



Unauthorised disclosure of committee proceedings and evidence

Background

- 1.1 On 4 February 2010 the Parliamentary Standing Committee on Public Works ('the Committee') requested and held a private meeting with officials of the Department of Defence to be briefed on the delay in the commencement of the Single Living Environment and Accommodation Precinct Project Phase 2 - known as Single LEAP 2. The Committee had recommended to Parliament in June 2007 that Single LEAP 2 commence as a public work.
- 1.2 At the beginning of the briefing, the Defence officials emphasised that they would be discussing commercially sensitive information. The officials requested the Committee's agreement that the briefing be treated as confidential. The Committee agreed that it would consider the briefing as confidential, a point reiterated by the chair at the commencement and the conclusion of the discussion.
- 1.3 A transcript of the meeting was not taken.

The unauthorised disclosure

- 1.4 An article in the *Townsville Bulletin* of 5 February contained information provided to the Committee at the briefing. The journalist attributed his source as the Member for Herbert, the Hon Peter Lindsay MP, a member of the Committee. A copy of the article is at Appendix A.

- 1.5 As a joint committee, the Committee operates under Senate standing orders and procedural orders of continuing effect. The third procedural order of continuing effect outlines the procedures to be taken by committees concerned by an unauthorised disclosure of committee proceedings, documents or evidence. A copy of the procedural order is at Appendix B.
- 1.6 As the matter concerned a Member of the House of Representatives, the Committee resolved to advise the House of the matter at the earliest opportunity and this was done on 8 February 2010.

Source of disclosure

- 1.7 The Committee met on 8 February 2010 to discuss whether the newspaper article in the *Townsville Bulletin* represented an unauthorised disclosure of committee proceedings.
- 1.8 As a first step, and pursuant to the Senate's procedures, the Committee sought to confirm whether Mr Lindsay MP, was the source of the information in the newspaper article.
- 1.9 At the earliest opportunity, Mr Lindsay acknowledged that he had been the source of the information. He stated that the journalist, rather than he, had initiated the contact.
- 1.10 Mr Lindsay apologised in person to the Committee. He also wrote to the Committee through the Chair stating:
- I wish to sincerely and without reservation apologise to my committee colleagues, to the Parliament and to Defence for this breach of privilege and I give an unequivocal assurance no such event will happen again.
- 1.11 A copy of the Mr Lindsay's letter to the Chair is at Appendix C.

Substantial interference with the work of the Committee

- 1.12 Pursuant to the Senate's procedures, the Committee also considered whether the release had led to a potential or a substantial interference with the work of the Committee or the effective functioning of the committee system as a whole. In doing so, the Committee examined both the nature of the information released and the fact that confidential committee proceedings had been released at all.

Nature of the information released

- 1.13 In his letter to the Chair regarding the matter, Mr Lindsay argues that:

In the interview I gave, nothing of a commercially sensitive nature was released.

- 1.14 The Committee does not accept this claim. The Committee believes that some of the information released by Mr Lindsay was commercially sensitive and not in the public domain. In briefing the Committee, the Department of Defence advised that details about the tender process were commercially sensitive and outlined the reasons for this sensitivity. These details were subsequently reported in the *Townsville Bulletin*.
- 1.15 In addition Mr Lindsay states that the journalist concerned initiated the contact. This is immaterial to the fact.

Release of confidential committee proceedings

- 1.16 Aside from the detail of what was released, the Committee was particularly concerned that the information had been given to the Committee at a meeting which had been explicitly acknowledged by all parties as being confidential. Further, at no stage has the Committee authorised publication of any of the information gained at the briefing.

Breach of Confidence

- 1.17 Section 17(3) of the *Public Works Committee Act 1969* (the Act) requires the Committee to consider whether all proposed public works referred to it by Parliament represent value for money to the Commonwealth. In order to determine the value for money of works the Committee requires agencies to provide commercially sensitive information and engage in frank

discussions about financing options, the construction industry and tendering processes.

- 1.18 The Committee has worked over many years to build relationships with agencies so that agencies are confident that they can provide commercially sensitive information and discuss matters freely during the course of inquiries.
- 1.19 Subsequent to the publication of the *Townsville Bulletin* article, officials from the Department of Defence who gave the briefing indicated their concern to the Committee's secretariat, and thus to the Committee, about the unauthorised disclosure of information.
- 1.20 Should agencies in future feel they cannot provide commercially sensitive information or that their officials have to hedge their conversations, then the Committee's ability to fulfil its statutory obligations will suffer substantial interference.

Conclusion

- 1.21 The Committee considers that the unauthorised disclosure of information by Mr Lindsay to the *Townsville Bulletin* breached the trust that the Committee has built with the Department of Defence in particular.
- 1.22 The Committee acknowledges that Mr Lindsay has unreservedly apologised for the unauthorised release of this information and that he does not consider the information to have been commercially sensitive.
- 1.23 Mr Lindsay is a longstanding member of the House, a former Parliamentary Secretary for Defence and a former Shadow Parliamentary Secretary for Defence and a longstanding member of the Committee. The army base for the proposed work is in Mr Lindsay's electorate.
- 1.24 The Committee believes that Mr Lindsay made a serious error of judgement in disclosing details of a confidential Defence briefing to the Committee.
- 1.25 It should be noted that Mr Lindsay:
- readily acknowledged his error;
 - unreservedly apologised to the Committee, to the Department of Defence and the Parliament;

- has given longstanding service to the Parliamentary Standing Committee on Public Works; and
- has given an undertaking about his future conduct.

1.26 The full extent of the consequences of this event will only become apparent in the future. Nonetheless, the Committee concludes that the unauthorised release of this information may substantially interfere with the future work of the Parliamentary Standing Committee on Public Works.

Senator the Hon Jan McLucas
Chair
9 February 2010