

Investigation report no. BI-753

Summary	
Broadcaster	Australian Broadcasting Corporation
Findings	No breach of Accuracy Breach of Impartiality
Relevant Code	ABC Code of Practice 2024
Program	<i>Four Corners</i> 'Sacrifice' [current affairs]
Date of broadcast	10 March 2025
Type of service	National broadcasting service
Date finalised	30 July 2026
Attachments	A – ACMA considerations for determining factual content B – the relevant ABC editorial policies C – ABC Editorial Director's submissions dated 22 May 2026 D – ABC Ombudsman's submissions dated 22 May 2026 E – ABC Ombudsman's initial report published online on 16 April 2025

Background

In October 2025, the Australian Communications and Media Authority (the **ACMA**) commenced an investigation under the *Broadcasting Services Act 1992* (the **BSA**) into an episode of *Four Corners* titled 'Sacrifice' (the **Program**) broadcast on 10 March 2025 by the Australian Broadcasting Corporation (the **ABC**) on ABC TV.

The ACMA received a complaint from The Hon Kim Beazley AC, Council Chairman (Mr Beazley) on behalf of the Australian War Memorial (the **AWM**) (the **complainant**) alleging that the Program breached the ABC Code of Practice 2024 (the **Code**) in its reporting on the management, funding, and redevelopment project of the AWM (also known as the AWM Development Project) (the **Project**).

The complaint was broad and raised numerous allegations with respect to requirements under the Code.¹ The ACMA considered the allegations and determined that the majority of these issues would be best assessed under the impartiality provision. The ACMA has also assessed one of the allegations under the accuracy provision.

The ACMA has investigated the ABC's compliance with accuracy (**Issue 1**) and impartiality (**Issue 2**) under the Code.

The Program

Four Corners comprises documentary-style television current affairs programs that examine or investigate issues of public importance. It is broadcast on Mondays at 8.30pm. The Program ran for approximately 45 minutes. The Program focused on the management, funding, and the redevelopment project of the AWM and referred to findings of an Australian National Audit Office (**ANAO**) report, *Management of the Australian War Memorial's Development Project* (2024) into the Project (the **ANAO report**).²

The ACMA's approach to assessing content

When assessing content, the ACMA considers the meaning conveyed by the material, including the natural, ordinary meaning of the language, context, tenor, tone, images and any inferences that may be drawn. This is assessed according to the understanding of an 'ordinary reasonable' viewer.

Australian courts have considered an 'ordinary reasonable' viewer to be:

A person of fair average intelligence, who is neither perverse, nor morbid or suspicious of mind, nor avid for scandal. That person does not live in an ivory tower, but can and does read between the lines in the light of that person's general knowledge and experience of worldly affairs.³

Once the ACMA has ascertained the meaning of the material that was broadcast, it then assesses compliance with the Code, with due consideration of the relevant principles outlined in the ABC Editorial policies. The considerations the ACMA uses in assessing whether or not broadcast material is factual are set out at **Attachment A**. The relevant principles considered by the ACMA in assessing whether or not broadcast material was impartial are set out at **Attachment B**.

¹ See also Letter to Mr Kim Williams AM, Chairman, Australian Broadcasting Corporation from The Hon Kim Beazley AC, Council Chairman, Australian War Memorial dated 20 March 2025 published on the [AWM website](#).

² See: Australian National Audit Office (ANAO) report [The Auditor-General Report No.21 2023–24 Performance Audit] https://www.anao.gov.au/sites/default/files/2024-04/Auditor-General_Report_2023-24_21.pdf

³ *Amalgamated Television Services Pty Limited v Marsden* (1998) 43 NSWLR 158 at pp 164–167.

ABC's submissions

The ACMA has considered the following submissions from the ABC:

- (i) **Attachment C** the ABC Editorial Director's submission dated 22 May 2026 (**ABC Editorial Director's submissions**)
- (ii) **Attachment D** the ABC Ombudsman's submission dated 22 May 2026 (**ABC Ombudsman submissions**)
- (iii) **Attachment E** the ABC Ombudsman's initial report published online on 16 April 2025 (**ABC Ombudsman's initial report**)

Issue 1: Accuracy

Relevant Code provision

Accuracy

'The ABC will make reasonable efforts to ensure that material facts are accurate and presented in context.'

Finding

The ACMA finds that the ABC did not breach the accuracy provision of the Code.

Reasons

The considerations the ACMA uses in assessing whether or not broadcast material is factual are set out at **Attachment A**.

