

## Royal Commission into the Home Insulation Program: Statement of ANTHONY LEVERTON

*This statement was prepared following an interview with representatives of the Royal Commission into the Home Insulation Program.*

I, ANTHONY LEVERTON, state as follows:

1. I have not previously given a statement concerning the Home Insulation Program (**HIP**) to or for the purposes of any review or inquiry, other than a statement dated 7 May 2013 which I prepared for the purpose of the Queensland Inquest into the deaths of three installers.
2. For the period from 31 October 2005 to 30 March 2012, I held the position of Director (Policy) of the Queensland Electrical Safety Office (**ESO**) within the Queensland Government Department of Justice and Attorney-General (**DJAG**).
3. In my role, I reported to Peter Lamont (Executive Director, ESO).
4. At the time of the HIP, compliance and enforcement for work health and safety and electrical safety matters were administered by two agencies:
  - 4.1. Workplace Health and Safety Queensland (**WHSQ**); and
  - 4.2. the ESO.
5. Both agencies operated as part of the Office of Fair and Safe Work Queensland (**OFSWQ**), within DJAG.
6. In summary:
  - 6.1. the ESO administered the *Electrical Safety Act 2002* (and, at the time of the HIP, the *Electrical Safety Regulation 2002*) and investigated matters relating to electrical workers' electrical licensing and non-workplace incidents; and
  - 6.2. the WHSQ administered the *Workplace Health and Safety Act 1995* and investigated matters relating to workplace injuries, such as an electrical shock of a non-electrical worker performing non-electrical work, and was often assisted in their investigations by officers of the ESO.
7. There were four units in the ESO:
  - 7.1. Policy;
  - 7.2. Compliance;

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- 7.3. Equipment Safety and Licensing; and
- 7.4. Business Services.
- 8. The Policy unit of the ESO was concerned with:
  - 8.1. Electrical safety policy within DJAG and across the Queensland Government;
  - 8.2. Evaluation of electrical safety problems and their potential legislative responses;
  - 8.3. Board services (e.g. preparation of agenda papers for the Electrical Safety Board (ESB) and the Electrical Licensing Committee); and
  - 8.4. Community engagement (i.e. engagement with industry and the public).
- 9. I do not have electrical technical expertise in the area of electrical safety.

**Activity by the ESO prior to the HIP in relation to ceiling insulation**

- 10. When I commenced in the role of Director (Policy), I established a system called a policy work program. This program was used to:
  - 10.1. identify and keep track of policy issues of concern to the ESO; and
  - 10.2. identify the action to be taken and record when that action was taken in relation to those issues.
- 11. In 2008 and a 2009, there were no specific requirement for licence or registration in Queensland to engage in a business of installation of home insulation.
- 12. Early in 2008, the ESO Policy unit had developed a database of businesses engaged in the home insulation business. This had largely been compiled from listings in the yellow pages. At the outset, to the best of my recollection, there were approximately 130 installers on this database. Later, this list was updated and enlarged using white pages and internet listings.
- 13. The ESO Policy unit had developed this database because the installation of home insulation had been a matter of concern to the ESO. In particular, the ESB and officers in the ESO (Compliance) had identified a risk concerning insulation, particularly 'blow-in' insulation and fibrous insulation, being placed too close to down lights resulting in fires or the risk of fire.
- 14. As a result:
  - 14.1. I added the installation of ceiling insulation into the policy work program;
  - 14.2. On about 11 September 2008 a letter was sent to all insulation installers in Queensland listed on the ESO database advising them of their responsibilities in

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relation to electrical safety under the legislation and referencing the provisions of the two Standards – Standard AS3999:1992 (*Thermal insulation of dwellings- Bulk insulation- Installation requirements*) and Standard AS/NZS 3000:2007 (*Wiring Rules*). An example of this letter is attached and marked **TL1** [QIC.006.001.1690].

