

6 October 2009

SIA Ref: 09/LET/1006

The Secretary
Senate Foreign Affairs, Defence and Trade Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Secretary

**Inquiry into the Defence Amendment (Parliamentary Approval of Overseas Service)
Bill 2008 [No.2]**

Thank you for the opportunity to comment on the subject Bill, invited in the letter dated 7 September 2009 sent by Senator Mark Bishop (Chair Legislation Committee) to my predecessor, RADM P D Briggs AO CSC RAN Rtd.

The Submarine Institute of Australia (SIA) exists to promote informed discussion on submarine matters, including submarine operations. The Institute's interest in this draft Bill is in its potential impact on the planning and conduct of future Australian submarine operations.

Submarine operations are, by nature, covert. The submarine's greatest strength is its ability to operate undetected in sea areas controlled by a potential adversary. It goes without saying, therefore, that the success of submarine operations relies on strict security – disclosure of submarine operational plans negates the submarine's primary advantage, potentially putting the submarine at greater risk and leading to a deterioration in strategic circumstances.

The Institute is concerned that the draft Bill would require public disclosure of submarine operational plans in order to meet the Parliament's requirement for approval of "warlike" operations. The Institute understands that the assessment of 'warlike' operations is made on the basis of a threat assessment conducted by the Department of Defence during the operational planning process. Public disclosure in the Parliament would most likely preclude covert operations from being conducted, or could unduly influence the threat assessment process to avoid the requirement for parliamentary approval. Either would be detrimental to Australia's defence interests.

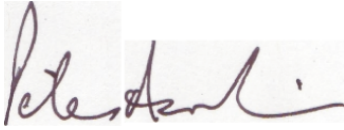
It is also possible that the threat level for a submarine operation currently underway could be reassessed to 'warlike' due to deteriorating circumstances. If that led to public disclosure in the Parliament then that operation could most likely not continue.

The Institute's view is that a requirement for Parliamentary approval of 'warlike' submarine operations would largely defeat the purpose of covert submarine operations. It is noted that the same argument would apply to other types of covert ADF operations.

It is recommended that the Bill be amended to make provision for the Prime Minister to determine that covert operations are excluded from the requirement to achieve Parliamentary Approval of Overseas Service.

I should like to take this opportunity to express my appreciation for the opinion of the SIA being sought on this matter.

Yours Faithfully

A handwritten signature in dark ink, appearing to read 'Peter Horobin', is positioned above the printed name.

Peter Horobin, MBE, FAICD
Acting President
Submarine Institute of Australia

