

Prime Minister and Cabinet Portfolio

3.1 The committee took evidence from the Department of the Prime Minister Cabinet (PM&C), the Department of Climate Change (DCC) and portfolio agencies on Monday, 18 February; Tuesday, 19 February; and Friday, 22 February 2008. The following issues raised with PM&C are discussed below:

- Ministerial ethics;
- *Register of Lobbyists* and *Ministerial Staff Guidelines*;
- late tabling of Questions on Notice and Annual Report;
- Prime Minister's official residences;
- Parliament's apology to the Stolen Generation; and
- the *2020 Summit*

Department of the Prime Minister and Cabinet

Ministerial ethics

3.2 The committee sought information from PM&C as to the content and meaning of the document *Standards of Ministerial Ethics*.¹ Officials informed the committee that although the document is currently in draft form, it will be released 'soon'. Officials also stated that the content of the draft document was prepared in consultation with the Australian Public Service Commission and the Department of Finance and Deregulation.²

3.3 Opposition Senators raised questions about the definition of key terms in the document, including: the differences between Ministers engaging in 'public' and 'official' business;³ conflicts of interest;⁴ post Ministerial employment;⁵ types of criminal convictions;⁶ and political fundraising.⁷

3.4 Whilst several Opposition Senators suggested that the terminology in the document is subjective, the committee heard evidence from officials that the

1 Department of the Prime Minister and Cabinet, *Standards of Ministerial Ethics*, December 2007, p. 1. The *Standards of Ministerial Ethics* will replace Chapter 5 of the *Guide on Key Elements of Ministerial Responsibility* (December 1998).

2 *Estimates Hansard*, 18 February 2008, p. 49.

3 *Estimates Hansard*, 18 February 2008, p. 53.

4 *Estimates Hansard*, 18 February 2008, p. 63.

5 *Estimates Hansard*, 18 February 2008, p. 74.

6 *Estimates Hansard*, 18 February 2008, p. 77.

7 *Estimates Hansard*, 18 February 2008, p. 79.

responsibility for upholding the ethical values supported in the document will ultimately be at the discretion of the Prime Minister.⁸

3.5 Of particular interest to the committee was the discussion about potential Ministerial conflicts of interest. Opposition Senators raised the question of whether it was appropriate for the Special Minister of State, Senator the Hon John Faulkner, to hold the position of President of the Australian Labor Party (ALP), whilst discharging his duties as the Minister responsible for the Australian Electoral Commission:⁹

Senator FIFIELD—...As the minister at the table representing the Prime Minister, can you genuinely and honestly tell this committee that there is no conflict in appearance with the senior national office bearer of the Australian Labor Party, the national president of the Australian Labor Party also being the minister with the responsibility for the Australian Electoral Commission.¹⁰

3.6 Senator Evans responded that under the *Standards of Ministerial Ethics* it is appropriate for Ministers to seek advice from their departmental secretaries as to any potential conflict of interest. Senator Evans tabled two pieces of written advice (from the former Secretary of PM&C, Dr Peter Shergold, and the Australian Electoral Commissioner, Mr Ian Campbell) outlining their opinion that no conflict of interest exists in Senator Faulkner holding both positions.¹¹ Furthermore, Senator Evans gave evidence that the Leader of the Opposition, Dr Brendan Nelson MP, had also been consulted, and had expressed the view that there was no conflict of interest.¹²

3.7 The committee notes that since the completion of its Additional Estimates hearings, Senator Faulkner has finished his term as President of the ALP.

Register of Lobbyists and Ministerial Staff Guidelines

3.8 Senators questioned the department on the yet to be released *Register of Lobbyists* and the *Ministerial Staff Guidelines*. Although it was difficult for officials and the Minister to satisfy Senators' questions as these documents remain unreleased, evidence was provided that established two important points: that the document will be published in early March 2008, with the intention of making the guidelines

8 *Estimates Hansard*, 18 February 2008, p. 54.