#### **Announcement of the HIP on 3 February 2009**

15. The ESO was not consulted about the HIP by any Commonwealth department or officer prior to the announcement of the program on 3 February 2009.
16. I first heard about the HIP when it was publicly announced on 3 February 2009.
17. The ESO had no role in the design or implementation of the HIP, in respect of:
  - 17.1. the period from 3 February 2009 to 30 June 2009; and
  - 17.2. the period from 1 July 2009 to shortly after the first fatality (Matthew Fuller) on 14 October 2009.
18. Given the likely increase in insulation installations as a result of the HIP:
  - 18.1. On 26 February 2009, I sent an email to Ian Jennings (Chief Executive, Queensland Building Services Authority - **QBSA**) raising my concerns, particularly in relation to fire safety. I also telephoned Mr Jennings and left a message for him to contact me. I did not receive a response from the QBSA;
  - 18.2. On 2 March 2009, I sent an email to Chris Boyle (QBSA) following up my email of 26 February 2009, requesting joint action/advice on this matter. I did not receive a response from the QBSA. This email chain is attached and marked **TL2** [BOY.002.001.009];
  - 18.3. In February and March 2009, I spoke to Mr Lamont about my concerns regarding the risk potential of the HIP;
  - 18.4. In March 2009, I spoke to Mr Lamont about the lack of response from the QBSA; and
  - 18.5. In April 2009, I drafted a Ministerial media release. This draft media release is attached and marked **TL3** [QIC.006.001.3909 (part of QIC.006.001.3900)].

#### **August 2009 to October 2009**

19. In about the middle of August 2009, I attended one of the regular fortnightly ESO Directors' meetings.

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20. I recall that:
- 20.1. the Regional Director from the Brisbane South Region (Michael Gibson) said that he had just received information from his inspectors concerning the use of foil insulation and that an electric shock had been reported; and
  - 20.2. Mr Gibson told the meeting that from his experience and his discussions with other inspectors he had not seen foil used in the manner in which it was now being used under the HIP i.e. being rolled out over ceiling joists in a single continuous run.
21. Until this incident:
- 21.1. I was not aware of any incidents of electric shock in the installation of home insulation; and
  - 21.2. I was also not aware at this time of the use of sheet foil as ceiling insulation.
22. The outcomes of the meeting were that:
- 22.1. The ESO Compliance unit would continue its investigation of the incident and find out more about the risks arising from installing sheet foil insulation;
  - 22.2. The ESO Compliance unit would expand its audit process to target foil insulation installations and to look for the risks that were associated with foil insulation; and
  - 22.3. The ESO Policy unit, in collaboration with the ESO Compliance unit, would prepare an information briefing for electrical safety inspectors to give insulation installers highlighting the need for electrical safety.
23. On 10 September 2009, the ESO Compliance unit conducted an insulation installer talk with a power point presentation. A copy of an email relating to the talk and the slides relating to the power point presentation are attached and marked **TL4** [QIC.006.001.3531] and **TL5** [QIC.0006.001.3925 (part of QIC.006.001.3922)] respectively.

#### **First Contact with DEWHA – 8 October 2009**

24. Prior to October 2009, there was no consultation with the ESO about the electrical safety aspects of the HIP by the Commonwealth Department of Environment, Water, Heritage and the Arts (**DEWHA**), or any other Commonwealth department, of which I am aware.
25. My first contact with DEWHA regarding the HIP was on 8 October 2009, when I received a telephone call from David Hoytink (Senior Legal Advisor, DEWHA). Mr Hoytink advised me that he was concerned about a media report of a ceiling fire in a house in Wellington Point, Queensland that he said may have been caused by

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insulation installed under the HIP. He requested me to provide him with further information about the fire.

26. On 8 October 2009, I sent an email to my colleagues, Barry Dieckmann (Acting Executive Director) and Mr Gibson, telling them about my conversation with Mr Hoitink and requesting them to provide me with information. This email is attached and marked **TL6** [QIC.006.001.3532].

