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JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Reference: Review of Auditor-General's reports tabled between 18 January and 18 April 2005

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JOINT STATUTORY COMMITTEE ON

PUBLIC ACCOUNTS AND AUDIT

Monday, 12 September 2005

Members: Mr Baldwin *(Chair)*, Ms Grierson *(Deputy Chair)*, Senators Hogg, Humphries, Moore, Murray, Nash and Watson and Mrs Bronwyn Bishop, Mr Broadbent, Ms Burke, Miss Jackie Kelly, Ms King, Mr Laming, Mr Tanner and Mr Ticehurst

Members in attendance: Senators Hogg, Moore and Watson and Mr Baldwin, Ms Grierson, Miss Jackie Kelly, Mr Laming and Mr Ticehurst

Terms of reference for the inquiry:

To inquire into and report on:

Review of Auditor-General's reports tabled between 18 January and 18 April 2005.

WITNESSES

Committee met at 10.34 am

GREENSLADE, Mr Alan, Executive Director, Australian National Audit Office

MEERT, Mr John, Group Executive Director, Australian National Audit Office

ROESSGEN, Ms Jacqueline, Senior Director, Australian National Audit Office

BRANDT, Mr Peter, Project Director, Regulatory Review, Australian Radiation Protection and Nuclear Safety Agency

LOY, Dr John, Chief Executive Officer, Australian Radiation Protection and Nuclear Safety Agency

CHAIR (Mr Baldwin)—I open today's public hearing, which examines a report tabled by the Auditor-General in the financial year 2004-05. Today we will be taking evidence on Audit report No. 30: *Regulation of Commonwealth radiation and nuclear activities*. I welcome the representatives from the Australian National Audit Office and the Australian Radiation Protection and Nuclear Safety Agency to this hearing. I ask participants to remember that only members of the committee can put questions to witnesses if this hearing is to constitute formal proceedings of the parliament and attract parliamentary privilege. If other participants wish to raise issues for discussion, I would ask them to direct the comments to the members of the committee. It will not be possible for participants to directly respond to each other.

Given the short time available, statements and comments by witnesses should be relevant and succinct. I remind witnesses that the hearing today is a legal proceeding of the parliament and warrants the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will attract parliamentary privilege.

To members of the media that are present, I would remind you that there is an obligation to report accurately and factually the proceedings that are held here today. A direction of broadcasting of committee proceedings is available from the secretariat should you need to familiarise yourself with it. Audit Office, do you wish to make a brief opening statement before we proceed to questions?

Mr Meert—No, we will stay with the report.

CHAIR—Members from ARPANSA, do you wish to make an opening statement before we proceed to questions?

Dr Loy—I would like to do so.

CHAIR—Please proceed.

Dr Loy—Thank you for the opportunity. As you are all aware, of course, Audit report No. 30 was presented to parliament on 2 March and made 19 recommendations, all of which were accepted by me as CEO of ARPANSA. In response to the report I established a project team to

conduct and implement an overall review of regulatory business processes that would respond to the ANAO recommendations. The project team comprises a project director, Mr Brandt, who was appointed from outside ARPANSA, and two ARPANSA officers. Mr Brandt commenced work on 16 March 2005 and the project team came together early in April. As a first step, a project plan was prepared and approved, and letters were forwarded to all ARPANSA licence holders, all ARPANSA staff, the unions representing ARPANSA staff and the Department of Health and Ageing seeking submissions in relation to ARPANSA's current regulatory processes and in relation to the ANAO recommendations.

I also established a regulatory review consultative committee. The intention there was to engage external people with regulatory and policy experience who also had some knowledge of the project. The committee consists of the chair of the Radiation Health and Safety Advisory Council, a recently retired radiation regulator with the South Australian Environment Protection Authority and senior officers from ANSTO—the Australian Nuclear Science and Technology Organisation—CSIRO and Comcare. ANSTO and CSIRO are currently two major ARPANSA licence holders and of course Comcare regulates the Australian government's overall occupational health and safety. The regulatory review consultative committee will provide feedback to the project director on proposals for changes to regulatory business processes. It will review, and provide comments to the project director and to me on, significant policy issues and, after approximately six and 12 months, assess the overall progress of the project and provide me with a summary report as to whether it considers that the response to the ANAO report is adequate. The committee has met twice so far.

Stage 1 of the project has involved a review of ARPANSA's current regulatory processes and consultation with stakeholders. Stage 2 involved the preparation of a report to me addressing the ANAO recommendations, as well as other issues identified during the stage 1 review. I am considering the detail of that report at present, but I will sketch out some of the directions we will be following. In addressing the 19 ANAO recommendations, the regulatory review grouped them into five categories. They are corporate—four recommendations about strategic management and performance assessment; risk—six recommendations directed towards improving the explicit risk based management of the regulatory functions; conflict of interest—a single recommendation; cost recovery—a single recommendation; and information—seven recommendations on the information supplied to licence holders and applicants and other information matters.

With regard to the corporate recommendations, we have put forward a draft statement of regulatory policy that responds to the ANAO recommendations, and that is to be included in our new corporate plan. That statement is currently out for comment by stakeholders. We have also addressed the regulatory branch plan, again in response to the critique made by the ANAO. We have made progress on that but we need to undertake further work on that in the near future.

In overall organisational terms I believe there needs to be a more explicit organisational focus on the management of regulation per se, supported by technical assessment and scientific advice. For the period ahead, that organisational focus will comprise the regulatory review team and other staff as they move to implement the necessary changes.

The issue of relating regulatory effort to risk sounds straightforward, and at one level it is. It is not difficult to at least roughly categorise the inherent hazard presented by the different sources

of radiation in the different nuclear facilities, but the dimension of assessing the management of individual sources and facilities and combining that with the inherent hazard requires the collection and analysis of a great deal of other information.

It has become clear to me that we cannot fully and adequately deal with the issue of risk based regulation without building and applying a new information system that will allow us to analyse the risks we are endeavouring to regulate and to ensure that the system is useful and used by licence holders as well as by ARPANSA staff. We are commencing a major project in this area.

On conflict of interest, the ANAO drew attention to the issue of ARPANSA regulating itself. That is required under the act, but to assist perceptions in this area I am making arrangements with the state regulator for them to play role in inspection and monitoring of ARPANSA as a licence holder. On cost recovery we are implementing a new automated time recording system to allow better management measurement of the effort devoted to particular licences. We have also developed a draft cost recovery framework paper as a response to recommendation 6. That paper has been commented on by the regulatory review consultative committee and is now available for wider stakeholder comment. I would like to table a copy of that for the information of the committee.

With respect to the information recommendations, we have taken steps to improve in a number of these areas with the completion of some documents of the planning of others. Fully effective implementation of those recommendations will need to await the development of information system that I have mentioned. In conclusion, as I said in my response to the ANAO audit, I believe that ARPANSA has many regulatory achievements to its credit. We are also through that difficult transition period when we were faced with licence applications from the entire Australian government, all of which were to be reviewed at the same time. But the ANAO report is certainly a serious critique of the way we manage our regulatory processes. It will take time, effort and some cultural change to respond in a fully effective way but I am committed to doing so. I am happy to take questions and engage in discussion with a committee.

