



***THE ROLE OF THE GOVERNOR-GENERAL***

**AN ADDRESS BY**

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**WAGGA WAGGA, NEW SOUTH WALES**

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## Introduction

Good morning ladies and gentlemen.

What a special pleasure it is to be here today. I know you all have a great interest in the activities and role of the Governor-General. And it is a further pleasure for me to be back in Wagga with which I have had some considerable association, both in my official and private capacities.

I am delighted to have this opportunity to speak to you today about the role of the Governor-General in the modern Commonwealth of Australia.

As Official Secretary to the Governor-General, I lead an office established by legislation, of some eighty people.<sup>1</sup>

We are dedicated to serving the Governor-General of the day and supporting him or her and their spouse in the conduct of their official roles.

My staff are a relatively small band of people with a wide array of skills – our gardeners, our security personnel, our honours and awards staff, our flower ladies, our household staff, our media liaison people, our speech writers, the military aides-de camp, our vigilant finance and staff support teams, our policy advisers and the general support staff.

And we have two heritage properties to manage, Government House at Yarralumla in Canberra, covering some 54 hectares of land and with 15 buildings, and Admiralty House in Sydney located within approximately 1 hectare of land and with 7 buildings. Some buildings on both properties date back to the mid 1800s – absolutely charming but requiring some careful maintenance to preserve their character.

I know you share my keen desire to ensure the Australian people, especially our younger folk, are better informed about our system of governance. May I say how pleased I am to see so many younger representatives of three of Wagga's secondary schools here today.

Our system has served us well for over a century, but we should never take its success for granted and we must be vigilant in ensuring its characteristics, including the safeguards and checks and balances, are well understood and maintained.

Let me be quite clear about one matter. I'm not here today to argue a case for radical change to these arrangements, or indeed for no change at all – that debate is the appropriate role for government, the Parliament, and the democratic process.

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<sup>1</sup> The *Governor-General Act 1974*.

But I am here to try to explain the role of the Governor-General as a matter of fact, so that there can be a better informed conversation about our governance arrangements, enabling our citizens to participate fully in our democracy, knowing how and why the essential elements of our democracy operate and interact. With a well-informed populace, we can ensure that any changes will be well-reasoned and directed to making the system work better and not made on the flimsy basis of emotive rhetoric or change for change's sake.

### Setting the scene

It is important to establish at the outset that the powers and role of the Governor-General derive from the Australian Constitution as adopted in 1901.

We could have quite a lengthy and useful discussion on this aspect alone, but I will just note that in 1975 the then Commonwealth Solicitor-General, Mr Maurice Byers<sup>2</sup> gave the following legal opinion in relation to the powers of the Governor-General, which I have abridged somewhat as follows:

'The Constitution binds the Crown.  
The Constitutional prescription is that executive power is exercisable by the Governor-General although vested in The Queen.  
What is exercisable is original executive power...  
And it is exercisable by The Queen's representative, not her delegate or agent'...<sup>3</sup>

In other words, the Constitution does not describe the Governor-General's power, it prescribes it. That is, the powers of the role originate from the words of the Constitution.

While this must be the subject of another discussion, it is interesting to compare the roles of the Governors-General in Australia, Canada and New Zealand. While there are many similarities, especially in a constitutional sense, there are also many differences reflecting, I suggest, the several national contexts.

These variations are in part due to the complexity and multi-faceted nature of a Governor-General's activities, acting within each sovereign State's laws, mores and culture.

With the powers of the Australian Governor-General deriving directly from our Constitution, a distinct *Australian* context arises, emanating in part from our unique federation of States and Territories.

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<sup>2</sup> Later Sir Maurice Byers QC

<sup>3</sup> "Governor-General's Instructions", Opinion of the Solicitor-General of Australia (Mr Maurice Byers), 5 September 1975 quoted in Smith, D I 2005, *Head of State – the Governor-General, the Monarchy, the Republic and the Dismissal*, 1st ed, Macleay Press, Sydney (p.99).

For ease of understanding, we tend to consider the role of Governor-General as having three main components: constitutional, ceremonial and community, although the deeds of an active Governor-General are not so easily distinguished.

For example, the current Governor-General, His Excellency Major General Michael Jeffery, has adopted the universally welcomed practice of making comments of approbation and encouragement to new ministers of the government as they are sworn by him.

