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The Parliament of the Commonwealth of Australia

# Unauthorised disclosure of committee proceedings and evidence

Parliamentary Standing Committee on Public Works

February 2010  
Canberra

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## Membership of the Committee

**Chair**            Senator the Hon Jan McLucas

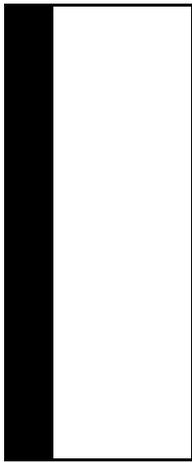
**Deputy Chair**   Senator the Hon Judith Troeth

**Members**        Mr Nick Champion MP  
                      Mr John Forrest MP  
                      Senator Michael Forshaw  
                      Ms Jill Hall MP  
                      Hon Peter Lindsay MP  
                      Hon Roger Price MP  
                      Hon Peter Slipper MP

## Committee Secretariat

Secretary                      James Catchpole

Inquiry Secretary            Siobhán Leyne



## 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

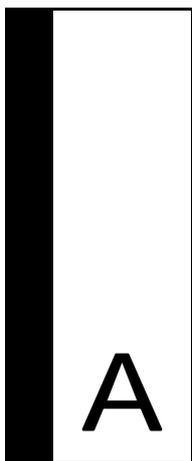
- 1.21 The Committee considers that the unauthorised disclosure of information by Mr Lindsay to the *Townsville Bulletin* breached the trust that the Committee has built with the Department of Defence in particular.
- 1.22 The Committee acknowledges that Mr Lindsay has unreservedly apologised for the 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





Appendix A

**Article in the *Townsville Bulletin* dated 5 February 2010**



HOMING IN ... there will be no delay in the transfer of 3RAR to Townsville despite the housing shortage

## Bungle delays troop housing

TONY RAGGATT

February 5th, 2010

**THE Defence Department is to spend \$19 million on transportable dongas to house troops because of a bungle in providing new accommodation at bases such as Lavarack Barracks, federal MP Peter Lindsay said yesterday.**

Meanwhile, the department last night confirmed delays of up to 18 months would occur in providing its Single Living Environment and Accommodation Precinct (LEAP) project but denied troops would be housed in dongas.

Mr Lindsay raised the claims after Defence was called to a Public Works committee in Canberra yesterday to explain why the Single LEAP project had not proceeded despite funding approvals having been passed more than two years ago.

Mr Lindsay said it was an utter disgrace.

"Some soldiers will be living in dongas for three years," he said.

"Defence calls it an interim solution, (but) it's a pretty ordinary solution."

Under the Single LEAP phase two project, there was a requirement for 540 extra living accommodation units at Lavarack Barracks. Some of the units were required for up to 700 soldiers from Sydney's 3RAR due to relocate to Townsville and occupy their lines at Lavarack Barracks from the beginning of 2012.

The units were part of 3535 rooms at 17 Defence sites around Australia to be provided under public/private partnership arrangements and were to be ready to start in 2010 and fully delivered in 2012.

Mr Lindsay said he had been told the relocation of 3RAR was going ahead but that the Single LEAP project would not be delivered until April 2013.

He said the Public Works committee reported to Parliament, approving the works, in June 2007.

"Here we are in 2010 and no tender has yet been let," he said.

Mr Lindsay said tenders were called and four tenderers were shortlisted but that the global financial crisis intervened, delaying the plans.

He said Defence had now decided to recall tenders.

"It could have internally funded the project (but) Defence has chosen not to go down that route and chosen to accept long delays," he said.

"You won't see Single LEAP phase two buildings at Lavarack until April 2013."

He said Defence would spend \$19 million on dongas - \$9 million at Townsville and \$10 million at the Edinburgh defence precinct in South Australia for the 7th Battalion.

"They are going to expect soldiers to live in dongas until April 2013," he said. "I really don't think that's acceptable. It's an utter disgrace, but more than that, our construction industry misses out on the current work because of these delays."

A Defence spokesman said procurement action was under way for Single LEAP phase two at Lavarack Barracks.

"Defence is getting cracking on the project," the spokesman said.

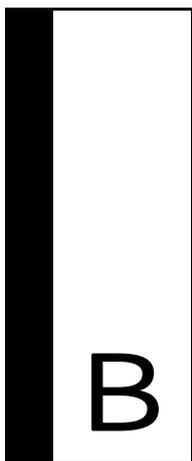
"Possibly there will be a delay that could last up to 18 months but hopefully it will be less.