9 *Estimates Hansard*, 18 February 2008, pp 69–74.

10 Senator Fifield, *Estimates Hansard*, 18 February 2008, pp 67–68.

11 Department of the Prime Minister and Cabinet, *Advice about the responsibilities of the Special Minister of State under the Commonwealth Electoral Act 1918*, tabled 18 February 2008 and Australian Electoral Commission, *Advice about the responsibilities of the Special Minister of State under the Commonwealth Electoral Act 1918*, tabled 18 February 2008. To view these documents see: www.aph.gov.au/Senate/committee/fapa_ctte/estimates/add_0708/pmc/index.htm (accessed 11 March 2008).

12 *Estimates Hansard*, 18 February 2008, p. 68.

accessible on the PM&C website; and the title *Register of Lobbyists* is currently a working title, and will possibly be altered to recognise the fact that lobbyists approach Ministers, but also Members and Senators.¹³

Late tabling of Questions on Notice and Annual Report

3.9 Senator Ray questioned officials from PM&C as to why answers to Questions on Notice (QON) and the PM&C *Annual Report 2006–07* were tabled late.

3.10 Officials stated that the average number of days for responding to QONs was 182. The committee notes that this average response time is more than four months longer than the committee's time frame of six weeks after the hearings. On the question of why there were such lengthy delays, officials stated that although some QON were complex, and took time to answer, some answers were completed but not 'cleared' by the Prime Minister's Office.¹⁴

3.11 On the question of why PM&C's annual report was tabled late¹⁵ officials stated that they were awaiting 'further information'. When questioned as to what the 'further information' was, officials could not readily provide the committee with an answer and took the question on notice.¹⁶

Prime Minister's official residences

3.12 Opposition Senators questioned officials about the use of the Prime Minister's official residences. Most of these questions centred on the running costs, and who paid for a recent New Year's Eve function at Kirribilli House.

3.13 Although some information was provided by officials, including that any costs not usually covered by taxpayer funds for such an event, were covered privately by Mr Rudd and Ms Rein, many questions were either taken on notice, or were not answered. The refusal to provide specific information was made on the basis that it was not usual practice to outline the specific costs of private functions or information about guest lists.¹⁷

3.14 Opposition Senators also questioned officials about the entitlements provided to the Prime Minister, including the provision of support staff at official residences.¹⁸

13 *Estimates Hansard*, 18 February 2008, p. 81.

14 Mr Barbara Belcher, First Assistant Secretary, Department of the Prime Minister and Cabinet, *Estimates Hansard*, 18 February 2008, p. 90.

15 This report was presented to the President of the Senate on 19 November 2007. This contravenes the PM&C *Requirements for Annual Reports: for Departments, Executive Agencies and FMA Act Bodies* (June 2007) which specifies 31 October 207 as the required time frame.

16 *Estimates Hansard*, 18 February 2008, pp 90–91.

17 *Estimates Hansard*, 18 February 2008, pp 97 and 102.

18 *Estimates Hansard*, 18 February 2008, pp 98–117.

Officials informed the committee that the Prime Minister is currently allocated with an extra staff position which includes child care responsibilities.¹⁹

Parliament's apology to the Stolen Generation

3.15 Senators sought, in extensive detail, information surrounding the Parliament's apology to the Stolen Generation. Opposition Senators asked questions concerning: the Prime Minister's involvement in drafting the apology; and also referred to recent media reports about some of the Prime Minister's staff being involved in protest action during the Leader of the Opposition's speech.²⁰

3.16 Opposition Senators also questioned the government about the possibility of releasing its legal advice regarding any compensation claims that may result from the apology. Senator Faulkner responded that the complexities surrounding the issue meant that it was not possible to provide the advice at the hearing and that it was not the appropriate forum to do so anyway.²¹

2020 Summit

3.17 The committee examined PM&C officials about the organisational plans for the *2020 Summit*. Senator Fifield questioned officials about why the dates chosen for the summit had not taken into account the fact that they clash with the Jewish Passover festival. Officials responded that arrangements were being put in place whereby the Jewish community could still have input into the summit via other means.²² However, neither Minister Faulkner, nor PM&C officials could provide any details of these arrangements to the committee. In response they agreed to provide this information through questions on notice.