And as Chancellor of the Order of Australia, he conducts numerous investiture ceremonies for recipients of Australian honours and awards in which he invariably also reflects briefly and personally on the significance of the recipient's contribution to the betterment of the nation.

In this way, he is blending his constitutional and ceremonial roles with his community role, which he has defined as being to encourage, articulate and represent those things that unite Australians as a nation.

As we would expect, General Jeffery thereby presents the office of Governor-General as an integrated entity — a blend of the major constitutional, ceremonial and community roles, overlaid with his own interests from his wide experience and insights in a variety of previous positions, including as Governor of Western Australia for seven years.

It is also true that each Governor-General puts their individual stamp on the role through the themes and emphases they adopt and present to the nation in their term of office.

The Rt Hon Sir Paul Hasluck, our seventeenth Governor-General, set out his views on the office of Governor-General in the Queale Memorial Lecture in 1972, and which is incidentally available on our website at [www.gg.gov.au](http://www.gg.gov.au).<sup>4</sup>

As a former Cabinet Minister and public servant, Sir Paul naturally emphasised the critical Constitutional and Executive Council roles in his lecture and subsequent monograph.

On the other hand, the Right Honourable Sir Zelman Cowen, Governor-General from 1977-1982, emphasised the importance of acting as a leader who could 'interpret all that is good in the nation to itself'.<sup>5</sup>

And as a distinguished and decorated soldier, the present Governor-General and Commander-in-Chief equally naturally emphasises commemorations and other significant events of a military nature in his many community and ceremonial activities.

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<sup>4</sup> Hasluck, P M C 1979, *The Office of Governor-General*, 1st ed, Melbourne University Press, Melbourne. available at [www.gg.gov.au](http://www.gg.gov.au)

<sup>5</sup> See <http://www.unisa.edu.au/hawkecentre/patrons/Cowen.asp> downloaded on 14 May 2008

And we might expect that the Governor-General designate, Her Excellency Ms Quentin Bryce, will present her own interests and themes to the Australian community when she assumes office on 5 September this year.

We should not misunderstand that the differing priorities and activities of Governors-General and the blending of their three essential roles mean that the constitutional and ceremonial duties are ignored or downplayed.

Every Governor-General of my experience has taken the fundamental constitutional and ceremonial duties of the office seriously and discharged them conscientiously and very effectively.

Indeed, I note that in an era of quite different telecommunications and transport strictures, Sir Paul Hasluck cleared his diary during Parliamentary sittings so that he could be in Canberra and available to ministers and the Parliament as necessary. These days we are in close touch with our main office in Canberra, and indeed with the government as needs be, wherever we are in Australia or indeed the world.

There are also definite trends in the evolution of the office of the Governor-General, which we can see most evidently in the change in practice initiated with the appointment of the first Australian-born Governor-General, Sir Isaac Isaacs in 1931.

Since the Right Honourable Richard Casey took office in 1965, every Governor-General has been an Australian citizen, and with the exception of Sir Ninian Stephen, they have all been born in Australia. Sir Ninian was born in Oxford in the United Kingdom and came to live in Australia aged 17.

This reflects the noticeable trend towards an Australian identity for the office of Governor-General.

Whereas the Governor-General was once seen as primarily The Queen's representative in Australia, since the passage of the Australia Act in 1986, the principal action performed by The Queen under the Australian Constitution is the appointment of the Governor-General, on the advice of the Australian Prime Minister. (Her Majesty also appoints the State Governors on the advice of the relevant State Premier.)

Looking to the future and with the recent precedent of the appointment of a woman to the high office of Governor-General for the first time, we might speculate that a further evolution of the Australian identity of the Office will be realised when an Australian citizen is appointed who was born in neither Britain nor Australia, as a demonstration of the culturally diverse make-up of our society.

Indeed, our present Governor-General often says to the 7000 or so school children who visit Yarralumla each year that 'any one of you could one day be Governor-General'.

Professor George Winterton has expressed the view that prior to the Imperial Conference of 1926, the Governor-General was both the effective local head of state and the principal representative in Australia of the British Government.<sup>6</sup>

So in the earliest times after Federation, we can imagine Governors-General were selected on the basis of their ability to discharge the constitutional and ceremonial roles.