**The first fatality under the HIP, ESO response and contact with DEWHA**

27. On 14 October 2009, Matthew Fuller was electrocuted.
28. Given that the presumed cause of the death was electrocution, the first response of the ESO was to issue an *Electrical Safety Outlook e-Alert* on 15 October 2009 and to post it on the ESO website. I believe that this alert was sent to the ESO's database of installers and the subscribers to the ESO's electrical safety outlook newsletter. This alert is attached and marked **TL7** [QIC.006.001.3538]. To the best of my recollection, I had little involvement in the drafting of this e-Alert.
29. On 16 October 2009 (at 12.45pm), I sent an email to Mr Hoitink attaching the e-Alert for his information. My email is attached and marked **TL8** [AGS.002.016.0032].
30. On 16 October 2009, I convened a meeting of various Queensland State Departments, chaired by Mr Lamont. Present at the meeting were the ESO and representatives of the Queensland Office of Fair Trading (**OFT**), the Department of Community Safety, the QBSA, WHSQ and the Queensland Fire and Rescue Service (**QFRS**).
31. The meeting was called so that we could discuss and better understand the risks around fire and electrocution and what could be done in response.
32. I recall that, at the meeting:
- 32.1. The QFRS representative talked about his concerns regarding the fire risk, particularly of blow-in insulation;
- 32.2. The OFT representative said that DEWHA had consulted OFT about the consumer protection aspects of the HIP in around April 2009; and
- 32.3. A concern arose regarding the extent of the Commonwealth's audit and inspection process.
33. At this meeting, it was agreed that:
- 33.1. WHSQ would work closely with the ESO to produce a general statement for insulation installers; and

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- 33.2. the agencies represented at the meeting would exchange relevant data to enable a comprehensive fact sheet detailing the workplace health and safety and electrical safety risks involved in undertaking work in ceiling spaces.
34. Following the meeting, the ESO Policy unit, in collaboration with the ESO Compliance unit prepared a list of Frequently Asked Questions and Answers with respect to home insulation and electrical safety for use on the DJAG's helpline.
35. By way of email dated 16 October 2009 (at 6.52pm), I told Mr Hoitink about the meeting and what had been discussed. This email is attached and marked **TL9** [AGS.002.005.1187].
36. On 20 October 2009, I sent an email to Mr Hoitink enquiring about the Commonwealth's audit and inspection process for the HIP and requesting access to the Commonwealth's register of installers. My email is attached and marked **TL10** [AGS.002.017.1275].
37. On 21 October 2009 (at 6.08pm), I received an email response from Mr Hoitink providing information about the Commonwealth's inspection process under the HIP. This email is attached and marked **TL11** [AGS.002.003.1092].
38. On 21 October 2009 (at 6.48pm), I received an email from Mr Hoitink advising that he could provide me with a list of installers registered to operate in Queensland, but that the register did not contain details of the insulation material used. That email is attached and marked **TL12** [AGS.002.005.1138].
39. On 21 October 2009 (at 7.02pm), I received a further email from Mr Hoitink regarding the installer provider register. That email is attached and marked **TL13** [AGS.002.003.1085].
40. Between 20 and 23 October 2009, the ESO sent a letter to Queensland based insulation installers (approximately 500) and 5 insulation industry associations advising installers about the fatality and reminding them of their legislative obligations and relevant standards. A copy of the earlier e-Alert was also attached to the letter. This letter is attached and marked **TL14** [QIC.006.001.1702].
41. To assist installers to comply with clause 4.5.2.3 of the *Wiring Rules* (regarding down-lights), the ESO published the clause on its website, with some additional commentary and advice.

#### Meeting in Canberra on 27 October 2009

42. On 23 October 2009, William Kimber (DEWHA) telephoned me to request that ESO officers attend a meeting in Canberra with the Minister, along with other industry organisations. I made a handwritten note of that conversation, which is attached and marked **TL15** [QIC.006.001.3584 (part of QIC.006.001.3531)].

