



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

14<sup>th</sup> Assembly

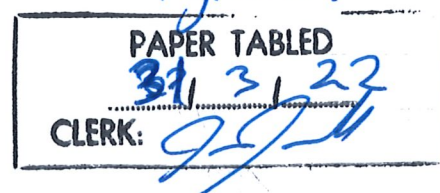
Committee of Privileges

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## Report on a Referral Regarding the Member for Barkly

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### 14<sup>th</sup> Assembly

#### Committee of Privileges

### Report on a Referral Regarding the Member for Barkly

#### Matter Referred

On 27 October 2021, the Assembly resolved:

That the Member for Barkly be referred to the Privileges Committee for an investigation into claims the Member has repeatedly made in relation to funding arrangements in the Barkly, and the Barkly Regional Deal. In particular the inaccurate and misleading claims in the parliament regarding remote housing and infrastructure in the Barkly region being funded by the Barkly Regional Deal.

This motion was moved following debate recorded on pages 35 to 39 and pages 79 to 80 of the Daily Hansard on 27 October 2021, with the debate on the motion being on pages 81 to 84.

The Hansard transcript includes two areas of concern to the Hon Chaensey Paech MP: comments made by the Member for Barkly on Facebook; and an interjection made by the Member for Barkly where he disagreed with the Minister's statement that the Member for Barkly's claims that the Barkly Regional Deal arrangements are delivering housing in remote Aboriginal communities is not true.

#### The Facebook post

The Committee of Privileges does not consider that the Facebook post which occurred outside of the Assembly could raise questions regarding misleading the Assembly.

The Committee notes that the Members' Code of Conduct and Ethical Standards under the *Legislative Assembly (Members' Code of Conduct and Ethical Standards) Act 2008* requires that:

Members must act honestly in all their official dealings, and must take care not to mislead the Assembly or the public.

Section 5 of that Act allows the Assembly to refer an alleged breach of the Code to the Committee of Privileges. There was no such referral in the Assembly's resolution.

## The interjection

The Speaker granted precedence for the motion to refer the matter to proceed after examination of the following Hansard extract (p 35, 27 October 2021):

Mr PAECH: I will withdraw the comment raised by the Member for Goyder but pursuant to Standing Order 229, I will move that the Member for Barkly be referred to the Privileges Committee for an investigation into the claims and allegations repeatedly made by the Member for Barkly that the Barkly Regional Deal arrangements are delivering housing in remote Aboriginal communities, that is not true.

Mr Edgington: They are.

Mr PAECH: That is a lie.

Mr Edgington: No, it is not.

In what is widely considered the leading discussion of misleading Parliament, *Parliamentary Practice in New Zealand* (4<sup>th</sup> edn, p 776) states:

There are three elements to be established when an allegation is made against a member regarding the member's statement: the statement must, in fact, have been misleading; the member must have known that the statement was inaccurate at the time the statement was made; and the member must have intended to mislead the House. The standard of proof required is the civil standard of proof on the balance of probabilities. The serious nature of the allegation demands that it be properly established. Recklessness in the use of words in debate, although reprehensible and deserving of censure, falls short of the standard required to hold that a member deliberately misled the House. An allegation will be made out where a member questions a Minister over information given and the same information is repeated and later can be shown as false. The misleading of the House must not be concerned with a matter of no consequence, or such little consequence that it is too trivial to warrant the House's attention. Such a misunderstanding should be cleared up on a point of order or through the asking of further supplementary questions, particularly when the matter is a contestable one.

For a misleading of the House to be deliberate, there must be an indication of an intention to mislead. Remarks made off the cuff in debate can rarely fall into this category, nor can matters of which the member can be aware only in an official capacity. But an inference of an intention to mislead can be drawn where the member can be assumed to have personal knowledge of the stated facts and made the statement in a formal manner or situation, such as by way of personal explanation.

According to this discussion, it is rare that remarks made off the cuff in debate can be deliberately misleading. It must be rarer still for interjections to fall into that category.

The Committee does not consider that these interjections could amount to a breach of privilege by deliberately misleading the Assembly.

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## Finding

The Committee does not find that the matters referred regarding the Member for Barkly amount to a breach of the privileges of the Assembly.

A handwritten signature in black ink that reads "Natasha". The letters are cursive and fluid.

Hon Natasha Fyles MLA

Chair