"During this time appropriate quality arrangements will be in place for service personnel.

"It will not be dongas."

The spokesman said there would not be a delay in the transfer of 3RAR to Townsville.





## Appendix B

### **Excerpt from Senate Procedural Orders of Continuing Effect - Committees**

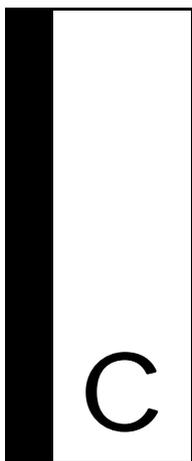
#### **3      Unauthorized disclosure of committee proceedings, documents or evidence**

The Senate adopts the procedures, as outlined in the 20th report of the Committee of Privileges tabled on 21 December 1989, to be followed by committees in respect of matters on which such committees may wish action to be taken:

- (1)   (a)    a committee affected by any unauthorised disclosure of proceedings or documents of, or evidence before, that committee shall seek to discover the source of the disclosure, including by the chair of the committee writing to all members and staff asking them if they can explain the disclosure;
- (b)    the committee concerned should come to a conclusion as to whether the disclosure had a tendency substantially to interfere with the work of the committee or of the Senate, or actually caused substantial interference;
- (c)    if the committee concludes that there has been potential or actual substantial interference it shall report to the Senate and the matter may be raised with the President by the chair of the committee, in accordance with standing order 81.
- (2)   Nothing in this resolution affects the right of a senator to raise a matter of privilege under standing order 81.
- (3)   This order is of continuing effect.

*(20 June 1996 J.361)*



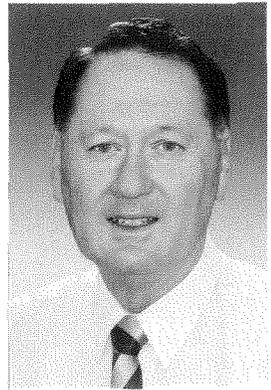


Appendix C

**Letter from the Member for Herbert**

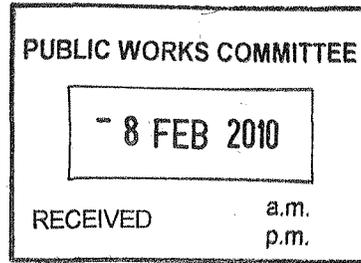


Peter  
**LINDSAY** MP



8 February 2010

Senator J McLucas  
Chair  
Parliamentary Standing Committee on Public Works  
Parliament House  
CANBERRA 2600



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Dear Senator McLucas

I refer to the Committee's investigation of a possible breach of privilege regarding the unauthorised disclosure of committee information.

On Thursday 4 February 2010, the Department of Defence provided a private briefing to the Committee on Project Single Living Environment and Accommodation Precinct (Project Single LEAP 2).

The following day, comments attributed to me in relation to the progress of the project appeared in the Townsville Bulletin.

I accept that my comments could be seen as a breach of privilege. By way of explanation to my colleagues, I offer these observations for their consideration.

I did not advise or approach any media and I did not issue a media release. By way of coincidence, Bulletin journalist Tony Raggatt contacted me for an update on Single LEAP in relation to Lavarack Barracks mindful of the community concern that there would be insufficient accommodation ready for the arrival of 3 RAR.

In the interview I gave, nothing of a commercially sensitive nature was released. In fact it is hard to argue that anything that Defence said in its briefing was commercially sensitive. No tenderers were named and no staff were named. However, I do accept that I was wrong in revealing the contents of a private briefing.

Matters such as alternative funding, the delay of the project and the need for temporary accommodation were already on the public record and had been previously reported in the Townsville Bulletin.

I ask the committee to note that I took immediate responsibility for the story at the Committee meeting this morning. I told my colleagues that I had made a mistake by talking to the journalist.

Having been so close to this project since March 2007, I thought nothing of simply updating my community, as the local member, as to the progress of LEAP 2. In doing so, I have left the Committee's integrity exposed. I genuinely regret that.

I have a long record of Committee service and have never previously embarrassed my fellow Committee members.

I want 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 an event will happen again.

Yours sincerely

Peter Lindsay