



Premier of Queensland
Minister for the Arts

22 NOV 2016

The Hon Peter Wellington MP
Speaker of the Legislative Assembly
Parliament House
George Street
BRISBANE QLD 4000

Executive Building
100 George Street Brisbane
PO Box 15185 City East
Queensland 4002 Australia
Telephone +61 7 3719 7000
Email ThePremier@premiers.qld.gov.au
Website www.thepremier.qld.gov.au

Dear Mr Speaker

	Paper No.: 5516T2210
	Date: 1/12/16
	Mr Speaker
Incorporated by leave	Tabled, by leave
	or incorporated,

I write in response to your letter of 8 November 2016 in relation to the letter you received from the Leader of the Opposition, Mr Tim Nicholls MP, alleging that I deliberately misled the House on 3 November 2016 and may therefore have committed a contempt of Parliament under Standing Order 266 of the Standing Rules and Orders of the Legislative Assembly (Standing Orders).

There are three elements to be proven in order to establish a contempt of deliberately misleading the House:

1. The statement must have been misleading;
2. The Member making the statement must have known, at the time the statement was made, that it was incorrect; and
3. In making the statement, the Member intended to mislead the House.

I will address each of these in turn in order to demonstrate that the Leader of the Opposition has failed to establish the requisite elements.

1. The statement must have been misleading

The Leader of the Opposition has referred to two statements I made in the Parliament on 3 November 2016 – one in response to a Question without Notice from the Leader of the Opposition and one in a Ministerial Statement. The first statement must be taken in the context of the second clarifying statement.

The Leader of the Opposition asked a question about the Personal Explanation made by the Minister for Agriculture and Fisheries earlier that morning:

“was the Premier aware of these issues when she appointed Minister Donaldson to the ministry or when did the Premier become aware, and what action did she take to ensure the minister’s position was not comprised by her unpaid debts?”

In my response to the Leader of the Opposition I stated:

“I thank the Leader of the Opposition very much for the question. We have heard very clearly in the House today that the Minister for Agriculture, Leanne Donaldson, last night made a statement in the House stating very clearly that she had paid those outstanding rates notices. Frankly, it is unacceptable not to pay your rates notices.

She apologised for that and she has fixed that up. She has come into this House and apologised to this House. She has apologised to the people of Bundaberg."

At the time I answered that question, it correctly reflected my understanding of the situation. The Minister had advised me that the rates had been paid, and in her Ministerial Statement of the previous day the former Minister said, *"I would like to advise the House that the rates arrears owed to the Bundaberg Regional Council in respect of my family home have been paid today."* Again, in the Personal Explanation made just prior to question time on 3 November 2016, the then Minister also said, *"Yesterday I advised the House that the rates on my family home had been in arrears and that the amount owing to the Bundaberg Regional Council had been paid."*

I was then asked a subsequent question by the Member for Indooroopilly about whether I was aware of any other debts or obligations of the Minister and I answered:

"I am not advised of any other outstanding debts. If there are any and you have them, please let us know, because she has advised both the Deputy Premier and me that there are no further outstanding debts."

Subsequently to these questions being asked, and during question time on 3 November 2016, I was advised by my media advisor, Mr Kerry Manifold, that the rates arrears had not been paid personally by the Member for Bundaberg, but had been paid by another party on her behalf. This was the first time I had any knowledge of the involvement of a third party in the payment of the rates. I was also informed of this fact by the Deputy Premier, Hon Jackie Trad MP, also during question time on 3 November 2016.

I realised that my earlier statement may not have accurately reflected the situation, so at the first opportunity immediately following question time I made the Ministerial Statement referred to by the Leader of the Opposition in his correspondence to you.

In that Statement, I said: *"I wish to clarify that I was advised yesterday by the member for Bundaberg about the issue of outstanding rates. As the member indicated last night, those outstanding rates were paid yesterday."* I was specific in stating that my further statement was designed to clarify my earlier response to the question.

This was in line with the Ministerial Statement and the Personal Explanation previously made by the Member for Bundaberg, and with the additional information I was provided with.