To assess accuracy under the Code, the ACMA considers the following:

- > What did the material convey to the ordinary reasonable viewer?
- > Was the particular content complained about factual in character?
- > If so, did it convey a material fact or facts in the context of the relevant segment?
- > If so, were those facts accurate?
- > If a material fact was not accurate (or its accuracy cannot be determined), did the ABC make reasonable efforts to ensure that the material fact was accurate and presented in context?

Issue 1. Allegation that the broadcast inaccurately presented misleading and distorted representations by manipulating the audio during the bugle sounding of the Last Post Ceremony.

The complainant submitted:

The Four Corners Program presented misleading and distorted representations about the AWM, including by manipulating the audio during the bugle sounding of the Last Post Ceremony [starting at 7:48 in the Program and finishing at 9:05]. The solemn bugle call was edited into scenes depicting construction and accompanied by construction noise, creating a false impression that construction works were ongoing during the Last Post Ceremony.

In fact:

- No construction work is permitted during these ceremonies as part of stop work contractual obligations.
- The construction audio was gathered in March 2025.
- The vision of the Last Post Ceremony was filmed on 11 November 2024 (Remembrance Day), when all works were ceased in accordance with a formal stop-work order.

This Four Corners Program wrongly implied contractors breached their stop work contractual obligations and that the Memorial allowed this to happen.

The complainant also submitted:

The manner in which the audio was edited has distorted the accuracy of the publication by causing viewers to fall into erroneous conclusions about the AWM's conduct in connection with the Last Post Ceremony.

If the ABC did not intend to create an impression in the minds of its viewers that construction was allowed to take place during the Memorial's most solemn daily ceremony, the Last Post Ceremony, then it must justify its decision to utilise the Last Post Ceremony audio as the accompanying track to what it submits are individual segments edited together (see page 5 of the Ombudsman Report)

The ABC's letter of 21 March 2025 addressed to The Hon Kim Beazley AC, AWM, Council Chairman stated that:

Given the seriousness of the allegation regarding misrepresentation of audio I have urgently reviewed this section of the story and am confident it is appropriate. This sequence is clearly three different moments in time, and the Four Corners audience is used to this style which is a standard style for documentary edit. I am confident viewers would not have drawn a conclusion otherwise. The Ombudsman's Office will of course investigate this separately itself.

The ABC Ombudsman's initial report (**Attachment E**) stated:

The recording of the *Last Post* started towards the end of the first scene and then continued playing for the entirety of the second to fourth scenes, except for a brief fade out at the end. Although the second scene does depict a Last Post ceremony, *Four Corners* has advised that the recording of the *Last Post* used as musical soundtrack for these four scenes was captured at another time entirely.

In addition to the *Last Post* recording, the third scene's soundtrack included voiceover narration, and the fourth scene's soundtrack included audio, ostensibly live from the development site, which the complaints rightly described as construction noise.

In relation to this concern, *Four Corners* commented:

No reasonable viewer would interpret this series of scenes as a continuous sequence.

The use of a single piece of music across multiple scenes as part of the soundtrack is a standard technique in documentary storytelling to provide thematic and aesthetic unity. Viewers are familiar with this technique and would not assume that the scenes are occurring simultaneously, concurrently, or even in the same location.

There is a gap of almost 25 seconds between the ceremony scene and the development site scene, as well as other intervening audio material, like the reporter's voiceover narration.

Importantly, at no time during the ceremony scene is any construction noise present, and the footage of the ceremony and the development site is never intercut.

We think that *Four Corners* is correct that no reasonable viewer would interpret this series of scenes as a continuous sequence. Even a viewer who might have got the impression that the recording of the *Last Post* was live audio from the ceremony in the first or second scene would have understood that it was then "borrowed" as a unifying musical soundtrack for the following (related but separate) scenes.

It follows that the episode did not suggest that construction noise from the development site had disrupted a Last Post ceremony.

For these reasons, the Ombudsman has not found any breach of the Editorial Standards on accuracy in light of this concern.

The ABC Ombudsman's submission to the ACMA (**Attachment D**) stated:⁴

For the following reasons, our view is that no reasonable viewer would have interpreted the series of scenes in the way Mr Beazley has contended:

1. *Four Corners* is a documentary Program. Using a single piece of music as the soundtrack for consecutive distinct scenes is a standard and important technique in documentary storytelling. Viewers are familiar with this technique and can detect its use.

2. It was otherwise indicated to viewers that the piece of music was soundtrack, not soundscape from each of the four scenes. For example, it played during the first and second scenes, which were filmed at the same place decades apart, as the on-screen text, aspect ratio, and image quality indicated. Compare:

[...]