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43. On 23 October 2009 (at 2.00pm), I sent an email to Mr Kimber regarding the proposed meeting and setting out the immediate concerns of the ESO. A copy of that email is attached and marked **TL16** [QIC.0006.001.3583 (part of QIC.006.001.3531)].
44. On 27 October 2009, I attended the meeting held in Canberra, together with Mr Lamont.
45. After the meeting, I received a copy of a summary of the meeting. A copy of this summary is attached and marked **TL16** [ABC.002.001.0776]. To the best of my recollection, it is an accurate summary of what was discussed at the meeting.
46. For the purposes of making this statement, I have been shown a document which is attached and marked **TL17** [AGS.002.014.1464], being additional notes from the meeting on 27 October 2009 summarising comments from meeting participants. I have read these additional notes and the comments attributed to the ESO. I recall that Mr Lamont spoke at this meeting on behalf of the ESO. Having considered my handwritten notes (see paragraph 47 below), I am of the view that this document does not fully record Mr Lamont's comments.
47. I also made my own handwritten notes of the meeting. My notes are attached and marked **TL18** [QIC.006.001.3589 (part of QIC.006.001.3531)].
48. I later typed a report of the meeting, drawing from my handwritten notes. This report entitled "*Meeting in Canberra regarding insulation safety concerns*" is attached and marked **TL19** [QIC.006.001.3737].
49. The last two paragraphs of my report records my recollection of the direct outcomes of the meeting as follows:
- At the meeting DEWHA tabled the following proposal:
- disallow the use of metal fastenings in installing ceiling insulation under the program (to be replaced by taping, gluing or fastening with nylon or plastic staples);
  - mandating the use of downlight covers that meet Australian Standards where required for all ceiling insulation installations;
  - in cooperation with the ESO and electrical contractor associations, roll out a targeted testing program of houses with foil insulation installed under the HIP (to commence with a sample of 10% of houses worked on by high risk contractors and funded by the Commonwealth in conjunction with the existing insulation inspection program);
  - require the undertaking of risk assessments prior to all insulation installations, and
  - circulate the training manual to all insulation installers, and update it as soon as possible.
50. The training manual referred to in my report was the "pocketbook" produced by the Construction and Property Services Industry Skills Council (**CPSISC**).

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51. Prior to the meeting on 27 October 2009, I had not seen, or had previous knowledge of, the pocketbook. I recall that:
- 51.1. There was criticism of the pocketbook by a number of the participants at the meeting; and
  - 51.2. Concerns were raised that the pocketbook inadequately addressed electrical safety issues.
52. The inspections of houses under DEWHA's proposal were to be done by the Commonwealth, by engaging contractors.
53. At this meeting, DEWHA provided to the ESO the information regarding where installations under the HIP had taken place (in Queensland). Prior to this, the ESO had no knowledge of where the installations under the HIP were taking place.

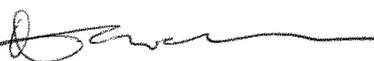
#### Further contact with DEWHA

54. On 29 October 2009, I received an email from Mr Hoitink requesting information about any incidents involving electrical safety incidents in Queensland concerning ceiling insulation. This email is attached and marked **TL20** [AGS.002.012.0022].
55. On 30 October 2009, I sent an email to Mr Kimber providing him (from ESO records) with the names of insulation installers involved in shock-related events involving foil insulation since May 2009. This email is attached and marked **TL21** [QLD.001.001.0096].

#### The Queensland Ministerial Notice – 1 November 2009

56. On 1 November 2009 the Queensland Ministerial Notice – *Electrical Safety (Installation of Ceiling Insulation) Notice 2009* was issued:
- 56.1. Prohibiting the use of metal or other conductive fasteners in the installation of ceiling insulation;
  - 56.2. Mandating risk assessment training and on site risk assessment for installers; and
  - 56.3. Requiring compliance with the *Wiring Rules*.
57. Mr Lamont, a member from ESO Compliance unit (probably Mr Gibson) and I were involved in drafting this Notice. A copy of the notice is attached and marked **TL22** [QIC.001.0055].
58. On 2 November 2009, WHSQ issued an information sheet titled 'Insulation – installing ceiling insulation and your health and safety' outlining the requirements under the Ministerial Notice. The ESO was involved with the electrical safety aspects of this information sheet. A copy of this information sheet is attached and marked **TL23** [Exhibit BD17 in the Coronial Inquest].