CHAIR—Does the subcommittee wish to receive as an exhibit a document entitled *Recovering the costs of regulation of Commonwealth entities under the Australian radiation protection and nuclear safety legislation: draft policy framework for comment,* by Dr John Loy, dated September 2005? There being no objection the document is accepted as an exhibit.

Right from the outset it has become clear from the audit report that the technical expertise of the scientists is relatively beyond reproach but the management ability within the organisation leaves a lot to be desired. Do you have a comment on that?

Dr Loy—At heart I think it is a fair criticism in that our focus has certainly been on getting radiation protection and nuclear safety right as a technical assessment, a scientific assessment and as an engineering judgment. We have not, until recently, focused as much attention on systematising our management. A lot of the time, the way we tended to do things was to incrementally develop policies and approaches. Often we failed to finish them off in the sense of formalising them, documenting them and making sure they were fully implemented and so forth. So I think the criticism that we had not—and have not yet—arrived at a fully mature management system of the regulation is fair.

CHAIR—Do you feel you have the management expertise in the people in your organisation to administer and develop these further extensions of policy?

Dr Loy—Broadly speaking, yes. As I said, we need to have a clear organisational focus on the management of regulation. So far we have tended to mix the two together, if you will—the management and assessment have been mixed with the scientific process. Separating those out will give us a clearer and stronger focus. One can always say you would like more people, more expertise and stronger management and I will certainly say that, but that is not the fundamental problem.

CHAIR—You have commented on your technical expertise. From my understanding you approved all the licence applications you received. During the process of vetting those applications, none of which were rejected, did you provide feedback in relation to deficiencies in their application or were they accepted as a fait accompli?

Dr Loy—No, they were certainly not accepted as a fait accompli. Any assessment process, with the possible exception of someone with a very straightforward application for, say, a baggage X-ray machine or something like that, always involved the ARPANSA assessors going back and asking questions, seeking more information and adding to the application that was initially put forward by obtaining this additional information. That was the form of feedback to the licence applicant. There is a kind of subtext to the idea that we have not refused a licence—the idea that we should have. In another sense, however, the Commonwealth has been undertaking activities using radiation and nuclear facilities for many years. It is not surprising that they were doing that in a manner that met the conditions of the act.

CHAIR—Perhaps my question is predicated on this basis: when there have been breaches, the failure to report and act properly on those breaches has been identified by the Audit Office, and that raises questions in the minds of not only members of this committee but also the broader public that not enough is done from the outside in ensuring that there are adequate controls, understandings, practice manuals and safety manuals in place for reporting. It would appear that in the absence of a process of show cause notices simply what needs to be done is have a meeting with you as the CEO and the licence is re-issued.

Dr Loy—That would be a misrepresentation of the situation.

CHAIR—Perhaps you could go through the processes for when people are in breach of the conditions of a licence.

Dr Loy—Yes. A licence is issued with conditions determined by the act and regulations, and I may impose additional conditions on a particular licence.

CHAIR—Have you ever done that?

Dr Loy—Yes. There are two very broad kinds of breaches. Often when we undertake an inspection of a licence holder the inspectors will draw attention to matters where a licence holder is in breach. It may be as simple as they are not displaying the licence in the workplace through to the situation where they are not managing the particular source in the way they said they would in the licence application. Often my approach is to say, 'My inspectors have identified

this potential breach or noncompliance; what is your response?' If the licence holder responds by saying, 'I have demonstrated how I have remedied this matter,' I normally would not proceed to make any formal finding of a breach in such a circumstance. It is a matter of the licence holder having remedied the breach.

CHAIR—You do not record that as a breach at any time, even though it has been remedied?

Dr Loy—That is correct.

CHAIR—How do you ascertain whether it is a habitual breach if you are not recording it?

Dr Loy—It is recorded in our files, in the knowledge that we have. I do not formally make a finding of a breach if it is a matter of a lower order and it is remedied. In other cases I have, and do, proceed to making a formal finding of a breach where I consider the matter to be more significant and if I feel that making that formal finding will improve the licence holder's continuing commitment to following the licence conditions. It is true that I have been feeling my way a little in this area of what is the most effective way of enforcing compliance.

CHAIR—Have you looked at the practice guides of other agencies within the Commonwealth for direction on the way to implement better standards and practice within your organisation?

Dr Loy—Yes, we have done a little of that but I think we can probably do more.

CHAIR—Which ones have you looked at?

Dr Loy—We have talked to Comcare, in particular.

Mr TICEHURST—How many licence types in general do you administer?

Dr Loy—Basically the licences are divided into two kinds: a facility licence and a source licence. Facility licences are the big-ticket items—the nuclear installations and things called prescribed radiation facilities, which are basically users of large amounts of radioactivity or high-energy accelerators and so on. There are several forms of those facility licences. Source licences deal with radioactive sources—machines that generate radiation, like X-ray generators and various sources of non-ionising radiation. There are quite a number of different forms of complex licences.

Mr TICEHURST—Is a source licence related to a particular type of equipment?

Dr Loy—I guess so, yes. A licensee is given a licence to conduct, operate or use a source for a particular general purpose.

Mr TICEHURST—Are you in the process of generating a database where you can correlate all these different licences and their parameters?

Dr Loy—That is very much something we need to do as a major project from now on. Like, perhaps, a lot of organisations we started out with great hopes of a database and we assembled one. It has not proved to be particularly effective. We kept hoping for some solution to come

over the horizon to solve this problem for us but very much now I can see that we have to grasp it firmly and make a major project to create a regulatory management information system that brings together all the licence holders and the different forms of licence and enables us to track the history of each licence holder and their performance.

Mr TICEHURST—Have you identified key result areas that you would monitor?

Dr Loy—I do not think we have done that formally, although there is some discussion about how to go about that. As I have noted in my response to the report, it is straightforward enough for us to have indicators about our own performance, about doing things within a certain amount of time and so forth. With regard to the indicators that we should apply to our licence holders, some of them are simple too—for example, 'Are they in breach or not in breach of licence conditions?' and so forth. But to actually get a clear measure of regulatory effectiveness is something we need to think more about. We will need to think about and look at international and national experience with regard to what are the real measures of our effectiveness as regulators, as well as those things about efficiency and cost effectiveness.

Mr TICEHURST—How many licences would you process, say, in a month?

Dr Loy—When we started out, everybody who was using radiation in the Commonwealth applied to us for a licence. So on 6 August 1999 we had a hundred applications dealing with different forms of licence. That was our activity for several years. We are now in a phase whereby we get a small number of licence applications, say, each quarter. It may be no more than two or three. We get applications for modifications to existing practices. They may be relatively simple modifications or they may be quite complex. It may be that the high-fail reactor is going to use a different fuel. That is obviously a very major modification and needs assessment. Then we have the activity of monitoring the licence holders who exist. That is now, if you like, our bread and butter activity.

