

## ADDITIONAL COMMENTS BY COALITION SENATORS

Coalition Senators concur with the findings and recommendations of the Committee. The Coalition is committed to open, responsible government.

The Freedom of Information Act (introduced by the Fraser Government) is a vital measure to ensure the government remains open, responsible and accountable for its decisions. While the availability of conclusive certificates was seen as a necessary control on the flow of information at the time the FOI Act was introduced, Coalition Senators agree that certificates have the potential to act as a brake on the process and that sufficient measures exist elsewhere in the Act to ensure that genuinely sensitive information receives the appropriate treatment.

We cannot agree with any suggestion that previous Coalition governments have used the conclusive certificate regime to resile from their commitment to open, accountable government. An examination of the record will confirm that conclusive certificates were used very sparingly under the Howard Government. On the information available, we can only find evidence of 12 conclusive certificates issued in the 11 ½ years of the Howard Government<sup>1</sup>. Records for the previous Labor Government are extremely difficult to locate. However, it would seem that 55 were issued for the period between 1982 and 1986 alone<sup>2</sup>, during most of which time the Hawke Government was in power. The Coalition's record therefore cannot be characterised as one that shied away from openness in government nor one that hid behind the conclusive certificate regime.

Coalition Senators also wish to advert to a worrying trend that emerges from the most recent FOI annual report. The figures cited in 2007-2008 Annual Report indicate that, under the present government, FOI applications are being dealt with less expeditiously, at greater cost and with more propensity to refuse or withhold information.

The number of FOI applications received in 2007-2008 has dropped markedly (from 41,430 in 2005-06 to 29,019 in 2007-08), by almost 30%<sup>3</sup>. Even so, the response time has lengthened: the proportion of requests responded to within 30 days has declined by 12%, while the proportion still awaiting a response after 90 days has more than doubled<sup>4</sup>. Further, while the percentage of requests refused has remained constant, the proportion granted in full has declined (from 80.60% in 2006-07 to 71.42% in 2007-08) while the requests only partially granted has correspondingly increased

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<sup>1</sup> Peter Costello, Treasure, 'Questions in Writing: Freedom of Information', House of Representatives, *Debates*, 20 March 2007, p. 105

<sup>2</sup> Ibid

<sup>3</sup> Attorney-General's Department, *Freedom of Information Act 1982, Annual Report 2007-08*, October 2008, p. 2

<sup>4</sup> Ibid, p. 8

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(from 15.01% in 2006-07 to 24.22% in 2007-08)<sup>5</sup>. Finally, despite the decrease in applications, the overall cost of providing FOI has increased by some 18%. When the decline is taken into account, the average cost per application has risen by over 28%<sup>6</sup>. These are disturbing trends and it is hoped that the government can find some way to reverse them.

In conclusion, while the Coalition Senators welcome the majority report, we note that the use of conclusive certificates has never been a very important component of the administration of the Act, at least under Coalition governments. Of far more concern is the day-to-day provision of information to Australians, and on this measure the present Government clearly has much work to do.

**Senator Mitch Fifield**

**Senator Steven Parry**

**Senator Scott Ryan**

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<sup>5</sup> Ibid, p. 5

<sup>6</sup> Ibid, p.24