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### Modifications to ESO website and communications with installers

59. Between 2 to 5 November 2009, the ESO made modifications to the community engagement section of its website to introduce a new electrical safety and ceiling insulation webpage, which provided various insulation safety information including the Ministerial Notice, a WHSQ fact sheet and a Question and Answer sheet dealing with foil insulation and electrical safety. A copy of this material is attached and marked **TL24** [QIC.006.001.1707].
60. Between 3 to 5 November 2009, the ESO sent a letter to 455 insulation installers containing information about the Ministerial Notice, installer obligations and a fact sheet. A copy of this letter is attached and marked **TL25** [QIC.006.001.1797].
61. On 3 November 2009, the ESO also issued an eSAFE newsletter - Safety Alert – 'Installing Ceiling Insulation – health and safety information'. A copy of this safety alert is attached and marked **TL26** [QIC.006.001.1795].
62. On 4 November 2009 (at 3.15pm) I sent an email to Mr Hoitink with a link to the Queensland Risk Assessment Code of Practice. A copy of this email is attached and marked **TL27** [AGS.002.028.1503].

### DEWHA electrical safety testing program

63. On 4 November 2009 (at 4.42pm), I also sent an email to Mr Hoitink following up on the status of the electrical safety testing program being conducted by the Commonwealth. A copy of this email is attached and marked **TL28** [AGS 002.003.0821].
64. On 5 November 2009 (at 9.34am), I sent an email to Mr Hoitink, attaching a list of the Electrical Regulatory Authorities Council members. A copy of this email is attached and marked **TL29** [QLD 002.001.0998].
65. On 5 November 2009 (at 5.11pm), I also sent an email to Mr Hoitink providing information regarding the advice that the ESO gave to Electrical Safety Inspectors regarding conducting inspections. A copy of this email is attached and marked **TL30** [AGS.002.017.1271].

### Meeting in Canberra – 12 November 2009

66. On 12 November 2009, there was a further meeting of training organisations, industry and regulators held in Canberra regarding training and safety issues under the HIP. A copy of the summary of this meeting is attached and marked **TL31** [AGS.002.014.1475]. Whilst the summary indicates that I was present at this meeting, I do not have any recollection of attending. My recollection is that Rod Cruice (Manager, Licensing) attended this meeting for the ESO.

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67. On 12 November 2009 (at 10.36am), I received an email from Sascha Kaminski (DEWHA) asking for comment on the content and design of the Commonwealth government's proposed safety check list for installing insulation. I had little input into this check list as it was a technical document, and input from the ESO came from Mr Gibson and Mr Cruice. A copy of this email is attached and marked **TL32** [CPS.002.001.2424].
68. On 12 November 2009 (at 2.49pm), I sent an email to Kathy Belka (DEWHA) with an update on the list of reports that the ESO had received and provided to Mr Kimber and Mr Hoitink. A copy of this email is attached and marked **TL33** [QLD 002.001.1011].
69. On 19 November 2009, Mr Dieckmann received an email from Ms Belka about the detail of the Commonwealth's electrical safety inspections concerning foil insulations in Queensland. I was copied in on that email and Mr Deickmann's response (dated 23 November 2009). A copy of the emails are attached and marked **TL33** [QLD.002.001.1014] and **TL34** [QLD.002.001.1020] respectively.

#### **Second Fatality under the HIP**

70. On 18 November 2009 Reuben Barnes was electrocuted.
71. On 25 November 2009, the ESO sent out an e-Alert titled 'Fatality of Ceiling Insulation Installer – 18 November 2009', which was also placed on the ESO website. I believe that this alert was sent to the ESO's database of installers and the subscribers to the ESO's electrical safety outlook newsletter. A copy of this e-Alert is attached and marked **TL35** [Exhibit Z14.17 in the Coronial Inquest].
72. On 15 December 2009, the Spring edition of the ESO newsletter, Electrical Safety Outlook, contained an article titled 'Electrical danger for insulation installers'. It was emailed to 11,715 ESO subscribers. A copy this newsletter is attached and marked **TL36** [QIC.006.001.1834].

