

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING : 22 May 2017

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(BE17/002) - Previous QoNs - Internal Product (DIBP)

Senator Gallacher, Alex (L&CA 9) asked:

Senator GALLACHER: Mr Pezzullo, I mentioned four questions on notice: two where you have said there was some degree of confusion; and the other two are pretty straightforward. You perhaps want to take either a public interest immunity claim on 161, where you make a claim of operational sensitivity; and 141 where you make a claim it would be an unreasonable diversion of resources. I am happy for you to take those on notice and report later during estimates on whether you are changing your position in respect of those questions.

Mr Pezzullo: I doubt very much that we will. But I will personally review it. If we have made a claim of confidentiality, we will assert immunity. If it is the case that the officers have come to a view that it is an unreasonable diversion of resources, my inclination will be to back them. But I will personally look at it through the course of the day.

CHAIR: And is that set out in the claim?

Mr Pezzullo: I believe so.

CHAIR: The reasons—

Mr Pezzullo: I will need to check.

CHAIR: Yes. Senator Gallacher, if I could—

Senator GALLACHER: I am happy for those to just go on the record and I will revisit them if there is sufficient time during estimates.

CHAIR: I was going to say, yes, either that, or the committee can meet to determine whether it is a valid claim. But that is something the committee can do in private. The secretary tells me you have not made a claim for public interest immunity in your answer, Mr Pezzullo.

Mr Pezzullo: If that is the case, I will just ask the chief operating officer to look at that. We will be.

CHAIR: Okay. Senator Gallacher, are you finished then?

Senator GALLACHER: I am happy if those five questions on notice I have put to the department are revisited and you give us some advice for estimates.

Ms Connell: Sorry, could I just check those numbers so we chase the right ones?

Senator GALLACHER: We have: 17-120, AE 17-121, AE 17-161, AE 17-155, AE 17-141.

Ms Connell: Thank you.

Senator PRATT: I have a point of order, Chair. It would be my understanding of the obligations of witnesses that the oversight of the committees be treated separately and that you would need to either provide the information to this committee or provide a stand-alone claim for public interest immunity that does not reflect on any dialogue that you have had with any other committee.

CHAIR: It does seem that it needs to be a claim for public interest immunity, which the minister should make, perhaps after reflection. But I have a longstanding view that, if the government enters into private negotiations and contracts with commercial entities on the basis that the information is kept secret, then that is a public interest claim that should succeed, because otherwise how can governments work if confidential information with their suppliers is made

public? But that is prejudging the issue. It is up to the minister to make the claim, to explain what the grounds are—what the confidential nature was, why it would be against the nation's interest if that was public—and then that is for the committee to determine. But, as a broad, general rule, my view is as I have said. Having said all that, where does that leave us now? Perhaps you should take it on notice, do you think?

Mr Pezzullo: We can assist, to some extent. We can restate the evidence that we have given publicly. Senator Pratt is absolutely right—having stated it to another committee does not in any way absolve us from answering questions here. What I would be minded to do is to restate the headline numbers—how much the project is going to cost, what the savings are over the period. When we get to the point about commerciality—the very point that you have made—I will look to the minister in terms of seeking to have that information protected, noting that it has been given to the parliament, albeit to another committee. Perhaps Ms Connell or Mr Wright—

Answer:

In relation to the following five responses to February Questions on Notice:

AE17-120 – see amended response to BE17/001.

AE17-121 – see amended response to BE17/001.

AE17-161 – a copy of the report is being considered for provision to the Committee.

AE17-141 – our original response stands.

AE17-155 – our original response stands.