Court Justice Natalie Charlesworth on 15 January this year, an organisation known as the Environmental Defenders Office was clearly found to have committed what was grossly fraudulent, unethical and deceptive conduct in the Munkara v Santos case. In particular, they were found to have fabricated and confected evidence, and coached and manipulated witnesses. Justice Charlesworth also said the claims were 'so lacking in integrity that no weight can be placed on them'. On the basis of those actions and those comments from the Federal Court justice, has the conduct of the EDO, which is a registered charity, been referred to the ACNC? Is it under investigation?

Ms Woodward: I cannot comment in line with the secrecy provisions about whether we are investigating a particular charity or not.

Senator DEAN SMITH: The secrecy provisions as they stand. If the Treasury law amendment bill is passed, that widens your ability to provide information to the public about investigations. Is it the intention of the ACNC at that point to provide a list of all the investigations that are currently underway, or only to provide information about investigations post that date as required? Perhaps the deputy secretary may have a view.

Ms D Brown: I'm happy to kick off, and then Ms Woodward can speak to the implementation.

Senator DEAN SMITH: And this is my last point.

Ms D Brown: Disclosure of that information will still be limited. It will not be as limited but it would need to be disclosure if necessary to prevent a public harm. So it won't be every investigation disclosed; it would those that meet that criteria.

Ms Woodward: It is only draft legislation at this point, so it's very hard to know. But, as drafted, it only allows the stating of the fact that there is an investigation or not, not the details of it, but it is draft legislation.

Senator DEAN SMITH: Thank you, Chair.

CHAIR: Senator O'Neill would like to put one question on notice.

Senator O'NEILL: To Mr O'Neill, in honour of the year that has passed since we had this last frank conversation, I asked you a year ago how many people from PwC International were involved. I was shocked

when I think you responded '20 to 30'. We have seen emails with 66 people named. The number seemed quite extraordinary. Today you have given evidence that the Linklaters report, which names six individuals that my colleague Senator Colbert has named the 'dirty six', is a complete underestimation of how many people may be involved, which is another layer of deception, in this instance by PwC International. Do you have any evidence you could provide—if necessary, on notice—for us about how many people are involved, and could you further add to the ATO's evidence around the jurisdictions that you are aware of being involved?

Mr O'Neill: I would have to take that on notice.

Senator O'NEILL: That's fine, thank you. I would appreciate your careful response.

Mr Hirschhorn: Chair, if we are wrapping up, earlier on, Deputy Commissioner Thomson took a question on notice from Senator Bragg which we have an answer for.

Mr Thompson: The data on the number of withdrawals, people who withdrew their application for a residential real estate application, is on page 226, table 42 of the Treasury annual report. For the most recent year, it was 74.

CHAIR: Thank you very much to the representatives of revenue. Commissioner Jordan, thank you very much. We're glad we were able to share your final estimates appearance with you. We thank you again for your service and you go with our thanks.

Mr Jordan: Thank you, all.

[19:09]

CHAIR: The committee resumes with representatives from Treasury Markets Group. Welcome, Mr Philp and team. I go straight to Senator Bragg.

Senator BRAGG: I hope you were watching outside. The first question is: in relation to the new super tax, have you worked out how that will apply to Mr Albanese and Ms Wong and the like?

Mr Philp: No. I'll ask Mr Hawkins to take the question.

Mr Hawkins: You'll be aware that legislation has been introduced by the government which sets out the broad parameters of how the tax will operate. It provides that regulations can be made to set how defined-benefit interests can be valued for the purposes of the change in total super balance from year to year. We're actively working on those regulations. I can confidently say that defined-benefit members will have their interests valued appropriately and commensurately to accumulation members, and so that will apply to people, like the Prime Minister, who are members of schemes that have defined benefits.

Senator BRAGG: You're not going to put that in the bill; you're going to make it as a reg, are you?

Mr Hawkins: The valuation is a very complex process for defined-benefit interests. Not all types of defined-benefit interests can be valued in the same way. To take a very simple example, if you had an annuity-type product, you would value that differently depending on when it started and when it ended. A deferred annuity might increase in value before payments started and then decrease after they started. There will be various valuation approaches that will need to apply based on what type of product the member is in.

Senator BRAGG: Do you think, in the interests of fairness, it would be better if you were to make the regulations or put it in the main law how it will apply to people like the Prime Minister?

Mr Hawkins: The decision to include it in regulations is to provide that flexibility where there might be certain types of products that need a valuation approach, assessed after the tax actually commences. It gives us the flexibility to adjust those valuation approaches.

Senator BRAGG: I think it's a shame that the public won't be able to see how this is going to work for public servants. They'll only be able to see how it's going to work for the public.

Senator Gallagher: They will, through regs.

Senator BRAGG: But the regs haven't been made.

Senator Gallagher: But the government has made it clear in a statement that it will be applied to defined-benefit schemes as well, and there will be a regulation-making power with which to do that, because of the technical reasons that the evidence has just provided. You're opposing it anyway.

Senator BRAGG: But we don't have the regs.

Senator Gallagher: Yes, but you're opposing the law, the bill.

Senator BRAGG: All we have is a power in a bill. We have no detail here. There's no information about how this will apply to people like the Prime Minister.

CHAIR: We have an inquiry on the bill as well.

Senator Gallagher: It will apply. The intention is that it does apply.

Senator BRAGG: So we should just trust you that there is going to be a future regulation?

Senator Gallagher: Has there been the inquiry on the bill?

CHAIR: The bill has been referred to the Senate legislation committee. There will be an inquiry.

Senator Gallagher: So you can go through all the—

CHAIR: It's not only in the standing orders but generally the custom that we don't deal with questions that are live in another inquiry.

Senator BRAGG: It doesn't seem right that the public have one standard, and we are treating politicians differently.

Senator Gallagher: It's not. I think it's the difference between accumulation schemes and defined-benefit schemes. It's not about politicians versus the public.

Senator BRAGG: When will the regs be made? When will we see the regs?

Mr Hawkins: We are actively working on those regulations with government. It's obviously a matter for government as to when to release those, but we're very actively working on them.

Senator BRAGG: But this year?

Mr Hawkins: Again, it's a matter for government to decide as to when to release it, but—

Senator Gallagher: I think the intention would be that they commence when the changes as proposed under the law commence, which is in 2025, is it?

Mr Hawkins: That's correct.

Senator Gallagher: Yes, 2025.

Senator BRAGG: It doesn't sound very good.

Senator Gallagher: The approach would be that it would start at the same time. One has to be dealt with differently. It's not about public versus politicians; it's about how you apply the same standard across the board on high-balance accounts.

Senator BRAGG: It doesn't sound good or convincing, I'm afraid.

Senator Gallagher: Well, it's—

Senator BRAGG: We'll move on. Let me ask you about this comparison tool that the ATO, perhaps fairly, didn't want to go into. The point that's I think been made by the Actuaries Institute and others is that there's a comparison tool available to members, or prospective members, and the APRA performance numbers may not be considered in that data. What is the actual position?

Ms Kelly: The YourSuper tool is hosted by the ATO. It has three sets of information—three columns. The first one is net investment returns, the second one is admin fees and the third column is pass or failed on the performance test. This information is provided by APRA based on their calculations and housed on the ATO's website. So, it does include net investment returns—

Senator BRAGG: It does?

Ms Kelly: Yes.

Ms Kelly: It has always included the three columns. It's updated each year when the performance test is run each year. The only thing that changed last year was that the default sorting was changed. Previously the default sorting started with fees. Now default sorting is around net investment returns.

Senator BRAGG: Alright. Thank you. What's the story with this wholesale investment test? What sort of trouble are you causing down there at Treasury?

Ms Kelly: Having a look at the wholesale investment test is part of the terms of reference for the managed investment scheme review. That was announced in October 2022. The wholesale investment test is important to managed investment schemes because most schemes, to be applied to retail investors, have to be registered, and then under the Corporations Act there's a whole bunch of different things that apply around the governance to those kinds of schemes. It's also relevant to the consumer protections for retail investors.

Senator BRAGG: Yes. I understand that.

Ms Kelly: This threshold has not been reviewed since it was first put in place in 2001. So, the terms of reference seem to ask us to have a look to see whether it's still the right threshold.

Senator BRAGG: Is this something the government proposes to do, Minister?

Ms Kelly: The review's still in process. We haven't yet handed our report to government. So, it's still in process. There's no advice yet for government to act on.

Senator BRAGG: I mean, given the appalling enforcement record of ASIC, do you think it would make much difference if more people were treated as retail clients, for the purposes of the law?

Ms Kelly: Obviously I'm not going to make any comment about the performance of ASIC—

Senator BRAGG: Why not?

Ms Kelly: but I will say that the consumer protections have recently been strengthened quite considerably. So, it is important to look at whether the threshold is still right for retail investors, given the strength of consumer protections around design and distribution and around dispute resolution. So, it's about looking at consumer protections and whether the settings are still right, given that the managed investment scheme rules were first put in place in 1998 and there hasn't been a government led review of this for more than 20 years, so it's about looking at the settings.

Senator BRAGG: Was there a review in 2011 into this?

Ms Kelly: There has been a number of reviews. This is about the government led review. There have been reviews by different organisations, but this is the first government led one.

Senator BRAGG: In my understanding there was a wholesale retail client review in 2011.

Ms Kelly: In terms of previous reviews, there was a review by the Corporations and Markets Advisory Committee in 2012 and there have been some parliamentary inquiries since then—the PJC inquiry in 2009 after Timbercorp and Great Southern, and there was a PJC inquiry into the collapse of Trio Capital in 2012. Then there was the Senate Economics Reference Committee inquiry into forestry management schemes in 2016. Lastly, there was the Senate Economics Reference Committee inquiry into Sterling Income Trust in 2022. But this is the first look at the settings more generally for managed investment schemes in more than 20 years.

Senator BRAGG: What's the timetable?

Ms Kelly: Our report is due to government in the first few months of this calendar year.

Senator BRAGG: How many submissions have you received?

Dr Moore: We're up to over 60 submissions now.

Senator BRAGG: Have many submissions canvassed this concern—that having a more paternalistic approach will close out avenues for people who want to get exposure to asset classes that are the preserve of the very rich?

Dr Moore: Most of the submissions that we've received have been made public, so they're available for everybody to see. It's fair to say that on this issue there's a spectrum of views. Views have been expressed that those thresholds should increase. Some have suggested they should increase in line with inflation. Others have said that they should stay the same. Indeed, we've even had submissions that say they are too high as they stand and that they should be reduced.

Senator BRAGG: But this is not a review of managed investment schemes, is it? They have been subject to the broader reviews into the financial sector. This is a review of the wholesale retail test, isn't it?

Ms Kelly: There are a number of elements to the terms of reference. This is one.

Senator BRAGG: What's the main focus?

Ms Kelly: It's really about looking at whether the settings are still fit for purpose. The thresholds issue is one. Others are whether certain managed investment schemes should be marketed and sold to retail investors, whether the roles and obligations of responsible entities and governance compliance and risk management frameworks are appropriate, and whether investor rights for people investing in managed investment schemes are appropriate. It's looking at liquidity arrangements. It's looking at whether an insolvency regime—

Senator BRAGG: But would you accept that this wholesale retail test is a key component?

Ms Kelly: It is a key component, but it's one of many.

Senator BRAGG: What are our good friends at ASIC saying you should do?

Dr Moore: That submission is public. On this particular issue, their view, as expressed in that submission, was that the thresholds should increase in line with inflation.

Senator BRAGG: If they were to increase then they would have a larger community to look after, in effect, wouldn't they?

Dr Moore: Relative to no change, there would be fewer people who would qualify for the wholesale—

Senator BRAGG: That's right. I just want to come back to this, because this is a key point. Effectively, if we take ASIC's view and expose more people to a higher level of consumer protection, assuming that that works, then we would have a very different situation to what we have today. Are you saying that the Treasury doesn't have a view on ASIC's enforcement record in retail financial services?

Ms Kelly: We don't provide our opinions in these forums. We provide information about the work that we're doing. You're asking for my opinion.

Senator BRAGG: I'm asking for an opinion of either the minister or the department on the efficacy of the law enforcement that we have in Australia in relation to the regulation of these schemes.

Mr Philp: The evidence we've given is that we can't express an opinion on the performance of ASIC.

Senator BRAGG: I'll ask the minister then. I was wondering whether you have a view on the quality of law enforcement in Australia in relation to retail financial services and how effective ASIC has been at protecting consumers under the arrangements that exist for retail clients.

Senator Gallagher: Is the government satisfied with how ASIC is performing?

Senator BRAGG: Yes, that's pretty much the question.

Senator Gallagher: That's probably a matter that's best answered by the minister who is directly responsible and who works with them more directly than I do, but yes.

Senator BRAGG: So you don't have a view?

Senator Gallagher: I'm saying, yes, the government is satisfied. With regulation there are always areas that you need to improve. It's almost a continuous improvement arrangement. But I don't work directly with ASIC very often. In fact my dealings with them are primarily sitting here at the table in estimates I'm saying that if you wanted a more detailed view from the government, it should be answered by the Assistant Treasurer.

To answer Senator Smith, the evidence from Ms Reinhardt was in response to your question of whether she could table the document. She replied, 'I am able—

Senator DEAN SMITH: The full quote is 'reading from'.

Senator Gallagher: Yes. 'I am able to table the details of that in response to you,' and then you said, 'Great, thank you very much,' and then we moved on. That will be provided to you.

Senator DEAN SMITH: And the other matter?

Senator Gallagher: I'm coming back to you on that.