Mr TICEHURST—Do you issue any guidelines for licence applications?

Dr Loy—Yes. We have guidelines for licence applications.

Mr TICEHURST—Have you found that this speeds up the process?

Dr Loy—Again, it is like there was before and there is now. In the case of our initial rush, if you like, of all the existing activities, everybody, to some degree, was new to this process. So it was being developed. I think now we have a much more mature system of providing guidance and I think the standard of our applications is pretty good. There are some observations in the ANAO report that go to not a conflict but an interesting tension in the way the act and regulations are written. On the one hand, the act says to me: in making a decision on a licence application, you shall take these matters into account. Then it lists half-a-dozen matters to be taken into account. The regulations also say: this is the sort of information I can require people to submit when they make an application. That information is about their radiation protection plan, their radioactive waste management plan, their plans for maintaining effective control of the facility and so on. That is very important. Obviously we need to know exactly how it is they are going to manage this facility or this source.

But we have this information and we have these matters to be taken into account, and there is a translation between the two that I think the ANAO made some observations about that could be better done in our guidance. That is something we will definitely be taking up as we develop that further.

Mr TICEHURST—In your opening statement, you mentioned you set up a consultative committee and you had people from outside involved in that committee. What were the numbers of insiders to outsiders on that committee?

Dr Loy—The committee is all external to ARPANSA..

Mr TICEHURST—Are there people on that committee who have expertise, say, in regulation and administration only?

Dr Loy—Yes. We have an ex state radiation regulator. The person, from ANSTO, in fact, has a background in the Canadian regulatory system. The gentleman from CSIRO is their occupational health and safety executive. We have a group of people who bring to that committee quite a range and depth of experience in regulatory activity and the management of it. I am very glad that they have joined us for this task.

CHAIR—In response to questions in the Senate estimates, you said that you would have the improvements as recommended in the audit report implemented by Christmas, even though the requirement date was March or April of next year. How close are you to achieving the implementation and operation by Christmas of those recommendations?

Mr Brandt—Some recommendations have already been addressed.

CHAIR—Which ones?

Mr Brandt—Recommendations 1 and 2 in particular. On recommendation 1, responses to the policies document currently being circulated for consultation are due by 7 October. As the CEO mentioned, the paper on cost recovery—recommendation 6—is currently circulating. Those are the recommendations that have already been addressed or partly addressed. The report which I have prepared for the CEO is currently being considered and decisions will be made over the next couple of days on what model to accept.

CHAIR—I ask you on notice to provide, given that you have stated that you have already complied with some of the recommendations and others are under way, an update on the compliance and, where you have not finished complying with those recommendations, the anticipated date of compliance.

Senator MOORE—Dr Loy, I do not usually get to ask you questions; Senator Forshaw tends to do that. I am sure he sends you his best wishes. The structure is one of the things that I am trying to get my head around, because ARPANSA came into being with a whole range of responsibilities, one of which was regulation. On page 86 of the audit report is a little block diagram of how you are broken up. What kinds of resources go into each of those various responsibilities? I think the audit report said that 16 per cent of your structure is covering regulation. How many people is that?

Dr Loy—The regulatory branch, when it has its full complement, is a little over 20 people. There is a large amount of regulatory work undertaken by our corporate counsel and by me, so there are a little over 20 people directly involved in the regulatory branch, plus other people who have substantial responsibilities or get drawn into particular things from time to time. Our total number is about 120 and the majority of those staff are in the laboratory functions in Melbourne.

Senator MOORE—Where is the regulatory branch?

Dr Loy—In Miranda, Sydney.

Senator MOORE—Are they the only people in Sydney?

Dr Loy—I spend more time in Sydney and half our corporate branch is in Sydney as well. They are split between Sydney and Melbourne.

Senator MOORE—On one reading this is a very damning report in terms of the importance and responsibilities of regulation within the overall aspects. As per usual with these things the organisation has come back and said, 'We are going to fix the whole range of recommendations.' The report talks about planning and compliance and all those things, and your organisation has said, 'Yes, we accept that, and this is what we are doing about it.' I would like to hear from you how the organisation felt when it got this report in terms of not just accepting it but understanding that this particular stream had not really met the requirements for systems that had been put down for it. Would that be fair enough?

Dr Loy—It is an interesting question. I am glad you asked me that.

Senator MOORE—I ask it of all of the places we audit. When you get a report that actually points out a series of things that are not working as well as they should be administratively—it is very much an administrative report—what are the feelings of the organisation when you get that?

Dr Loy—I think many of the findings were not of surprise to the organisation. Some people may have been more surprised than others, I guess, but overall I think it was accepted that we were not doing as well as we should have been in the management of the regulatory process. We had tended, as I said, to proceed down the path of developing policies and approaches but not get there fully and fully implement them. I think that was generally accepted. That is not to say that there is not still a reasonable degree of—how should I put it—need for some cultural change in the organisation about that. I think it is probably a cliche to say that scientists and engineers and so on are very technically capable but they are not necessarily terrific at undertaking the management of a process within a quality framework. That is certainly accepted as something we need to do. I think there is still some work to do on hearts and minds.

Senator MOORE—So the bodies who work in your regulatory branch are scientists?

Dr Loy—Predominantly, yes. That is right.

Senator MOORE—And there are some engineers?

Dr Loy—Yes.

Senator MOORE—Miss Kelly will be asking about the particular incident and a time frame on that so I think I will not go there. I would have thought that, along the track, there would have been some awareness in the organisation that things were falling a bit behind with regulation in terms of keeping records, responding to issues and that kind of thing. It would have become evident that it was happening. Were there resources issues? Were there enough people focused on this task? Were there some gaps because of people being away? Was that an issue at all?

Dr Loy—It probably was, but I would not hold it out as being the issue. More than anything else, I think it was to do with finding the people who had an interest in and commitment to doing this management of the process right. Everyone in the area would accept that it should be done within the context of clearly stated policies and robust and well-documented guidelines and so on. But finding the people who actually had the interest and capacity, as well as their scientific background, to actually do that fully effectively, I think, was the hardest thing. There was a bit of a sense of: 'We can improvise our way through lots of things. We will get it right; the need to fully record it and document it is a secondary issue.' I have no doubt that this is a bit of a cast of mind amongst some staff.

Senator MOORE—At any time did anyone from your regulatory section put up their hand to you and say they were drowning?

Dr Loy—I think probably different people at different times did. Also bear in mind that we were faced with some pretty big things. Obviously, we had to give our fullest attention, if you will, to the decision making on the reactor. We did that, and that was very demanding. It diverted a lot of resources that might otherwise have gone into the better management of all of the other activities to this nearly all-consuming issue of assessing the reactor. I am painting a fairly black-and-white picture there. There are shades of grey in it, of course. But that I think was part of the issue as well.