In later times, the community role has often been given greater public emphasis, especially by the media, hence the comments of Sir Zelman Cowen quoted above and other incumbents of the office to the effect that the role is to interpret the nation to itself.

In these times of mass media and instant communication, there is an increasing expectation that the Governor-General will be something of a role model and mentor, able to capture the mood of the nation on any particular issue of community interest and guide and lead the population in its thinking, especially in focussing on the many things that unite us as a nation.

But I repeat my earlier point that we should not downplay the essential constitutional and ceremonial roles that the Governor-General plays just because they are not as visible.

These trends in the interpretation of the role and the stamp that each Governor-General places on the office reflect the complex and demanding nature of the office in these times.

An additional overlay is the debate about the practical and symbolic roles, which is well explored by considering the role of the Governor-General in the Federal Executive Council. Let me explain.

### **Federal Executive Council**

When exercising the executive power of the Commonwealth, in accordance with long established constitutional practice, the Governor-General acts on the advice of Ministers who are not only responsible to the Parliament for their decisions and actions, but must ensure that the advice they tender to the Governor-General is constitutionally and legally proper.

That advice is conveyed to the Governor-General largely through the Federal Executive Council, a body quite specifically set up by the Constitution. Each of Australia's state governments has a similar body at the apex of their decision-making process.

All Federal Ministers and Parliamentary Secretaries are sworn as members of the Federal Executive Council, though only two are required at the meetings which are usually held fortnightly, at Government House in Canberra or

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<sup>6</sup> P. 42, George Winterton, 'The Evolving Role of Governor-General', Quadrant March 2004

Admiralty House in Sydney. (Interestingly, this practice of having two Ministers present varies from state to state, although the principle remains the same.)

The Federal Executive Council is charged with exercising the executive power of the Commonwealth and is concerned with a wide range of government business, mostly involving powers given to the Governor-General-in-Council in Acts or legislation of the Australian Parliament.

This includes the making of regulations and statutory appointments, the creation and abolition of government departments through the Administrative Arrangements Order, the authorisation of Australia's entry into international treaties, the commissioning of officers in the Australian Defence Force, the establishment of Royal Commissions of Inquiry, the authorisation of government borrowings overseas and the issuing of writs for Parliamentary elections.

The statutory appointments made by the Governor-General in Council include those of Judges of the High Court, Federal Judges and many senior Government officials, as well as Ambassadors and High Commissioners who act in Australia's name abroad.

The principal role of the Governor-General in Council is to ensure that the policies and decisions recommended for approval are legal and appropriately authorised by the Executive Government.

General Jeffery's approach has always been to ensure that any queries he has are made prior to the actual meeting so there will be no embarrassment for the Ministers present or himself.

It is not the role of the Governor-General to question government policy, but nor is he or she a rubber stamp for the business of government – otherwise an important check on the operation of the Executive Government would be lost.

General Jeffery has frequently noted that the smooth operation of the Council depends very much on the professionalism and excellent support provided by the Secretariat, located within the Department of the Prime Minister and Cabinet, and the quality of materials and advice prepared by the Australian Public Service for Ministers.

To give just one example to illustrate an aspect of the Governor-General's role, I am sure we all recognise it is greatly improbable that a Member of the Executive Council would seek to misdirect the activities of the Council in a corrupt or improper way for their own personal benefit or the benefit of another.

Nevertheless, the Governor-General provides a safeguard for just this sort of improbable eventuality, while also helping to avoid errors and achieve clarity of explanation.

Sir Paul Hasluck has noted the importance of the Governor-General being present at every meeting of the Council, and part of this importance lies in ensuring the business transacted reflects the Government's program accurately.

I hope it is clear that the full range of the business of government crosses the desk of the Governor-General either as legislation or in the Federal Executive Council and is therefore subject to the necessary checks and balances that the independent office of Governor-General provides, as set out in the Constitution.

I should also note that the workload in Council is significant with General Jeffery presiding over more than 130 meetings of the Council, since his term began in August 2003, with more than 2,700 agenda items considered.

The present Governor-General takes time for informal discussions with the other Councillors after a meeting – in line with the famous principles articulated by Sir Walter Bagehot<sup>7</sup>, that the Sovereign has the right to be consulted, the right to encourage and the right to warn.