Senator McKIM: I have some questions regarding the competition review taskforce. I have some broad questions around the scope of the work that the taskforce is engaged in. I'll come to the consultation paper around merger and reform a little bit later—I'm aware of that and its contents. Is the taskforce considering things like divestiture powers as part of its work?

Mr Philp: No, not at this point. We are aware that it has been made prominent with the recent report, but no, it's not something we're considering at this time. We're prioritising our efforts behind the merger provisions.

Senator McKIM: Is that a result of constraints within the terms of reference or the request that the Treasurer made for the taskforce to conduct this work? Or is it simply a judgement call within the department about the focus of the work?

Mr Philp: It's a judgement call not confined within the department. Our work is guided by the Assistant Minister and the Treasurer as to the areas to prioritise. It's also guided by the consultation that we've had with the regulators—like the ACCC—and the expert panel that assists us as to what those areas of priority reform should be, particularly those within the Commonwealth's control. There's also the national competition policy stuff, which is separate.

Senator McKIM: Is there anything in your terms of reference or any instructions that you have from either the Treasurer or the Assistant Treasurer that would preclude the taskforce from considering divestiture powers as part of its work?

Mr Philp: Not to my knowledge. I'll check with my team if there's something in their minds.

Mr J McDonald: Unless we're directed to look at it, we won't be looking at it. The consultation paper on mergers outlines the scope of the task that we've been asked to look at.

Senator McKIM: My question was: is there anything in the terms of reference or in the instructions from the Treasurer or Assistant Treasurer that would prevent you from looking at it? You've been very clear in your

answer, and I accept that's your position, but given the ACCC's view, the divestiture powers would result in, for example, lower food-and-grocery prices in Australia—that's from Ms Cass-Gottlieb in previous estimates, and I'll ask her again about that later on this evening. I don't understand why you're not looking at it, which is why I'm asking you whether there's anything in your terms of reference, or in instructions from relevant ministers, that would prevent you from looking at it.

Mr J McDonald: The way the taskforce prioritises is that we get asked to do things by the Treasurer, and at the moment we haven't been asked to do that. We certainly could if we were asked to do it, but at the moment we've been asked to look at mergers amongst—

Senator McKIM: Thank you, that's helpful. Did the Treasurer specifically ask you to look at merger as opposed to broader competition reform?

Mr J McDonald: Yes, mergers reform—particularly the proposals put forward by the ACCC.

Senator McKIM: I'll come to that in a minute. I'm aware of the three proposals. I'm sticking at the higher level here: again, I'd like some clarity around whether the Treasurer directed you to do work within the scope of merger reform or whether the Treasurer's direction was broader than that in terms of having a look at the entirety of potential competition reform.

Mr J McDonald: There are specific topics we've been asked to look at—merger reform, non-competes, aviation and national competition policy—and, within that scope, that's what we're looking at.

Senator McKIM: You'll do those directed from the Treasurer—no criticism from me there, since that's your job. But your evidence is clear that the Treasurer has asked you to look at particular elements of competition law, and divestiture powers were not one of those elements.

Mr J McDonald: That's exactly right.

Senator McKIM: That's helpful. In the same context, are you looking at things like potential price regulation of monopolies or the creation of an offence under the Competition and Consumer Act of charging excessive prices, as recommended by Professor Fels recently?

Mr Philp: Not at this stage.

Senator McKIM: Is that for the same reasons that we've just been through—that you haven't been directed to look at those things.

Mr Philp: That's right. The point to make is that the competition review is an iterative process, so it's over to the Treasurer to direct us to look at other things later on, but these are the matters that have been prioritised at the moment.

Senator McKIM: Is that because the Treasurer has directed you to look at particular things that don't include divestiture powers or the creation of an offence of charging excessive prices, for example?

Mr Philp: Yes.

Senator McKIM: Chair, I do have more questions for the Markets Group later, as I alluded to.

Proceedings suspended from 19:31 to 20:33

CHAIR: The committee will resume. The committee, in recognition of time issues, is in a position to release the AASB and the AUASB. We will resume with Treasury's Markets Group. Senator McKim, you have the call.

Senator McKIM: I want to tie off on a couple of matters that we were discussing just before the break. Is the direction from the Treasury that we were speaking about, which has resulted in the direction of the taskforce's work, a public document? Is that publicly available?

Mr J McDonald: Yes, it's a media release. Also, on the Treasury website, where it's got the competition review, there's a list of the projects that we're working on, and we provide regular updates on that as well.

Senator McKIM: Thank you. That's helpful. Is the actual direction of the Treasurer, which you spoke about earlier, a document, and is it publicly available?

Mr J McDonald: Yes. It's a media release. I think it's from 1 December—sorry, 23 August.

Senator McKIM: A media release is different to a direction. When you say you've been directed by the Treasurer, are you saying that you're working off a media release to inform the direction of the taskforce's work?

Mr J McDonald: That's the public statement that's—

Mr Philp: Senator, if it helps, there was a public statement in the media release, as Mr McDonald has mentioned. There's no direction in the sense of a direction to an independent agency, like the ACCC—say, the

supermarkets inquiry. Our work is being guided as a minister of a department would, in the normal sense, guide and direct the activities that they want us to look into.

Senator McKIM: Is there a minute that the Treasurer has signed off on? I've been a minister in Tasmania. I know how these things work. Surely there is a document. You obviously are not working from a media release—or I hope not. Surely there was a bit of advice that went up to the minister that you then—

Mr Philp: There are briefing materials in the normal course.

Senator McKIM: The reason I'm asking is that I'm interested in seeing the actual direction that you're working to. From what you're saying, it doesn't appear that there's a document that's available either to the committee or publicly that would allow us to understand exactly what the direction is. You say there's a media release, and I understand that, but that's not the document that's providing you with direction; that's what the Treasurer has said about how he is directing you, I presume—I haven't actually read it. How do I and the committee see exactly what the Treasurer has directed you to do? Is that possible for us, or do we just take it from what you've said here today?

Mr Philp: I'm happy to take that on notice. That is a brief in the normal sense between the department and Treasurer. Typically, we'd consult with the Treasurer and his office before we release those, like with an FOI. The media release, though, is quite detailed, and the briefing material is a subset of that operationalising it.

Senator McKIM: One of the reasons for my curiosity is the question in my mind as to whether there is a catch-all at the end that says 'any other relevant matters' or words to that effect. If you don't want to answer and want to take it on notice, I don't want to pressure you—

Mr Philp: I think maybe the point to make is that unlike a direction to, say, the ACCC to do something, which may have a broad term in it such as the one that you mentioned, the review is a work for government by a department. It's an iterative sense, so it will be added to over time as the work progresses. For example, we are consulting on the merger proposals. Once that work is complete, we will move to the next thing, and that will have further briefing material with the department and the Treasurer.

Senator McKIM: Minister, perhaps it's fair that I ask this question to you rather than your officials. I understand you're not the Treasurer, but would the government be open to considering any further directions that were given to the taskforce to open up the issues of divestiture powers for the taskforce to examine?

Senator Gallagher: That's not something the government is thinking about. I think we're happy with the terms of reference and the work that's going on.

Senator McKIM: It's an iterative process.

Senator Gallagher: It is. I've heard the Treasurer say that himself.

Senator McKIM: The taskforce released a consultation paper on the merger reforms. One of the options was supported by the ACCC. Is it correct to say that?

Mr J McDonald: Yes: option 3.

Senator McKIM: Where did the options spring from? Did they come out of the taskforce's work, or were they fed into the task force through a process?

Mr Bezzi: The consultation paper was worked up having regard to submissions and the position that the ACCC had put and the taskforce's understanding of the range of issues and possible ways of dealing with the various questions that arose as a result of the ACCC's submission. It was really the primary driver to our thinking. Then we thought of what might be sensible alternatives to the ACCC's proposal.

Senator McKIM: And they were be options 1 and 2?

Mr Bezzi: Yes. Option 1 was, as you would be familiar with, a voluntary judicial enforcement model. Option 2 is a mandatory suspensory judicial enforcement model. Option 3 is an administrative decision-making model.

Senator McKIM: Understood. Thank you; that's helpful. Submissions closed about a month ago, on 19 January, I think. Will those submissions be released publicly?

Mr Bezzi: That would be a matter for government, but a number have already been made public. To our knowledge, about 15 have already been published by the various parties that have made submissions. In the ordinary course, my expectation is that most of the submissions will ultimately be made public. There were some confidential submissions made that probably won't be made public.

Senator McKIM: You've said that's a decision for government, so where are we in the process now that submissions have closed and the taskforce is working through them or has worked through them?

Mr Bezzi: We're in the process of finalising advice to government.

Senator McKIM: That advice hasn't yet been provided to government?

Mr Bezzi: We've been having discussions with the Treasurer's office but, no, we haven't provided formal advice at this stage.

Senator McKIM: Would you expect in the normal course of processes like this that you would actually recommend an option as part of that advice?

Mr Bezzi: Yes.

Senator McKIM: Thank you. I believe that the taskforce released a paper summarising research to track mergers using worker flows in Australia and that the paper indicated merger activity by larger firms has increased over time. Is that an increase for a fair comment?

Mr Bezzi: I think it is fair. I might invite Doctor Freestone to elaborate.

Mr Freestone: As you say, essentially this is a new model that basically, for the first time, tries to get a comprehensive picture of merger activity across the economy. We've jointly undertaken it with people from the Reserve Bank and Australian National University and we've provided the early results on our website for people to look at. I think the next stage of the work is to think in more detail about how mergers affect different parts of the economy. That's something we're actively looking at at the moment.

Senator McKIM: Thanks. Did the task force disaggregate sectors in the economy as part of that work?

Mr Freestone: Yes. The database that we're using and developed is essentially all of the usual industries. You'd have the retail sector, the mining sector and all the other ones that make up the usual 19 industries. Again, the next phase is very much seeing how different industries have experienced measured activity and thinking about how that's affecting market outcomes.

Senator McKIM: It's interesting work. Within, for example, the retail sector, did you or would your datasets allow you to disaggregate even further the supermarket sector?

Mr Freestone: I would have to double-check it. The degree of aggregation is quite fine. The database it's based on is called Blade. Essentially, it's a database that has every business in the economy—so every ABNs. In theory you could break it down quite finely, so there might be capacity for that.

Senator McKIM: Could you take on notice, firstly, whether you are able to do that. I will specifically put the question in the context of the supermarket sector. If you are, is there any information you're able to provide the committee specifically with regard to merger activity in the supermarket sector?

Mr Freestone: I'd be happy to.

Senator McKIM: What sort of time frames are we looking at? How far back does it go?

Mr Freestone: The database is roughly 15 or 16 years. In the information we've published we excluded the COVID period. We think there was too much going on through that period to really get a clean look at the data. Essentially, it runs from about the early 2000 through to about 2019, so a pretty good time series.

Senator McKIM: Is the intention to publish that research or publish findings? Where does this end?

Mr Freestone: We've included some high-level results in Assistant Minister Leigh's speech to the Chifley institute two weeks ago. That's covered in that speech. We have, as I said, a product online on our taskforce website. It sets out the methodology and goes into those results. We are planning to put out a more detailed product, but that might not be for a number of months. But certainly we can look to provide the information you asked for.

Senator McKIM: Thanks. I appreciate that.

I asked Macroeconomic Group earlier today about insurance premiums. I think I was politely directed to you. I understand that there's been some work conducted by Markets Group around insurance premiums. I wondered, firstly, whether that kind of work would allow you to inform the committee about how steep the price hikes have been in insurance. In particular, I'm interested in home insurance—insurance for the housing stock in Australia—and whether that can be disaggregated into geographic areas or over time. Perhaps you could give a really broad overview of the work that you're doing, and maybe I'll have some more detailed questions.

Mr Philp: As the secretary mentioned earlier today, insurance is a topical issue and is becoming more so as insurance premiums are rising. The work that we're doing is layered out on a few levels. It's working with the Assistant Treasurer and, particularly, the discussions with the reinsurers, working with the reinsurance pool and what that means and how that's operating, and, ultimately, how the supply and demand is working. If we think about insurance as a product between the cost of recovery and the risk, as homes become more expensive and the risk to them becomes greater, whether they're built in a place that is more likely to be affected or because we've

had a number of significant weather events—flooding's a particular issue because it affects so many homes at the same time—premiums will increase. That's the kind of work that we're looking at. I'll ask Mr Preston to jump in in just a moment. There are a few pieces of work. However, on the risk side is where the Hazards Insurance Partnership and the DRF are becoming important—run by our colleagues out of NEMA.

On the cost side of things there are the ACCC monitoring reports—they're here tonight and they can talk to this. The most recent one for 2022-23 contains some data about the movement in premiums—particularly in the north: northern WA, Northern Territory and North Queensland—between household, business and strata, as well as some information on the aggregate for the rest of the country. APRA is doing some work this year on climate vulnerability assessments and what that's going to mean in the insurance sector. There are a few pieces. That's a long answer to your short question. I'll ask Mr Preston to add some details to that.

Mr Preston: I'll add a few elements, specifically getting to the data question. As part of providing advice we look across a range of data to inform our analysis. One good source is the ABS consumer price index. In the December quarter premiums rose 16.2 per cent through the year to December, which is the largest annual rise since 2001. That's a useful source for seeing the distribution of premiums.

The data we get out of APRA is different; it is focused on their mandate. They'll be on later tonight and could talk to this in more detail. That allows us to look at what's going on in different lines of insurance. A useful example there is that in the home contents line they've made underwriting losses, which is to say that the premiums they've collected have been less than the payouts over the last four years. That gives you a sense that it's really being driven by, as Mr Philp said, the underlying risk rising. It's a key driver of what's going on.

Senator McKIM: I presume that will drive premiums up, right?

Mr Preston: Indeed. Premiums have been going up over that period and, despite that fact, the sector has still been making regular losses.

