

Witness statement

Royal Commission into the Home Insulation Program

Royal Commissions Act 1902 (Cth)

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This statement was prepared following an interview with representatives of the Royal Commission into the Home Insulation Program. The statement deals with those documents made available to the Commission by the Commonwealth as at 20 March 2014.

Background

- 1 I am currently the National President of the Institute of Public Administration Australia, Chair of the Barangaroo Delivery Authority, Senior Adviser at the Boston Consulting Group, Chair of the Melbourne Theatre Company and the Cranlana Programme, Senior Adviser at Maddocks, a Governor of the Committee for Economic Development Australia, a Director of the Walter and Eliza Hall Institute and a Professorial Fellow.
- 2 I was Secretary of the Department of Prime Minister and Cabinet (**PM&C**) from March 2008 to September 2011.
- 3 I was away from Canberra from 19 January 2009 to 16 February 2009 with the exception of attending the Council of Australian Governments (**COAG**) Meeting on 5 February 2009. David Tune, then Associate Secretary, Domestic Policy in PM&C, was in position as Acting Secretary from 19 January.

Role of the Secretary of PM&C

- 4 The Secretary of PM&C is both Secretary of the Department and the head of the Australian Public Service (**APS**). The APS consists of about 160,000 people employed across a number of Departments of State and Commonwealth Government agencies. PM&C runs the Cabinet process and provides advice to the Prime Minister on a range of matters.
- 5 The Secretary of PM&C is Chair of the Secretaries Board and the Secretaries' Committee on National Security (**SCONS**). SCONS considers nearly all matters relating to the National Security Committee (**NSC**) of Cabinet.
- 6 The Secretary of PM&C is also Chair of other committees. For example, as part of the COAG process, the Secretary of PM&C chairs what is called the COAG Senior Officials' Meeting (**SOM**), comprising the heads of other jurisdictions. COAG SOM and the Heads of Treasury Committee consider matters destined for consideration by COAG and meet prior to COAG meetings to negotiate, where possible, agreement on matters that are coming forward.
- 7 The Secretary of PM&C and other PM&C senior officers attend Cabinet and Cabinet Committee meetings as note takers. All sit at side desks in the Cabinet room to ensure an accurate record is kept as a basis for records of Cabinet decisions and, as necessary, their interpretation to other departments. This also ensures that PM&C tracks implementation in a manner consistent with the actual decisions of Cabinet.

- 8 I attended all National Security Committee meetings and also the Strategic Priorities and Budget Committee (**SPBC**) meetings, other than during absences such as the period described in paragraph 3 above.
- 9 The SPBC consisted of the Prime Minister, the Deputy Prime Minister, the Treasurer and the Minister for Finance and Deregulation (Finance). The Secretary of PM&C, the Associate Secretary Domestic Policy in PM&C and the relevant PM&C Deputy Secretary responsible for economic or social policy matters also attended SPBC meetings. Occasionally people from the national security sector would also attend, as well as Cabinet and Secretariat people taking notes.
- 10 The SPBC was a successful vehicle for harnessing energies around the response to the Global Financial Crisis. Minutes from the SPBC went to Cabinet. Occasionally a submission would go with the minutes to Cabinet.
- 11 Consistent with the requirements of legislation and convention I was, as Secretary of the Department, accountable for all advice given and programs managed by the staff of PM&C whether I was aware of their actions or not. The Prime Minister and other Ministers carried ministerial responsibility.

Consideration of the Global Financial Crisis

- 12 In or around July or August 2008, the Prime Minister became quite concerned about the worsening global economy. He convened, sometimes daily at 8.30am, a meeting involving himself, the Treasurer, ministerial advisers, myself, the Secretary of Treasury, sometimes the Secretary of Finance and our deputies. The meeting usually began with the Secretary of Treasury conducting a briefing which was based on a briefing note assembled by PM&C. Sometimes other Ministers would attend, depending on the topic.
- 13 In October 2008 there was a two-day meeting of the SPBC. I attended only the first day. That meeting considered a range of macro-economic issues, including the consequences of Ireland's decisions, which very quickly started to trigger a movement of capital around the world from other countries, including Australia, into Ireland's banks.
- 14 Some stimulus measures, such as tax relief and welfare payments were also discussed and how to engage with Centrelink and the Australian Tax Office (**ATO**) over those payments. We also discussed later spends that would go to infrastructure and also potential schools and social housing projects. I do not recall home insulation being mentioned.
- 15 I recall in or around August or September 2008, one of the Cabinet committees had triggered a central agencies process around a variety of environmental initiatives that were being discussed. Central agencies are PM&C, Finance, and the Department of Treasury (**Treasury**). Dr Gordon de Brouwer, Deputy Secretary (Economic) at PM&C, was given the responsibility for that work. It is my understanding that the Department of Environment, Water, Heritage and the Arts (**DEWHA**) and also the Department of Climate Change made proposals in relation to those environmental initiatives. Dr de Brouwer prepared a report for the Cabinet process.
- 16 The central agencies were asked to analyse the bids and provide some advice. I recall the conclusion was that the most cost-effective means of reducing carbon emissions in the energy efficiency space was home insulation.
- 17 I was aware at the time that there had been debates in other countries for a number of years about home insulation initiatives. The key question was not whether it was a good idea, but rather how it could be done.
- 18 I do not know when the Home Insulation Program (**HIP**) was approved by Cabinet. I don't have a recollection of reading any particular documents on this matter.