Senator MOORE—I will follow that with some more technical stuff later.

Miss JACKIE KELLY—So you have 20 people working on regulation and you do not feel that long service leave, maternity leave or study leave impacted greatly during the last 12 months or the time of this report? You do not feel you are understaffed in that area?

Dr Loy—I think there is an argument that we are understaffed, but I am not trying to say that that is the prime reason. I accept that there are resource limitations, and that that had some effect on our performance—no question. But I am not pleading that as the excuse.

Miss JACKIE KELLY—Basically, you had engineers and scientists and no bean counters?

Dr Loy—No, we have bean counters as well.

Miss JACKIE KELLY—In the regulation area, with that 20 people—

Dr Loy—Not directly; obviously, we have a corporate services area.

Senator MOORE—That is where the bean counters go.

Dr Loy—That is where the bean counters go, yes.

Miss JACKIE KELLY—So out of the 20 people no-one had an interest. You never saw it as your job to either task someone or take the opportunity for a turnover of staff and pull one of the bean counters into the regulatory area?

Dr Loy—It is not as if we did not have any procedures. It is not as if we did not have any information or approaches to an inspection program. It is just that they were not well documented, robust or fully finished. It was not that we were doing nothing; we were not sufficiently effective at building this—

Miss JACKIE KELLY—Given that you are a new organisation, since 1999 you have been trying to develop something. Did you go to any of the states and look at one of their templates for a regulatory environment? Did you think, having looked at all the eight states and territories, that one was a winner, start with that as a template and work from there to improve it?

Dr Loy—Yes, we did some of that.

Miss JACKIE KELLY—Who did you pick?

Dr Loy—It does seem like special pleading, but the Commonwealth jurisdiction is actually also quite different for regulation than the states. There are different clientele entirely. If you are in the states your view of radiation regulation is that it is medical—doctors using CT scanners, X-ray machines and so on. It is about industrial radiographers in certain industries. In the Commonwealth it is quite a different thing. You have got these large organisations on the one hand—ANSTO and CSIRO—that are very sophisticated and technically capable, through to Defence—

Miss JACKIE KELLY—So you do not think there is any correlation between state and federal regulation? There is no joining of minds—that sort of best practice?

Dr Loy—Of course we can learn some things—no question. We do that and will continue to do that. We work with the states closely all the time, through a radiation health committee which is a group with the states—

Miss JACKIE KELLY—Do any of the states have a regulation structure that is audited in a timely fashion? Do they go back over licence conditions, workplace practices and occupational health and safety inspections?

Dr Loy—Comparisons are always odious, but I think the Queenslanders do it very well. I think we have things to learn from them. New South Wales takes a different approach to the way it goes about regulation that I do not think could work in the Commonwealth jurisdiction. So yes, there are things to learn. But we would be learning about only part of our work.

Miss JACKIE KELLY—In your corporate plan, you have organised the 19 recommendations into five groups. Only one is cost recovery. You mentioned earlier that you are going to a time

recording. Basically staff go out there, do what they do and plot their time. That still seems a responsive way of managing regulations, rather than having your guidelines and key performance indicators set up. For example: there will be six-monthly inspections; so many staff tasked for this; we need this many hours; this is how much each licence holder needs to pay for that type of regulation to occur at those times on these areas and so on. It still seems that you are going with a reactive model rather than proactive management regulations where you are nipping failures in licence conditions in the bud before accidents occur. The chair is winding me up, but there are some clear areas where you have waited for an accident to occur before anything was done—or even nothing was done.

Dr Loy—I would not accept that characterisation, but I agree with you that we need to approach the tasks in the way you have described. We do that to some extent. We do not do it particularly well, because we do not collect the information sufficiently systematically and we do not analyse it sufficiently systematically. We need to improve in doing that, and then we can combine the hazard of what someone is doing with our knowledge about how well they are doing it and direct our efforts to the highest risk areas. We know we need to do that, we know how to do it; we have not yet done it effectively.

Miss JACKIE KELLY—No-one is denying you know where the risks are, because you have got a history with things and everything is pretty low risk and you have been able to target the high risk area in an ad hoc way. It is interesting that your five issues are: corporate, risk, conflict of interest, cost recovery and information—and none of those is actually management of regulation. We do not have a problem with your definition of risk; we have a problem with you managing it so that I could be the next CEO, walk in there and there would be a system in place that any manager could run without your particular technical knowledge. Are you quite confident that, if we replaced your position with any other manager with an MBA, a human resources extensive history in managing government departments, that system would stand alone?

Dr Loy—No, I am not going to give you that assurance at this point. I accept, with some qualification, that what you say is where we should be aiming to be. That is what we are endeavouring to do, partly as a response to this report.

Miss JACKIE KELLY—Do you think your five categories will get you there, Mr Brandt? Do you think those five categories are robust enough to get a corporate plan of key performance indicators and to identify the staff time required to go out and check those key performance indicators for each of your licence holders?

Mr Brandt—I am sorry; I do not quite understand the correlation between those five categories and the time measurement.

Miss JACKIE KELLY—It is about your licence fees, because you have had a number of rises in your licence fees. What is your current basis for increasing your licence fees to date?

Dr Loy—There are a few steps. First of all, when we were set up, although the government said, 'Thou shalt cost recover,' they also said, 'In the first instance, here's some money to be going on with as you introduce cost recovery.'

Miss JACKIE KELLY—This was the NSB funds?

Dr Loy—No, this was further funds. There were funds made available in the first instance, so cost recovery was phased in. We then moved to full cost recovery. We could debate whether we have fully arrived there, but we then moved to full cost recovery. The subsequent increase was simply an increase based upon our increased costs. There was not any change to the system.

Miss JACKIE KELLY—So you are not able to transparently show licence holders how that cost was arrived at and why they should be charged that? It is just, 'Our whole costs have gone up, therefore we'll recover it from you.'

Dr Loy—That is broadly correct, though it is not as if we made it up out of nothing.

Miss JACKIE KELLY—What about transferring the NSB funds. Can you clarify the NSB funds offsetting of licences?

Dr Loy—Yes. It is historical that the government was funding the Nuclear Safety Bureau, which 'regulated' the HIFAR at Lucas Heights. So when that task was taken up by ARPANSA, the NSB appropriation for the regulation of the HIFAR continued. So, instead of ANSTO having to pay a licence fee, it was reduced by that NSB appropriation.

Miss JACKIE KELLY—And that is still occurring?

Dr Loy—Yes, it is still occurring. I do not think it will continue to occur. I think it is fading.

Senator MOORE—The transmission is over?

Dr Loy—Yes.

Miss JACKIE KELLY—Are you working towards a transparent set of figures on cost recovery so that licence holders can see your costs and how they are charged to them? In fact, some licence holders will be paying more, because you have got more conditions on their licence that need to be checked.