Senator McKIM: Thank you for that. I've got one specific question. Do your datasets, and the work that you've done here, allow you to understand how many people are actually being priced out of the market entirely?

Mr Preston: It's a good question. I was warming my way up to that. The best data that exists on that dates back to some work that the ACCC did in 2020 in the lead-up to the reinsurance pool. There isn't actually an ongoing dataset that gets at insurance availability, if you like. Partly, the reason is that you need to know the census of households and who has, or does not have, insurance. But there is some work underway that will be looking to fill that gap. So, as to the future work on data, there's an element that's been progressed under the hazard insurance partnership. The Australian Climate Service has been tasked with building an enduring data asset that can look to then build up that picture of insurance policy in force, it's called, of where insurance is available and not, and the cost, and that can help to inform policy responses. APRA and ASIC have some work on data transformation. They're thinking about how to expand their data collections. So those elements I think will help to plug that gap.

Senator McKIM: I reckon I've got one more question and then I'm done.

CHAIR: We are hours and hours behind.

Senator McKIM: I understand that, but could I just ask—

CHAIR: A final question.

Senator McKIM: a final question: have you done work, or do you have the datasets to understand, the distributional impact of the rise in insurance costs? That is, is it affecting less wealthy households more than more wealthy households? Is it the other way round? I'm asking about the socioeconomic distributional impacts of the rise in premiums.

Mr Preston: Some of the better work that we've been looking at has been done by the Actuaries Institute, and they've been pulling together and trying to marry up information on insurance premiums combined with income, and they've been producing metrics of what they call insurance unaffordability or similar. It's: are people paying more than four weeks of their income to pay for their insurance? That would be the best source that we would be—

Senator McKIM: Thank you. I appreciate it. I will put some other questions on notice about that.

CHAIR: Senator Smith.

Senator DEAN SMITH: I just want to return to the competition review process, if we could. I listened to the evidence that you gave to Senator McKim. Just to be clear: There is no work plan? There is just a competition policy that you are inquiring into at the moment—being mergers and acquisitions?

Mr Philp: I wouldn't characterise it that way. The work plan that we have ahead of us at the moment involves National Competition Policy and engagement with the states and territories about what that could look like; merger reform, which is out on consultation; non-compete clauses; and advice to other departments in areas such as aviation, where competition is going to have an impact on the policy development that they've got.

Senator DEAN SMITH: Great; thank you for that. I was going to draw your attention to the five paragraphs from the secretary this morning where he identified all of those except the aviation matter. Considering those four, can you put them on a time line for me, in terms of anticipated completion or formal advice to government?

Mr J McDonald: Yes, and I think I mentioned before that, on our website, we've got, to the extent we can, time lines and expectations for when these projects are going to be delivered.

Senator DEAN SMITH: I had a look at that. I couldn't quite see that on—

Mr J McDonald: Sorry—I think the non-competes one says there's an issues paper due around midyear. The Treasurer has said that mergers will be—

Senator DEAN SMITH: So consultation processes are part of a process—they are not the process. So I am keen to understand: what is the expected time frame that you are working to for each of those four initiatives, in terms of providing formal advice to government on resolution of those matters?

Mr J McDonald: The non-competes is an issue. We are planning on doing an issues paper, because we are still in the process of working out what the issues, the complexities and the costs are, and the issues paper is designed to draw that forth. If the government considers, after getting feedback on that issues paper, that there are potential reform options, then we would go through to an options paper.

Senator DEAN SMITH: When is the anticipated public release distribution of that issues paper?

Mr J McDonald: Before the middle of the year. Mergers, the Treasurer has said—

Senator DEAN SMITH: Could we approach this in terms of quarters—quarter 1, quarter 2, quarter 3, quarter 4—of this calendar year? So that would be quarter 2?

Mr J McDonald: You could characterise it like that. Hopefully, we might even be able to do a bit better than that, but that would be the outer rim of where we would go with that issues paper. Mergers, the Treasurer's said, in the near term—and I think you just heard the advice about how we are approaching a point where we are providing final advice to the Treasurer on that. As to National Competition Policy, the announcement was: by the end of the year.

Senator DEAN SMITH: Just staying with that for a moment: that, I would imagine, would work through the formal, federal-state financial relationship mechanisms, which are not easy, because states have to consider and so on. When can people expect to see some sort of idea or direction about how the National Competition Policy considerations will be brought to people's attention?

Mr J McDonald: We're working progressively, as you point out, with the states and territories on delivering that. We are working through the Council of Federal Financial Relations where the treasurers meet. They are meeting in March, and we plan to be taking a workplan to that meeting. What the treasurers decide on, in how far we get and the progress we make is still a matter for consultation with other jurisdictions.

Senator DEAN SMITH: I have seen a number of FOIs that have been provided to me and others, and it's fair to say that national competitions issues are already being discussed at the CFFR?

Mr J McDonald: I think the state treasurers have actually issued a media release announcing it.

Senator DEAN SMITH: What was in that media release? I didn't see it.

Mr J McDonald: It was announcing the fact that they're were working with the Commonwealth in revitalising national competition policy: the institutions, the principles and the policies.

Senator DEAN SMITH: I asked the secretary of the Treasury today what his view was about the use of financial incentives in driving national competition policy reforms. They were a key ingredient of the last successful batch of competition reforms. Do officials have an early view about whether they would be required again?

Mr Philp: I think the language that's been used is that jurisdictions will share the benefits of the reforms that take place.

Senator DEAN SMITH: Who will share the costs?

Mr Philp: That's a matter for negotiation as part of that process.

Senator DEAN SMITH: Finally, on the aviation matter, am I right to assume that your deliberations on that will be progressed through the formal green and white paper process?

Mr J McDonald: Exactly. We've been working closely with the department and providing advice through that channel.

Senator DEAN SMITH: How many times has the competition panel met since its creation? Shortly after the last estimates?

Mr Philp: The expert advisory panel?

Senator DEAN SMITH: Yes.

Mr J McDonald: It has met three times.

Senator DEAN SMITH: Are you able to provide to the committee on notice the exact dates of those meetings.

Mr J McDonald: I can provide them now if you would like.

Senator DEAN SMITH: Great. Yes, please.

Mr J McDonald: The panel has met three times: 30 October, 28 November and 2 February.

Senator DEAN SMITH: Did all the panel members attend?

Mr J McDonald: All of them attended, although, because we've got international panel members and some interstate, not all of them have attended in person but they have attended online.

Senator DEAN SMITH: I accept that. Are you able to provide a copy of the agenda that was used for each of those three meetings?

Mr J McDonald: The contents of the discussions at those meetings is something that is confidential, so we don't intend to release the agendas or the matters discussed at those meetings.

Senator DEAN SMITH: Or a communicate at the end of that for interested people like me?

Mr J McDonald: The purpose of the panel is to provide confidential advice to the Treasurer and assistant minister on the matters that are put before them.

Senator DEAN SMITH: What was discussed at each of the three meetings? I thought I'd have a go, Mr McDonald. That's okay. I did hear your previous answer. Just going back to your earlier comments, Mr Philp, I think in conversation with Senator McKim, you used the word 'directed'. Is it still available to the Treasurer to direct you and other officials to undertake other competition policy matters and add them to that list of—

Mr Philp: That's right.

Senator DEAN SMITH: And he's free to reprioritise the work as well.

Mr Philp: That's right.

Senator DEAN SMITH: One last point relating to Dr Emerson's appointment. Can you provide to the committee some details around—

Mr Philp: I'll ask Mr McDonald. We heard your question earlier, Senator Smith, and Mr McDonald has the answer to that.

Mr T McDonald: Could you just remind me of which details you're after?

Senator DEAN SMITH: That's quite okay, it's the date of his appointment.

Mr T McDonald: His appointment commenced on 21 December last year.

Senator DEAN SMITH: And the remuneration for Dr Emerson?

Mr T McDonald: His daily rate is \$1,650, I think. We set that by reference both to other independent reviews that have been done and also to the Remuneration Tribunal's determination for Chris Leptos, who is the independent reviewer of the Food and Grocery Code of Conduct.

Senator DEAN SMITH: Will Dr Emerson work five days a week, or three days a week?

Mr T McDonald: It doesn't specify that in the contract—

Senator DEAN SMITH: Is he free to work flexibly?

Mr T McDonald: It's whatever is required to deliver the outcomes required.

Senator DEAN SMITH: What's the cessation date of Dr Emerson's contract?

Mr T McDonald: The review is due to be provided to the government by 30 June 2024. The contract goes formally until 31 August 2024, and that's to allow for any follow-up work that would be done following the provision of the report to government.

Senator DEAN SMITH: I understand that. Is Dr Emerson supported by a secretariat?

Mr T McDonald: Yes, he is.

Senator DEAN SMITH: Of how many individuals?

Mr T McDonald: We're in the process of setting up the ongoing secretariat. At the moment, it would be six people in total: an acting SES officer, an EL2 officer and four EL1s. That's in the process of being set up, and those people are coming on board. What we did from the time of his appointment is that I met with him on 11 January, the day after the announcement by the government, just to explore what support he would need. On a temporary basis, we brought in a number of people to assist him in the immediate task of preparing the consultation paper that was released on 5 February.

Senator DEAN SMITH: How many people are supporting him in this immediate period as he prepares the consultation paper?

Mr T McDonald: It's a bit hard to say precisely because people were coming in for short periods of time as they were available.

CHAIR: My apologies, Mr McDonald. I have Senator McDonald and Senator Bragg waiting and time is short; are some of these questions of a nature which could be put on notice?

Senator DEAN SMITH: No. We're almost up.

CHAIR: Okay. Mr McDonald.

Mr T McDonald: It fluctuated; initially, it was one or two and then it went up to around eight. Then it came down again as some people moved back to other roles.

Senator DEAN SMITH: So in this intermediary preliminary period, Dr Emerson has been supported by up to eight, and then for the medium- to longer-term completion of the project he'll be supported by six?

Mr T McDonald: Yes. We may look to supplement that additionally, depending on whether we can get an extra one or two people to come in as well.

Senator DEAN SMITH: Putting Dr Emerson's remuneration aside for a moment—and you might have to take this on notice—what is the cost of, let's call it this, the 'immediate' work around the consultation paper and the up to eight people who have been coming and going? What are the departmental expenses attached to that? And, secondly, what are the departmental expenses attached to the ongoing work to completion, where I think you said there were a total of six?

Mr T McDonald: Yes, I'll have to take that on notice.

Senator DEAN SMITH: Of course. And am I right to assume that travel, accommodation and transport expenses for Dr Emerson are in addition to the daily fee?

Mr T McDonald: They are, but we don't really expect him to incur very many expenses. A lot of the meetings he's having are online. As you'd expect, there is provision for that, where he's travelling on behalf of the review over and above what he would normally do. But we're not expecting that to be larger. Where travel expenses may come in is that the team supporting Dr Emerson is spread over a number of different locations. In order to bring them together, where that's needed, there could well be expenses associated with that travel for the secretariat.

Senator DEAN SMITH: Finally, where does Dr Emerson reside? Is it Brisbane?

Mr T McDonald: I would have to check, but I believe he has a residence in Canberra.

Senator DEAN SMITH: Sometimes he resides in that part of the paper underneath the cartoon next to the editorial in the *AFR*. But, on notice, if it is not a problem, could just identify which city Dr Emerson lives in.

Senator Gallagher: I'm not sure we're going to take on notice where somebody lives. I'm not sure that's relevant.

Senator DEAN SMITH: Take it on notice and if—

Senator Gallagher: No. I don't think we should take notice where somebody lives. It's unrelated to the nature of his employment.

CHAIR: Okay. The minister has answered that question.

Senator McDONALD: We did, Minister, during RRAT, have these same discussions about a departmental official who was travelling and had an additional budget allowance.

Senator Gallagher: That's a different question. If it's about whether there is travel allowance payable, that's a different question to where somebody's private residence is.

Senator McDONALD: Yes, it was with regard to a travel allowance that had been part of the package because the departmental official was based in another city but having to work out of Canberra as well.

Senator DEAN SMITH: Correct.

Senator McDONALD: I think that's the question you are asking—whether or not there were additional costs associated. Is that correct?

Senator DEAN SMITH: That's right, yes.

Senator Gallagher: If the question is whether there are additional costs related to that, we can certainly take that on notice.

Senator DEAN SMITH: Thank you.

Senator McDONALD: My questions are with regard to the merger between Armaguard and Prosecur. Was any advice or briefing sought from the Treasurer or the Treasurer's office regarding the merger between Armaguard and Prosecur prior to the ACCC approving the merger in June 2023?

Ms N Luu: No information was sought from Treasury in regard to the merger.

Senator McDONALD: Then I will not ask you what the nature of the advice was because none was provided. Was a briefing provided in writing?

Ms N Luu: From Treasury?

Senator McDONALD: Yes.

Ms N Luu: I would have to take that on notice. We are a big division, and I can't comment—

Senator McDONALD: I would assume so given that it was a merger—

Mr Philp: The operations of our regulatory agencies is they will brief directly to the Treasurer or to the Treasurer's office about some of the more significant matters that they are working on. That's quite common. So the ACCC may have briefed on that merger.

Senator McDONALD: Okay. I will ask them when they come later, then, all of my questions relating to that brief because you are quite confident that you don't have that information.

Ms N Luu: I'm quite confident we don't. We do not discuss merger applications.

Senator McDONALD: Would you know if the Treasurer of the Treasurer's office met with Linfox Armaguard Pty Ltd or any of its representatives, any registered lobbyists engaged by Linfox Armaguard Pty Ltd or any third parties on behalf of Linfox Armaguard Pty Ltd between 1 June 2022 and 13 June 2023?