3.18 The committee also heard evidence from officials that 'special circumstances funding' will be provided to applicants who meet criteria which are yet to be determined by the 'steering committee'. This issue was also raised by Senator Ian Macdonald, who questioned officials as to whether they had considered the difficulty faced by people living in remote Australia. Officials responded that the steering committee is considering this issue and that some financial assistance will be provided.²³

3.19 On the details of how the government intends to use the ideas that are voiced during the *2020 Summit*, the committee heard that the current expectation is for the

19 *Estimates Hansard*, 18 February 2008, p. 111.

20 *Estimates Hansard*, 18 February 2008, pp 120–126.

21 *Estimates Hansard*, 18 February 2008, p. 120.

22 *Estimates Hansard*, 18 February 2008, pp 126–127.

23 *Estimates Hansard*, 18 February 2008, pp 127 and 131–123.

production of 'options papers' for the 10 summit topics which are to be considered by the government. These documents will be made public after the summit.²⁴

Other issues

3.20 Other issues raised during the examination of PM&C included the:

- cost and stage of completion of the State Coach Britannia;²⁵
- Australian Social Inclusion Board;²⁶
- Welcome to Country ceremony (Opening of Parliament);²⁷ and
- establishment of the Office of National Security.²⁸

Australian Public Service Commission

3.21 The Australian Public Service Commission was briefly questioned by the committee. The committee heard evidence concerning:

- levels of absenteeism in the Australian Public Service; and
- ramifications of wage restraint for commonwealth public sector employees on salaries above \$127 000.²⁹

Australian National Audit Office

3.22 The committee heard evidence from the Australian National Audit Office (ANAO) concerning two interrelated issues: the independence of the ANAO and its statutory obligations during the 'caretaker' period; and the tabling of legal advice about these obligations.

The independence of statutory authorities

3.23 During the ANAO's appearance, Senators questioned the release (during the caretaker period) of the ANAO report: *Performance Audit of the Regional Partnerships Program*. Senators Minchin and Ray asked the Auditor-General, Mr Ian McPhee, whether it was appropriate to table a controversial report during an election campaign.

3.24 Both Senators questioned Mr McPhee on whether the enabling legislation underpinning the operations of the ANAO should be amended, to prevent the tabling

24 *Estimates Hansard*, 18 February 2008, pp 130–131.

25 *Estimates Hansard*, 18 February 2008, p. 93.

26 *Estimates Hansard*, 18 February 2008, p. 117.

27 *Estimates Hansard*, 18 February 2008, p. 119.

28 *Estimates Hansard*, 18 February 2008, pp 135–138.

29 *Estimates Hansard*, 19 February 2008, pp 4–5.

of reports during an election campaign.³⁰ Mr McPhee responded that he did not think this proposal was in the best interests of maintaining the highest level of scrutiny and transparency of government operations:

...My very clear judgement was that to hold it [the report] over [until after the election] would have made the Audit Office look extremely limp. I think the integrity of the office would have been under much more serious question if I had tabled after the election...[I]f I was asked to do it again if a similar situation arose under any government of any colour then I would act in the same manner as I have acted in terms of Regional Partnerships.³¹

3.25 Mr McPhee explained that he had also tabled two other audit reports prior to the Regional Partnerships report, during the 2007 caretaker period.³² He told the committee that he had sought general legal advice on the ANAO's statutory responsibilities during the caretaker period:

I sought legal advice on the general proposition...as we approached the caretaker period. So it was not in relation to this particular report, but I received legal advice which basically said, 'You've got a statutory responsibility to table as soon as practicable.'...we are always respectful of the parliament's position...a government should be willing to be accountable for the administration of programs at any time...the convention is really directed to another particular purpose...³³

3.26 The committee notes the Auditor-General's justification for tabling the report: *Performance Audit of the Regional Partnerships Program*, during the election period. The committee firmly believes, that it is in the interests of good public administration, that the independence of the ANAO not be curtailed to suit that needs of successive governments. Rather, the committee respects and affirms the need for independent statutory authorities that are free from government interference and control.