Dr Loy—Yes. When you have the opportunity to look at the paper that we have tabled, you will see that what we have said is that, while formally we do not have to follow the Australian government cost recovery guidelines, we will endeavour to do so. We look at the existing system. It is not entirely ad hoc. It is based upon estimates of hazard and risk. But we acknowledge, and I acknowledge here, that we need to refine that with greater knowledge and information. We explored some options for changing the cost recovery system. One of the policy drivers we would like to get in the cost recovery system is that if you are managing things well you will pay less and if you are not managing things well you will pay more. Exactly how we do that is a bit of a challenge, particularly when we have regulations setting our charges.

Miss JACKIE KELLY—In among all this is also the management of the regulations regarding reporting. We had that incident that Senator Moore mentioned where we had March, April, May and June before a report was put out to the CSIRO. You had an accident occur in March 2004. The final report to the CSIRO was made on 11 June, saying what they needed to do and the basis of the accident and so on. Then in August, a month or two later, there was another accident in the same organisation. There is a huge delay there in terms of managing regulation.

Dr Loy—I do not know whether it is a huge delay. It was a matter of being careful to analyse the situation and to look at CSIRO's own response. The prime response has to come from the operating organisation. They have to investigate it, they have to analyse it and they have to put forward proposals to deal with it.

Miss JACKIE KELLY—They have to tell you within 24 hours.

Dr Loy—But the prime response for dealing with it has to be theirs. There is no point me coming and fixing their mistakes.

Miss JACKIE KELLY—I think you have to be in there and regulating. If someone is injured, there is a problem. We now have a mining industry in Australia that has not had a death in 12 months—that is the mining industry. It can be done. Zero harm is an objective. It should be your objective; it should be one of your key performance indicators. When you have someone hurt, you need to be on top of that within 24 hours and be going right through the biscuit. You should at least be putting a whole bunch of other conditions on their licence, which you will then put more resources into monitoring. You need to do that immediately, not several months later, to make sure that by August we do not have another accident.

Dr Loy—That is fine. I do not argue with anything you have said there. But on the other hand we also have to analyse CSIRO's response. They have to respond. If we are basically happy with it, we let them continue so that they can respond to and deal with the situation. If we feel they are not responding adequately, yes, we should move in and make sure that they do.

Miss JACKIE KELLY—They rang your service delivery agency six days later. Is that an adequate response?

Dr Loy—Everybody stuffs up. That is right. But we worked hard with CSIRO and they have greatly improved as a result of that accident.

Miss JACKIE KELLY—And, using CSIRO's key performance indicators, you can show clearly things that they are doing now that they were not doing in March and then subsequently in August?

Dr Loy—Not yet.

Miss JACKIE KELLY—Okay: you will get there.

Senator MOORE—I will jump in with a follow-up question. Dr Loy, I want to get clear in my mind what you see as the role of the regulator. The CSIRO incident is only an example. Unfortunately, it involved people being hurt. Using that as an example, the issue occurred at the CSIRO. What exactly do you see as your role as regulator when something like that happens? My understanding of the time line is that formal processes were not followed effectively by CSIRO in terms of letting you know about that. People were hurt. What exactly is the role of the regulator in that process?

Dr Loy—The licence holder has the obligation to take all reasonable steps to prevent breaches and accidents. My role as regulator is to see that they are doing that. If, in response to an

accident or incident or some other breach, CSIRO says, 'This is what we are doing to investigate that and to remedy it,' and my assessment is that that is a satisfactory response then I shall let them go ahead and do it. If I believe it is not a sufficient response, I shall tell them that and get them to bring forward a better response. But it is not my job to do it for them.

Senator MOORE—What is the leeway though? The thing that worries me in that whole issue with CSIRO is not only the fact that it is a serious workplace issue and CSIRO fell down—that is not you, that is CSIRO—but that they held the licence that you gave them to have that equipment. The equipment damaged workers. They did not tell you that it had happened; you found out in another way. How bad does it have to be before they really get their butts kicked?

Dr Loy—That is a very fair question. To answer it in a fully effective way: what I am doing is drawing up a kind of matrix on severity of breaches of licence conditions versus compliance action to try and do exactly what you are saying—determining how serious it has to be before a licence gets suspended, cancelled, referred to the Director of Public Prosecutions or whatever.

Senator MOORE—I think that is what we are trying to find out. What is the time frame for that particular part of the response?

Dr Loy—That is something we will be working on over the next couple of months. It is something I want to consult on with the consultative committee and with licence holders more broadly, but I would hope to have something up on that by the end of the year.

Senator MOORE—With all the things that are coming through, that is one that really stuck out for me, because we are talking about safety and people's safety. I am really pleased that you have Comcare on that consultative committee, because they are looking after people in that process. The other thing, in drawing up your matrix on severity, is that, while everybody knows that everybody stuffs up, people need to know that if they have a little stuff-up, this is what will happen, but that if they are putting people in danger then they are going to have real trouble. Within the matrix of severity, is there any consideration of having a delegation of who can handle it? I do not know this area very well, but in my reading of it it seems like everything goes back to you, and there does not seem to be a delegation list that says that, once it gets to you, it is a really serious time—that is when you have the CEO involved—but for some of the other things up the list, there could well be someone to whom you delegate that interaction. Is that kind of delegation list something you are considering as well?

Dr Loy—Yes. I think it makes a lot of sense to do it that way. I am formally the decision maker, but there is no reason why I cannot appropriately delegate.

Senator MOORE—It may get things moving more quickly if you have that kind of thing.

Dr Loy—Yes, but I guess the reason why I cannot show you this matrix now is because we are learning a lot about this act. I do not think anyone a priori would have anticipated that the things that would hurt people would be ultraviolet transilluminators. When everyone talks about ARPANSA, they talk about nuclear reaction, ionising radiation and X-rays. That is what most people thought, but it turns out that ultraviolet was less well managed.

CHAIR—One of the things that concerned me was that the Audit Office found that the bulk of licence assessments—according to the report, some 75 per cent—were made without the support of robust, documented procedures and that the assessment of applications was only supported by draft procedures which staff were not required to follow. Firstly, could the Audit Office give me some background and further information on that before we get ARPANSA to respond to it?

Mr Greenslade—At the time that the bulk of those applications were being processed, ARPANSA were developing draft operational procedures, and we found through the audit that there was not a requirement that they actually be used. We also found that certain matters that were part of the assessment process had not been included at that point in those draft procedures. I understand they were finalised towards the end of the audit, but I am sure that the agency could give you more details.

CHAIR—Dr Loy or Mr Brandt, do you have any comment about that?

Dr Loy—I have a couple of comments. There were procedures. They were draft procedures, but there were procedures. Furthermore, the path of an assessment—from the assessment officer it may be reviewed by a section head, reviewed by the branch head, reviewed by the legal adviser and then come to me—meant that there was a fairly consistent scrutiny of licence applications. It was not ad hoc, but certainly we have strengthened those procedures and we can do further work on them. As I said, the issue that we are still grappling with a little bit is the difference between matters to be taken into account on the one hand and the information required of the applicant on the other and how to get that balance right.