Scene 1: On-screen text, shown shortly before the piece of music starts, indicates that the footage used in this scene, featuring Paul Keating as Prime Minister, was captured in 1993.

[...]

Scene 2: This scene uses a different aspect ratio and higher quality footage, which would indicate to viewers that it was captured more recently. The location is identifiably the same.

3. The second scene depicts the ceremony of concern to Mr Beazley as decidedly *undisrupted* by construction noise. [...] it shows attendees at the ceremony standing around the Pool of Reflection in quiet contemplation. No construction noise is heard.

4. The second scene depicting the ceremony and the fourth scene depicting the development site are separated by a third scene of nearly 25 seconds, strongly indicating that they did not coincide. At no time is footage of the ceremony intercut with footage of the development site.

5. Like the fourth scene, the intervening third scene also includes audio material other than the soundtrack (namely, narration) and yet it is not contended in the complaint that this narration was audible to attendees at the ceremony. Clearly the soundtrack is provided as background to the distinct scenes.

6. In the context of the whole episode, which presents critiques of the redevelopment's scale, viewers would understand that in the fourth scene the soundtrack (solemn) and the development site's soundscape (frenetic) were juxtaposed as a nonliteral narrative device.

In summary, we believe it is entirely reasonable for documentary storytellers like *Four Corners* to creatively and engagingly tell important stories of public interest.

What did the material convey to the ordinary reasonable listener or viewer?

The Last Post audio started to play in the background from the 7 minute and 48 second mark of the Program as the image of the coffin of the Unknown Australian soldier was being lowered into its final resting place at the AWM. The audio of the Last Post continued to be heard during the Program for the next 1 minute and 17 seconds while the host narrated part of the scene while standing near the tomb of the Unknown Australian soldier and also during the construction scenes that also included construction sounds as well as the Last Post.

⁴ The stills from the broadcast contained in the ABC Ombudsman report have been removed for readability.

The ordinary reasonable viewer would have understood that the Last Post audio was being played in the background continuously throughout a number of different scenes, including the interment of the Unknown Australian soldier, veterans attending a Last Post ceremony in the AWM Commentative Courtyard, the host narrating as he stood near the tomb of the Unknown Australian soldier, and during the construction footage at the AWM.

The ordinary reasonable viewer would have understood that the audio and the images were not occurring concurrently as the visual scenes were distinctly separate from the audio of the Last Post soundtrack, the host's narration, and the construction noises that were being played during this segment. Rather, it was clear that the Program used the two highly contrasting audio sounds to symbolise the Project overall, and not to infer that an actual Last Post ceremony was continuously being featured in the scenes.

Was the particular content complained about factual in character?

The fact at issue is whether the construction was underway during the Last Post ceremony. As stated above, the ordinary reasonable viewer would not have interpreted that the two events were occurring concurrently.

Did it convey a material fact or facts in the context of the relevant segment?

No. While the construction noise was relevant in the context of this segment, the focus of the Program was the broader redevelopment of the AWM and not the Last Post ceremony. The select scenes and accompanying audio added to the solemn presentation of the issues but were not material in the broader discussion.

The ACMA notes the complainant's submissions that:

'...the manner in which the audio was edited has distorted the accuracy of the publication by causing viewers to fall into erroneous conclusions about the AWM's conduct in connection with the Last Post Ceremony.'

However, in this context the ACMA considers that the ordinary reasonable viewer would have understood that the Program was not suggesting that the Last Post ceremony occurred while there was construction noise in the background.

Accordingly, the ACMA's finding is that the ABC did not breach the accuracy provision of the Code.

Issue 2: Impartiality

Relevant Code provision

Impartiality

'The ABC will gather and present news and information with due impartiality.'

Finding

The ACMA finds that the ABC breached the impartiality provision of the Code.

Reasons

The complainant alleged that the broadcast was not impartial in its reporting about the Project and the findings of the ANAO report and the way it was presented. The complainant submitted:

Material positive facts were omitted entirely in respect of the Development Project despite them being publicly available, provided to the producer and/or occurring during the investigation period of filming and newsgathering.

The complainant alleged that the host's narrative favoured only negative outcomes of the Project while disregarding exculpatory evidence that was either publicly available or provided by the AWM to the Program prior to its airing. The complainant submitted that the Program heavily favoured critics of the Project which resulted in their credibility being given greater weight than the supporters of the Project. The complainant argued that the preferential treatment of the critics of the Project was further demonstrated by the host's interrogative interview style, whereby the combative and hostile treatment of known supporters of the Project was contrasted against the more subdued and measured treatment of known critics of the Project. The complainant also contended that the misrepresentation of the findings of the ANAO report had a direct impact on the general public's perception of the credibility of the Project and the AWM.