Whilst in isolation my initial response to the Leader of the Opposition's question without notice might be regarded as misleading, it must be read together with my clarifying statement, which set out the true state of affairs and reflected the former Minister's statements.

I wish to furnish a Statutory Declaration made by the Deputy Chief-of-Staff (Media) in my office, Mr Kirby Anderson, who confirms that he had not advised me of the involvement of a third party in the payment of the rates as he was absent from work on 3 November 2016. I had no knowledge of this information until I was advised by Mr Manifold and the Deputy Premier as stated previously.

Neither of the two statements referred to by the Leader of the Opposition could be interpreted as misleading, and it is my contention that the Honourable Member has failed to establish the

first element of Contempt of the Parliament. However, if Mr Speaker is not satisfied of this, I will now turn to the second element.

2. The Member making the statement must have known, at the time the statement was made, that it was incorrect

As I have clearly established, at the time I made the first statement in my response to the Leader of the Opposition's question, I believed that my response was an accurate reflection of the situation. Whilst I acknowledge that in neither of the Member for Bundaberg's statements to the House, nor in her conversations with me on the matter, did she expressly state that she had personally paid the arrears of rates, neither did she advise the House or me that a third party had paid those rates on her behalf.

My first knowledge of this involvement was during question time on 3 November 2016, subsequent to my having made the statement complained of by the Leader of the Opposition, and this is confirmed by the Statutory Declaration made by my Deputy Chief-of-Staff (Communications and Engagement).

The test for this element is a subjective test. It must be proven that at the time I made the Statement, I knew it to be incorrect.

My initial statement was reasonable in the circumstances being based, as it was, on my understanding at the time. I honestly believed that I was providing a correct assessment of the situation surrounding the payment of the rates. At that time I did not believe that my statement was in any way incorrect. Once I realised that my understanding was not correct, I made a clarifying statement to the House at the earlier opportunity.

For these reasons it is my submission, Mr Speaker, that the Leader of the Opposition has also failed to establish the second element of an allegation of misleading the house. If, however, Mr Speaker does not accept my argument, I turn then to the third element.

3. In making the statement, the Member intended to mislead the House

As I have stated previously, I believed at the time I made the statement complained of that the statement was correct. I did not believe that I was misleading the House, and it was not my intention to mislead the House. I can assure you, Mr Speaker, that my first statement simply sought to advise the Leader of the Opposition of the facts as I believed them at the time.

This is evidenced by the fact that, once I subsequently became aware that the statement may have contained an error, I rose in the House at the earliest opportunity to correct the record by clarifying my statement.

Mr Speaker, it is my submission that you would be satisfied that I have addressed all three elements of a charge of deliberately misleading the House, and established that the Leader of the Opposition has not provided any evidence or argument that would establish any of the three elements of a claim that I intentionally misled the house.

Accordingly, it is my submission to you, Mr Speaker, that I am not in breach of Standing Order 266 and, hence, not in contempt of the Parliament. I therefore respectfully submit that

there would be no basis on which to refer this matter to the Ethics Committee for its consideration.

I trust this information is of assistance to you. Please do not hesitate to contact me should you require any further information to assist your consideration of this matter.

Yours sincerely

A handwritten signature in dark ink, consisting of a stylized 'A' followed by a long horizontal line.

**HON ANNASTACIA PALASZCZUK MP
PREMIER AND MINISTER FOR THE ARTS**

Statutory Declaration

QUEENSLAND
TO WIT


I, Kirby Fraser Anderson
of 42 Balourrie Street, Hamilton in the State of Queensland

do solemnly and sincerely declare that

At no stage before Question Time on November 3 did I advise the Premier that the Queensland branch of the ALP had made payments to the Bundaberg Regional Council on behalf of the Member for Bundaberg. I referred media queries - received on November 2 - to Ms Donaldson's office. I did not attend work on November 3 as I attended a family funeral.

KFA
4/11/16.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1867.


Signature of declarant/deponent

Taken and declared before me at Brisbane, Queensland
this 4th day of November 2016

A Justice of the
Peace/Commissioner for
Declarations:

