

# Chapter 3

## Issues relating to program design and administration

3.1 This chapter discusses how aspects of the program design, administration and risk management contributed to the serious problems that arose during the Home Insulation Program (HIP). It considers:

- the design and implementation timeframe;
- the adequacy of DEWHA's administration and resources;
- the adequacy of DEWHA's risk management;
- in particular, the adequacy of training and competency standards for installing insulation;
- the effect of the maximum rebate and the Medicare billing model.

### Design and implementation timeframe

3.2 The HIP was developed in the limited timeframe between the Prime Minister's announcement on 3 February 2009 and the start of the fully developed program on 1 July 2009. The HIP was part of the \$42 billion Nation Building and Jobs Plan stimulus measure. A dominant, if not overriding instruction to the Commonwealth Coordinator General (within the Department of the Prime Minister and Cabinet), who oversaw the Nation Building and Jobs Plan, was to 'break red tape and get work happening on the ground as quickly as possible'.<sup>1</sup>

3.3 This short time frame created significant and arguably insurmountable risks. A risk assessment prepared by Minter Ellison for DEWHA in April 2009 (the Risk Register) noted that the 'scale' of the task was 'new' to the Department. It advised of risks of 'delays or total non-delivery; substantial increased costs; increases in other risks including fraud and political fallout'.<sup>2</sup>

3.4 The Risk Register identified a number of mitigating actions – for example, 'simplify business model where possible to reduce time constraints'. However it regarded the effectiveness of the proposed mitigating actions as 'weak', and the residual risk value after mitigating actions as 'extreme'. It suggested as an additional action 'extend rebate scheme to 30 September [2009]'.<sup>3</sup> The Risk Register is discussed further from paragraph 3.39.

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1 *Nation Building Economic Stimulus Plan - Commonwealth Coordinator-General's Progress Report 3 February 2009–30 June 2009*, p. 12.

2 Minter Ellison, *Risk Register and Management Plan*, 9 April 2009, p. 1.

3 Minter Ellison, *Risk Register and Management Plan*, 9 April 2009, p. 1. 'Rebate scheme' refers to the 'phase 1' program which operated until 30 June 2009, in which householders paid installers and sought reimbursement from DEWHA.

3.5 There is evidence that much of the pressure to roll out the program quickly came from the Department of the Prime Minister and Cabinet. According to the minutes of an industry consultation meeting on 18 February 2009, a representative of the Office of the Coordinator General informed the meeting that '\$2.7 billion worth of funding is in part structured around the Government going into deficit for a short period of time. Clear statements from Treasurer and the Prime Minister state that funding is required to be spent within 2.5 years with a cap of \$1600 per household.'<sup>4</sup>

3.6 Mr Mrdak (former Coordinator General) said in evidence:

The government had clearly set out a very ambitious program for the rollout of a number of these infrastructure initiatives... The time frames were set out in the National Partnership Agreement, which was agreed by COAG... There certainly was a strong view by government and by senior officials that we should continue to press on to meet the time frames that had been set out by the government.<sup>5</sup>

3.7 The tight time frame was a significant factor in the choice to use a demand driven model in which installers would register for the program, contract directly with householders, and claim payment through Medicare.<sup>6</sup>

3.8 On Minter Ellison's suggestion to defer the start of the program by three months, DEWHA commented:

[deferring the start date] was considered only in the context of the risk which was put on the table by Minter Ellison. We addressed those risks and, as a result, given the model which we adopted, there was no need to make a deferral.<sup>7</sup>

3.9 Dr Hawke's review commented that 'while the model was delivered, implementation of the audit and compliance framework lagged behind...'

...The opportunity to step back from the day to day management of the program, ask hard questions and test assumptions was not taken until late in proceedings. Resources were tied up with crisis management.<sup>8</sup>

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4 ICANZ, answers to questions on notice from hearing 17 February 2010 (received 16 March 2010): minutes of a stakeholder consultation meeting 18 February 2009.

5 Mr M. Mrdak (former Coordinator General), *Committee Hansard*, 26 February 2010, p. 10. Similarly Mr M. Forbes (DEWHA), *Committee Hansard*, 25 March 2010, p. 13.

6 DEWHA, *Submission* 19, p. 7. Mr M. Mrdak (former Coordinator General), *Committee Hansard*, 22 February 2010, p. 11; 26 February 2010, p. 14, 37. Dr A. Hawke, *Review of the Administration of the Home Insulation Program*, 6 April 2010, p. 26. Another payment model had been considered in which DEWHA would manage delivery through regional head contractors.

7 Mr M. Forbes (DEWHA), *Committee Hansard*, 22 February 2010, p. 61.

8 Dr A. Hawke, *Review of the Administration of the Home Insulation Program*, 6 April 2010, pp xi–xii.

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***Committee comment***

3.10 The haste in rolling out the full program by 1 July 2009 was a major cause of problems that subsequently arose. The government had clear and unambiguous warnings of this in Minter Ellison's suggestion that the interim (reimbursement) program should be extended by three months, in order to allow more time to properly address the identified program risks.

3.11 It is clear that the Office of the Co-ordinator General, operating within the Department of the Prime Minister and Cabinet with direct and regular reporting to the then Prime Minister, Minister Arbib and the relevant sub-committee of the Cabinet applied pressure to roll out the program quickly, in spite of the forecast risks.

3.12 By and large, federal bureaucrats do their professional best to implement the will of the government of the day.

3.13 Due to a failure to comply with requests for the release of all briefings and relevant information, coupled with understandable hesitancy of lower ranking public servants to speak 'on the record', the committee could not sufficiently test allegations that junior to middle-ranking departmental officers issued early, repeated warnings to senior departmental ranks. Nor could the committee satisfactorily test allegations such as those aired on the *Four Corners* program<sup>9</sup> that such warnings went unheeded by senior departmental officers, swept aside by government-dictated exigencies of haste to get taxpayer dollars out the door.

3.14 In the absence of such 'testing', and in any event, responsibility for any bureaucratic shortcomings properly falls at the feet of respective Ministers and Prime Ministers.

3.15 In the committee's view, then Prime Minister, the Hon Kevin Rudd, then Deputy Prime Minister Gillard who was responsible for workplace training, and the Minister Assisting the Prime Minister for Government Service Delivery, Senator Arbib (who had oversight of fiscal stimulus spending), bear significant responsibility for the consequences of the HIP, particularly due to their apparent role in placing speed of delivery before the safety of implementation.

3.16 This is in addition to the responsibility borne by Minister Garrett, and the responsibilities Minister Combet now has to neutralise the negative consequences of the HIP. Regrettably in rejecting invitations to appear before the committee, these Ministers failed to avail themselves of opportunities to provide evidence to the contrary.

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9 'A Lethal Miscalculation', *Four Corners*, ABC Television, 26 April 2010.

## **Adequacy of DEWHA's experience, administration and resources**

3.17 DEWHA very quickly began to experience the management, capability and capacity risks identified by the Risk Register for DEWHA's looming role in the management of the HIP.<sup>10</sup>

3.18 In short, the government tasked a bureaucracy better experienced and equipped for policy development than program implementation, with defying forecast risks to implement an unprecedented and ambitious demand-driven program largely on the run and across the states.

3.19 The tight time frame for developing the full program exacerbated problems DEWHA already faced. Before the HIP, DEWHA had little to no experience in running a program of this size and nature. It did not have staff with any detailed knowledge of the insulation industry. Management of the program was undertaken in a division with significant other responsibilities (the Renewables and Energy Efficiency Division). The relevant Deputy Secretary was also responsible for other major portfolio activities including the Antarctic Division, the Marine Division, the Land and Coasts Division, and Parks Australia Division.

3.20 A management structure more suitable to the size of the program, with reduced responsibilities for the Deputy Secretary, was established only in November 2009, by which time the HIP had run for about three quarters of its ultimate duration.<sup>11</sup>

3.21 While measures were taken to second staff both internally and from other agencies with at least some relevant experience (eg the Australian Tax Office), capacity issues remained significant throughout the program. Staffing numbers ramped up during the period, but there was a heavy reliance on contracted staff.

3.22 According to Dr Hawke 'internal project management infrastructure and departmental experience were insufficient to support the (at times unanticipated) demands placed on them.'<sup>12</sup>

3.23 The frequent changes to the program details during the second half of 2009 created ongoing difficulties:

The program developed incrementally and reactively through this period... These frequent changes increased complexity and often involved transitional arrangements...that absorbed additional effort and resources,

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10 For example, see items 3 and 4 of the Risk Register (see Appendix 6).

11 Dr A. Hawke, *Review of the Administration of the Home Insulation Program*, 6 April 2010, pp 33, 59–60.

12 Dr A. Hawke, *Review of the Administration of the Home Insulation Program*, 6 April 2010, p. 60.

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leaving DEWHA with more 'catch up' on top of day to day work and process improvement.<sup>13</sup>

### ***DEWHA consultations***

3.24 DEWHA consulted with stakeholder groups and with state/territory governments in the first half of 2009 during the development of the 'phase 2' program.<sup>14</sup> Not all groups were happy with the level of consultation. ICANZ appeared to be satisfied,<sup>15</sup> but some of the smaller players were less satisfied. The Polyester Insulation Manufacturers Association of Australia thought that the program was 'rushed and needed greater consultation.'<sup>16</sup> Mr Tikey of the Aluminium Foil Insulation Association said:

We were never consulted right at the start. Had we been consulted and had some of the areas we raised concerns about been taken on board, we would not be where we are today.<sup>17</sup>

3.25 Autex, a manufacturer of polyester insulation, in its submission argued that 'until it was highlighted that ICANZ only represented the interests of the fibreglass and rockwool industries, statements from this organisation were regarded by government as representative of the industry as a whole.'<sup>18</sup>

3.26 Dr Hawke reported that the states/territories felt they had had minimal input during the development of the program, and they would have preferred more engagement and a better flow of information.<sup>19</sup>

### ***Committee comment***

3.27 The government's move to commission an independent review of the HIP (the Hawke Review) was too little, too late and should have been undertaken earlier so that the findings could be used to improve the HIP. Such a comprehensive, independent assessment of the program structure and the capacity to deliver it should have been undertaken at the beginning and used to inform the development of such a large and untested program.

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13 Dr A. Hawke, *Review of the Administration of the Home Insulation Program*, 6 April 2010, pp xii and 8.

14 DEWHA, *Submission 19*, p. 7. Mr M. Forbes (DEWHA), *Committee Hansard*, 22 February 2010, p. 39.

15 ICANZ, *Submission 18*, p. 12.

16 Mr J. Liaskos (PIMAA), *Committee Hansard*, 17 February 2010, p. 3.

17 Mr B. Tikey (AFIA), *Committee Hansard*, 17 February 2010, p. 35.

18 Autex, *Submission 10*, p. 3.

19 Dr A. Hawke, *Review of the Administration of the Home Insulation Program*, 6 April 2010, p. 17.

### *Communications with ministers*

3.28 DEWHA briefed Minister Garrett on the Home Insulation Program 62 times between 6 February 2009 and 25 February 2010. The Department of Climate Change and Energy Efficiency (DCCEE), which has taken over responsibility for the program, refused to provide these briefs to the committee. In relation to ten briefs, DCCEE claimed various public interests reasons for withholding the information. In relation to the remaining 52 briefs, DCCEE gave no reason for refusing to provide them.<sup>20</sup> The department referred the 52 briefs to Minister Combet for his consideration of these matters. In relation to the 52 briefs the minister advised the committee that:

It is my view that they should not be released. I have come to this view on the following two grounds. Firstly, as the Secretary of the Department of Climate Change and Energy Efficiency noted in his letter of 1 April 2010 to the Committee, there is a level of ambiguity about whether their release would be in the public interest. In view of the Secretary's opinion, I have decided that it would not be in the public interest to release documents about which there is doubt. Secondly, it is my view that the documents are deliberative in nature, and therefore pertain to the deliberative processes involved in the functions of Government. Disclosure would therefore be contrary to the public interest.<sup>21</sup>

3.29 Neither of these claims meets the standard of past Senate practice. In response to his claims, Clerk of the Senate, Dr Rosemary Laing provided advice to the committee which states that:

Against this background, it is clear that the responses provided by Minister Combet do not meet the standards set by past Senate practice. Ambiguity about whether the disclosure of a document would be in the public interest has never been accepted by the Senate as a ground for non-disclosure. Paragraph (c)(4) of the Senate's resolution of 13 May 2009 requires a minister to consider whether the harm that may result from the public disclosure of a document would also result from its provision to a committee *in camera*. If there is ambiguity about this matter then the committee may wish to press the Minister further and ask whether the ambiguity could be addressed by provision of the documents to the committee *in camera*.

The second ground that has been advanced by the Minister for non-disclosure of the documents, namely, that they are deliberative in nature and pertain to the deliberative processes involved in the functions of

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20 Dr M. Parkinson (DCCEE Secretary), correspondence 1 April 2010. In relation to the 52 briefs, the letter says that 'there remains a level of ambiguity about whether their release would be in the public interest'.

21 Hon. G. Combet MP, Minister Assisting the Minister for Climate Change and Energy Efficiency, correspondence 2 July 2010.

government has also not been accepted by the Senate as a “just and proper” claim of privilege.<sup>22</sup>

3.30 According to evidence from DEWHA, Minister Garrett did not ask for, and was not given, the Minter Ellison Risk Register until February 2010.<sup>23</sup> DEWHA explained that:

The standard practice is for departments to actually look into risk assessment as part of good program design. By contracting Minter Ellison I do not think we necessarily indicated to the minister’s office who we were actually contracting but we certainly indicated we were undertaking appropriate risk assessments and seeking the appropriate expertise in this area to help us.<sup>24</sup>

[The minister] would have been advised, as I think he has indicated, that there were risks in the program and that mitigation strategies would have been put in place to deal with those risks.<sup>25</sup>

3.31 The extent of ministerial awareness of the early risks identified in documents, such as the Risk Register, or of the problems that rapidly emerged with the program are difficult to deduce given the refusal of the government to reveal contents of briefings. However the committee does note that both DEWHA and the Office of the Co-ordinator General acknowledged the provision of regular briefings about the HIP to Ministers Garrett and Arbib respectively.<sup>26</sup>

### *Communication between ministers*

3.32 Four letters from Minister Garrett to the Prime Minister concerning planned changes to the program were mentioned in evidence. The letters, dated 14 August, 27 August, 28 October and 30 October 2009, had been first mentioned by the Prime Minister in the House of Representatives. The committee sought further information about the letters. DCCEE replied that they were 'of a Cabinet-in-Confidence nature'.<sup>27</sup> On 12 May 2010 the Senate ordered production of the letters.<sup>28</sup>

22 Advice from the Clerk of the Senate to the Chair of the Senate Environment, Communications and the Arts Committee, Senator Mary Jo Fisher, 9 July 2010.

23 Mr M. Thompson (DEWHA), *Committee Hansard*, 22 February 2010, p. 10. DEWHA, answer to question on notice 5 from hearing 22 February 2010 (received 22 February 2010).

24 Mr M. Forbes (DEWHA), *Committee Hansard*, 22 February 2010, p. 8.

25 Ms R. Kruk (DEWHA), *Committee Hansard*, 22 February 2010, p. 11.

26 DEWHA, answer to question on notice 11 from hearing 22 February 2010 (received 25 February 2010); and PM&C, answer to question on notice 2 from hearing 26 February 2010 (received 12 March 2010).

27 DEWHA, answer to question on notice 15 from hearing 25 March 2010 (received 4 May 2010).

28 *House of Representatives Hansard*, 11 March 2010, p. 2292. *Committee Hansard*, 25 March 2010, pp 47–8. DCCEE, answer to question on notice 15 from hearing 25 March 2010 (received 4 May 2010). Orders of the Senate No. 775 and 776 of 12 May 2010.

3.33 On 27 May 2010 the government released the letters of 27 August, 28 October and 30 October 2009, claiming that because much of the information was already in the public domain, no public immunity interest was claimed. These letters brief the Prime Minister about planned changes to the program conditions.<sup>29</sup>

3.34 The government continues to withhold the fourth letter (14 August 2009), claiming that it formed an under the line submission to cabinet and therefore its release would be contrary to the public interest, in keeping with the convention of cabinet confidentiality.<sup>30</sup>

3.35 In the absence of evidence to the contrary, the committee is entitled to deduce that the government considers that this letter contains information not yet in the public domain. Given the extent of public concern about this program the committee again urges the government, in the name of transparency and accountability to release this letter and all other briefings, reports or correspondence relevant to the HIP.

### *Committee comment*

3.36 It appears that the management structures needed within DEWHA to handle such a large and complex program were not instituted until far too late. The committee endorses Dr Hawke's comments which it reiterates:

The opportunity to step back from the day to day management of the program, ask hard questions and test assumptions was not taken until late in proceedings. Resources were tied up with crisis management. DEWHA is not unique in this regard, but it is a lesson that is not easily learned by busy departments under pressure to deliver large programs.<sup>31</sup>

3.37 In relation to briefs from the DEWHA to Minister Garrett, which the committee requested, the committee records its strong dissatisfaction that DEWHA has not provided these without giving adequate reasons. On 9 June 2010, pursuant to a Senate Procedural Order, the committee sought the referral of these and other related matters to relevant ministers.<sup>32</sup>

3.38 In the absence of evidence to the contrary, the committee can only conclude a level of negligence on the part of ministers or senior officials that detailed information on risks (including Minter Ellison's recommendation to defer the starting date) were

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29 Hon J. Ludwig, Manager of Government Business in the Senate, correspondence to the President of the Senate, 26 May 2010. The letters were received out of session on 27 May 2010.

30 Hon J. Ludwig, Manager of Government Business in the Senate, correspondence to the President of the Senate, 26 May 2010. The letters were received out of session on 27 May 2010. See paragraph 1.14.

31 Dr A. Hawke, *Review of the Administration of the Home Insulation Program*, 6 April 2010, p. 18.

32 These letters were sent pursuant to the Senate's procedural order of continuing effect No. 8 concerning public interest immunity claims. See [www.aph.gov.au/Senate/pubs/standing\\_orders/d04.htm#8](http://www.aph.gov.au/Senate/pubs/standing_orders/d04.htm#8) (accessed 9 June 2010).



either never communicated to or never acted on by the highest levels of the government.

## **Adequacy of DEWHA's risk management**

### ***Minter Ellison's Risk Register***

3.39 In mid-March 2009 DEWHA commissioned from Minter Ellison a risk assessment of the program. The key outcome of this was a 'Risk Register and Management Plan' which was received by the department in early April 2009.<sup>33</sup> It listed many extreme and serious risks, and recommended mitigation measures to minimise the probability that the unwanted outcome would occur. To take one example:

Risk 5: Fraud: inadequate controls may allow fraudulent or inappropriate behaviours:

- Ineligible people accessing the program
- Industry quoting above actual cost of job
- Households double dipping between Commonwealth, State and Territory Programs above out of pocket costs
- Applicant accessing both SHWR and HIP programs
- Installer theft/ vandalism/ professionalism
- Internal/ staff member process integrity

#### Recommended Management Plan:

- Develop specific fraud strategy based on a capacity to outsource the risk
- Review processes to test specifically for control over possible fraud/incorrect payments... [and five other dotpoints: see Appendix 6]<sup>34</sup>

3.40 The Risk Register listed 19 individual risks, which in summary were:<sup>35</sup>

1. Extremely limited time to determine and implement effective project methodology and delivery/business model post 1 July 2009.
2. Procurement processes/timeframes; 1 July 2009 deadline for full program; scale of task is new to Department.
3. Time available to develop and implement the program in a properly controlled way may be inadequate.
4. Quality of installation/ control by installers and compliance structures may be inadequate.
5. Inadequate controls may allow fraudulent or inappropriate behaviours

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33 A companion document referred to in evidence as the 'risk assessment' was tabled in the Senate on 22 February 2010. The contents of the Risk Assessment document are repeated in full in the Risk Register. See Appendix 6.

34 Minter Ellison, *Risk Register and Management Plan*, 9 April 2009, p. 2.

35 Some of these headings were enlarged with a few dotpoints not repeated here. See Appendix 6.

6. Multiple policy goals, vested commercial interests may hamper the efficient delivery of the program.
7. A variety of failures in the process, system, project deliverables etc may have significant indirect political/ public confidence impact.
8. Inadequate planning and communication may create poor delivery of communications strategy (internal and external).
9. Complex legal issues associated with the program may not be fully understood or dealt with.
10. Capacity to develop, staff, control and deliver the program on time may be insufficient.
11. The existing regulatory framework may not adequately support the program's goals.
12. Industry's capacity to produce and deliver sufficient quality materials and installations may be inadequate.
13. Actual outcomes (eg number of households included, long term savings), may not eventuate.
14. Delivery structure may result in overcentralisation, poor allocation and political/economic fallout.
15. Program may not achieve its objectives through poor uptake/program awareness.
16. Training mechanisms: capacity/control over installer network skills may be inadequate.
17. Risk of focussing on specific tasks and pressure groups may result in inadequate attention to all stakeholders and their interests.
18. Structure of program may impact on capacity of the industry both in the short and longer term.
19. Product quality may not be of adequate standard.

3.41 The Risk Register also listed relevant current activities, and gave an estimate of how serious each risk was; how effective mitigation steps were likely to be; and additional suggestions.

3.42 For example, in relation to risk 3 in the list above—the time to develop the program may be inadequate for a desired 1 July 2009 rollout—the risk was estimated as 'extreme', the effectiveness of mitigating actions was regarded as 'weak'; the residual risk after mitigating action was regarded as 'extreme'; and the suggested 'additional action plan' was 'extend rebate scheme to 30 September'.<sup>36</sup>

3.43 Minter Ellison advised that even after mitigating actions, six matters had a 'high' or 'extreme' residual risk, as follows:

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36 Minter Ellison, *Risk Register and Management Plan*, 9 April 2009, p. 1.

**Table 2—Extracts of the Minter Ellison Risk Register of 9 April 2009**

No.	Risk description <sup>37</sup>	Risk today	Effectiveness of mitigators	Residual risk value	Is residual risk value tolerable	Additional action plan
2	Procurement/licensing: needs for entire program duration to be determined and fulfilled by 1/7/09	Extreme	Weak	Extreme	No	Extend rebate scheme to 30 September 2009...
3	Time: time available to develop and deliver the program in a properly controlled way may be inadequate	Extreme	Adequate	Extreme	No	Extend rebate scheme to 30 September 2009...
5	Fraud: inadequate controls may allow fraudulent or inappropriate behaviour	Extreme	Adequate	High	Yes	
7	Political: a variety of failures in the process, system, project deliverables etc may have significant political fallout	Extreme	Adequate	Extreme	No	High level political/ stakeholder coordination and monitoring required
10	Internal capacity: capacity to develop, staff, control and deliver the program on time may be insufficient	Extreme	Adequate	High	Yes	
11	Regulation: the existing regulatory framework may not adequately support the program's goals	Extreme	Weak	High	Yes	

3.44 The risks to the safety of persons and property, subsequently one of the program's key shortfalls, are covered in the Risk Register under the heading 'installation quality and compliance':

[Risk 4] Risk description: Installation quality and compliance: quality of installation/ control by installers and compliance structure may be inadequate:

- poor quality installations
- compliance cost (to department or industry) may be excessive and process may be ineffective
- safety – house fire/damage
- insufficient number of auditors

Risk today: Extreme

Recommended management plan:

- Consider these issues in developing the business model

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37 Under each of these headings more detailed dot points were given. See Appendix 6.

- Ensure business model transfers fraud risk from Commonwealth to providers where possible and allows effective monitoring
- Develop effective processes for registration of installers. Cover both financial viability and technical capacity in registration process
- Alternatively let third party contracts to do this; set up monitoring and reporting processes to identify emerging provider stress
- Ensure contract structure provide capacity to monitor and take action on poor performing providers
- Ensure installers are properly insured and consider requiring installers to indemnify the Commonwealth against claims/loss arising from installers' actions
- Review mitigation strategies in light of the agreed business model.

Effectiveness of mitigators: Strong

Residual risk value: Medium

Is residual risk value tolerable: Yes<sup>38</sup>

3.45 DEWHA advised that the April 2009 Risk Register was updated over time.<sup>39</sup> Later versions of the Risk Register used by the interdepartmental Project Control Group in July, September and October 2009 noted the risk of 'unsafe or incorrectly installed product leads to fire/damage, injury or death', and listed various 'ongoing' mitigating actions, including:

- Additional compliance audit activity
- Enhance compliance education activity including proactive communications to educate installers on compliance requirements
- DEWHA communication tools (guidelines, website, installer packs, call centre) clearly explain policy requirements. Communications through public relations is consistent and includes info about the quality of materials.
- Mandatory training competency checking in desktop audits
- Liaise closely with DEEWR on management of installer skills...
- All companies to be responsible for ensuring supervision of staff in their employ (liaison)...<sup>40</sup>

3.46 The Risk Assessment and the Risk Register (at 9 April 2009) are at Appendix 6.

3.47 It is noteworthy that at the relevant item 4 in the April 2009 Minter Ellison Risk Register the fire risk is dismissed with four words ('safety - house fire/damage')

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38 Minter Ellison, *Risk Register and Management Plan*, 9 April 2009, p. 1.

39 Mr M. Forbes (DEWHA), *Committee Hansard*, 26 February 2010, p. 63.

40 DEWHA/DCCEE, answer to question on notice 28 from hearing 26 February 2010 (received 5 May 2010). The quoted text is from a 1 October 2009 version. There were very similar comments in 31 July and 17 September versions.

and the electrocution risk is not mentioned at all (see paragraph 3.44).<sup>41</sup> The recommended risk management actions depended strongly on uncertain future conditions (for example 'review mitigation strategies in light of the agreed business model'), and they had a strong focus on minimising the Commonwealth's responsibility, rather than actually ensuring safe outcomes.

3.48 Training needs are mentioned elsewhere in the Risk Register;<sup>42</sup> but the most obvious action to mitigate risks to personal safety—'ensure adequate training of all personnel'—is not mentioned at item 4. This suggests that at this time risks to personal safety were not being adequately considered.

### *DEWHA's management of risk*

3.49 In April 2009, DEWHA established a Project Control Group with representatives of the Commonwealth agencies involved. They were DEWHA; Department of Education, Employment and Workplace Relations; and Department of the Prime Minister and Cabinet; Medicare Australia; and the Australian Taxation Office. The Department of the Prime Minister and Cabinet was involved in the form of the Office of the Coordinator General which was responsible for monitoring stimulus spending projects.<sup>43</sup>

3.50 The Project Control Group met generally weekly from April to December 2009, with standing agenda items including the project's schedule, monitoring and reporting, risk management, stakeholder management, communications and compliance.<sup>44</sup>

3.51 Commenting on risk management in evidence, DEWHA emphasised that the risk assessment was not a prediction of what would happen (with implication that the government would be negligent for persevering over its strong warnings), but rather a prudent hypothetical of what might happen in the absence of preventative action.<sup>45</sup> DEWHA argued that as the program rolled out 'significant measures were put in place systematically and progressively in an effort to manage those risks'—for example, in using the Medicare system for payments.<sup>46</sup> DEWHA admitted that the short timeframe for implementing the program (which Minter Ellison had flagged as creating an 'extreme' risk) was 'challenging':

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41 The treatment of these risks was strengthened in later versions of the risk register, as noted at paragraph 3.34.

42 Minter Ellison, *Risk Register and Management Plan*, 9 April 2009, p. 4, item 16.

43 The Department of Human Services was also involved for a period. DEWHA, *Submission 19*, p. 22. DEWHA/DCCEE, answer to question on notice 28 from hearing 26 February 2010 (received 5 May 2010). Mr M. Forbes (DEWHA), *Committee Hansard*, 22 February 2010, p. 16.

44 Mr M. Forbes (DEWHA), *Committee Hansard* 25 March 2010, p. 3.

45 For example Ms R. Kruk (DEWHA), *Committee Hansard*, 26 February 2010, p. 60.

46 Ms R. Kruk (DEWHA), *Committee Hansard*, 22 February 2010, p. 3.

It was an ambitious program. Basically, the issue was to use a range of strategies to minimise that risk...the risks of the program were consistently discussed with the minister. The time frame in which it was being rolled out was one component of those and that was actually quite influential in the selection of the business model that was ultimately rolled out, as I indicated in relation to Medicare.<sup>47</sup>

3.52 Commenting recently on DEWHA's risk management strategy, Minister Combet argued that 'the level of demand created significant difficulties not only for the administration of the program but also for the management of audit and compliance...'

...During the program design process, potential risks were canvassed in the Minter Ellison report received by the department in April 2009. Attached to each of the risks identified in the report were proposed mitigation actions. The risk register tracked these actions. I am advised that this information, along with other inputs, informed the overall program design. Notwithstanding the best endeavours of those responsible for the program design, the behaviour of unscrupulous operators led to the realisation of a number of these risks in the delivery of the program—most notably concerning the quality of installations and fraud.<sup>48</sup>

3.53 Dr Hawke's recent review of the HIP, commenting on the 'high' and 'extreme' residual risks, said:

The first two of these risks and the last ['needs for entire program duration to be determined and fulfilled by 1/7/09'; 'time available to develop and deliver the program in a properly controlled way may be inadequate'; 'the existing regulatory framework may not adequately support the program's goals' - see paragraph 3.43] were addressed by the revised delivery model, but the remainder were risks that had to be managed through the life of the HIP.<sup>49</sup>

3.54 Dr Hawke commented generally on DEWHA's risk management:

DEWHA established a strong risk management framework and then had in place a number of mechanisms to address and mitigate the risks...When issue arose, DEWHA and the Minister worked quickly to address them...Warnings were heeded; however this was largely reactive. Internal management structures, particularly early in the program, did not provide the necessary senior management oversight or allow for considered review at appropriate times. A program of the profile and significance of the HIP

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47 Ms R. Kruk (DEWHA), *Committee Hansard*, 22 February 2010, pp 21 and 33. Similarly Mr M. Mrdak (former Coordinator General), *Committee Hansard*, 26 February 2010, pp 12ff and 37.

48 Hon. G. Combet, Minister assisting the Minister for Climate Change and Energy Efficiency, House of Representatives *Hansard*, 10 March 2010, p. 2155.

49 Dr A. Hawke, *Review of the Administration of the Home Insulation Program*, 6 April 2010, p. 32.

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involving an industry that had minimal regulation warranted very close attention. It is acknowledged, however, that some of the issues flowing from the extreme level of demand could not be anticipated.<sup>50</sup>

### ***Committee comment***

3.55 For a program of the HIP's nature, Minister Garrett should have requested the conduct of a risk assessment, a copy of it once done, and an action plan identifying how each risk was being addressed, when and by whom. The Risk Register should have been provided to Minister Garrett earlier than February 2010 for his consideration and government action. The extent to which important information was allegedly not shown to the minister appears reflective of a 'don't show–don't tell' culture.

3.56 In the committee's view the government's risk management activities through DEWHA fell breathtakingly short. It failed to anticipate or respond with sufficient urgency to the extremely high risks created by the haste, scale, demand-driven and national roll-out of an ambitious program involving an industry with standards and rules, simply inadequate for a program for which the government's overriding goal was to drive demand and rapidly rollout such a large program.

3.57 These risks were sufficiently flagged in Minter Ellison's April 2009 Risk Register and had been raised with the government by various industry stakeholders as early as February 2009.

3.58 The committee comments particularly on the electrical and fire risks which have since become a critical concern. Industry associations had raised these risks as early as February 2009. For example concerns were raised:

- by the National Electrical and Communications Association (NECA), February 2009: 'There is a significant risk of electrical equipment overheating especially in the event of downlights in ceilings being covered if insulation is installed inappropriately';<sup>51</sup>
- at stakeholder meeting, 18 February 2009: '...in New Zealand...a similar program had to be suspended because three people electrocuted themselves';<sup>52</sup>
- by NECA to Minister Garrett, March 2009: 'Whilst not the only safety issue by far the most dangerous is the risk of fire associated with installing thermal insulation over or in close proximity to recess luminaires';<sup>53</sup>

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50 Dr A. Hawke, *Review of the Administration of the Home Insulation Program*, 6 April 2010, p. 43.

51 NECA, *Submission 39*, attachment, media release 16 February 2009.

52 ICANZ, answers to questions on notice from hearing 17 February 2010 (received 16 March 2010): minutes of a stakeholder consultation meeting 18 February 2009, p. 5.

53 NECA, *Submission 39*, attachment, letter to Minister Garrett 9 March 2009.

- by Master Electricians Australia in May 2009: '...incorrectly installed insulation created a very serious fire risk, especially in older homes'.<sup>54</sup>

3.59 From the evidence presented to the committee it is clear that DEWHA and government ministers received various written and oral warnings of the serious risks posed by the program prior to its large-scale deployment in July 2009. It is also clear that these warnings were either ignored or not taken sufficiently seriously at the Cabinet or departmental level, in the rush to commence this flawed and ill-conceived stimulus measure.

### **Adequacy of training and installation standards**

3.60 The required training and work standards in the program are summarised at paragraphs 2.25ff. DEWHA submitted that comprehensive safety requirements were always fundamental to the program:

- Supervisors were required to have training (this had never before been required in the retrofit insulation business), and to comply with state/territory occupational health and safety laws.<sup>55</sup>
- Training materials were developed with the advice of industry stakeholders.
- Training materials covered the full range of hazards. For example, the installers pocket book issued in August 2009 gave detailed warnings in relation to electrical and fire safety. Safety warnings were upgraded in a new edition of the pocket book released in November 2009.
- Installations had to comply with the relevant Australian Standards for insulation materials and installation. The standards included requirements for clearances around downlights.<sup>56, 57</sup>

### ***Submissions on training and competency standards for installing insulation***

3.61 Submissions generally approved of the new training standards and training materials, and stressed that they were an advance in a business which had previously

54 Master Electricians Australia, *Submission 20*, attachment, media release 18 May 2009.

55 The program rules were strengthened to require training for all person involved in installation (not only supervisors), from 12 February 2010. In South Australia installers must be licensed. DEWHA, *Submission 19*, pp 5 and 9.

56 DEWHA, *Submission 19*, pp 7–8, 26ff. Construction and Property Services Industry Skills Council, *Submission 5*. Mr M. Hoffman (Department of the Prime Minister and Cabinet), *Committee Hansard*, 26 February 2010, p. 25.

57 AS/NZS 4859.1:2002, *Materials for the thermal insulation of buildings*. AS 3999-1992: *Thermal insulation of buildings - bulk insulation - installation requirements*. AS/NZS 3000:2007 *Electrical installations (known as the Australian/New Zealand Wiring Rules)*. In relation to clearances around downlights, the more stringent requirements of AS/NZS 3000:2007 applied, before downlights covers were made compulsory from 2 November 2010. Note that there is no Australian Standard for installation of foil insulation.



not had any training or licensing requirements (except in South Australia, which has licensing requirements for insulation installers).<sup>58</sup>

3.62 South Australia was the only state that had a requirement for installers to be licensed, but still had to deal with 'fly-by-nighter' installers who worked illegally.<sup>59</sup>

3.63 A key issue was how well any trade-related competencies were actually transferred to workers in the roof cavity. Some witnesses thought the main concern was that all personnel involved in installation, not only supervisors, should have been required to demonstrate trade-related competencies. For example:

It [was] not mandatory for all installers to have insulation-specific competencies (only for the supervisor). In practice, this [meant] that a supervisor [could] have a large crew of untrained people performing the installations and just 'swing by' each installation to sign off on the form.<sup>60</sup>

While in the past the industry had always relied on staff learning how to work safely on the job, it appears that this was no longer good enough with so many new staff – and, more importantly, new companies – in the system.<sup>61</sup>

3.64 Witnesses suggested that brief formal training could not adequately replace supervised experience:

What we should have was a condition such that, every time a worker goes in a roof, there should be at least one person there who is either a tradesperson, or who has at least six months experience in the industry, who has danger sense. You cannot teach that in six hours or in two days... Youngsters do not know that.<sup>62</sup>

Most of us in the insulation industry would not have allowed our installers to go out only having been on a two-day course.<sup>63</sup>

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58 For example Australian Cellulose Insulation Manufacturers Association, *Submission 8*, p. 2. ICANZ, *Submission 18*, p. 13. In South Australia insulation installers (persons or businesses) must have a building work contractor's licence with insulation in its scope, and must nominate a registered supervisor/s who will be present for all work and who has insulation in their scope of competencies. This requirement predates the Home Insulation Program. Department of the Prime Minister and Cabinet, answer to question on notice 9 from hearing of 26 February 2010 (received 12 March 2010).

59 Mr Rod Hook, South Australian Coordinator General, ABC Radio Adelaide, 11 February 2010.

60 Sky green, *Submission 12*, p. 10.

61 Amalgamated Metal Industries, *Submission 25*, p. 2.

62 Mr M. Bostrom (Amalgamated Metal Industries), *Committee Hansard*, 17 February 2010, p. 51.

63 Mr A. Arblaster (Australian Cellulose Insulation Manufacturers Association), *Committee Hansard*, 17 February 2010, p. 21.

Up until this stage [October 2009] the training was scant to non-existent for most installers, and as there were many new entrants into the market very few had experience to fall back on.<sup>64</sup>

3.65 At the same time, exemptions from competency requirements defied logic and were seen to give a 'free pass' to a number of trades which seem to have limited direct dealings with insulation:

Stupid thing is if you have a trade, ie; brick layer, you are exempt. What does a brick layer know about installing insulation materials???<sup>65</sup>

3.66 There was criticism of 'tick and flick' forms, such as the mandatory risk assessment template that was used from 2 December 2009:

The latest tick-and-flick sheet is too large, too black-and-white and too technical... More likely as they are paid by the job, they would tick and flick without checking – take the risk, as they knew no-one would ever check.<sup>66</sup>

3.67 There was implied criticism of training materials as likely to be too complicated for the intended readership:

The Government did accept recommendations from industry and training experts in the revision of the training materials and associated risk assessment forms, to include visual aids to assist those without a firm grasp on the English language. It is unfortunate that these changes appear to be a case of too little, too late.<sup>67</sup>

3.68 In relation to installation standards, particular criticisms or suggestions included:

- there should have been a mandatory requirement to turn off the power before entering the roof;<sup>68</sup>
- plastic staples should have been mandated;<sup>69</sup> and
- there should have been an electrical inspection before installation.<sup>70</sup>

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64 Master Electricians Australia, *Submission 20*, p. 3.

65 AFIA, *Submission 23*, p. 6.

66 K. & C. Fuller, *Submission 43*, pp 4–5.

67 National Electrical and Communications Association, *Submission 39*, p. 4.

68 K. & C. Fuller, *Submission 43*, p. 3.

69 K. & C. Fuller, *Submission 43*, p. 5 & attachment: New Zealand Ministry of Economic Development, *Installing under floor thermal insulation - electric shock hazard*, 21 June 2007. See [www.energysafety.govt.nz/templates/Page\\_27749.aspx](http://www.energysafety.govt.nz/templates/Page_27749.aspx) (accessed 29 April 2010). Mr & Mrs Fuller noted that in New Zealand they have been strongly recommended since 2007, after electrocutions from using metal staples.

70 National Electrical and Communications Association, *Submission 39*, p. 3. Mr M. Bostrom (Amalgamated Metal Industries), *Committee Hansard*, 17 February 2010, p. 53–4.

3.69 The National Electrical and Communications Association (NECA) recommended in February 2009 that a licensed electrician should check wiring before installation. NECA suggested this again at an industry consultation meeting on 12 November 2009, after the first death linked with the program, but told the committee that 'the response to this suggestion was that there was not enough money available'.<sup>71</sup>

3.70 On the other hand, ICANZ did not support compulsory electrical inspections, as 'experienced insulation installers know what to do and have managed this safely over the years'.<sup>72</sup>

### ***Committee comment***

3.71 The committee acknowledges DEWHA's efforts to establish some training standards in an industry which had not had them previously but finds these efforts to be grossly inadequate given the scale of inexperienced start-up operations that were anticipated under the HIP.

3.72 Shortcomings in the detail of formal training and competency requirements were exacerbated by a systematic failure to adequately implement, enforce and communicate to the industry and workforce.

3.73 In the committee's view DEWHA did not adequately respond to the high risk created by the huge influx of inexperienced workers. As submissions commented:

Master Electricians Australia knew from its more than 70 years representing the electrical contracting industry that if you combined unskilled labour with electrical cabling then tragedy would not be far away.<sup>73</sup>

The competency based training that was implemented should have been satisfactory, however the inconsistent delivery of this training, and the large amount of exemptions, meant that the training was not enough.<sup>74</sup>

3.74 Arguably the key mistake was failing to ensure from the outset that all personnel involved in installation (not only supervisors) were properly trained.<sup>75</sup> It was not adequate to allow a trained/qualified registered installer to oversee what could be an unlimited number of untrained workers. In this situation it was unreasonable and irresponsible to assume that written warnings about fire and electrical safety would effectively reach the actual workers in the roof.

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71 National Electrical and Communications Association, *Submission 39*, p. 3.

72 ICANZ, *Submission 18*, p. 17.

73 Master Electricians Australia, *Submission 20*, p. 3

74 National Electrical and Communications Association, *Submission 39*, p. 4.

75 A requirement for all personnel involved in installation to be trained took effect from 12 February 2010.

3.75 It was counter-intuitive to exempt from training requirements a number of building trades which had little direct experience with insulation yet were now likely to interface with it.

3.76 Stakeholders gave both DEWHA and the government strong warnings of these risks from as early as February 2009. Similar warnings were expressed in a stakeholder consultation meeting on 18 February 2009.<sup>76</sup> Neither DEWHA nor the government paid enough attention to these warnings. Making the standards more stringent in the last few months of the program was too little, too late.

3.77 The fact that the authorities felt the need to amend the installers' pocket book extensively after the first program-related fatality in October 2009, to upgrade the warnings on electrical and fire risks, does not inspire confidence in the adequacy of the earlier edition.

3.78 The committee expresses its deep concern and disappointment about DEWHA's and the government's failure to adequately minimise risks or respond effectively to the first tragic fatality in October 2009. It was not until February 2010 that the training requirement for all installers took effect.<sup>77</sup> It appears that the option of mandating safety switches as a condition of participation was never considered. Similarly, despite the best endeavours of the Fuller family, the simple step of requiring the household's power to be switched off during installation was never mandated.<sup>78</sup> Steps along these lines may have helped avoid at least one of the subsequent fatalities. The committee finds this both tragic and deplorable.

3.79 The committee is not expert in insulation or electricity. However, it considers it incumbent upon the government to counter criticism that the government should have mandated:

- a. turning off the power before entering the roof;<sup>79</sup>

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76 ICANZ, answers to questions on notice from hearing 17 February 2010 (received 16 March 2010): minutes of a stakeholder consultation meeting 18 February 2009.

77 This requirement was announced on 30 November 2009: Hon. P. Garrett, Minister for the Environment, Heritage and the Arts, *Insulation safety standards to get a further boost*, media release, 30 November 2009.

78 K. & C. Fuller, *Submission 43*, p. 3. Turning off the power was discussed, or suggested as a risk mitigating action, in some of DEWHA's installer advices and in the risk assessment template which applied from December 2009. However it was never explicitly mandated. See installer advice no. 11, 19 October 2009, and no. 12, 26 October 2009. The committee notes that turning off the power during installation would not prevent a stapled wire from enlivening foil insulation when the power is turned back on, which would create an ongoing hazard.

