



SENATOR THE HONOURABLE PENNY WONG
Leader of the Opposition in the Senate
Shadow Minister for Foreign Affairs
Labor Senator for South Australia

Senator the Honourable Linda Reynolds
Minister for Defence
Parliament House
CANBERRA ACT 2600

Dear Senator Reynolds,

RE: APPEARANCE AT SENATE ESTIMATES

Ahead of the next round of estimates examination by Senate committees, I write to advise that the Opposition will be seeking an explanation of answers previously given to the Senate by the Department of Defence, following evidence provided by the Department of Finance about knowledge of the likely cost of Australia's new fleet of attack submarines.

At the 21 October 2015 Senate estimates hearing, Mr Richardson and Mr Baxter stated that the cost of the future submarines was \$50 billion in out-turned dollars:

Senator CONROY: Fifty billion dollars for acquisition of submarines sounds a little high.

Mr Richardson: It is an out-turn cost.

Mr Baxter: It is on an out-turn cost basis.

Mr Richardson: It is inflation into the 2040s et cetera.

Mr Baxter: The last of the submarines is likely to be built into the 2040s.

Mr Richardson: For the last of the submarines—if they were built, say, in the early 2040s—it is the out-turn cost of what the submarines would cost in 2040 dollars.

Senator CONROY: I am familiar with out-turn dollars.

Mr Richardson: That is why, when you said the \$89 billion sounds a bit high—

Senator CONROY: No, I was saying the \$50 billion for the acquisition of submarines—

Mr Richardson: It sounds high except if you start to think of it in out-turn dollars and what that means.

I refer to the inquiry into Australia's sovereign naval shipbuilding capability by the Senate Economics References Committee, and the response to question on notice 20 from Senator Alex Gallacher, asked Monday 7 September 2020 of the Department of Finance, answer received 2 October 2020:

The 2016 public Defence Integrated Investment Program, delivered as part of the 2016 Defence White Paper, included a funding provision for the Future Submarine Program of greater than \$50 billion (out-turned) (Page 77). Defence officials at the 21 October 2015 Senate Estimates hearing explained that details of the Future Submarine Program, including refined costs, remained subject to the outcomes of the then ongoing Competitive Evaluation Process. The classified funding provision which was not made public due to commercial sensitivities, was \$78.9 billion (out-turned).

This answer makes clear that the \$78.9 billion figure was known to the Government, but not disclosed, for years.

How is it that the \$50 billion figure was maintained until Rear Admiral Sammut finally conceded in November 2019 that the cost would be “in the order of \$80 billion out-turned”? How is it that the Government maintained the out-turned cost was \$50 billion and did not release a formal update with the true out-turned costs until the release of the Force Structure Plan on 1 July 2020?

I remind you of your obligations to the Senate and contained in the *Government guidelines for official witnesses before Parliamentary Committees and related matters*:

1.3.1. A fundamental element of Australia's system of parliamentary government is the accountability of the executive government to the parliament. Ministers are accountable to the parliament for the exercise of their ministerial authority and are responsible for the public advocacy and defence of government policy. Officials are accountable to ministers for the administration of government policy and programmes. Officials' accountability regularly takes the form of a requirement for them to provide full and accurate information to the parliament about the factual and technical background to policies and their administration.

I further note that a witness to a Senate committee must not give any evidence that the witness knows to be false or misleading in a material particular, and that giving such evidence may be regarded as a contempt of the Senate.

I trust that in light of the evidence provided by the Department of Finance, you will be able to provide a full explanation for this discrepancy and correct the record. I note that the guidelines for witnesses state the following with regard to correction or clarification of evidence:

5.6.1. Witnesses will receive transcripts of their evidence in the days following their appearance. The transcript should be examined promptly to establish whether any evidence needs to be corrected or clarified. On occasions, a witness may become aware of the need for correction or clarification before the receipt of the transcript or, in the case of a written submission, before the commencement of hearings.

5.6.2. Once the need to provide a committee with revised information has been established, it is most important that the committee receive that revised information at the earliest opportunity. In the case of officials who made submissions or appeared as witnesses in relation to the

administration and implementation of government policy (but not necessarily those covered by Part 3), the departmental secretary or agency head (or senior official who represented the secretary at the hearing) should be informed that revised information is to be provided. Depending on the nature of the correction, it may also be appropriate to inform the minister. Officials need to keep in mind that, while their evidence remains uncorrected or unclarified they are vulnerable to allegations that they have misled a committee.

The *Statement of Ministerial Standards* states:

4.4. Ministers are required to provide an honest and comprehensive account of their exercise of public office, and of the activities of the agencies within their portfolios, in response to any reasonable and bona fide enquiry by a member of the Parliament or a Parliamentary Committee.

5. Responsibility

5.1. Ministers are expected to be honest in the conduct of public office and take all reasonable steps to ensure that they do not mislead the public or the Parliament. It is a Minister's personal responsibility to ensure that any error or misconception in relation to such a matter is corrected or clarified, as soon as practicable and in a manner appropriate to the issues and interests involved.

5.2. Ministers must not encourage or induce other public officials, including public servants, by their decisions, directions or conduct in office to breach the law, or to fail to comply with the relevant code of ethical conduct applicable to them in their official capacity.

Departmental officers are bound by the Australian Public Service Code of Conduct, which requires that:

An APS employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment.

We provide this early indication of these matters in order for you to make the appropriate arrangements for the relevant officers to be prepared and present at the hearing in order to provide evidence. I trust this advice will minimise the need to take questions on notice on the day, and ensure the best use is made of the time of the committee and the department.

Yours sincerely,

PENNY WONG

14 October 2020