Cabinet Decision-Making Process and Reporting Lines

- 19 Cabinet processes are guided by the Cabinet Handbook. Every Prime Minister can change the Cabinet Handbook but, by the time of Kevin Rudd's government, the Cabinet Handbook and

process had become arduous in its requirements. The requirements included a series of drafts from departments and a role for Finance in sign off on costings. This last point was to ensure budget discipline.

20 I do not know whether this process was applied to the Home Insulation Program (HIP) as I do not recall any meetings before Christmas 2008 that dealt with any proposed home insulation program.

21 Normally, when Cabinet considers an issue, Finance signs off on the costings and there is engagement between departments about how the particular program might be implemented. Requirements may be established along the way through questions asked by departments after seeing a draft of the Cabinet submission and, finally, a department that had reservations might have its reservations recorded as Coordination Comments. I do not know if this process was followed in the development and implementation of the HIP.

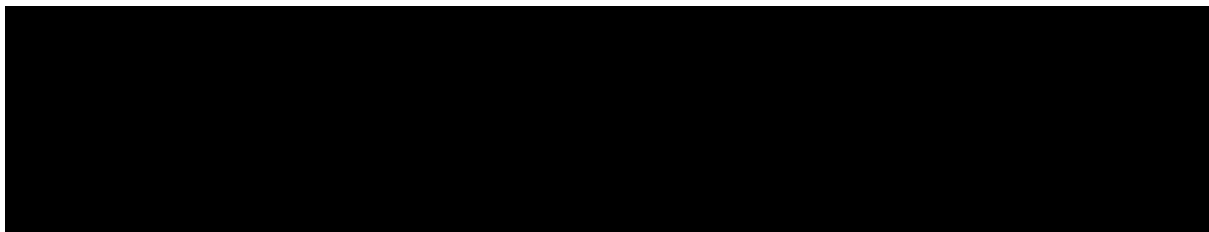
22 In the lead-up to the budget, the normal process is to have a New Policy Proposal (**NPP**) with submissions go to the Expenditure Review Committee (**ERC**) or the **SPBC** of Cabinet. I do not recall seeing such a proposal for the HIP.

23 When I returned from Melbourne on 16 February 2009, Mr Mike Mrdak had been appointed Coordinator-General for the Economic Stimulus Package (**Package**). The role of the Coordinator-General was to hold line departments at a national level, accountable for the delivery of the Package and to work with State Coordinators-General to achieve accountability by line Departments and Agencies at the State and Territory level. I do not recall the precise date on which Mr Mrdak's appointment to that role took effect but the role was in place at the time of my return to Canberra in mid February.

24 The idea of the Coordinator-General was to have frequent teleconferences or meetings with the State Coordinators-General and also with the Commonwealth's departmental coordinators for the purpose of problem-solving. Individual departments remained responsible for delivery of their program, while the Coordinator-General role was to make sure the departments were on track and were reporting on progress.

25 The Office of Coordinator-General, which sat within PM&C, liaised closely with Senator Mark Arbib, Parliamentary Secretary for Government Service Delivery, the Prime Minister's Office and also with me.

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27 The HIP was also included in the Strategic Plan, however I do not recall whether the HIP was a single initiative or whether it was included in the jobs plan. I recall seeing in the monthly traffic light report an amber colour put against the HIP initiative because of the complexity and difficulty in implementing the program.

28 Officials of DEWHA reported to Minister Garrett and provided information to the Coordinator-General and to Minister Arbib.

29 Reports from the Office of the Coordinator-General would go either directly, or sometimes through me, to the Prime Minister, or to Senator Arbib. The reports were intended for Cabinet, but I can not recall whether they were actually considered at meetings of the SPBC or Cabinet. Because the Economic Stimulus Package was such an important issue for the economy and thus for Government, the leading ministers were informed about how the programs were progressing.