#### **Third Fatality under the HIP**

73. On 4 February 2010 Mitchell Sweeney was electrocuted.
74. On 5 February 2010, the ESO sent out an e-Alert titled 'Fatality of Ceiling Insulation Installer'. I believe that this alert was sent to the ESO's database of installers and the subscribers to the ESO's electrical safety outlook newsletter. A copy of this e-Alert is attached and marked **TL37** [QIC.002.001.1839].
75. On or about 9 February 2010, the Commonwealth suspended the use of foil insulation under the HIP.

#### **Further contact with DEWHA and meetings in Canberra on 15 & 16 February 2010**

76. On 10 February 2010, I sent an email to Mr Kimber attaching a list of questions and answers for licensed electrical contactors. This was provided to assist DEWHA with its

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- call centre and website needs. A copy of this email is attached and marked **TL38** [QIC.002.001.1087].
77. On 12 February 2010, I sent an email to Mr Kimber attaching an article written by a Queensland electrician regarding the risks associated with the installation foil insulation. A copy of my email is attached and marked **TL39** [AGS.002.029.1029]
78. On 14 February 2010, Aaron Hughes (DEWHA) sent an email to Mr Lamont (copied to me) regarding sharing audit information. A copy of this email is attached and marked **TL40** [QLD.002.001.1105].
79. On 15 February 2010, Mr Gibson and I attended a meeting of DEWHA and industry representatives in Canberra. The meeting was convened to discuss electrical safety issues associated with foil insulation and what additional steps would be required if foil was to remain eligible in the HIP. A copy of the agenda for the meeting is attached and marked **TL41** [QIC.006.001.3573 (part of QIC.006.001.3744)].
80. I took handwritten notes of the meeting, which I later typed up. A copy of my handwritten notes and typed version is attached and marked **TL42** [QIC.006.001.3752 (part of QIC.006.001.3744)] and **TL43** [QIC.006.001.3751 (part of QIC.006.001.3744)] respectively.
81. On 16 February 2010, Mr Michael Gibson and I attended a meeting with Claire Howlett, Mr Kimber, Michelle Evans and Roland Trease (all of DEWHA). The object of the meeting was to talk about the potential cessation of the HIP, how to do it safely, and then how to follow up the homes in Queensland which had foil insulation installed under the HIP. A copy of the email that I sent to Mr Lamont regarding this meeting is attached and marked **TL44** [QLD.002.001.1121].
82. On 18 February 2010, a letter as sent by the Queensland Attorney General and Minister for Industrial Relations to Minister Garrett supporting the decision to suspend the use of foil insulation under the HIP, but advising that the ESO was of the view that more can be done to protect worker and households from the potential dangers that foil insulation posed and outlining a number of options that had arisen from the meetings on 15 and 16 February 2010. I prepared a draft of that letter for the Minister. A copy of the letter is attached and marked **TL45** [QIC.006.001.1841].

#### The Foil Insulation Safety Program

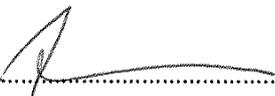
83. After the HIP was terminated, the Government initiated a remedial program called the "Foil Insulation Safety Program" (FISP).
84. The ESO assisted the Commonwealth concerning the FISP. Specifically, I recall that the ESO:
- 84.1. provided feedback on the proposed audit checklist (via ESO Compliance); and

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84.2. attended industry meetings to discuss and provide feedback on the FISP.

**SIGNED** by **ANTHONY LEVERTON** on 5 May 2014

at Brisbane in the presence of:

  
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**Witness**

Name: Jody Cosgrove

Position: Senior Principal Lawyer

Address: C/-Crown Law, 50 Ann Street,  
Brisbane.

  
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**Deponent**