From these principles, Sir William Heseltine<sup>8</sup>, the only Australian to have been appointed as Private Secretary to The Queen, has laid down three propositions for British governance: that the Queen has the right, and the duty, to express her opinions on government policy to her Prime Minister, that the Sovereign must act on the advice of the ministers, and that the communication between them should be confidential.

In these ways, a conscientious Governor-General is an essential element of identifying and providing counsel on issues at an early stage and thereby ensuring the smooth and proper operation of this most important final stage of bringing the elected Government's decisions and programs into actuality.

## **Legislation**

Let me here correct an all-too-common misconception, especially by the media.

Legislation is assented to by the Governor-General in his own right, and quite independent of Executive Council activities.

Before giving assent to legislation, the Governor-General must be satisfied on two counts - that the proposed law has passed both Houses of Parliament and that the necessary certification from the Attorney-General has been obtained to the effect there are no amendments the Governor-General should recommend, nor that the bill should be reserved for The Queen's pleasure (as set out in section 58 of the Constitution).

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<sup>7</sup> Walter Bagehot, *The English Constitution*, 1867

<sup>8</sup> Vernon Bogdanor, *The Monarchy and the Constitution*, Clarendon Press, Oxford, 1999.

The quality and content of legislation are not really matters for the Governor-General to consider. They are the proper responsibility of Parliament. What the Governor-General is concerned with is that the legislation has gone through due process.

The written assurances provided by the Attorney-General and the Clerks of the Senate and House of Representatives are another element in the comprehensive checks and balances protecting Australians from faulty or poor quality governance and administration.

In his term, the present Governor-General has assented to around 800 pieces of legislation passed by the Commonwealth Parliament, reflecting the reality of the large amount of business now transacted by the Parliament and the Executive Government.

### **Additional Powers**

There are also some powers which the Governor-General may, in certain circumstances, exercise without – or contrary to – ministerial advice.

These are often referred to as the reserve powers.

While the reserve powers are not codified as such, they are generally agreed to at least include:

1. The power to appoint a Prime Minister if an election has resulted in a 'hung parliament';
2. The power to dismiss a Prime Minister where he or she has lost the confidence of the Parliament;
3. The power to dismiss a Prime Minister or Minister when he or she is acting unlawfully; and
4. The power to refuse to dissolve the House of Representatives despite a request from the Prime Minister.

As with the power to act independently of advice in the Federal Executive Council, the reserve powers reflect the Governor-General's clear role to protect the Constitution and to facilitate the work of the Commonwealth Parliament and Government.

These reserve powers, along with those of the Prime Minister to recommend termination of a Governor-General's appointment to The Queen, have provided perhaps the most significant checks and balances in our system of governance.

## **Commander-in-Chief**

Under Section 68 of the Constitution, the Governor-General is also the Commander-in-Chief of the Australian Defence Force, although in practice he or she acts only on the advice of Ministers of the Government.

The Minister for Defence is responsible for Australia's defence policy and the day-to-day administration and operation of the services are under the command of the Chief of the Defence Force and his officers.

Nevertheless, through the Executive Council, the Governor-General:

- appoints the Chief of the Defence Force and the Chiefs of the three Armed Services;
- commissions officers in the Royal Australian Navy, the Australian Army and the Royal Australian Air Force; and
- approves the call out of the Australian Defence Force in support of the civil authority in the event of a terrorist incident.

As Commander-in-Chief, the Governor-General has an important ceremonial role in attending military parades and special occasions such as ANZAC Day and Remembrance Day, and presenting Colours and other insignia to units of the Australian Defence Force.

Interestingly, while the Australian Constitution provides that the Command-in-Chief of our Defence Forces be vested in the Governor-General, the corresponding Canadian provision vests the Command-in-Chief of the Canadian naval and military forces in The Queen.

## **Ceremonial and community roles**

There are many other duties performed by the Governor-General. For example, he or she:

- receives and entertains visiting Heads of State, Heads of Government and other prominent visitors to Australia;
- opens new sessions of the Commonwealth Parliament;
- receives the credentials of Ambassadors and some High Commissioners appointed to represent their countries in Australia;
- conducts Investitures at which people receive Awards under the Australian Honours system for notable service to the community, or for acts of bravery; and
- meets many Australian citizens and representatives or organisations acting in the life of the community.