Ms N Luu: I would not have that information.

Senator McDONALD: Would you have that on notice?

Mr Philp: We can take that on notice on behalf of the Treasurer and the Treasurer's office.

Senator McDONALD: The same would apply to the other merging business, Prosecur Australia Holdings. Was any advice provided from your area to the Treasurer on the need for an ACCC exemption to allow the ABA and banks to coordinate to support ongoing action to cash?

Mr Philp: This is subsequent to the merger?

Senator McDONALD: Yes.

Mr Philp: This is the application that banks and the ABA made to the ACCC for authorisation to have collective conversations?

Senator McDONALD: Yes.

Mr Philp: I'm trying to recall—

Ms N Luu: It was a decision that the ABA and the banks made to apply for the authorisation.

Senator McDONALD: With regard to an ACCC exemption, though, was that something that your department provided advice to the Treasurer on?

Mr Philp: We may need to check the records, but the Treasurer has asked us to keep a very close eye on the matters of delivery of cash in Australia as they progress. On the engagement within the ACCC's independent decisions about whether to authorise conduct or not, I don't think Treasury was involved in those decisions. But

we had ongoing conversations with the Treasurer's office about how this issue was shaping up and how the resolution could be formed by the banks being able to come to an agreement with the merged entity.

Senator McDONALD: Can I turn to the progress that Treasury is making towards mandatory climate disclosures. Who can assist me with that?

Mr Philp: Unfortunately, that's now with our macro group as part of their climate and energy division, who appeared earlier today.

Senator McDONALD: So markets has nothing to do with that reform and how it's gone?

Mr Philp: We did. I'm trying to recall; that was about the middle of last year. There was an internal reshuffle, and those operations were moved into the macroeconomic group.

Senator McDONALD: I'll come back at the next estimates for that.

Senator BRAGG: I have quick things to fire through. With the Levy review, can the Treasury explain how you landed on 'qualified adviser' as the designation that you speak about in your various papers?

Dr Moore: The term 'qualified adviser', as with the complete package in all its elements, was a decision of government.

Senator BRAGG: Who brought forward this particular naming convention?

Dr Moore: A number of potential names had been raised by various stakeholders—

Senator BRAGG: The question was who.

Dr Moore: I'd have to take that on notice.

Senator BRAGG: You don't know?

Dr Moore: I don't know exactly, no.

Senator BRAGG: I'm surprised you don't know. What has the reception been to this proposal?

Dr Moore: I'm aware there've been representations to the minister about the name, and it may be potentially confusing for consumers. The final form of the package, including that name, will be sorted out as we develop the legislation.

Senator BRAGG: What's the timetable for stages 2 and 3?

Dr Moore: The government has indicated that it intends to progress legislation for stages 2 and 3 through 2024. That's the timetable we're working towards.

Senator BRAGG: That's to legislate the whole thing this year? Great. What a country. What about the financial adviser levies? I see they've gone up from about a thousand bucks per head to almost three grand per head. What are your views on that? What do you think about that?

Dr Moore: I'll ask colleagues from financial system division to take that question.

Senator BRAGG: I'm wondering whether you think that's a sustainable approach for the financial adviser community. It's a 200 per cent tax increase, effectively.

Ms Hoang: With regard to your question on the ASIC industry levy—

Senator BRAGG: Is it sustainable?

Ms Hoang: As you're very well aware, Treasury released the ASIC Industry Funding Model Review in June last year. The recommendation in that review found the principals of the industry funding model, which are the regulated entities who caused the need for ASIC—

Senator BRAGG: I understand all that. I know the context. What's the answer?

Ms Hoang: efforts, are the ones that should be charged for the cost.

Senator BRAGG: You think that the financial advisers should be able to wear that additional increase?

Ms Hoang: The relief that was provided during the pandemic was always intended to be temporary. During the period of the levy relief, which was over the financial years 2020-21 and 2021-22, there was a major shortfall in funding due to the temporary relief that was applied. The shortfall was estimated to be about \$46 million. Therefore, the levy just reflects the costs required or collected to then enforce and regulate that sector.

Senator BRAGG: So the government's position is that basically the financial advisers should suck up the 150 per cent increase in their taxes?

Mr Philp: It's not a tax—

Senator BRAGG: It's a levy.

Mr Philp: It is. And, as Ms Hoang has mentioned—

Senator BRAGG: A levy is a tax.

Mr Philp: this levy hadn't been increased in a number of years; it was paused the COVID period. And this was a catch-up in line with the funding review that was conducted through ASIC.

Senator BRAGG: Levies are taxes, just so you know. That's disappointing. Finally, can I ask about the consumer data right, and then I'll shut up. What's happening with the consumer data right? Why haven't the government put forward legislation?

Mr Kelly: The enabling legislation for the CDR has been passed, and the CDR is an operating scheme. The banking sector and energy sector are already included within the CDR, and work has been done on progressing the inclusion on bank lending. Following the 2023-24 budget, the government did announce, though, that it would pause the expansion of the CDR to certain other sectors such as insurance, superannuation and telecommunications.

Senator BRAGG: So the government is still committed to it?

Mr Kelly: Looking into what?

Senator BRAGG: Is the government still committed to the CDR?

Mr Kelly: Yes.

Senator BRAGG: Have you provided any briefings to any of the ministers on this?

Mr Kelly: We provide briefings quite frequently to the relevant minister regarding the CDR.

Senator BRAGG: Okay. I have one last question, which is related to my last one. If the government is happy to see a 150 per cent increase in the levies that are paid by financial planners, how does that line up with the government's stated policy to cut the cost of financial advice?

Mr Philp: I think that they're two different things. One is a self-funded industry levy, because ASIC has a cost recovery mechanism, which it has had for some time, and the other goes to the quality of advice review, the fees that they charge for that advice to consumers and a mechanism which enables those fees to be lessened through increasing access to quality advice for as many consumers as possible.

Senator BRAGG: But isn't that an input cost for those businesses that are providing financial advice? Isn't the government levy an input cost?

Mr Philp: It will be an input cost, yes.

Senator BRAGG: Okay. So you would accept that a higher levy, one that's 150 per cent higher than the previous one, would be an increase in the input cost and therefore could make it harder to provide cheaper advice?

Mr Philp: There are a couple things going on here, and I will ask Dr Moore to assist me with this one. One is the fee or the levy to operate within the industry, which is an annual fee that's charged on the financial adviser. The other is the fee that that adviser is charging on the customer, which in my recollection is upwards of \$5,000 per advice, and of course each adviser might have multiple customers that they deal with over the course of the year. So, yes, the increase in the levy will have effect on price, but it'll also be smeared across a number of customers. It comes down to the type of advice that they're giving, which is exactly what the quality of advice review is looking to change.

Senator BRAGG: So it is going to make harder. Thank you very much.

Senator Gallagher: No, I don't think that's the evidence. That's your editorialising.

Senator BRAGG: It is an increase in cost.

Senator Gallagher: It was set up to be self-funding. It is not unusual for occupational regulatory arrangements to be self-funding and sustainable, because there are benefits to those who are paying those fees and registration for it to be regulated in a way that assures the quality of advice. Look in the health sector—that's how it works.

Senator BRAGG: How many other schemes are increasing by 150 per cent?

Senator Gallagher: I think we've gone through why it's unusual, and it's because of the fact that it hadn't been increased and had been paused.

Senator BRAGG: I think it's pretty callous.

Senator Gallagher: But the reality is—

Senator BRAGG: It's very callous. These are small businesses.

Senator Gallagher: So you disagree that it should be self-funding? You think it should be budget funded, do you?

Senator BRAGG: Yes, I do.

CHAIR: I'd like to move on.

Senator Gallagher: Okay, so then we budget fund the national registration for other professionals as well?

Senator BRAGG: I think, if you have a look at ASIC's—

Senator Gallagher: We'll add that to the list of things the coalition's going to do.

Senator BRAGG: enforcement record, you'll find they're not doing a very good job.

Senator Gallagher: We'll add that to the list—

Senator BRAGG: It could be fixed.

CHAIR: Thank you, Minister.

Senator Gallagher: We'll add that to the list of things you're going to fund.

Senator BRAGG: You should fix ASIC.

CHAIR: This appears to have become a debate, which is entertaining—

Senator BRAGG: We're not going to agree on that.

CHAIR: at this point, but it's probably not assisting us with time, so thank you very much.

Senator Gallagher: We look forward to your election policy that outlines how you'll fund that.

Senator BRAGG: I'll send it to you first.

CHAIR: Thank you, Minister, and thank you, Deputy Chair. We're in a position to release—

Senator McDONALD: Can I just clarify—

CHAIR: Just one final question.

Senator McDONALD: It's just a clarification on Macroeconomic Group versus Markets Group. It says:

Markets Group provides advice on policy processes and reforms that promote a secure financial system and sound corporate practices, remove impediments to competition in product and services markets and appropriately protect consumers.

As opposed to the macro group that 'monitors and assesses economic conditions and prospects, both in Australia and overseas' and 'provides advice on the formulation and implementation of effective macroeconomic policy, including monetary and fiscal policy, and labour market issues'. So you're quite sure that this has moved off to macro? That seems like it's not a good fit.

Mr Philp: This is about the questions of sustainable finance?

Senator McDONALD: It's about reporting—about mandatory climate disclosures.

Mr Kelly: Work on the mandatory financial disclosure arrangements has moved to another part of Treasury. It used to be done in my division. The one bit of that work that we're assisting, and which is relevant to that, goes to some of the accounting and auditing standards board and Financial Reporting Council, so we kind of do that slice of the work.

Senator McDONALD: I guess that's where I was going, which was around the design of the reporting and the current preferred treatment of scope 3 emissions.

Mr Kelly: I think those are questions for Macroeconomic Group.

Senator McDONALD: Alright, it just seemed an unusual cut.

CHAIR: I think Senator Smith wanted to put something on notice.

Senator DEAN SMITH: Mr Kelly, we had discussed previously the progress and Treasury work on the ACCC's digital platforms inquiry, so I'll put some questions on notice to the Treasury for that.

CHAIR: Thank you, senators. The committee thanks the Markets Group. You can go with our thanks, and we call APRA.

Australian Prudential Regulation Authority

[21:24]

CHAIR: The committee welcomes Mr Lonsdale and team. Mr Lonsdale, I have received and circulated your opening statement, and I was wondering, given the time, if you are happy for it to just be tabled and for us to proceed to questions.

Mr Lonsdale: Good evening, everybody. I'm very happy to have it tabled and presented in *Hansard*. Thank you very much, Chair.

The statement read as follows—

Thank you for the opportunity to appear before the Committee to outline our work protecting the financial wellbeing of the Australian community.

I will start by reiterating that Australia's financial system remains strong and stable. As the Committee would be aware, having a sound financial system is critical to the functioning of the Australian economy and cannot be taken for granted.

There are several factors in the operating environment which APRA is monitoring for impacts as we fulfil our mandate to maintain the stability and resilience of the financial sector.

We know that many Australians are feeling cost-of-living pressures which is weighing on real household disposable incomes and household spending. We are seeing credit continuing to flow both for commercial and residential lending. Although the level of non-performing loans is creeping up, it remains significantly lower than prior to the pandemic, and we remain satisfied with the overall quality of bank lending.

The severe storms over the summer have underscored the role of insurance in helping Australians in their times of need. It also highlighted the importance of addressing pressures on the affordability and accessibility of insurance—something that requires collaboration between insurers, policy holders, governments at all levels and regulators to address.

Unfortunately, cyber-attacks and scams continue to increase in number. Geopolitically, there remains a lot of volatility and risks are escalating.

With these risks in mind, we recently released our latest Policy and Supervision Priorities, which provides a six-month view on APRA's key focus areas for banking, insurance and superannuation. It emphasises operational and cyber resilience, reflecting the growing reliance on digital technologies by entities and the community; embedding lessons learned from last year's global banking turmoil through targeted changes to the prudential framework for authorised deposit-taking institutions; lifting superannuation trustees' practices on retirement incomes; implementing recommendations from the Financial Regulator Assessment Authority (FRAA) review; enhancing transparency and aligning APRA's heatmaps with the performance test; and across insurance, continuing to balance financial sustainability with the need to enhance affordability and availability.

In undertaking this work, APRA will continue to leverage its whole-of-system perspective and to work collaboratively with the Council of Financial Regulators.

In addition to informing the industries of our priorities for 2024, we have undertaken several key work programs since we last appeared before this committee.

In November, we launched the second phase of our Superannuation Data Transformation, which proposes to boost our data collection in areas including trustee board governance and investment liquidity and valuations. Noting the significant impact that increased transparency has had on addressing underperformance and bringing down fees, we expect this work to further improve the outcomes trustees are delivering to their members.

In December, we announced our annual update on macroprudential policy settings, confirming the mortgage serviceability buffer would remain at 3 percentage points and that the countercyclical capital buffer will remain at 1.0 percent of risk weighted assets—so that banks have an additional capital buffer for stress situations. Macroprudential policy is an important part of APRA's toolkit and by keeping settings steady, APRA aims to keep Australia's banks resilient while continuing to enforce high lending standards.

APRA has also recently undertaken several enforcement actions, including two relating to poor risk governance and one relating to weak cyber-controls.

Finally, APRA's success is dependent upon the capability and drive of its people, and we are strongly committed to maintaining an agile and engaged workforce. Results last month from APRA's annual engagement survey showed a strong engagement score of 80 percent favourable. This is consistent with the previous results from December 2022.

With these remarks, my colleagues and I are happy to take your questions.

CHAIR: Thank you very much, Mr Lonsdale. Senator Bragg?

