



Office of the Secretary

1 April 2010

Senator Mary Jo Fisher
Chair
Senate Environment, Communications and the Arts Committee
Suite 1.57
Parliament House
CANBERRA ACT 2600

Dear Senator

I refer to my evidence at the 25 March 2010 hearings as part of the Committee's Inquiry into the Energy Efficient Homes Package. At that time I indicated that I would seek to provide the Committee with advice by 2 April 2010 on Questions on Notice numbers 7, 9 and 84.

Following a review of the briefing material, I can update the Committee that there were 62 briefs logged on the DEWHA briefing system which were provided to Minister Garrett on the Home Insulation Program between 6 February 2009 and 25 February 2010. As you know, DEWHA had previously advised, in response to Question on Notice 11, that 65 briefings had been provided to Minister Garrett. On review it was discovered that:

- four briefs were incorrectly included in the original total because: one was recalled before going to the Minister; one does not cover the HIP but is about the GreenStart program; one document was incorrectly logged as a brief but was in fact a piece of correspondence; and one was a brief for an adviser meeting with industry; and
- one further brief has been added to the total (dated 25 February 2010). While this brief was submitted to Minister Garrett after the Committee sought documents at its 22 February hearings, a subsequent Question on Notice from the Committee's 1 March hearing would encompass this brief.

Following review of the material, I can inform the Committee that the Department believes that it may not be in the public interest to release ten of the documents in full for the following reasons:

- four briefs contain material disclosing deliberation and/or decisions of the Cabinet, other than decisions that have been officially published, or purely factual material the disclosure of which would not reveal a decision or deliberation not officially published;
- one brief contains information obtained in confidence from a State government, the disclosure of which could reasonably be expected to cause damage to relations with that State as it goes to internal deliberations of that government on regulatory matters;



- one brief contains advice which is subject to legal professional privilege, the disclosure of which may prejudice the Commonwealth's position in the event of future legal proceedings arising from the Home Insulation Program;
- one brief contains deliberative material on foil insulation inspections which is currently the subject of Government deliberations and the disclosure of which may harm the Commonwealth's position in contract negotiations with potential providers; and
- three briefs contain details of the Department's compliance and audit activities, including reference to operations by the Australian Federal Police. The Department considers that disclosure of the information contained in these briefs may prejudice ongoing investigations or the maintenance of lawful methods for the protection of public safety. This remains pertinent given that the Government continues to pursue compliance matters with installers who claimed, and are claiming, payments under the Home Insulation Program.

On the remaining briefs, and the log of briefs, I can advise the Committee that there remains a level of ambiguity about whether their release would be in the public interest, especially in light of ongoing and active deliberations by the Government on the closure of the Home Insulation Program and on the household Renewable Energy Bonus Scheme. I am mindful that there have been some delays in resolving this request. In the spirit of expediting the process, I have already approached the Minister Assisting the Minister for Climate Change and Energy Efficiency, the Hon Greg Combet MP, for his consideration of these matters.

In relation to responses provided previously to Questions on Notice seeking information on the Government's potential legal liability arising from the Home Insulation Program, I note the advice from the Clerk of the Senate, Ms Rosemary Laing, which was tabled at the 22 March hearings of the Inquiry. In response to that advice, I can further advise the Committee that disclosure of these advices may prejudice the Commonwealth's position in the event of future legal proceedings arising from the Home Insulation Program.

In relation to progress on answers to outstanding Questions on Notice from the Inquiry, I can indicate that, of the 112 questions placed on notice at the first two hearings where officials appeared, 53 answers have now been provided to the Committee. The Department is working as quickly as possible to provide responses to the remaining 59 Questions. We hope to be able to provide a further tranche of responses next week. I would also note that we are working to respond to the 21 Questions on Notice from the 25 March hearings as soon as possible.

Yours sincerely

Martin Parkinson
Secretary