CHAIR—What concerns me, as an observer of this process, is the appearance of a lax attitude in dealing with licences or regulation because they are government agencies anyhow. I saw that reflected when you gave evidence on 2 June to the Senate estimates on cost recovery. Your appreciation was that it was the government funded organisations anyhow, and it was not really high on the priority list. Are we seeing a different approach to regulation of cost recovery because they are just other government agencies? If you were dealing with private entities, perhaps you would have to have a different approach. Can you respond to that please?

Dr Loy—There are two things. First, simply in terms of cost recovery—and I do not recall the context in which I made those remarks—

CHAIR—I will quote what you said:

It does need to be borne in mind that the application fees and annual charges are set by regulation, which necessarily limits their flexibility and the degree to which a particular fee or charge could continuously reflect the precise level of regulatory activity.

That was at Appendix 6, page 93. You said further:

Yes, those costs were underrecovered. The government recognised that and that was one of the reasons we received one-off additional funding the year before last. In that sense, the costs were underrecovered from the client—

ANSTO—

but they have not been underrecovered from the government—

because ANSTO is a government funded organisation anyway.

Dr Loy—That referred to the specific case of the costs for the assessment of the construction licence for the OPAL reactor. Thereby, the licence charge was underestimated. It was remedied in the way I described. I was not saying that overall cost recovery is not important; it is the government's policy to begin with. Second, as you will observe in the paper, we believe we should recover our costs consistent with the Australian government guidelines for cost recovery from the private sector. We acknowledge that. In terms of assessment and our general treatment of licence holders, we take the duties given to us by the act seriously. I do not think we resile because they are government agencies that we are regulating.

CHAIR—When you look at the views of compliance regulations or practices that you put out, do you regularly have a council with the various state organisations so there is commonality in direction and regulation?

Dr Loy—Yes, there is a process of working with the states and territories on national uniformity in radiation protection.

CHAIR—How often do they meet?

Dr Loy—There is a radiation health committee that meets three times a year. The specific way in which we are trying to achieve consistency is through a document called a national directory for radiation protection.

CHAIR—Are there any administrative aspects that you see in the state, particularly with handling radioactive materials, that raise concerns to you as the federal regulator?

Dr Loy—No, I have confidence that our state and territory colleagues are able and conscientious. I have no major concerns. The issues of nonuniformity tend to be at more irritating levels of detail than fundamentals.

Senator WATSON—One of the criticisms of the discharge of your management responsibility has been that you have appeared to focus on the application assessment—for which I do not criticise you so much—but there is a lack of respect for monitoring and following up to ensure that what was said has been actually carried out in practice. For example, I am quite unhappy that the fees were not supported by a robust activity based costing system—which is surprising—despite the fact that you are required to cost recover and despite assurances to licensees that such a system would underpin the fees. Who made that statement?

Dr Loy—I think that that was made in a letter that I wrote to licence holders in 1999 or 2000.

Senator WATSON—Then why in so many cases not charge fees initially?

Dr Loy—As I said, the cost recovery was phased in because the government did provide additional funds for ARPANSA's regulatory activities in the first two financial years. Thereafter,

putting aside the issue of the NSB and some arguments at the margin, we believe we are fully cost recovering our regulatory costs through our licence charges.

Senator WATSON—You have got a very ad hoc approach to charging. For example, for 60 per cent of the cases there was no initial charge but as you do work you progressively charge. This leaves a client in a very unusual situation: from no fees to a situation where fees will be incremental depending on how long you spend assessing them. I can understand a two-stage approach but I would have thought that you would have had a basic fee depending on the risk classification of high, medium or low and then a proviso that additional fees could be charged if the monitoring were showing up problems. That is the stick that you can wave at them, but to use that third tier as your approach to fee recovery, I must say, is a most unusual approach.

Dr Loy—I am not sure that I understand your question, Senator.

Senator WATSON—Sixty per cent of cases have no fee.

Dr Loy—No. That is not true.

Senator WATSON—Is the audit report wrong?

Dr Loy—What the audit report was saying, I think—

Senator WATSON—Initially, no fees.

Dr Loy—No. The applications were not accompanied by a fee. The fee was subsequently collected—

Senator WATSON—Depending on the amount of time you spent on the job.

Dr Loy—No.

Miss JACKIE KELLY—Doesn't that contravene the act? Have you fixed that now? You do not receive applications now without the upfront fee because of the act? So all your staff are aware of that?

Dr Loy—Yes. It is not that the fee was not collected or that the fee was adjusted—and the Audit Office is correct to criticise—it was that the fee did not come at the time of the application, as the act said it should. It was subsequently collected.

Miss JACKIE KELLY—No fee, no licence—

Dr Loy—Correct.

Senator WATSON—After a licence had been granted you did not monitor or assess the extent to which the licensees met reporting requirements. Why have a regulator—

Dr Loy—I think that that is a separate critique. I do not think that that has anything to do with cost recovery, per se. That is a separate critique that the ANAO feels we did not put enough attention to in monitoring and assessing performance. I would accept that that has been valid at least during those times when we had this very large workload of assessment of licence applications.

Senator WATSON—That is what I am saying. Discharge of your initial application for assessment took absolute precedence in terms of a lack of respect for monitoring.

Dr Loy—I do not think there was no monitoring. There may not have been as much as there should have been or could have been, but it was not as if there was no monitoring. And, in terms of the assessment, in the first instance, until we had made an assessment and made a decision on the licence, these licence holders were effectively not regulated at all. Until we brought them into the system by making the assessment and the decision, they were outside of it. I cannot see that as being an improvement.

Senator WATSON—Are the Audit Office wrong when they say that some 75 per cent were made without the support of robust, documented procedures?

Dr Loy—What they mean is that the procedures were draft procedures and they did not see sufficient evidence that people were required to follow them. It was not as if there were no procedures—as I have said, an individual officer's assessment was then reviewed by several officers, including the legal adviser, before it was then assessed by me.

CHAIR—Senator Watson, perhaps we could get the Audit Office to comment on that right now.

Mr Meert—I think, as a general rule, we would ask, with draft procedures, 'What status does a draft procedure have?' I think you have agreed with that. Also, you need to give some guidance to your staff to follow the procedures.

Senator MOORE—Is that happening now, Dr Loy? Is there training for people to make this change in the way they operate?

Dr Loy—Yes, certainly. I really do not think the assessment procedures could be subject to quite the same criticism now as they were then. That is not to say that they could not still be improved, of course.

Senator MOORE—So, if the audit was happening today, you would expect a better result?

Dr Loy—I hope so.

Senator WATSON—Again, we see 'under-reporting by licence holders'. If you are not monitoring, it is not surprising that the audit report came up with these sorts of criticisms.

Dr Loy—Yes, and we have directed attention to that and we believe that we have now overcome that issue.