Tabling legal advice

3.27 Senator Ray requested that the Auditor-General provide the legal advice which he received from the Australian Government Solicitor on the above matter. The Auditor-General noted that although it was not normal practice to provide such

30 *Estimates Hansard*, 19 February 2008, p. 8.

31 Mr Ian McPhee, Auditor-General, Australian National Audit Office, *Estimates Hansard*, 19 February 2008, p. 8.

32 Mr Ian McPhee, Auditor-General, Australian National Audit Office, *Estimates Hansard*, 19 February 2008, p. 8. Subsequently, the Auditor-General advised that four reports were tabled during the 2007 caretaker period prior to the Regional Partnerships report; see: ANAO, answer to question on notice, PM121, 12 March 2008, located at: www.aph.gov.au/Senate/committee/fapa_ctte/estimates/add_0708/pmc/index.htm (accessed 13 March 2008).

33 Mr Ian McPhee, Auditor-General, Australian National Audit Office, *Estimates Hansard*, 19 February 2008, pp 9–10.

advice, 'because of the special position and the relationship I have with the Parliament, I would be happy to make it available.'³⁴

3.28 The committee notes the Auditor-General's decision to table legal advice to the ANAO.³⁵ The decision by the ANAO to table its legal advice demonstrates that agencies do have the option to transparently provide information, including legal advice to committees.

3.29 Other issues that were discussed during the committee's examination of the ANAO included:

- the number of qualified and experienced auditors and staff turnover;³⁶
- ANAO's audit of 30 Australian Defence Force acquisition projects;³⁷ and
- accounting for the GST in government accounts.³⁸

Australian Institute of Family Studies

3.30 With the recent change to the *Administrative Arrangements Order* (25 January 2008), the committee examined for the first time, the Australian Institute of Family Studies (AIFS).

3.31 Several Senators were interested in the findings of research that the AIFS has undertaken. The main areas of discussion were:

- relationship breakdowns;³⁹
- AIFS staffing profile;⁴⁰
- longitudinal study on children;⁴¹
- funding for the AIFS biennial conference;⁴² and
- AIFS's involvement in the Northern Territory intervention.⁴³

34 Mr Ian McPhee, Auditor-General, Australian National Audit Office, *Estimates Hansard*, 19 February 2008, p. 10.

35 Australian National Audit Office, answer to question on notice, 12 March 2008. To access this information see: www.aph.gov.au/Senate/committee/fapa_ctte/estimates/add_0708/pmc/answers/pm69.pdf (accessed 14 March 2008).

36 *Estimates Hansard*, 19 February 2008, pp 5–6.

37 *Estimates Hansard*, 19 February 2008, p. 7.

38 *Estimates Hansard*, 19 February 2008, pp 13–14.

39 *Estimates Hansard*, 19 February 2008, p. 17.

40 *Estimates Hansard*, 19 February 2008, p. 20.

41 *Estimates Hansard*, 19 February 2008, pp 20–21.

42 *Estimates Hansard*, 19 February 2008, p. 21.

Department of Climate Change

3.32 The committee took evidence from the recently created Department of Climate Change (DCC) on Friday, 22 February 2008. The committee discussed a range of topics including: Professor Ross Garnaut's employment arrangements; Treasury's economic modelling of an emission trading scheme; the Bali climate change conference; the renewable energy target; and the greenhouse trigger. Several other noteworthy issues were also discussed.