Policy Development

- 30 Around late February or March 2009, Mr Mrdak informed me that there had been a meeting where a decision had been made regarding the delivery model of the HIP. Up until that point, DEWHA's preferred approach was to implement the HIP through intermediaries. This was consistent with how the school and social housing programs were being delivered, where the project managers and contractors were State Government.
- 31 Mr Mrdak also informed me that a decision had been made to take a low regulation approach and make it possible for people to do the insulation installation work first and then claim the refund. He also explained to me that the intention was to use Medicare as a device to pay bills.
- 32 I expressed my view to Mr Mrdak that roofs could be dangerous places and that we needed to give a high profile to training requirements. This view reflected my personal experiences while climbing into several roof cavities. I also recommended that there needed to be discussion with the states about their occupational health and safety responsibilities.
- 33 I checked back some time later about how training requirements were progressing and Mr Mrdak informed me that the issue had been taken up. I do not recall the date of that conversation.
- 34 After reading the reports of Dr Allan Hawke and the Auditor-General in relation to the development and implementation of the HIP, it is my understanding that there was a phased approach to the training requirements. It is my opinion that the approach described in those reports might be one of the legitimate criticisms of the HIP's implementation.
- 35 In the Hawke and ANAO reports, a number of other features of program design recommended by environment officials were mentioned. In my opinion, the policy decisions taken by Ministers or their political advisers which varied the original advice from the department and changed the established features of an earlier program increased the problems which environment officials faced in achieving successful implementation. These decisions may have reflected a wish to roll out the HIP against a tight timeframe. However, in my view it did not reflect a careful approach to planning. I was unaware of these problems at the time.
- 36 It is not uncommon for PM&C to communicate a policy decision taken by Ministers in a Cabinet or Cabinet Committee context and to indicate what is known to be a preference on the part of the Prime Minister or another Minister. Normally, these communications by PM&C officers would be treated as authoritative by line department officers. The wishes of Ministers can also be passed on in a number of other ways without involving a responsible senior officer in PM&C.
- 37 Mr Mrdak informed me that a regional delivery model had been proposed. One of the concerns with such a model was in securing a provider with national reach. With hindsight, further effort to investigate the option of choosing a range of contractors to supply and install insulation would have been possible with more time. This may have reduced risks in securing the services of competent and trained installers.
- 38 When Mr Mrdak mentioned to me the change in the delivery model, I remember being concerned not only because we were departing from a model the Commonwealth was using for the other initiatives in the Package, but also because roof cavities can be dangerous. What I had in mind at the time was the risk of falling through the ceiling and trauma as a result.
- 39 Around April 2009, the Prime Minister's and my focus shifted to the reform of public hospitals and to a review of the Australian Public Service. From that point, my involvement with the HIP was minimal.

Termination of the HIP

- 40 Around the time of the first death, I recall departments were trying to move to close the program down. In part this was because the budget was blowing out as a result of the way the program had been designed.

- 41 The Government made the decision to reduce the size of the rebate to \$1200 to address the budget problem. Reducing the amount of the rebate was designed to prompt people to take more interest in and be more diligent about choosing an installer and was also aimed at slowing down spending on the rollout.
- 42 I supported shutting down the program because of the possibility of more deaths occurring if it continued. I understood that this would mean consequences for the industry, but Government must balance competing objectives. In my opinion it was preferable to help the industry adjust after closing the program than face the prospect of more deaths.
- 43 It is my understanding that PM&C supported DEWHA's advice to shut down the program. The final decision was made in February 2010.
- 44 I do not recall meetings with Minister Garrett or Senator Arbib or their staff about the issue of shutting down the program.
- 45 I supported the transfer of responsibility for the shut-down of the program from DEWHA to the Department of Climate Change (subsequently known as the Department of Climate Change and Energy Efficiency). It is my understanding that there was a view in Parliament House at the time that there were problems in the way DEWHA was handling the shut-down. I received a call from the Prime Minister's Office asking me whether I would support a transfer of those functions from DEWHA to the Department of Climate Change and Energy Efficiency and I said I would.

Relationship with the States and Territories

- 46 On my understanding it was the intention of Mr Mrdak to create a network of State and Territory Coordinators-General. Meetings took place weekly or fortnightly and there were at least two COAG meetings. Mr Mrdak briefed Premiers and Chief Ministers on what he and their Coordinators-General had been achieving.
- 47 I think it would have been of benefit to have State representatives as members of the Project Control Group of the HIP. I also think it would have been beneficial to have some private sector members as well with subject-matter expertise. In my role as Secretary of PM&C, for example, I deliberately recruited people from the private sector and they rapidly became substantial contributors.
- 48 In my opinion involving local government, had it been possible, in the HIP would have been beneficial because of their planning role and the fact that Local Government has access to people on the ground that the Commonwealth does not.
- 49 It is my opinion that unless local government is involved, it is likely that a department will be a bit lost in keeping track of what's happening on the ground.

