

JCPAA: Inquiry into procurement at Services Australia and the National Disability Insurance Agency

SUBMISSION ON BEHALF OF THE HON. STUART ROBERT

1. This submission is provided to the Joint Committee of Public Accounts and Audit (“**the Committee**”), at its invitation, on behalf of The Hon. Stuart Robert, formerly the Member for Fadden.
2. Mr Robert does not wish this submission to remain a secret. As a matter of consistency, it is expected that the Committee will (as it has for the document prompting this submission) authorize the publication of this submission under s 2(2) of the *Parliamentary Papers Act 1908* (Cth) and make it available, without redaction, on the Committee’s website.
3. The relevant background to the provision of this submission is that the Committee is conducting an inquiry into matters contained in or related to *Independent Review of Services Australia and NDIA Procurement and Contracting* and, specifically, it will report on two matters:
 - (a) procurement matters at Services Australia and the National Disability Insurance Agency (NDIA) contained in or related to the Independent Review of Services Australia and NDIA Procurement and Contracting (the “Watt review”); and
 - (b) the conduct of entities or persons involved in the activities considered by the Watt review, including issues of culture and probity.
4. As part of its inquiry the Committee has, without notice, resolved to publish what it has described as a “submission” received from Anthony Daly. The actual circumstances in which this resolution was made have not been disclosed.
5. The document Mr Daly has provided is not, of course, a submission. It purports to be a sworn statement. Mr Daly has “affirmed” its content and it has been witnessed by a person whose identity is redacted.
6. That it has been published in this form, without any explanation, is remarkable. This is particularly so in circumstances where Mr Daly has not been summoned to give evidence to the Committee. It was open to the Committee to do so.¹ Had this occurred, then the Committee – or

¹ Section 13 of the *Public Accounts and Audit Committee Act 1951* (Cth).

the responsible members of it - would have undertaken a proper examination of Mr Daly, including, testing his credibility, the veracity of the allegations he has made and the fact that all those allegations so far as they purport to relate to Mr Robert are wholly unsubstantiated, based upon flimsy hearsay accounts, Mr Daly purporting to give evidence about the states of mind of others and, unsurprisingly, not supported by any documents.

7. The process of examination, had it been properly undertaken by the Committee (as it should have been) would also have involved making appropriate inquiries as to Mr Daly's antecedents, ulterior motives he may have and, most importantly, challenging his version of events by reference to other information and testimony the Committee has received. Had Mr Daly given evidence, that evidence would have been sworn and any failure to tell the truth would render him liable to prosecution and imprisonment.²
8. Instead, Mr Daly's document has been published, without explanation or context, on the Committee's website. Whether the decision to do so has been made in compliance with (or breach of) Standing Order 242 is unknown. What is known is that the publication was made by giving Mr Robert less than one hour's notice. That notice was a perfunctory act. Mr Robert was not provided with an opportunity to object to the publication, and no opportunity to provide a contemporaneous reply to the document.
9. The document is publicly available to the world at large. The true extent of its publication is unknown. Of course, the mass media have, as they are entitled to and without restriction, reported on the false and scandalous allegations contained within the document. That such publications would occur was obviously known to those members of the Committee before the resolution to publish the document was made. The timing of the publication was, plainly enough, not a coincidence.
10. All this occurred in circumstances where the Committee could have called Mr Daly to give evidence and engaged in the process described above. What informed the decision not to do this, and instead, publish the document, are matters which have not been disclosed. Transparency of process alone requires that this information be made known and the Committee justify, if it can, what otherwise appears to be a gross breach of parliamentary privilege for partisan political purposes.

² Section 18 of the *Public Accounts and Audit Committee Act 1951* (Cth).

11. To permit the publication of the document provided by Mr Daly, in circumstances where he has not given evidence before the Committee, is egregious. The member or members responsible for the publication know perfectly well that there can be no action, civil or criminal, that Mr Robert can take for the publication of a document laid before the Committee which it has authorized.³
12. That the publication has been authorized, and therefore published under the cloak of privilege, represents a serious misuse of the *Parliamentary Papers Act 1908* (Cth) and an abuse of parliamentary privilege by the member or members of the Committee responsible for it.
13. There were a number of proper courses open to the Committee, acting responsibly. One has been mentioned already: to summon Mr Daly to give evidence, under oath, and enable the statement to be properly tested. The Committee also had the power either restrict or otherwise limit the extent of publication or to make it available to Mr Robert (and other interested persons) to enable submissions to be made in advance of publication.
14. Any responsible use of power would have seen the adoption of one or more of these measures. They would have provided a means by which either the allegations could have been tested and an assessment made as to Mr Daly's credibility and motivations, or, enabled Mr Robert (and others referred to in the statement) the opportunity to respond to the allegations prior to making them public.
15. The decision to release Mr Daly's statement in the manner in which the Committee did (and not requiring him to give evidence) has an obvious ulterior motive: to destroy the reputation of Mr Robert (and others) in circumstances where the Committee knew that there could be no adequate recourse or remedy available to seek vindication. The decision to publish is an obvious abuse of privilege.
16. The timing of the decision to release the document is also consistent with this ulterior motive. It occurred in circumstances where the release of the report of the Royal Commission into the Robodebt Scheme and the commencement of the National Anti-Corruption Commission were both imminent, as was the Fadden by-election. This is no coincidence. It was obviously a deliberate tactic; a political manoeuvre, intended to inflict maximum reputational damage, and to seek partisan advantage and to attempt to influence the Fadden by-election.

³ See ss 2(2) and 4 of the *Parliamentary Papers Act 1908* (Cth).

17. So far as Mr Daly is concerned, Mr Robert has no recollection of ever speaking with, let alone meeting, him. It is impossible therefore that Mr Daly is in a position to make any statement concerning a direct dealing he claims to have had, or observed, involving Mr Robert. There have been none.
18. To the extent that Mr Daly makes allegations of impropriety against Mr Robert, they are rejected, as they have always been and as the Committee well knows. At no time has Mr Robert been paid for any advice or guidance in any form. At no time did Mr Robert lobby to assist any organisation as alleged.
19. Of course, in his untested document Mr Daly does not purport to give any first-hand account of matters. Indeed, its fundamental vice, apart from its untruthfulness, is its complete failure to provide any proper detail of what Mr Daly alleges Mr Robert has in fact done. This is unsurprising; the allegations are false. The document is a transparent (albeit poor) attempt to smear Mr Robert and others.
20. Any impropriety alleged by Mr Daly is baseless and, unsurprisingly, not supported by any evidence. That the Committee has not provided Mr Robert with any evidence supporting the serious allegations Mr Daly has made is, of course, consistent with the fact that they are untrue.
21. Had the Committee conducted its inquiry properly, Mr Daly would have been summoned so that these matters could have properly been explored (in addition to the matters outlined above). Even the most basic testing of Mr Daly's allegations would have quickly revealed that the allegations are false and that Mr Daly is dishonest.
22. The untruthfulness of the allegations is a matter which is known to the Committee. Most notably, on 14 April 2023, members of the Committee (comprising the Chair, Senator Reynolds, Dr Garland and Mr Pike) received evidence from a number of people, some of whom are named in Mr Daly's document.
23. None of that evidence received by the Committee supports any of the serious allegations of impropriety that Mr Daly has made. In fact, the evidence from those persons is entirely contrary to such allegations.
24. The member or members of the Committee responsible for authorizing the publication should be reprimanded for doing so. The actions of those directly responsible are, unequivocally, an abuse

of parliamentary privilege. The Committee, via the Chair, should apologise to Mr Robert and to the others the subject of the disgraceful smears contained in the document.

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