Employment arrangements for Professor Garnaut

3.33 The committee explored the employment arrangements of Professor Garnaut who is leading the joint Commonwealth-State review of climate change. The review is examining the impact of climate change on the Australian economy and potential medium to long-term policies to ameliorate these impacts.

3.34 Officials informed the committee that Professor Garnaut is employed on a full-time basis by DCC from early January to 30 September 2008.⁴⁴ He is employed under section 22 of the *Public Service Act 1999* with an annual salary of \$112 600 plus a vehicle allowance.⁴⁵ The Commonwealth is also supporting the review with at least four DCC staff seconded to the secretariat, as well as paying for consulting work and travel expenses.⁴⁶

3.35 Senator Johnston requested that a copy of Professor Garnaut's employment contract be tabled. The committee sought advice from the Clerk of the Senate regarding whether there exist any constraints to the committee demanding a copy of a contract of employment of a public servant (in this instance Professor Garnaut's contract). The Clerk advised:

There is nothing to prevent the committee requiring the production of a contract of employment of a public servant or a contract with anyone else who receives payments from public funds. The relevant principle is that the committee and the Senate are entitled to know how public money is spent. Claims that such contracts are confidential have not been accepted by the Senate in the past. In 1980, for example, the Senate resolved that it is entitled to know the fees paid to counsel who accept briefs from the Commonwealth.⁴⁷

43 *Estimates Hansard*, 19 February 2008, p. 21.

44 Dr Martin Parkinson, Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, pp 17, 25 and 26.

45 Dr Martin Parkinson, Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, p. 17.

46 Dr Martin Parkinson, Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, pp 17 and 25.

47 Mr Harry Evans, Clerk of the Senate, correspondence, 22 May 2008.

3.36 Minister Wong agreed on notice to provide Professor Garnaut's contract to the committee, on the basis that any personal information be firstly removed.⁴⁸

3.37 The department took on notice Senator Ian Macdonald's request for Professor Garnaut to appear at the Budget Estimates hearings in May 2008.⁴⁹

Treasury modelling

3.38 The committee examined the nature and scope of the economic modelling being undertaken by the Department of the Treasury. This modelling, along with the final Garnaut report and 'other matters associated with the emissions trading scheme and climate change policy,'⁵⁰ will inform the government's mid-term emissions target.

3.39 Officials told the committee that the Treasury modelling, which was commissioned by the former Prime Minister, is a 'work in progress' which will be finalised in the middle of 2008.⁵¹ The Secretary explained that the modelling is underpinned by a range of assumptions on technology costings and timing, which have been developed through extensive consultation with experts in the field. These assumptions will be used to generate a number of scenarios which will:

...amongst other things, consider different issues around the timing of different technologies and different issues around the relative cost of different technologies. There is not an attempt to come out with a single-point estimate or a single hard line that says, 'This is the answer.' Inevitably, we have a situation where we have got a 60 per cent reduction by 2050 and we have got where we are starting from, and between those there is a massive amount of uncertainty.⁵²

Officials told the committee that the underpinning assumptions will not be made public on the basis that it is a work in progress.⁵³

48 Senator Wong, Minister for Climate Change and Water, *Estimates Hansard*, 22 February 2008, p. 18.

49 Dr Martin Parkinson, Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, p. 26.

50 Senator Wong, Minister for Climate Change and Water, *Estimates Hansard*, 22 February 2008, p. 19. Senator Wong indicated that 'other matters' for consideration may result from discussions with the community and industry and various other stakeholders on the design of the emissions trading scheme.