Senator WATSON—But, of course, they go on to say that you did not have a policy or other guidance addressing the use of enforcement powers, notwithstanding that you have been responsible for enforcement since 1999. So it has taken a long time to get your act together in terms of proper monitoring, enforcement and guidance to your staff on what they should be focusing on. I think it is a very strong criticism of the management performance, but they have said it in pretty soft tones.

Dr Loy—I did not notice any softness in it, I have to say! I accept that we have been slow in building our enforcement processes—that matrix that I talked to Senator Moore about—but, on the other hand, that has partly been due to building the experience needed to do it. You could do that kind of job theoretically but, until you have the experience of the sorts of things you are actually going to be dealing with, I do not think you can do it as effectively as you need to. But I accept the criticism—no question.

Senator WATSON—Isn't it a manager's job to bring in experience to do this? A regulator is a regulator.

Dr Loy—I do not agree—

Senator WATSON—An assessor is an assessor.

Dr Loy—That is true to some extent, but it is not true to the nth degree. I think there are differences in our field. We are dealing with a certain culture, both in the regulatory body and in the operating organisations, that is different from other cultures. It is not better; it is just different. Learning how to deal with that in an effective manner has taken us time. It has taken us too long—no question.

Senator WATSON—It certainly has taken too long, and this is our criticism—that it took from 1999 to 2005.

Ms GRIERSON—My apologies for my absence throughout a lot of this hearing. I can only say—and I think it has to be said—that, when reading the report, the recommendations cover what most of us here would assume are basic performance management activities. That they were so extensive suggests some major shortfalls in operations by ARPANSA. I guess we now need to know where you are moving to and how you are getting there. I have missed some of the hearing, so could you tell me about the regulatory review project and its status at the moment?

Dr Loy—What I wanted to do was not just set up a process that ticked off the ANAO recommendations but rather take the report and look at the regulatory process overall, give it a thorough examination in the light of the ANAO recommendations and come forward with an overall approach to where we go from here. Mr Brandt has been undertaking that, as I said, in the first instance going out consulting with stakeholders, licence holders—

Ms GRIERSON—How did Mr Brandt get that position?

Dr Loy—It was advertised and he applied for it.

Ms GRIERSON—Right; thank you.

Dr Loy—He has been going out consulting with stakeholders, licence holders, staff and so on, and has then been preparing a review of the existing processes and coming forward with a set of recommendations as to how to proceed from here.

Ms GRIERSON—So the audit report did not provide a review of all the processes?

Dr Loy—Yes, it did, but the audit recommendations tend to be at a level of generality, necessarily. That is not a criticism. Their recommendations are at a certain level of generality. To take that recommendation and actually apply it in our circumstances and say, 'This procedure and that procedure has to change in these ways,' is something that requires further examination and thought to undertake.

Ms GRIERSON—So how long has the project been in operation now?

Dr Loy—Since March.

Ms GRIERSON—And what is its timeline for delivery?

Dr Loy—Ultimately I would like to be able to say that we will have achieved and implemented the review fully by March of next year. That will not be entirely the case but, for the most significant items—

Ms GRIERSON—Mr Brandt, what framework are you working within for this review?

Mr Brandt—We designed the project plan to meet the 12 months timeline.

Ms GRIERSON—To do what?

Mr Brandt—The project is divided into three stages. The first stage was the review of current processes in terms of regulatory business and a consultation process with predominantly licence holders. The second stage is preparing a report to the CEO with recommendations on how to enhance the regulatory processes.

Ms GRIERSON—So are both those stages complete?

Mr Brandt—Yes. The report is currently being considered.

Ms GRIERSON—Have we the opportunity to see that report?

Dr Loy—I am proposing to release the report as a public document, together with my decisions on it. As you can imagine, there are some sensitive internal issues about it that I need to handle before I can do that.

Ms GRIERSON—No, I do not understand that because I would have thought that, if this is a genuine review process, it would stand alone without your final say on things. I would have thought that a review has to have some integrity and autonomy to be purposeful and meaningful. So you are going to look at that and make some decisions. What sorts of decisions do you think you will make?

Dr Loy—For example, it recommends an organisational change to carry forward the processes of the review and to carry forward regulatory management into the future. So I have to decide: do I want to change the organisation in that way or do I want to achieve the objectives some other way?

Ms GRIERSON—You told us it needed some cultural change. What is the next process, Mr Brandt?

Mr Brandt—The third stage is the longest part of the project, and that is the implementation of the agreed changes.

Ms GRIERSON—Dr Loy, you said that you agreed that there needs to be some cultural change. When the Audit Office report came out, did the Department of Health and Ageing make any response to this report to you? Did they take this up with you or did you report to the Department of Health and Ageing on this very unsatisfactory audit report?

Dr Loy—I have spoken to people in the department, including the secretary, about it. They are certainly aware of it.

Ms GRIERSON—Are they playing any role in this review?

Mr Brandt—They were given an opportunity during the first stage of this project to make any comments or provide any information in relation to current processes. The department chose not to do that but they have asked to be kept informed of progress at the moment.

Ms GRIERSON—Dr Loy, has this audit report shaped your performance contract in any way?

Dr Loy—I do not have a performance contract.

Ms GRIERSON—So you have a three-year contract with no performance indicators in it?

Dr Loy—I have an appointment to a statutory office.

Ms GRIERSON—Was it a five-year appointment?

Dr Loy—Yes.

Ms GRIERSON—And then it has been renewed.

Dr Loy—That is correct.

Ms GRIERSON—Does it have any performance indicators in it at all?

Dr Loy—No,

Ms GRIERSON—Goodness me!

Dr Loy—other than that I implement the act.

Ms GRIERSON—Let's talk about the implementation of the act. When the Audit Office did this review, they were concerned that the strategic plan and the operational plans did not link as closely as they should to the act. You as the regulatory body and the regulations themselves have to establish standards and criteria for safety. What have you done to improve the standards and criteria for safety?

Dr Loy—I am not sure what you mean. I do not understand which recommendation you are referring to.

Ms GRIERSON—You look at the act and you have to regulate it. Your strategic plan has to link to the regulations and to the act itself, I would have thought. Therefore, you have to break that down into priorities. Some of those priorities would be safety; some of them would be compliance. Have you been through that process again?

Dr Loy—We have a revised corporate plan that includes a high-level regulatory strategy. That is out for consultation at the moment. It is certainly available to the committee, of course. That is an approach to the overall regulatory issues at high level. That is also being reflected in the regulatory branch plan. It is not yet as well reflected as it could be. We need to do some more work on that, and we are undertaking that work.

Ms GRIERSON—You say you are consulting on your corporate plan. Who are you consulting with?

Dr Loy—The corporate plan overall has been developed in consultation with the staff of ARPANSA. The specific consultation on the regulatory statement within the corporate plan was looked at by the regulatory review consultative committee that I established. We sent it out to licence holders for comment and we put it on the web site asking for anybody to comment on it.