It is in the community and ceremonial elements of the role that the present Governor-General has been strongly supported by his wife, Her Excellency Mrs Marlena Jeffery.

Between them, they are patron of some 200 national charitable, cultural, educational, sporting, professional and community organisations, and they take a keen interest in their activities.

In this role, the Governor-General and Mrs Jeffery:

- travel widely throughout Australia visiting the capital cities, regional centres, rural districts, indigenous communities and disadvantaged groups;
- open and participate in conferences where topics of national importance are discussed – such as education, health, cultural, welfare, defence, economic and rural issues;
- attend services, functions, commemorations and exhibitions of local significance, lending their encouragement to individuals and groups who are making a substantial contribution to their communities and to the nation; and
- issue congratulatory messages to Australians who achieve significant milestones in their lives such as 100th birthdays and 50th wedding anniversaries.

These community and ceremonial roles are very much a team effort for General and Mrs Jeffery, and they have been very active in these roles since General Jeffery took office on 11 August 2003.

At the end of April this year, these activities had included:

- visiting every State and Territory, in all cases more than once, including a major two-stage tour of the Outback;
- hosting around 800 official functions, including a reception for 500 family members after the Bali bombings;
- attending more than 1150 separate events throughout Australia and Territories and delivering nearly 900 speeches;
- presenting hundreds of honours and awards at 32 separate investiture ceremonies;
- receiving the credentials of around 130 Ambassadors and High Commissioners to Australia;

- opening the grounds and residence at Government House to more than 18,000 school children who have visited to learn more about the role of the Governor-General; and
- representing Australia on some 22 official visits abroad, including the Royal Wedding in Denmark, the State Funerals for President Reagan in Washington and His Holiness Pope John Paul II in Rome, the wedding of The Prince of Wales and Mrs Parker-Bowles in London and the VE Day 60th anniversary commemorations in Moscow.

Moreover, in the past year or so, the Governor-General and Mrs Jeffery visited Turkey and Egypt for ANZAC Day 2006, attended the 90th Anniversary of the Battle of Passchendaele in Belgium and the 50th Anniversary Celebrations of Malaysian Independence.

During a second visit to Belgium last year, the Governor-General attended the interment of five soldiers of the first World War at Buttes Cemetery.

Two months ago, they visited the UAE and Australian troops in Iraq and Afghanistan, and he made the first State Visit by an Australian Governor-General to Israel to mark the 60th Anniversary of the establishment of the State of Israel, and to open the Park to the Australian Soldier at Beersheba.

These many and varied activities are the fulfilment of the commitment Major General Jeffery gave to the nation at his swearing-in on 11 August 2003, when he promised to:

‘do his best to fulfil the constitutional and public obligations of his high office with dedication, dignity and integrity’.

Indeed, I wish that I could share with you even a fraction of the letters, telephone calls and messages that cross my desk every week from individuals, community and other organisations and international leaders in support of the activities of the current Governor-General and Mrs Jeffery.

### **The Australian Honours and Awards System**

While there are many similarities, the role of Governor-General differs from that of a State Governor in three ways.

The Governor-General alone receives the credentials of foreign Ambassadors and High Commissioners; and is Commander-in-Chief of the Australian Defence Force, as already discussed.

The third distinction is that he or she is Chancellor of the Order of Australia, Australia’s unique - and internationally well regarded - system of honours and awards.

These cover the civil and military awards under the Order of Australia, the Australian Bravery Decorations and the National Medal which recognises diligent service of not less than 15 years for members of the uniformed services including the armed services, police, fire, ambulance and emergency services.

A distinctive feature of the Australian honours and awards system is the responsibility vested with the Governor-General for the independent administration of the Order.

The concept of an absence of bias and freedom from political patronage is threaded throughout the Australian Honours and Awards System and is carried through in awards legislation and in the day-to-day administration of the system.

This is reflected in the special status accorded the Governor-General in the Constitution of the Order of Australia through appointment as Chancellor of the Order and Principal Companion in matters of precedence.

Under the constitution of the Order there is also express provision for the Governor-General as Chancellor to exercise the Sovereign's prerogative in all award matters.