Senator BRAGG: I'll pick up on some data which was recently collated on the back of the members' meeting statements, which specify how much money is being paid out by the funds to various organisations. There was an article which recently specified that about \$40 million had been paid by the funds to unions and industry bodies. What sort of work is APRA doing at the moment to ensure that that sort of expenditure is compliant with the best financial interest duty?

Ms Cole: We're aware that you've raised those points. I think you have been commented on in various articles about that. I have to say that we can't correlate exactly the numbers in your article. So, if you could, please help us further with correlating the numbers. But to your bigger point on where it is the responsibility of trustees to act in members' best financial interests: where we see information that suggests that significant sums of money are being spent, we will, through our normal supervision practices, follow up with trustees to ensure that they have appropriate justification for the expenditure of such moneys.

Senator BRAGG: You said at the last estimates, Ms Cole:

We are pushing into issues of expenditure and what's appropriate, and in certain cases we're pushing into the detail of that—where we feel there is something we need to look into further.

Where are your inquiries up to on these issues? It's a lot of money here.

Ms Cole: It's in the nature of our work that our interactions with super fund trustees are ongoing. We have a supervision system; we have teams who supervise and look into trustees and work on issues such as expenditure and, indeed, other issues. It's an area where the work is continuous and ongoing. Where we see areas that we are concerned about, we are very willing to follow those up through the use of investigative tools, and we will be willing, in appropriate cases, to take enforcement action.

Senator BRAGG: The question is, given there's ongoing interest in these matters because of the quantum of the funds: is APRA planning to take any public action against any of these funds for spending money which is not compliant with the legal duties?

Ms Cole: We've talked before about an investigation that we have ongoing. We haven't named the fund. That investigation continues. I'm not going to talk in terms of specifics about that investigation, because we don't go into entity-specific matters here, but, where we see an area that we think gives rise to matters that we need to follow up, we are doing that. In that context, inevitably where you're looking at a potential enforcement case, we have to walk carefully through appropriate processes of information gathering. That means collecting in paperwork, analysing it and other activities as you would expect in relation to potentially building a legal case. If a legal case is potentially possible—that's bad wording, but I think you get what I mean—we would expect to consider that extremely carefully. We would expect to take legal advice. We do that because we want to have good quality of decision-making, and we also would do it in the interest of ensuring that we give APRA the best opportunity, if a case is to be brought through courts or other processes, of advancing our case. So we walk carefully through such investigations, and I think we would not make any apology for that.

Senator BRAGG: You have an ongoing investigation?

Ms Cole: Yes.

Senator BRAGG: I want to ask you about a matter we've discussed before, which is the New Daily, which according to its public filings, has experienced another seven-figure loss in the last financial year. Is this compliant with the duty under the law?

Ms Cole: We don't regulate the New Daily, and I don't feel that there's anything more that we can say about the New Daily that we haven't canvassed on many prior occasions.

Senator BRAGG: But you do regulate the best financial interests duty, don't you?

Ms Cole: We regulate the super funds, who have obligations to spend money in accordance with members' best financial interests duties.

Senator BRAGG: You'd be aware that there are examples set out in the explanatory memorandum?

Ms Cole: It's a while since I've looked at it.

Senator BRAGG: There are examples which specify that the super funds can't invest into organisations which have no prospect of returning a financial return.

Ms Cole: I don't think that's quite what the explanatory memorandum says. I just simply feel that we've answered questions on the New Daily in many different ways or in similar ways over an extended period of time, and I don't feel we've got anything else to offer on that.

Senator BRAGG: That's fine. I won't ask you about it again, but I will try and draw a line under it. I don't want to make you uncomfortable. I'm just trying to ask these questions because there are public accounts that are filed which show that this entity is a loss-making entity. It is invested into by super funds, and you have a duty to enforce the law in relation to best financial interests. That's why I'm asking you. I'm not asking you for any other reason. From your answer, it sounds like you are satisfied that it's complying with the law?

Ms Cole: My answer would be, if I turned up my notes, to repeat what we said on prior occasions. I don't feel like we can add to the explanation that we've sought to give in the past as to the fact that we don't feel we have jurisdiction to pursue the matter of the New Daily and its losses as you suggest.

Senator BRAGG: So you feel like you don't have jurisdiction?

Ms Cole: 'Jurisdiction' may not be the best word there. I might look to my legal colleague to help me out. But I don't think there's very much more that we can do or say to add to what we've said to you before.

Senator BRAGG: I guess the reason I'm pursuing this is that I'm trying to ascertain whether the law is deficient, because it can't possibly be the case that a super fund, under the laws that we have in this building, can do what this particular organisation is doing with the ongoing support of superannuation money under the best financial interests duty. There's no way that it passes the test. It couldn't possibly. So, if you're saying that no action can be taken, that tells me that the law is deficient. I'm just trying to understand what the position is.

Ms Cole: Perhaps we could come back to you on notice on that, if that would help, but I'm not sure I can offer any more than what we've said on prior occasions.

Senator BRAGG: If you could, take it on notice. I think then, if the answer is—and I'm sorry to bore you with this—that nothing is going to be done, then as a lawmaker I would consider what amendments to the law would be required.

Ms Cole: You're not boring me at all. I'm sorry; I don't feel I can add to what we've said on prior occasions.

Senator BRAGG: Okay. If you take it on notice, that's good.

Ms Cole: We can seek to give you an answer you find more satisfactory. I can tell you, if you would like to know, about lots of other enforcement activities that we have.

Senator BRAGG: I just have one more question, and then I will do what the chair wants and be quiet. I wanted to ask you about the housing issues. We had the treasury department here earlier today, and there was some discussion about the policy the government is putting in place in relation to institutional investors and promoting the build-to-rent industry and the housing sector. The position I think we got to was that the government has the Housing Australia Future Fund, which is going to pay what I think are called 'availability payments' to institutional investors.

Senator Gallagher: Potentially. We haven't had any agreements reached. There's an application process.

Senator BRAGG: But isn't that the policy?

Senator Gallagher: That's the evidence that was given today, but I'm just saying that there hasn't been anything agreed as yet. The application process is open now.

Senator BRAGG: I'm not seeking to verbal the government; I'm just trying to understand how APRA would do its job as a prudential regulator enforcing the best financial interests duty. Can you explain how this is going to work from the prudential regulator's point of view?

Ms Cole: It will be for the trustees to establish how anything that they do in relation to investing complies with the best financial interests duty. As I understand it, nothing specific has happened yet. I don't think this has moved on—

Senator Gallagher: It hasn't.

Ms Cole: since the last hearing. I certainly have not heard any more about it.

Senator BRAGG: The following is a possible, plausible hypothetical question. If an availability payment from the Commonwealth is going to make a project viable for an institutional investor, does that mean it gets a green light from APRA? How does it work?

Ms Cole: Not as a matter of course. It would be for trustees, through the dialogue we have through supervision, to explain and justify why that was in the best financial interests of members.

Senator BRAGG: Are there funds that are invested in affordable housing today?

Ms Cole: I believe there are, but I don't have that information at the top of my head.

Senator BRAGG: Could you take it on notice and provide an explanation as to how that works in lieu of the best financial interest duty applying today?

Ms Cole: I'll certainly take on notice providing further information on that if we have it.

CHAIR: Senator Dean Smith?

Senator DEAN SMITH: I want to take a slightly different approach to this housing and rental crisis Australia is facing at the moment. As a result of some discussions I've had or approaches that have been made to me, I want to put a proposition to you and we can test that. It's been put to me that a starting point to the rental crisis we're now seeing goes back to when APRA started to introduce a suite of measures to restrict lending to mum and dad investors, most particularly restricting—for the first time—the length of interest-only loans to investors.

Property investors and property investor groups who've made approaches to me have stated that this sudden change of making investors repay the principal and interest component of interest-only loans much earlier than

they expected sent quite a shock through this particular part of the investment market, forcing many of these mum and dad investors to subsequently leave the property market. I'm interested to know if APRA has got a perspective on that point of view.

Mr Lonsdale: I think that was some time ago.

Senator DEAN SMITH: I did write to the former chairman Mr Byers in June 2018.

Mr Lonsdale: Right, and he responded, no doubt?

Senator DEAN SMITH: As a way of potentially alleviating what was later to become known in Western Australia as quite a significant rental problem, I proposed to him that we might take a more geographic approach to financing arrangements. I've got the letter here, which I am happy to table, but in terms of that general proposition put to me by a number of people, has that been a contributing factor, do you think?

Mr Lonsdale: I'm not aware of evidence that would suggest it would be. We're a safety regulator. We would take measures that we think would be prudent to safeguard the financial system. That was one of them. When you look at what has happened to investor lines, it does go up and down with the cycle. Most recently, if you look at the data that was released this week, we've got investor lending at probably the highest absolute rate that we've had for a few years now as a proportion of total lending. There are a whole range of factors that would affect investor lending, from the cycle to different supply issues to different demand issues. You can point at one, but it's probably a more complex equation.

Senator DEAN SMITH: Is it a proposition that's been put to you before or that you're familiar with?

Mr Lonsdale: I'm aware that we took a measure some time ago and you've reminded me that you wrote in 2018, which is a while ago. Am I aware of modelling to model the proposition? No, I'm not. I'm just making a general statement that there are a lot of things and factors that are going to affect the housing market. You can point at one aspect, like one aspect of safety, but I think there are much more dominant features that go to the supply and demand.

Senator DEAN SMITH: Unfortunately, I have not brought the graph with me, but I think it is fair to say there are two noticeable points in this graph over the last 10 or 15 years where APRA decisions have absolutely led to a significant fall in property investor financing. If this is the sort of thing you do, Mr Lonsdale, I'd be very happy to have a chat with you or officials privately about this and perhaps about some of those other matters that you think may be adding to or alleviating rental pressures in the country at the moment.

Mr Lonsdale: You're definitely right; there are some things that APRA does with a deliberate focus on a particular part of the market, and we did take some macroprudential measures to restrict lending on investor housing.

Senator DEAN SMITH: Why was that? Just refresh my memory.

Mr Lonsdale: As part of our toolkit, we have microprudential measures, which are the day-to-day things we are using, and macroprudential measures. On the broader, systemwide tools, we have a countercyclical buffer, a serviceability buffer and also specific lending restrictions, if we wanted to impose them. We look closely at things like the resilience of the system and leverage and asset prices, which were big issues at the time. Where we think that is an unhealthy combination, we may use one or several of the measures. There was a time many years ago where we did have a macroprudential change on investor housing. That was a deliberate attempt, if you like, to push down on that part of the market. I think what you have raised earlier, though, is something that is more part of our steady state arrangement—if I can put it that way.

Senator DEAN SMITH: So put another way—and this will be my final question—are there levers available to APRA that are not currently being utilised but, if utilised, could assist in alleviating the rental crisis in Australia or in making private property investments more attractive to investors?

Mr Lonsdale: APRA has many tools at its disposal. Those tools would have an effect on the market. However, the use of our tools is linked to our mandate, and our mandate is a safety mandate. Yes, it's constrained by competition, efficiency and contestability, but we would not use, say, macroprudential tools to incentivise a particular activity, right? We would use it for safety.

Senator DEAN SMITH: Thank you.

CHAIR: Thank you very much, Mr Lonsdale and team. That concludes the questions the committee has for you this evening. You go with our thanks.

Mr Lonsdale: Thank you very much.

Australian Competition and Consumer Commission

[21:45]

CHAIR: We welcome Ms Cass-Gottlieb and the Australian Competition and Consumer Commission. I have circulated your opening statement across the table here, and I'm wondering if you'd be happy for us to table it, given the time, rather than have you speak to it.

Ms Cass-Gottlieb: Yes, I am.

CHAIR: Thank you very much. We'll proceed straight to questions. I'll go to Senator McKenzie.

Senator McKENZIE: Wow. Thank you, Chair. It's great to see you all at this late hour, a few hours after anticipated. My questions are about the aviation sector, obviously. What is your current assessment of market competition within the aviation sector, specifically concerning airfares and pricing strategies employed by the major airlines?

Ms Cass-Gottlieb: We have found that prices have reduced somewhat, so they were lower in 2023 than in 2022, when there were record highs. If we were to look on a real basis, they were slightly lower—1.4 per cent—than pre pandemic but not in nominal terms. In nominal terms, though, they were lower than December 2022. We have particularly seen competition, including downward-price competition, in the routes that have more airlines competing. We have a record which we celebrate: it's the first time we have had four airline groups competing on any one route—Melbourne to the Gold Coast. One out of every two passengers in domestic routes are actually flying with three or more, but that's by route. Rex and Bonza, obviously, still have a very small market share—seven per cent together—so we still have a highly concentrated airline sector.

Senator McKENZIE: Professor Fels, in his recent report, noted that, within the economy, there was a prevalence of things like trip pricing, algorithmic pricing and asymmetric pricing. From your observations, are these tactics having an impact within the aviation market?

Ms Cass-Gottlieb: Fortunately, particularly at the time of peak travel for holidays, we were seeing some real competition, including even best-discount competition. That was in December 2023 and January 2024. Before that time, we were concerned about that level but we did see, even on best-discount pricing—as compared to 2023 and as compared to 2022—a 40 per cent decrease on that average price.

Senator McKENZIE: Have you been investigating the airlines' practices of using metadata to actually inflate pricing points for particular customers and particular routes?

Ms Cass-Gottlieb: So far, we have recommenced our review. We wanted to do that promptly so that we could keep our series going—

Senator McKENZIE: You're welcome.

Ms Cass-Gottlieb: but we have not looked at those forms of data use. We have looked at them in a digital platforms context, but we have not yet looked at them in an airline context.