Ms GRIERSON—Does your project have any involvement in that, Mr Brandt?

Mr Brandt—Yes, it does.

Ms GRIERSON—How have you been involved in that corporate plan and those regulatory objectives?

Mr Brandt—During stage 1 of the project, the corporate plan was being prepared. It is a three-year plan in ARPANSA. The current plan was finished in 2005 and the 2005-08 plan was being prepared as the project started. So it was an opportune time to address some of the ANAO recommendations in the course of that preparation.

Ms GRIERSON—So, Dr Loy, you are going to take 12 months to act on a performance report by the Audit Office that says that five years has not been enough to get you to where you should be. How is it going to change in one year?

Dr Loy—It will change by creating structures and processes and by implementing the changes that have been recommended. But it will not fully change in one year. It will require continued

effort, but certainly within one year we will have implemented the changes that the audit report recommends.

Ms GRIERSON—I find it difficult to have confidence, given the fact that there was so much that was missing that now has to be done. With a 12-month time plan to do that, I do not feel confident that will happen.

Dr Loy—I hope I can prove you wrong.

Ms GRIERSON—I hope so too. The responsibilities are very great. One thing that we also saw in the report was the lack of identification of risk: risk to reputation and risk to the organisation but not risk to the public and to those that you regulate. How have you responded by changing that risk and making it rigorous and reflective of your duties?

Dr Loy—We are going through a process of reviewing the ARPANSA risk framework, even as we speak. The regulatory side of that is being undertaken, as are the risks to all the other activities that the organisation undertakes.

I am reminded a little bit of the character in the Moliere play who discovered he had been speaking in prose all of his life. What people in radiation protection and nuclear safety deal with all of their lives is risk. They do not often use that term, but that is what they are dealing with. It is not as if we do not know about risk. It is not as if we assume everything is of the same risk and hazard. We do not. Our risk processes might not be as good as they should be, but it is not as if we do not have any knowledge of or commitment to risk management.

Ms GRIERSON—The reverse of that is that understanding that you are dealing in a risky business should mean that it is at the forefront of all your planning. Therefore, that should be seen through every hierarchy of the management and operations that are affected under this act. So I find that—

Dr Loy—I believe it is in terms of the hazard presented by an individual source or facility. The difficulty we have had and what we have not done well is integrating the inherent risk of a particular facility with the quality of the management of the particular organisation. We need to do that better.

Ms GRIERSON—There would have to be some measures to do that, wouldn't there?—some risk measures that you would apply. When you grant a licence I would have thought that those risk indicators would be very much part of fulfilment of the licence conditions and therefore the monitoring of the licence action. Do you think, Mr Brandt, that your activities will come to that issue of making sure that licences match particular risk criteria and measures for them?

Mr Brandt—Absolutely. That is the very strong recommendation in the report. Risk assessment and functions running from those risk assessments have to be enhanced, definitely.

Ms GRIERSON—ANAO, the regulatory review project is obviously seen as central to improving performance. Were you familiar with the terms of reference and methodology being used by this regulatory review project? If so, are you satisfied with them?

Mr Greenslade—At the time that we were completing and tabling the audit, we understood from ARPANSA's response to the audit that it would commence a review. But at that time I think the terms of reference and details had not been set out.

Ms GRIERSON—So you have no way of judging if this goes to the matters you have raised?

Mr Greenslade—No.

Ms GRIERSON—How would you like that to be? If you are going to have to go back and do a follow-up audit on this, you would perhaps have liked to have been involved in or get some indication of the response.

Mr Meert—For us to make a judgment on it, we have to undertake another audit. You can have a cursory glance at it, but, really, to comment on it as to its adequacy, especially as an auditor, would be very difficult.

Ms GRIERSON—The CEO sits at the head of this organisation for obvious reasons, but I am concerned that the process we have heard so far goes back to the CEO who was responsible for this organisation achieving this audit report and he now has to make those judgments on this new regulatory review process. Would you consider that there could have been other ways to have some checks and balances built into this review?

Mr Meert—In the end, the legislation puts the responsibility fairly and squarely on the CEO. So, in the end, under the accountability model, the CEO would be the decision maker in any event.

Ms GRIERSON—Under the accountability model, all of the recommendations from a review body should be openly disclosed and will be?

Dr Loy—Yes.

Ms GRIERSON—Good. I think that is fairly critical. You were telling me that you had redeveloped the risk profile—those risk objectives for licence agreements.

Dr Loy—We are in the process of doing that.

Ms GRIERSON—Is it part of the process?

Dr Loy—Yes. I think that, to get that working fully, we need to improve our information system.

Ms GRIERSON—You said that you had been trying to develop an information system for several years.

Dr Loy—Yes.

Ms GRIERSON—Where is that up to now?

Dr Loy—We are starting again, basically.

Ms GRIERSON—Is there anything that you are retaining and that worked?

Dr Loy—Of course. It is not as if people cannot find anything and it is not as if there is no ability to manage and analyse information. But the support for people doing that is not effective enough, so we need to build a system that enables that analysis of the information to be done much more effectively.

Ms GRIERSON—Every organisation needs an information system, and yours has been going for quite some time, so I find it fairly unacceptable that over that time period you have not developed an information system that manages the data you need to process all the time. In terms of cost recovery, in your statement to us you said that you are looking at electronic time-recording systems against licence activity. So you are actually going to almost have billable time for the costs for licence administration. Is that right?

Dr Loy—That is correct.

Ms GRIERSON—Have you done anything like that before?

Dr Loy—Yes, it has been done, but again it has not been built into our system as well as it should be. The new electronic system is built very much into the way our whole IT system works, whereas before it was done more on a spreadsheet maintained on a stand-alone computer.

Ms GRIERSON—So, on those spreadsheets, you knew that you were behind on granting licences?

Dr Loy—Certainly we had an overall view of where we stood in terms of application assessment.

Ms GRIERSON—And that costs were exceeding revenue?

Dr Loy—I think it is debatable whether that is actually true, with the notable exception that we certainly did fall behind in terms of the costs of the construction licence applications.

Ms GRIERSON—I would have thought it was not debatable. I would have thought the evidence shows that there was only one year when you matched cost recovery; the other years you did not recover costs—costs exceeded revenue.

Dr Loy—There is the issue of the NSB appropriation that we need to clear off the table in the future, but it has been an issue in the past that we have not fully cost-recovered because we still had an appropriation prior to that that was for the regulation of HIFAR.

Ms GRIERSON—Was that appropriation used appropriately?

Dr Loy—Yes.

Ms GRIERSON—I think that is debatable too.

CHAIR—Our time has run out but there are still many questions to be answered. Members of the committee, through the secretariat, will prepare questions for reply to the committee. I thank you and the Audit Office for coming today to provide the committee with evidence.

Resolved (on motion by **Mr Laming**):

That this committee authorises publication, including publication on the parliamentary database, of the evidence given before it at public hearing this day.

Committee adjourned at 12.02 pm