This provides the Governor-General with the far reaching power of approving all awards in the Order, and, in turn extends to cancellation of existing awards.

While this would usually occur acting on the advice of independent honours advisory committees or designated authorities, the Governor-General may use his or her sole discretion.

Responsibility for investing awardees rests with the Governor-General who conducts four or more ceremonies in Canberra each year.

Under Ordinance, the Governor-General may delegate to appropriate authorities the power to invest recipients.

For reasons of practicality in a country as vast in distances as Australia, the first Governor-General to serve as Chancellor of the Order, the Right Honourable Sir John Kerr, exercised this authority designating State Governors under Warrant the power to invest all awards except those at the highest level – that of Companion (the AC).

The administrative role of the Governor-General also includes the general power to make and amend determinations and ordinances, on the advice of the Prime Minister as the Minister responsible for honours policy, on such matters as investitures, removal of awards or about the design and wearing of insignia.

The Constitution of the Order of Australia also gives the Governor-General authority to appoint officials in the running of the Order.

This is where the role of the Australian Honours and Awards Secretariat comes into play.

Since the establishment of the Australian Honours System in 1975, the Secretariat has been located within the Office of the Official Secretary to the Governor-General, and I am currently Secretary of the Order.

This enables the Official Secretary and the Secretariat to provide necessary independent support and advice to the Governor-General, free of responsibility of answering to a departmental head or government minister, and thus avoiding any perception of political interference.

Nevertheless, the Governor-General as Chancellor of the Order remains removed from the day-to-day administration of the system, acting on the advice of independent honours advisory committees.

The second feature of distinction in the Australian Honours System is the selection of award recipients.

This involves all nominations being considered by the Council for the Order of Australia, an independent advisory committee composed of 19 representatives, who make recommendations on awards to the Governor-General.

All Council members are appointed by the Governor-General as Chancellor of the Order on the advice of the Prime Minister (in the case of the eight community representatives) or State Governments.

The backgrounds, experience and fields from which Council members are drawn has earned it respect and support thereby ensuring a broad and representative knowledge of community activities.

Indeed, the integrity of the nomination process and the high regard for the Honours System in the community is evidenced by the enthusiasm with which nominations are made.

Each year the Secretariat at Government House mails out more than 7,000 nomination forms, deals with around 75,000 phone calls, and attends to 50,000 pieces of correspondence.

The person holding the position of Chairman is selected from among eight community representatives and is currently the Honourable Sir James Gobbo, a former Governor of the State of Victoria and, of course, a very distinguished Australian.

The Council meets twice each year, in February to make decisions for The Queen's Birthday Honours List in June and in August for the Australia Day Honours List in January.

At each meeting, it considers between 1,000 and 1,200 nominations and assesses statements provided by the nominator and referees to determine whether an award is warranted.

As Chancellor, the present Governor-General has approved more than 40,000 awards during his term in office, a duty which I know has given him great pleasure in being able to recognise the many Australians who have made a singular and valued contribution to the betterment of this nation.

## **Conclusion**

I expect you might share my view after hearing this brief survey of the role of the Governor-General that the office in modern times is both complex and demanding.

What is perhaps not widely enough understood is how the office of Governor-General stands independently at the apex of Australia's national life - the highest level of government in essential ways and yet independent of politics, pre-eminent among the diplomatic community, the ceremonial head of the Defence Force, the Chancellor of the Order of Australia and the presiding officer of the Federal Executive Council.

All these roles reflect how the office of Governor-General remains independent of political and other influence and yet is the unifying force at the centre of our national identity in many ways: constitutionally, ceremonially and in encouraging, articulating and representing those things that unite Australians as a nation.

We might conclude that the role will continue to change to reflect even more the continuing evolution in our own 'Australian identity', and yet remain firmly grounded in the prescription and foresight of the founding fathers as set out in the Constitution.

Should you wish to inquire further into the matters I have presented, you may wish to view our website at [www.gg.gov.au](http://www.gg.gov.au) on which a wealth of information resides, and pleasingly has received around three quarters of a million hits per month so far this year.

Thank you again for your welcome and the opportunity to be here today.

I look forward to your questions and the discussion now, and wish you all the very best for the future.