

APPENDIX 1

LETTER FROM THE DEPARTMENT OF PRIME MINISTER AND CABINET REGARDING THE DISCLOSURE OF LEGAL ADVICE

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Australian Government

Department of the Prime Minister and Cabinet

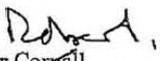
ONE NATIONAL CIRCUIT
BARTON ACT

SECRETARY

Ref:

23 May 2008

Mr Robert Cornall AO
Secretary
Attorney-General's Department
Robert Garran Offices
National Circuit
BARTON ACT 2600


Dear Mr Cornall

I am writing to advise you of the Government's position in relation to the disclosure of legal advice provided to the Government.

You may be aware that the question of access to legal advice arose at meetings of the Senate considering Additional Budget Estimates. It is clearly desirable that the Government's position in relation to the release of legal advice be conveyed to you prior to Budget Estimates hearings to commence next week.

The Government will not generally disclose the content of legal advice. However, it will generally be appropriate for an official to disclose whether legal advice has been sought and obtained on a particular issue, and, if asked, who provided the advice, unless there are compelling reasons to keep such information confidential.

It is always open to the Government to disclose the content of legal advice where it considers that it is in the public interest to do so. In deciding whether it is appropriate to release the content of legal advice, a minister will balance the public interest in disclosure with the protection of the Government's legal interests. A decision whether to disclose the content of legal advice is properly made by the relevant minister, not officials.

Of course, where questions about legal advice are anticipated, it would be appropriate for officials to prepare and consult as necessary on answers to possible questions. Where there is

uncertainty about how to answer a particular question without potentially harmful disclosure, a question should be taken on notice for the seeking of advice, and either a cleared answer provided or a claim of privilege made by a minister.

Yours sincerely

A handwritten signature in black ink, appearing to read "Terry Moran", with a stylized, sweeping flourish at the end.

Terry Moran