79 This was recommended by the manufacturer of the product which was being installed by Matthew Fuller, who was electrocuted on 14 October 2009. K. & C. Fuller, *Submission 43*, attachment, Silvercell building insulation fitting instructions.

- b. the use of plastic staples with foil, as had been recommended in New Zealand since 2007;<sup>80</sup> and
- c. a condition of HIP insulation that a house had a safety switch (residual current detector).<sup>81</sup>

3.80 In the committee's view, by October 2009, DEWHA and the government had received sufficient written and oral warnings of the serious risks posed by the program that it should have been suspended immediately following the first fatality. However, disturbingly, these warnings were either ignored or not taken sufficiently seriously. Again, the desired speed of spending appears to have superseded safety considerations.

### **The maximum rebate and the Medicare billing model**

3.81 According to DEWHA, industry estimates at the time of the announcement of the HIP indicated the cost of installation could range between \$660 and \$1600 per dwelling.<sup>82</sup> When the program was launched the maximum rebate was set at the upper end of this range, that is \$1600.

3.82 DEWHA said that this provided 'the greatest scope for strong take-up by eligible households. This was designed to achieve maximum impact in line with the economic stimulus and employment objectives of the program.'<sup>83</sup> DEWHA advised that a study commissioned by ICANZ had estimated that the average cost of insulating a home would be \$1200; and subsidies at the lower end of the spectrum (ie towards \$660) would not be likely to create enough demand for the program to achieve its goal of insulating enough houses in the two year time frame.<sup>84</sup>

3.83 ICANZ estimated in 2007 that an average home would cost from \$1200 to \$1500 to have ceiling insulation professionally installed, and a \$500 rebate could achieve a 28 per cent uptake over 3 years. ICANZ submitted that 'in order for the government to achieve a high initial take up, and the objectives of creating jobs and insulating all uninsulated housing stock, a rebate of up to \$1600 was necessary to get

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80 New Zealand Ministry of Economic Development, *Installing under floor thermal insulation - electric shock hazard*, 21 June 2007.

81 A safety switch detects current flowing through the body and cuts the electricity supply to prevent injury. Safety switches are now compulsory in new homes and new circuits in existing homes. A safety switch may not protect all wiring and does not protect against all faults.

82 DEWHA, *Submission 19*. p. 14. The program was announced on 9 February 2009.

83 DEWHA, *Submission 19*. p. 14.

84 Deloitte Insight Economics, *An economic assessment of the benefits of retrofitting some of the remaining stock of uninsulated homes in Australia. Summary of ICANZ's \$500 subsidy proposal*. June 2007, p. 6.

full participation.' ICANZ submitted that with a \$1600 maximum most people would have paid nothing.<sup>85</sup>

3.84 After extensive allegations of profiteering and abuse, the rebate was reduced to \$1200 from 2 November 2009. DEWHA said that this 'recalibrated the level of assistance in line with increasing consumer confidence'. The average claim between 1 July and 6 December 2009 was \$1389.<sup>86</sup>

3.85 The evidence suggests that the scheme in which installers claimed the rebate directly through Medicare was chosen primarily to facilitate rolling out the program in a tight time frame. However it had the effect that householders, as well as paying nothing if the cost was below the maximum rebate, would not be out of pocket at any time. This was probably a significant driver of the huge increase in demand once this system started on 1 July 2009 (see Figure 1 at paragraph 2.50).

3.86 Many submissions argued that the excessive emphasis on 'free insulation' was detrimental. For example United Bonded, submitted that:

The EEHP has had an enormous take up because it offers "free" insulation rather than necessarily because of the utility or efficacy of the program as a nation building tool or as a mechanism to reduce energy consumption and greenhouse gas emissions.<sup>87</sup>

3.87 The Polyester Insulation Manufacturers Association of Australia suggested that requiring a co-payment would have encouraged 'buy-in' by householders:

Introduce the requirement for a co-payment within the scheme requiring the householder to, say, pay the first 25 per cent of the cost of insulation (less than 12 months payback, and which could be funded by the green loans scheme) so that there is a return to rational decision making behaviour of consumers and some "buy-in" from them in the outcome.<sup>88</sup>

3.88 Dr Hawke's review commented that 'the lack of an upfront payment and no requirement for quotes (between June and November 2009) meant there was little incentive for householders to take the normal level of responsibility for the quality and performance of the installers.'<sup>89</sup>

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85 ICANZ, *Submission 18*, p. 11. Mr D. D'Arcy (ICANZ), *Committee Hansard*, 17 February 2010, p. 72

86 DEWHA, *Submission 19*, p. 15

87 United Bonded, *Submission 9*, p. 3.

88 PIMAA, *Submission 11*, p. 6. Similarly Autex, *Submission 10*, p. 6.

89 Dr A. Hawke, *Review of the Administration of the Home Insulation Program*, 6 April 2010, p. 29.

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*Committee comment*

3.89 Arguably many of the problems of the program resulted from the government's role, in and quest for, driving demand, culminating in an overwhelming deluge in the second half of 2009. In terms of market-place drivers, it seems to have been driven more by marketing by installers, taking advantage of the fact that installations were free for most dwellings, than by the initiative of householders.

3.90 As householders had no motivation (and almost certainly no expertise) to check the quality of the work, it left the way open to program abuses by unscrupulous newcomers to the industry who encouraged a large influx of inexperienced installers. This in turn was a contributor to the deaths, safety risks and other poor program outcomes described in more detail in chapter 4.

3.91 The committee considers it incumbent on government to explain why it did not spread the program over a considerably longer time frame and promote 'buy-in' by householders by:

- reducing the level of the subsidy offered;
- requiring a co-payment, that is the householder pays some part of the price; and/or
- requiring the householder to pay the price of installation upfront and then be reimbursed a portion of the price.

3.92 The committee finds that the excessive value of the initial \$1600 rebate (above the industry average at the time) was always going to promote profiteering and, with it, bring about the low standards, short cuts and shonks that inevitably come from those solely attracted by a 'quick buck'.

3.93 The committee further finds that effectively making insulation 'free' for a period of time was never likely to provide lasting benefits to the industry as it was structured to create a boom-bust cycle, without leaving consumers with any understanding or appreciation of the real 'value equation' that underlies the installation of insulation.

3.94 A reimbursement or co-payment scheme might have moderated demand and may have helped to deliver some longer term sustainability. However, it is unlikely of itself to have seen improved long term environmental effects or to have reduced risks to installers and householders without commensurate higher standards.