51 Dr Martin Parkinson, Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, pp 19 and 32.

52 Dr Martin Parkinson, Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, p. 33.

53 Dr Martin Parkinson, Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, p. 32.

Bali conference

3.40 The committee asked a range of questions relating to the Australian delegation at the United Nations Framework Convention on Climate Change conference in Bali which took place in December 2007. The official delegation of 92 comprised of the Prime Minister and three other ministers⁵⁴ and their staff; Commonwealth departmental officials;⁵⁵ the Victorian Premier and other Victorian members of parliament; state and territory officials; representatives of industry and non-government bodies; and the Shadow Minister for Climate Change and the Environment. Officials were unable to provide the total cost of the delegation's trip, explaining that 'it is the responsibility of individual departments to account for what they spend in conducting their own activities.'⁵⁶

3.41 Officials did however provide information regarding their own travel costs. The total cost for the DCC contingent of 20 officials was \$226 860, comprising of \$187 629 for airfares, accommodation, allowances and incidentals, and \$39 231 for shared office facilities and transportation.⁵⁷ The particular cost of the Secretary's travel was taken as a question on notice.⁵⁸

Renewable energy target

3.42 The committee heard evidence of the government's policy to increase the total amount of renewable energy generated to 20 per cent of Australia's electricity supply by 2020. Officials confirmed that the primary mechanism to achieve this target is to increase the current Mandatory Renewable Energy Target (MRET) of 9500 gigawatt-hours in 2010 to 45 000 gigawatt-hours in 2020. Other measures that assist in achieving the 20 per cent target would include 'the impacts of the emissions trading scheme...or other measures that the government may choose to take between now and 2020.'⁵⁹ Senator Allison asked on notice for a breakdown of that 20 per cent into

54 Including the Treasurer, the Hon Wayne Swan MP, the Minister for Climate Change and Water, Senator the Hon Penny Wong, and Minister for the Environment, Heritage and the Arts, the Hon Peter Garrett MP.

55 From the Department of Climate Change; Department of Foreign Affairs and Trade (including AusAID); Department of Environment, Water, Heritage and the Arts; Department of the Prime Minister and Cabinet; the former Department of Industry, Tourism and Resources; Department of Agriculture, Fisheries and Forestry; Bureau of Meteorology; and the Great Barrier Reef Marine Park Authority.

56 Dr Martin Parkinson, Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, p. 23.

57 Dr Martin Parkinson, Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, p. 23.

58 Dr Martin Parkinson, Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, p. 24.

59 Mr Blair Comley, Deputy Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, p. 38.

existing generation capacity, new capacity met by the expanded MRET and new capacity met by other measures projected over the time frame to 2020.

3.43 Officials also confirmed the commencement timeframe to implement the expanded MRET. The first step will be to agree on merger arrangements between the various inconsistent state schemes into a single national scheme. This is being undertaken through a Council of Australian Governments process. Once agreement is reached, legislation will be prepared for introduction in 2009. As a result, the expanded MRET will commence in 2010.⁶⁰

Greenhouse trigger

3.44 There was a brief discussion on the government's consideration to include a 'greenhouse trigger' into the *Environment Protection and Biodiversity Conservation Act 1999*. Departmental officials indicated that they were in consultation with officials from the Department of the Environment, Water, Heritage and the Arts on the matter.⁶¹

General issues

3.45 Other noteworthy issues that were raised during the hearings included the:

- allocation of permits under the emissions trading scheme;⁶²
- comparative level of Australia's emissions;⁶³
- basis for the government's commitment to reduce Australia's emissions to 60 per cent below 2000 levels by 2050;⁶⁴

60 *Estimates Hansard*, 22 February 2008, pp 35–38.

61 Mr Blair Comley, Deputy Secretary, Department of Climate Change, *Estimates Hansard*, 22 February 2008, p. 27.

62 *Estimates Hansard*, 22 February 2008, pp 20–21 and 45–46.

63 *Estimates Hansard*, 22 February 2008, pp 28–30.

64 *Estimates Hansard*, 22 February 2008, pp 38–41.

- level of abatement achieved by various greenhouse programs;⁶⁵
- subsidies for fossil fuels in Australia;⁶⁶ and
- National Climate Change Adaptation Research Facility;⁶⁷

65 *Estimates Hansard*, 22 February 2008, p. 42.

66 *Estimates Hansard*, 22 February 2008, pp 43–44.

67 *Estimates Hansard*, 22 February 2008, pp 45–46.