Senator McKENZIE: If they know that I'm always flying to Canberra on a Sunday arvo from Melbourne, I will get a different pricing point than another consumer. I just think that is a really interesting thing to have a look at. Professor Fels said:

The duopoly in the aviation sector in Australia is dominated by Qantas and there is price gouging by Qantas.

They are pretty powerful words from a guy that knows the definition of price gouging. What levers do you have to actually crack down on price gouging in the aviation sector?

Ms Cass-Gottlieb: The most important presence and power that we exercise is monitoring and transparency.

Senator McKENZIE: So is that the only lever you have—the only tool in the toolkit there?

Ms Cass-Gottlieb: The additional lever we have is action for misleading and deceptive conduct, including drip pricing. We have taken very significant action against Qantas. We continue to receive very high levels of complaints against the Qantas Group, and we look at it all very carefully. We not only have meaningful ACL powers, but we are very vigilant in relation to them. But we cannot intervene to set price.

Senator McKENZIE: No. We want to increase competition to reduce prices.

Ms Cass-Gottlieb: We do.

Senator McKENZIE: Professor Fels also said:

Qantas' ability to reduce supply while increasing prices and suffering no material loss of market share may have affected CPI in December 2022, and therefore may have impacted the Reserve Bank's inflation expectations and rate increases.

Are you concerned by this claim and does the ACCC agree with this assessment by Professor Fels?

Ms Cass-Gottlieb: In the report that we produced for the period to December 2022, in early January 2023, we raised significant concerns about the level of the price and that airlines were not bringing on capacity fast enough to meet demand, which was putting those pressures. We said that we were watching very closely to ensure not only that individually there was an increase in capacity but that there was no suggestion of coordination in not bringing capacity back.

Senator McKENZIE: 'Coordination' is a nice word, as opposed to 'collusion'. I hope coordination is easier to prove than collusion. Just quickly, in the time available to me, because I know other senators have questions: what measures are in place to promote consumer choice and protect against anticompetitive practices such as price-fixing and collusion among airlines?

Ms Cass-Gottlieb: The ACCC is incredibly vigilant in in looking at and watching for anticompetitive conduct. Of course, actual price-fixing, market-sharing, agreeing to restrict capacity, would be outright cartel contraventions and could be pursued criminally. We investigate a range of matters, including exclusive dealing that might make it more difficult for new competitors to extend their operations. We are very active in investigating and carefully considering questions of anticompetitive conduct. I should also add, just looking at our tools, that we did also oppose the Qantas proposed acquisition of Alliance, so we also used powers in relation to looking at the question of a proposed merger.

Senator McKENZIE: What about third parties, like travel agents? Do they enjoy protections?

Ms Cass-Gottlieb: They certainly don't enjoy protections from the ACCC review.

Senator McKENZIE: No, nor should they, but what about in terms of protecting them from anticompetitive behaviour by the airlines and them having to pay the penalty, essentially, for the behaviour of the airline industry?

Ms Cass-Gottlieb: One of the matters that we consider when we look at the impact of anticompetitive conduct is the impact not only on customers and passengers but upon small businesses who are dependent upon this sector. So we do take those questions into account when we look at the impacts, and we did particularly in our report in 2022, when there was such a restriction in capacity, such poor service. We noted that that affected other participants and businesses in the sector as well.

Senator McKENZIE: Yes. You note that, during the pandemic, for instance, travel agents had to process refunds within their own IT systems, leaving thousands of customers waiting for months for refunds that they were entitled to as a result of the behaviour of the airlines, with, it would seem, little recourse. I note that the ACCC notes that that's an issue. What can actually be done about it? Would you assess the behaviour by the airlines, with respect to third parties like the travel agents, as predatory behaviour or just unethical behaviour—or both?

Ms Cass-Gottlieb: To the extent to which there are contracts that contain unfair terms, we will have a capacity to investigate those and consider if we can take action. Since November last year, we have been able to obtain significant penalties for unfair-contract-terms contraventions. If we do have breaches of the ACL, we can take action. If not, it becomes a question of whether it is unethical in terms of impact, but it would not be amenable to us taking action.

Senator McKENZIE: Thank you.

CHAIR: The committee can advise that we are in a position to release Housing Australia. I will go to Senator McDonald.

Senator McDONALD: Good evening.

Ms Cass-Gottlieb: Good evening, Senator.

Senator McDONALD: My questions are about the mandatory code of conduct. We've had a series of exemptions to the mandatory code of conduct announced by the government in recent months. How many exemptions have been approved?

Ms Cass-Gottlieb: Four exemptions have been granted: to Woodside, Senex, APLNG and Esso. They're the ministerial granted exemptions. There have been a much larger number of the deemed small supplier exemptions, and the ACCC reviews the submissions. We have published the names of 50, and we're considering a further 30 who submit that they come within the statutory terms for the deemed exemption. The benefit of being within that exemption for the small suppliers is that they're not subject to the mandatory price.

Senator McDONALD: So there have been four approved ministerial exemptions. How many additional applications are pending?

Ms Cass-Gottlieb: I don't know the answer to that, because they're to the ministers.

Senator McDONALD: Right. So they're not provided to you concurrently? You don't provide advice on that?

Ms Cass-Gottlieb: We can be requested to provide advice, but I'm not aware that we have been. But I'll check with Sarah Proudfoot.

Ms Proudfoot: We have an advisory role with the interdepartmental committee that makes recommendations to the ministers. I'll take the exact number on notice, but I think there are three other applications pending.

Senator McDONALD: Are you aware of any applications for an exemption that have been rejected?

Ms Proudfoot: I'm not aware of any.

Senator McDONALD: Do you need to take that on notice?

Ms Proudfoot: I can tell you that I'm not aware. I can take on notice whether there have been or not, but that would probably be more appropriately directed to DCCEEW, because they're running that process and they make the recommendations to the minister.

Senator McDONALD: Thank you. In terms of the announced exemptions, how many additional petajoules of gas will be provided, and when—over what period?

Ms Cass-Gottlieb: I can answer that: 564 petajoules to 2033, and around 330 of that is additional to the quantities that the ACCC had included in our forecasts that have been provided to government.

Senator McDONALD: I'm sorry. Did you say to 20—

Ms Cass-Gottlieb: To 2033.

Senator McDONALD: Thank you. Will any additional volumes be delivered in time to meet the forecast shortfalls in gas supply on the east coast?

Ms Cass-Gottlieb: Yes. In 2027 and 2028, we will move from small shortfalls to small surpluses. They will also mitigate our forecast shortfalls in the subsequent years, but not fully. From 2029, the forecast shortfall was 156 petajoules. With the amounts of the commitments, we have it at minus 92. In 2027, it increases the surplus. In 2024, it takes us from a small shortfall to a surplus. But from 2029 on, at this time—but it's conditional and more may, of course, come on stream—there would be shortfalls.

Senator McDONALD: Did you have the number for the projected surplus in 2027 and 2028?

Ms Cass-Gottlieb: Yes, 135 petajoules in 2027 and 33 in 2028, with the application of the additional supply commitment.

Senator McDONALD: Yes. I understand. Thank you. Are you aware of what impact that will have on export contracts?

Ms Cass-Gottlieb: On our understanding, in those years it does not impact upon export contracts, so, in the case of Esso and Woodside, their east coast operations are purely domestic operations. In the case of Senex, it has a mix of domestic foundation contracts and export contracts, and, in the case of APLNG, to our understanding, their commitments do not impede their ability to meet their committed export contracts.

Senator McDONALD: As far as the ACCC has been advised, all the supply is not coming from supply that would have otherwise gone offshore. Just on the Woodside Esso exemption, if that was already domestic production, how is that then being claimed as new domestic supply?

Ms Cass-Gottlieb: There was a question whether they would invest to extend the capacity of the fields, and, as they described and I think as you had indicated in questions previously, they do make decisions about where they put money globally.

Senator McDONALD: Yes.

Ms Cass-Gottlieb: It was a question as to whether they would put globally into more Australian production or not.

Senator McDONALD: And that's because they were cautious about investing. They had uncertainty about their decision to invest here. Has the ACCC provided advice to DCCEEW with respect to the need to bring on new additional supply to the domestic market to avoid supply shortfalls in 2029 onwards?

Ms Cass-Gottlieb: We have, and it is contained in the reports that we have made public.

Senator McDONALD: When will the ACCC publish the details of the exemptions as required under the legislation?

Ms Cass-Gottlieb: In relation to the four, we have been consulting with the parties to ensure that matters that they consider are commercially and competitively sensitive are either not published or we have made a decision

that it's in the public interest to publish that detail, so we are working through meeting our obligation to make public everything we can, but we're currently just engaging in that consultation process with each of the parties.

Senator McDONALD: And you said that the small approvals are already listed.

Ms Cass-Gottlieb: Yes, 50 of them. Their names are published. There are 30 more we are considering.

Senator McDONALD: Sorry, did you say 50? I have written down 15.

Ms Cass-Gottlieb: No, it's 50 have been approved. While we're going I'll make sure that I've got that right, but I'm pretty sure I have.

Ms Proudfoot: That's right.

Senator McDONALD: Do you think you could give me a time line on when you expect to be able to publish the exemption data?

Ms Proudfoot: We're very hopeful of getting that published as soon as possible because we recognise there is a high level of interest, and it will help people's understanding of the exemptions. We're currently in a second round of engagement from memory with two of the applicants, but we are prioritising that because we want to get it published, but I'm sorry I can't give you an exact date.

Senator McDONALD: This first quarter?

Ms Proudfoot: We would hope so, yes.

Senator McDONALD: During the last estimates, we heard evidence that suggested the ACCC had recommended various additional changes at the state and Commonwealth level to remove barriers to supply. Has the ACCC provided advice to the federal government with respect to removing barriers within their jurisdiction for additional supply? For example, has the ACCC contributed to DCCEEW's consultation on the future of the EPBC Act, for example?

Ms Cass-Gottlieb: Our advice was contained in the reports that we made public, including ceasing automatic moratoria and access to processing capacity for new production. We have not been requested to provide new advice in that regard.

Senator McDONALD: Can you walk through the reporting process for those who receive exemptions from the code?

Ms Cass-Gottlieb: Firstly, they are released from the pricing obligation. They continue to be subject to the conduct obligations relating to publication of available gas transparency of the processes that they're running, and so they are subject to the same obligations that the other market participants are subject to. We have also made determinations in relation to recordkeeping and provision to us of data and also publication of data.

Ms Proudfoot: The other obligation on the entities that get the ministerial exemptions is that they report to us quarterly in relation to the conditions and how they're going about meeting those. The first report is due this week from I think it's APLNG, who was the first to receive an exemption.

Senator McDONALD: Terrific. Is that reporting requirement list available publicly, or is that something you provide privately on provision of the exemption?

Ms Cass-Gottlieb: The conduct obligations are seen in the code, but also there is a requirement for each of the producers to put on their own websites the available gas and those aspects.

Ms Proudfoot: I think we haven't published publicly any of those reports or determined what we can do because we first need to see what elements of the conditions are being published on the website.

Senator McDONALD: Sure. It was really just what the items were that you required as opposed to what was in those reporting. That was my question.

Ms Proudfoot: I would have to go and check our website to confirm that for you.

Senator McDONALD: The companies need to provide information to the department and the ACCC quarterly—that report you're going to receive next week?

Ms Proudfoot: They provide that to us because we enforce compliance with those conditions.

Senator McDONALD: Currently, gas companies are required to provide information to the ACCC and a number of other agencies on a quarterly basis. Does this align with the reporting required for exemption holders? I think your answer to that is going to be yes.

Ms Proudfoot: For exemption holders it would be in addition to the information we obtain under section 95ZK and other detail because they have those tabling instruments.

Ms Cass-Gottlieb: One aspect we sought to do through our recordkeeping rule determination was streamline and make consistent, including with other government requirements, the reporting requirements, to seek to mitigate the burden as much as possible.

Senator McDONALD: So that means you won't end up with the company having to do a quarterly-by-date report and then a quarterly-by-anniversary of the exemption report?

Ms Cass-Gottlieb: That's the intention, and we put the determination out for consultation in order to get comments from the sector as well because it was our objective to try to make the data process as streamlined and certain as possible.

Senator McDONALD: So at the moment that means the data being provided by the exemption holders is ageing back to either the quarterly by date or the quarterly by anniversary. Have you analysed what the additional cost for industry might be for providing similar data across two conflicting quarterly time periods and, of course, across multiple agencies?

Ms Cass-Gottlieb: Our objective was to mitigate it as much as possible, but I don't believe we undertook a calculation. However, by producing our determination first for consultation, we sought to give an opportunity for the companies to speak to us about the burden aspect. We also did consult with other government bodies who are seeking this information as well, because we were trying to take a leadership role in managing this in a more effective way.

Senator McDONALD: Terrific.

Ms Proudfoot: We did also delay the commencement of those determinations, on industry's advice that they needed more time to set things up. So the first lot will be due in April, rather than January, just to support them getting those systems in place so that they can be more efficient going forward.

Senator McDONALD: That seems practical. To confirm, you will align all reporting to financial quarters, and you've provided advice to the minister in that regard, I assume?

Ms Cass-Gottlieb: We have, and we've sought to align it also with the reporting that we do to Minister King so that it would come in to serve a number of the regulatory purposes that we advise and report in relation to.

CHAIR: I think the minister had some information to provide?

Senator Gallagher: Yes. Senator Smith asked me earlier what day the portfolio additional estimates statement was finalised. That was on 30 January. The second question was the date that they were released. That was 7 February.

CHAIR: Senator McKim.

Senator McKIM: I've got some questions on the pricing inquiry you're doing into the supermarket sector. In terms of your methodology, will you get access to the books of supermarket corporations to conduct this inquiry?