Recommendations for Improving Government Processes

- 50 In the latter half of 2009 I undertook a review of the public service and the Prime Minister agreed to the composition of a steering committee which I chaired. I assembled a project group headed by Ms Liza Carroll, who is now the Associate Secretary in PM&C responsible for indigenous affairs. The review was informed by material and assessments gathered during an overseas visit to a number of jurisdictions and the OECD.
- 51 The final report 'Ahead of the Game: Blueprint for the Reform of Australian Government Administration', published in 2010, emphasised putting citizens first and people in government thinking about the needs of citizens in an integrated way. It also highlighted a need to strengthen some of the policy skills of the public service and the need to strengthen capabilities in public sector management for the purpose of better administering programs. The report is attached at **Annexure A**.
- 52 One of the recommendations in the report envisaged that for large projects, a project board could be set up to guide the project and assist the team managing the project. The board could consist of people from the private sector and would sit with the Departmental Secretary. New Zealand has


adopted departmental boards to advise on the general management of departments and a similar approach has been fostered by the Honourable Francis Maude MP, Minister at the Cabinet Office in the UK. On the trip mentioned above, I had the opportunity to discuss this initiative with the Minister.

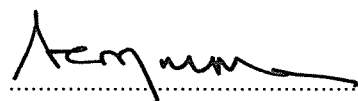
- 53 A major change to the Public Service Act came from the review, which was enacted with bipartisan support. The change defined the roles of a Secretary as the principal source of official advice to a Minister, accountability to the minister for the management of the department, stewardship of the department as an institution of our democracy and shared stewardship with other Secretaries for the public service as a whole. The way in which a Departmental Secretary was appointed was also changed, to decrease a little the personal dependence of a Secretary on a Minister. As in the past, the Governor-General, on the advice of the Prime Minister, now appoints a Secretary, and signs off on the documentation to remove a Secretary within the period of appointment.
- 54 In 2009 I became quite concerned about the Cabinet process. A Minister or Parliamentary Secretary is appointed by the Prime Minister as Cabinet Secretary and decides on the agenda for Cabinet and its Committees and settles Cabinet minutes prepared by the note takers. Despite the best efforts of Cabinet Secretaries there were a number of problems.
- 55 I set up a review of the Cabinet process, with the benchmark being good practice in a large corporation. I asked two people to conduct the review. The first was a very experienced non-executive director who had published, through the Harvard Business Press, a major book on corporate governance and where it was going in a contemporary world. The second was a highly regarded First Assistant Secretary from another department. They worked through until 2010 and came up with a series of proposals. Along the way there was useful exchange with Departmental Secretaries who supported improvement. I told the Prime Minister about it in May 2010. He was supportive and then, with the change of Prime Minister, we took forward two tranches of changes that were designed to improve the Cabinet process.
- 56 In my opinion, for reasons of 30 years of episodic public service reform, there are structural problems in the Commonwealth and linked to that, there are capability issues. Program delivery is best handled by specialist service delivery agencies, such as Centrelink, Medicare, the Australian Taxation Office (**ATO**) and the Australian Customs and Border Protection Service (**Customs**), where they are one step back from Ministers and the focus is management and delivery of programs. Internationally, Centrelink, Medibank, the ATO and Customs are highly regarded.
- 57 It is my opinion that departments should have a clearer role, which is to focus on support to Ministers, policy development and advice, legislation, budgets, accountability and advising Ministers on appointments. Delivery, wherever possible, should be given to an agency like Medicare or Centrelink, sent to the states and territories or contracted out. There is already much experience of this, for example, the jobs network. I believe that it is better to have smaller departments, working to support ministers and to locate the service delivery and most regulatory activities elsewhere.
- 58 Recently, in my role as National President of the Institute of Public Administration Australia, I have been arguing for other public service reforms, for example, clarifying Ministerial responsibility and ensuring ministerial advisers take accountability for what they do.
- 59 It is also my opinion that the role of ministerial staff should be codified in law. In doing this, ministerial staff should be bound to the same level of accountability applying to public servants. Thus ministerial staff should be subject to all legislated integrity and accountability arrangements within the public sector and be open to formal disciplinary action.

60 Unless otherwise stated, this statement is based on my own recollections in the absence of any documents retained by me at the time of my retirement.

SIGNED by the deponent *at Melbourne*)
on *23/04/2014*)

Before me:)
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Signature of witness


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Signature of deponent

SANDRA DEAR
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NAME OF PERSON WITNESSING STATEMENT