Ms Cass-Gottlieb: We have the power to and we intend to, in relation to the areas, particularly the supply chain inquiries, that we will be looking, from the farm gate to the retail price.

Senator McKIM: So you intend to ask for or require access to the books to enable you to understand the pricing decisions that supermarket corporations are making?

Ms Cass-Gottlieb: The powers that we have allow us to compel the provision of data and information and documents so that we can test and substantiate what we've received.

Senator McKIM: The Treasurer has directed you to do this. I note in passing that the ACCC had a crack at this in 2008 and found the sector was workably competitive, whatever that means. We'll see how your organisation goes this time. Do you intend to make recommendations to the Treasurer?

Ms Cass-Gottlieb: One thing I would like to say in relation to the 2008 inquiry is that it did produce some very important changes in the industry, including identifying more than 700 potentially restrictive leases, which then resulted in an inquiry and enforceable undertakings, and both Coles and Woolworths then ceased to enforce those. Aldi grew from 170 stores to 591, because they were able to access more sites. Also there were Shopa Docket interventions. So aspects of the structure and competitive practices were identified, and valuably so.

In terms of these current aspects, we will first off undertake a very careful and detailed inquiry. We will issue an issues paper before the end of February in order to consult and get community, supplier and a breadth of input. We will use our compulsory powers, and we will then give an interim report by the end of August and a final report by the end of February next year. So it will be a very publicly reported process. We will be very clear about findings and, where we see room for improvement, we will make recommendations.

Senator McKIM: In terms of your report, do you report directly to the Treasurer? Is it up to the Treasurer if it will be made public, and if so when? Or would the ACCC be making its report public?

Ms Cass-Gottlieb: We do report to the Treasurer in response to the direction. However, because we can only use our compulsory powers where we then produce public reports, while it goes to the Treasurer and there can then be a period of time—generally a reasonably short period of time—the full report is then publicly reported.

Senator McKIM: By the ACCC?

Ms Cass-Gottlieb: Yes.

Senator McKIM: Thanks, I'm very pleased about that.

Ms Cass-Gottlieb: I'll just allow Mr Gregson to add to that.

Mr Gregson: This is actually one where we release it either by agreement with the Treasurer or at 28 days. So there's—

Senator McKIM: That's 28 days after it has been provided to the Treasurer?

Mr Gregson: Correct.

Senator McKIM: I appreciate that, Mr Gregson. I'm very pleased to hear your responses Ms Cass-Gottlieb. They give me, at least, some confidence. I'll be careful, because I don't want to misquote you here, but when I asked you in May last year if divestiture powers existed in Australia and if you thought that in the context of supermarkets it could potentially lead to lower food prices, you said that where there was stronger competition then yes. Is that still your view?

Ms Cass-Gottlieb: It's certainly my view and the ACCC's view that stronger competition is critical and a key driver of lower price and more choice.

Senator McKIM: Would divestiture powers assist in providing greater competitive forces in the supermarket sector?

Ms Cass-Gottlieb: We're looking for a series of reforms. At this time, we're particularly focused on merger reform because—

Senator McKIM: I'll ask you about that in a minute—

Ms Cass-Gottlieb: Yes. That's because we're keen to ensure that there isn't increasing concentration and that, if possible, with effective merger regulation, we're able to stop parties acquiring market power. Therefore, we wouldn't need to investigate, enforce and need a remedy for a substantial degree of market powers. That's why we're so focused on merger reform at this time. However, if there were to be a divestiture remedy in the case of misuse of market power then there may be occasions when it would be a valuable remedy. We just don't see it as such a priority as being able to hold the line—firstly, to see and then be able to prevent anti-competitive mergers.

Senator McKIM: However, is it open to you through the inquiry that the Treasurer has asked you to run to make recommendations, for example, for divestiture powers?

Ms Cass-Gottlieb: There's really an open slate. We'll need to inquire carefully and make findings, then those will inform the right recommendations.

Senator McKIM: I had some discussions with Treasury earlier this evening about the process that their taskforce is undergoing about merger reforms. Firstly, they clarified that one of the three options they put forward in the consultation paper was effectively proposed by the ACCC. Is that accurate? Is option 3 in that paper a faithful reproduction of what the ACCC put into Treasury?

Ms Cass-Gottlieb: Yes, it is.

Senator McKIM: It has been reported that you had some concerns with at least one of the other two options which have been proposed by Treasury. Is that accurate?

Ms Cass-Gottlieb: It is accurate. We consider that neither of the other two provide the assurance that we wish to give to the public, that we will have powers that are fit for purpose. We see those as a mandatory suspensory administrative review regime which is fit for purpose, firstly, to allow us to see all the transactions that are occurring. The analysis done by the taskforce shows that we're quite possibly seeing less than one in three mergers that are actually taking place. The Petstock example was a good one: they acquired through a series of acquisitions the second-largest pet food and pet products chain in Australia without a single notification to the ACCC.

We know that in order to play the role that we're tasked to do, and which the community expects us to do, we need to be able to see mergers. Then we need to have a process, the information and the incentives for parties to

provide us with all the information such that we can then perform our role in assessing their competitive impact properly.

Senator McKIM: It's also been reported that you've rejected Treasury's assertion that companies rarely fail to notify the ACCC of planned mergers. Is that accurate?

Ms Cass-Gottlieb: It is accurate. How the ACCC subsequently finds out is from a global transaction, a notification in other jurisdictions, other regulators who tell us, customers who observe the actions and tell us or sometimes competitors tell us. Through those notifications, we have quite recently had another matter of a domestic transaction that had not been notified to us, but it came to our attention. The data analysis that the taskforce has done suggests that that is a much larger problem than we are able to identify.

Senator McKIM: Do we need a mandatory notification system?

Ms Cass-Gottlieb: We do.

Senator McKIM: I'll put some other questions on notice there, because we're under time pressure. I've got some questions that came from the responses that we unfortunately only received yesterday to questions that Senator Barbara Pocock put on notice at the last estimates. They're in regard to the carbon-neutral certification scheme. In your answer to the first question that Senator Pocock put on notice, you said that the ACCC has engaged with the department in relation to competition and fair-trading aspects of the Climate Active scheme. That included engagement about the certified trademark, the CTM, rules as well as about carbon-neutral representations. What exactly did that engagement entail?

Ms Cass-Gottlieb: We had engagement with Climate Active and with the department in relation to concerns that the rules were not sufficiently clear. When the department then commenced consultation on the direction of the Climate Active program, we put in quite a detailed submission. We published that submission on our website on 15 December 2023. We sought strengthening requirements from emissions reduction targets clarifying and developing further guidance on emission boundaries, mandatory inclusions and stricter requirements on recognised offset units. It's quite detailed. We put it on our website.

Senator McKIM: What engagement took place in relation to the Climate Active carbon neutral representations made by the Climate Active program. Did you meet with the department? Did you provide any written advice or written submissions to the department? What conversations took place over those carbon neutral representations?

Ms Cass-Gottlieb: The submissions relating to recognised offset units and what could be considered addressed those questions. We're very conscious that, from a consumer protection perspective, it's important that the outcome achieved by the offset project matches the claim that's made. We did also engage in meetings.

Senator McKIM: Could you provide details of those meetings on notice, including dates and who was at those meetings. Thank you. In your other response, the question was: did you advise the department that the carbon neutral claim may be deceptive or misleading. In your response to that question, you've said that you had not advised the department that carbon neutral was misleading or deceptive, but, in your engagement with the department, the ACCC did raise potential consumer issues. What were those issues that you raised with the department?

Ms Cass-Gottlieb: We have raised that the rules must be clear, because it needs to be sufficiently clear for consumers that consumers can identify what businesses are doing and that they're looking to reduce emissions as opposed to offsetting them. We also noted the importance that any new terms proposed in the rules and in the scheme need to be clear to consumers when they view the mark and when they view the rules.

CHAIR: I do need to share the call, Senator McKim. You are being very good, but do you have one final question?

Senator McKIM: Just on this, yes. I will just indicate that I have another group of questions.

CHAIR: We've got no time.

Senator McKIM: We'll see how we go.

Senator O'NEILL: We're way over time.

Senator McKIM: We're going to 11, aren't we?

CHAIR: We've got another witness. We've got Productivity Commission.

Senator McKIM: Not called by the Greens.

CHAIR: The collective is dead, I guess!

Senator McKIM: Ms Cass-Gottlieb, does the fact that you haven't advised the department that 'carbon neutral', in some contexts, is misleading mean that the ACCC has formed a view that people were not being misled?

Ms Cass-Gottlieb: We are concerned that the current rules did not properly inform consumers about what it was that they obtained when they dealt with a company with that mark. So we considered it was confusing; we considered it did not meet the required rules. We did not consider that we need form a view that it is in breach of the law, because we consider that a certified mark, in order to meet its requirements, needs to have sufficiently clear rules such that consumers know exactly what it is that a product that bears that mark delivers. So we were looking at the significance of the certification scheme in that sense.

Senator McKIM: I'll jam another one in, if you give me a chance, Chair.

CHAIR: Senator Roberts.

Senator ROBERTS: We don't call the ACCC very often because it seems you do a very good job. To improve banking competition—and that's needed—do we need more regulation or more independent banks providing competition? Which is it?

Ms Cass-Gottlieb: We want both.

Senator ROBERTS: Okay! The ACCC refused permission for ANZ to acquire Suncorp bank on competition grounds?

Ms Cass-Gottlieb: We did.

Senator ROBERTS: That was a very good decision. Would it improve competition in Australian banking if Suncorp was now purchased by a third party not currently involved in banking?

Ms Cass-Gottlieb: Firstly, I should note that ANZ and Suncorp have taken an action for review in the tribunal and that decision will come down next week, and so we await that decision. It may or may not be the same decision as the ACCC's. However, our decision reflected that we were not satisfied that there would not be a substantial lessening of competition and either Suncorp continuing independent, as it is now, or being acquired by another party—one of the possible alternative transactions that was identified was, for instance, merger with an alternative regional bank or smaller bank—or by a party that is not currently a participant in the banking sector, would each retain the independent, competitive constraint.

Senator ROBERTS: In your progress report on the digital platform services inquiry, you made the point that the ACCC continues to recommend the introduction of new and expanded industry-wide consumer measures, including prohibition on unfair trading practices. What industries or perhaps what context informed that request for more power?

Ms Cass-Gottlieb: The ACCC is looking for that reform across the economy. We do see that, in terms of digital platforms—for instance, in online trading, subscription traps are a good example—there is a significant capacity to have unfair practices and processes that deprive consumers of the ability to make informed choices. But we do see these problems across the economy. The government is proceeding through a consultation process, which will conclude in November of this year, and we hope this will result in the introduction of an unfair trading practices prohibition across the economy.

Senator ROBERTS: As to PEXA—I think they're the conveyancing people?

Ms Cass-Gottlieb: Yes.

Senator ROBERTS: Would PEXA's near-monopoly in electronic conveyancing be an area where you would like more power to keep an eye on their use of market power?

Ms Cass-Gottlieb: We are hopeful that ARNECC, which is the current regulator, will be in a position to require compliance with the steps towards interoperability, which had been hoped for and planned, so that there will be a capacity to result in meaningful competition.

Senator ROBERTS: You approved the merger of the Armaguard and Prosegur cash handling businesses—against opposition from the free market, which fears losing the ability to negotiate on price—with the justification of keeping these businesses going. Are you confident the merged entity is viable and capable of holding 90 per cent of the Australian market long-term—let's say, up to 2030?

Ms Cass-Gottlieb: It is correct that we did approve that merger on condition of an undertaking. We were particularly conscious of the matters that were put before us relating to the loss of viability for two competing providers of cash-in-transit services, as there was such a significant decrease in the use of cash, particularly brought on during the period of COVID. Under that undertaking, which is effective for three years, the merged

entity is required to continue to offer the services to all locations that are currently serviced. It also limits the ability to reduce service levels and raise prices. We do monitor compliance with all undertakings we accept. We do know that the merged entity states that there have been further changes that call into question its continued viability. We have granted an interim authorisation that was sought by 20 members of the Australian Banking Association, the Reserve Bank of Australia, Treasury, Australia Post and suppliers of cash-in-transit services—a whole set—that were seeking to be able to negotiate to try to reach a resolution for continued cash-in-transit services on acceptable terms. As a condition of that interim authorisation, we required that there be public reports monthly in relation to the discussions, because it was quite a significant authorisation that we enabled for those negotiations. We have just this week received the first report, and it's available on our register.

Senator ROBERTS: Banks are refusing to accept or issue cash to profitable small players like Commander Security. This company has been de-banked by the big four and now even a customer owned bank. Banks are closing branches, pulling out ATMs and refusing to give cash to their own customers in a situation where identity and use of cash has been established. Cash is, in effect, a competitor to the bank's dream and the customer's nightmare of making a fee on every transaction and service every person makes. Are banks misusing their market power to eliminate cash as a competitor to their own electronic payment systems and drive customers to fee-paying services? That's what it appears to be.

Ms Cass-Gottlieb: We do currently have a misuse of market power action relating to financial services in the court against MasterCard. We certainly look closely at misuse of market power questions in relation to financial services. There are a series of complex questions in there, including on the closure of branches, which APRA does monitor and report on. We have also reported on our concerns in relation to the manner in which there is muted competition between the banks—for instance, in relation to retail deposit products—and sought recommended regulation that will better inform customers so they can better exercise choice in the products that they acquire. It is difficult to separate what changes are occurring commercially because of the changes in the economy—

Senator ROBERTS: Yes, it is difficult to know who's the horse and who's the cart.

Ms Cass-Gottlieb: Exactly—what the boundaries are. But we do look at all these questions very carefully, both in terms of enforcement and in terms of monitoring, and we are hoping to continue financial services monitoring because we think they are essential services for Australian families.

Senator ROBERTS: Are you aware of the Senate inquiry into the closure of rural bank branches?

Ms Cass-Gottlieb: Yes, we are.

Senator ROBERTS: It seems quite clear from the one that I've taken part in that it's the banks driving the reduction in cash. It seems very clear to us, but, anyway, that's a matter for you. Banks are refusing to provide banking services to their customers. It's not just private cash handling companies; it's bullion dealers and legitimate cryptocurrencies being de-banked. Last week, Bankwest limited how much their customers could spend on buying crypto. Is this another case of the banks misusing their market power to harm the operation of a competitor, and is it worthy of your scrutiny?

Ms Cass-Gottlieb: The ACCC participated in a working group and taskforce, together with APRA, the Reserve Bank, AUSTRAC and Treasury, with a concern about de-banking. One of the recommendations from that was that there needs to be better data collection, to be able to better measure and monitor the pattern of and conduct in de-banking, and also that there needs to be more clarity in terms of the anti-money-laundering and counterterrorism financing requirements, which are bases upon which banks say that they need to make risk assessments and, at times, de-bank. So there was a desire to try to reduce that conduct.

CHAIR: This is your last question.

Senator ROBERTS: Something that few people seem to be aware of—I'm guessing you are aware of that—is that the major banks, the big four banks, would seem to be one bank with four logos. I say that because their services are similar, their strategies are similar and their modes of operating are similar. They're largely owned, as I said, by super funds who don't take an active interest and by mums and dads who don't take an active interest. That leaves a controlling interest in the hands of four or five major, predatory global companies: BlackRock, Vanguard, State Street, First State and one other. They control, it seems, the big four banks. The banks have enormous power here. They have enormous legal power. They've got deep pockets to hire the best lawyers. They've got complex regulations that they can hide behind and with which they can really beat up on an individual. They've got enormous market power. I think they have 90 per cent of the cash deposits. They have enormous financial power, and, as I said, they hide behind regulations.

CHAIR: This is a very long last question, Senator Roberts.

Senator ROBERTS: Is there any thought of giving scrutiny or understanding to the companies that I mentioned—BlackRock, Vanguard, State Street, First State—and their influence over each of the big four banks that they control?

Ms Cass-Gottlieb: We've certainly been contemplating the benefits of continued monitoring, particularly in relation to key services that the banks provide. Also, a part of the Suncorp-ANZ decision looked at concerns in terms of the capacity of the major banks with very similar business models to engage in a problem of what is called 'concerted effects'. In effect, their responses to competitive signals are similar because of their similar structures. So we are conscious of those risks, and we do seek, both through monitoring and through powers that we have in relation to concerted practices, to watch carefully for these sorts of concerns.

Senator ROBERTS: We do know that BlackRock, Vanguard and State Street control a lot of major companies around the world and control a lot of companies and a lot of industries.

CHAIR: Thank you, Senator Roberts.

Senator ROBERTS: Thank you.

CHAIR: There's 20 minutes remaining. I'm advised that senators still have questions for the ACCC. We are now in a position to release the Productivity Commission. I understand that it's only Senator Smith and Senator McKim that have remaining questions, and there are a couple from Senator Roberts, so you have several minutes each. Senator Smith.

Senator DEAN SMITH: I just want to return to the matter of Armaguard and Prosecur. What extent did the ACCC go to to verify the claims of Armaguard that a merger would create a financially sustainable business?

Ms Cass-Gottlieb: We not only compelled the production of financial information and of the models for the business but we reviewed them forensically. We also called the most senior executives—including in the Prosecur case, where they brought an executive from overseas—and we examined them under oath. We did a very significant forensic examination of what was put to us.

Senator DEAN SMITH: You talked about the undertakings, so are we right to assume that those undertakings that were required have been met to date? Or fulfilled to date?

Ms Cass-Gottlieb: We carefully monitor compliance with all undertakings we accept, and investigate if we are concerned. It is not our practice to talk about confidential investigations, but we investigate closely if we're concerned.

Senator DEAN SMITH: Have you had reason to be concerned?

Ms Cass-Gottlieb: We have had some matters raised with us.

Senator DEAN SMITH: You said that the authorisations—which are different from the undertakings—would be reported on monthly—

Ms Cass-Gottlieb: Yes.

Senator DEAN SMITH: And the first monthly report has just been received?

Ms Cass-Gottlieb: That is correct. The first report was provided on 15 January. It summarises meetings and discussions facilitated by the RBA and sets out that there are three work streams: short-term initiatives to respond to acute issues, business continuity planning and longer-term initiatives.

Senator DEAN SMITH: Are you able to identify what those acute issues are?

Ms Cass-Gottlieb: They were within the cash distribution system in terms of concerns about continued capacity to maintain distribution in all areas that have previously been served.

Senator DEAN SMITH: So that's an acute issue, meaning it's high priority for monitoring?

Ms Cass-Gottlieb: That's the description that the RBA has given for that short-term initiative work stream.

Senator DEAN SMITH: If I understood correctly, in earlier evidence you were satisfied that the undertaking, or the requirement or commitment, that Armaguard be able to deliver cash to all of the areas—to all of the points that had been part of that original merger agreement—is being met and able to be met?

Ms Cass-Gottlieb: We are monitoring whether it is being met. On the submissions and material we had tested prior to the acceptance of the undertaking, we understood that it was able to be met. The current position that is put by the company, and for which the new interim authorisation has been granted for negotiations, puts into question if it can continue to be met.

Senator DEAN SMITH: What options does the ACCC have if Armaguard stops complying with some of their undertakings or authorisations? And, most particularly, what options does the ACCC have if it becomes very

clear that they're unable to meet the distribution to all of those areas or access points that were originally committed to in the merger approval?

Ms Cass-Gottlieb: The undertaking is court enforceable. It is a court enforceable instrument, actually. We can take action in court to compel compliance. If however the company, for instance, were to go into administration and be unable then to comply, we would not achieve the public interest that we would be seeking to achieve.

Senator DEAN SMITH: Is unwinding the merger an option, and is it feasible?

Ms Cass-Gottlieb: This is an interesting question. There have actually been few actions taken about compliance with that section 87B on undertakings. A voluntary act to, in effect, cease to have in existence a company that had given a commitment—we would need to think about whether that was in effect a manner of circumvention of the undertaking. So the question would be whether the business situation is such that it is not viable to continue or whether this is a matter of commercial choice.

Senator DEAN SMITH: What has happened in the intervening period between you, the ACCC, having met with international executives, done the due diligence, approved the merger, and now have a potential situation where universal distribution across all those previously agreed areas may not be possible. What has happened in that intervening period?

Ms Cass-Gottlieb: The company states that there has been a further significant reduction in the extent of the use of cash. In part, the work that is done by the Reserve Bank that does measure and survey the extent of cash usage does show a further deterioration since that time. What we do not at this time know, though we are also engaging closely with the RBA apart from the authorisation to assist where we can, is the extent to which that further deterioration was anticipated in the merger business plan.

Senator DEAN SMITH: What we're talking about here is the potential minor to large scale disruption to cash availability at bank branches, ATMs, and retailers such as supermarkets and others.

Ms Cass-Gottlieb: And we have a particular concern also about rural and regional areas, including where cash is available at Bank@Post, at post offices, as the only manner of cash distribution.

Senator DEAN SMITH: I'm thinking of, in my home state of Western Australia, locations like Kununurra, Fitzroy Crossing and Derby.

CHAIR: Senator Smith, it's very interesting and important—

Senator DEAN SMITH: It's very important—

CHAIR: Genuinely, though, I do need to share the call.

Senator DEAN SMITH: I just want to slightly change tack onto another important element. Senator McDonald asked Treasury officials a short while ago whether or not they had been providing updates or advice to the Treasurer on this particular matter. Have you as the ACCC been providing regular advice and updates to the Treasurer on this matter? If so, what form do they take? How regular is that? How engaged is the Treasurer on this particular issue?

Ms Cass-Gottlieb: I will check with Mr Leuner, who is there on screen. To my knowledge we have not been providing updates to the Treasurer. We have been meeting with the RBA. Mr Leuner, is there something we should add there?

Mr Leuner: We've also been meeting with Treasury on those matters as well as the RBA.

CHAIR: We'll have to go to Senator McKim and Senator Roberts in the 10 minutes we have left.

Senator DEAN SMITH: Just finally then, when was advice first provided to the Treasurer on the need for an ACCC exemption to allow the RBA and banks to coordinate support for ongoing action in regard to the distribution of cash?

Ms Cass-Gottlieb: I think that approach first came to us by the ABA, rather than by Treasury, but I will just check with Mr Lerner if that's correct.

Mr Leuner: That's my understanding as well. The ABA came to us to seek that exemption, and we granted that exemption on an interim basis.

Ms Cass-Gottlieb: Our understanding is that they were also alerted to doing so after obtaining authorisations from the ACCC during COVID for the purposes of industrywide responses. So we think they followed that process, knowing how it had occurred at that time.

Senator DEAN SMITH: Thank you.

Senator McKIM: I'll just wrap up my previous line of questioning. You engaged with the department in regard to the certified trademark rules. Is the ACCC aware of any issue with the department charging licence fees for an unregistered trademark?

Ms Cass-Gottlieb: I'm actually not aware of that. I don't know whether any—it's not a matter that I have been briefed on or I can recall ever being briefed on.

Mr Gregson: I can confirm we're not aware of those.

Senator McKIM: Could I ask you to take that on notice and come back if you're able to provide any further information. If a business were to be using an unregistered certification trademark, would that business be at risk?

Ms Cass-Gottlieb: This would be an intellectual property question in that sense—unless there was to be a misrepresentation about the status, which could then be a consumer law question.

Senator McKIM: Perhaps you could take it on notice and come back if you're able to provide anything further. I have another couple of matters. Firstly, has the ACCC done any work to analyse whether or not, for example, a larger community generated solar electricity facility could compete on a level playing field with existing large-scale generators?

Ms Cass-Gottlieb: We have not done investigation in relation to that. We are aware of a range of and are interested to see and are indicating also that we have a capacity to authorise cooperative conduct between participants, where they establish to us a real and substantial public benefit. We certainly have over recent years, in one in four of our authorisations of combined conduct, taken into account environmental and sustainability evidence. It has to be real evidence.

Senator McKIM: Is there any issue in Australia's competition framework that would disadvantage a new renewable energy entrant into the generation market, compared to an existing large-scale fossil fuel generator?

Ms Cass-Gottlieb: From a competition perspective, no.

Senator McKIM: There's nothing there?

Ms Cass-Gottlieb: No.

Senator McKIM: Given that some gentailers do own coal and gas generation facilities, are there any risks that you can see that those market participants may be able to act to prevent competition from community generated solar electricity, for example, through either contracting activities or their engagement with regulatory processes?

Ms Cass-Gottlieb: In a recent report that we did, looking at the circumstances in electricity retail, and particularly at wholesale competition, we were concerned about the impact for standalone and particularly small retailers in terms of the thinness of the availability of hedging products, which are important to managing risk. That was in our electricity inquiry report from December last year. We made recommendations to government to consider structures in order to evolve to enable standalone retailers, who play an important role, to enter and expand and compete through the transition. That was a key aspect that we drew attention to.

Senator McKIM: Thanks. That's helpful. I'll put in another couple of questions on notice on that for you because we're under time pressure.

CHAIR: Last question, Senator McKim.

Senator McKIM: Would you accept the proposition that there's been a slowdown in the ACCC taking competition law cases in recent times? If you do accept that proposition, does that perhaps relate to an increased focus on consumer law cases such as, for example, the Qantas issue, or is there an issue in Australia's competition law framework—that cases are too hard to win?

Ms Cass-Gottlieb: We are as committed as we have ever been to taking these cases and investigating them. They have a significant degree of complexity because of each of the elements that are required. We have, however, taken a range of cases. A number have been resolved in consent proceedings.

In the Peter's Ice Cream case we've taken a series of resale price maintenance [inaudible] which, in a cost-of-living time, are important because you need to have competition between different distributors of products. We also have taken the Mastercard case. In certain respects, while we have a very strong pipeline of consumer matters, undoubtedly, it has always been the pattern that there have been more of those because of the complexity of the competition cases. But we think that each has big bang for buck in a deterrent sense. We do have a series of significant ones that we are working forward to be able to commence.

Senator ROBERTS: I want to refer to the ACCC's *Lithium-ion batteries and consumer product safety* report that you issued this month. On page 6 it says:

... there is currently no national product safety incident database to capture data and support national identification and analysis of consumer product safety hazards. Instead, product safety incident data is fragmented across a range of government and non-government organisations. With appropriate funding, the ACCC considers it is best placed to administer a national product safety incident database—

which would include capturing lithium ion battery fires—

and recommends the ACCC is funded to develop and administer this.

Minister, electric products catching on fire seems to be a frequent and very serious problem. Tracking the data accurately would help inform the debate, assist customers to make good decisions and probably save lives. When will you implement this recommendation?

Senator Gallagher: Sorry, I don't have the recommendation you're referring to.

Senator ROBERTS: The ACCC recommends that it be the one to monitor and capture the data on lithium ion battery fires.

Senator Gallagher: I imagine this is something that will need the attention of governments. I've been watching it myself, with more and more reporting of these matters. I think it's probably something that the federation is going to have to deal with, as it crosses over a number of responsibilities that would be state and Commonwealth.

Senator ROBERTS: Thank you.

CHAIR: Thank you very much, Ms Cass-Gottlieb and team. You go with our thanks. Thanks to everyone who appeared before the committee today.

Committee adjourned at 22:59