In assessing impartiality, the ACMA has had regard not only to the Code but also the Editorial Policies contained in Attachment B. The ACMA acknowledges that the Editorial Policies recognise the role of investigative and accountability journalism, permit robust questioning of public officials and do not require equal treatment of all perspectives. However, the Editorial Policies also require fair treatment, open-mindedness and opportunities for principal relevant perspectives to be expressed. For the reasons outlined below, the ACMA considers these requirements were not met in this broadcast.

The ACMA has assessed the following instances of alleged partiality:

- 2.1 the negative framing of the ANAO report;
- 2.2 omitting the Project's accolades and awards for procurement;
- 2.3 Mr Matt Anderson's (Director, Australian War Memorial) interview on consultation processes;
- 2.4 misrepresenting the conflict of interest process in relation to AWM's Executive Program Director, Mr Wayne Hitches;
- 2.5 the diversity of interviews; and

2.6 the interview style of the Program and how the interviews were conducted.

2.1 The negative framing of the ANAO report

The complainant alleged that the Program focused on the negative findings of the ANAO report and failed to include other relevant findings of the ANAO report despite it being publicly available and provided by the complainant.⁵

The ANAO report sets out its findings (on page 6 under the heading '*What did we find*') as:

- Management of the Development Project has been largely effective.
- Procurement policies, governance and project management arrangements were largely effective.
- Procurement activities were largely conducted in compliance with the Commonwealth Procurement Rules through open and competitive processes.
- Contract management was largely effective.
- There were deficiencies in record keeping, management of conflicts of interest, documenting value for money assessments and in the quality of advice to the minister.⁶

The ANAO report sets out the rationale for undertaking the audit, the audit objective and criteria on page 7:

Rationale for undertaking the audit

4. The Memorial is a nationally significant cultural institution which manages assets valued at \$1.5 billion. The funding of \$548.7 million for the Development Project represents a significant increase in the Memorial's project management and procurement activity.

5. This audit provides assurance to the Parliament about the effectiveness of the Memorial's procurement and project management arrangements. This includes whether the Memorial complied with CPRs and established effective governance and contract management arrangements to deliver the project.

Audit objective and criteria

6. The audit objective was to assess whether the Australian War Memorial is effectively managing the development project.

7. To form a conclusion against the objective, the following high-level criteria were adopted.

- Has the Australian War Memorial (the Memorial) established effective procurement and project management frameworks?
- Were procurement activities conducted in accordance with Commonwealth Procurement Rules?
- Has the Memorial established effective contract management arrangements to support project delivery?⁷

Under the heading 'Conclusion', the ANAO report states that 'The Memorial's management of the Development Project was largely effective'. Under the heading 'Supporting findings' it sets

⁵ See link to the ANAO report: [Management of the Australian War Memorial's Development Project | Australian National Audit Office \(ANAO\)](#)

⁶ ANAO report, page 6.

⁷ ANAO report, page 7.

out the 3 audit criteria referred to above and explains the findings for each criterion.⁸ The ANAO report then makes 5 recommendations to the AWM relating to updating policies, management of conflict of interest, record keeping and contract management. All of these 5 recommendations are discussed under the headings of the 3 audit criteria. The report also makes one recommendation to the Department of Finance to update procurement guidance on AusTender reporting.⁹

The complainant submitted:

[T]he segment on the ANAO audit referred to only one of four of the overarching "largely effective" conclusions of the audit. Additionally, the Ombudsman Report also does not refer to the other "largely effective" overarching conclusions omitted by the Four Corners Program. It accordingly appears that the Ombudsman was unaware of the omitted overarching conclusions.

[...]

The Four Corner Program's summary of the audit intentionally misled viewers by not presenting adequate information about the ANAO audit. By not presenting all the overarching conclusions, and only including specific examples from the ANAO audit, the Four Corners Program misled viewers as to the actual outcome of the ANAO audit.

The Four Corners Program also does not mention that the ANAO audit made 5 recommendations to the AWM to improve policies, record keeping, probity, conflicts of interest and contract management, and that all 5 were accepted and actioned.

The complainant alleged that the Program only referred to one of the four overarching 'largely effective' conclusions of the audit and as a result did not convey enough detail, including about the size and scale of the 91-page ANAO report. The complainant submitted this omission resulted in a partial view of the Project.

The ABC Ombudsman's initial report (**Attachment E**) stated:

The Australian National Audit Office (the ANAO) conducted a performance audit of the management of the Memorial's development project and, in April 2024, set out its findings in this report. One of the episode's chapters examined the report. The complaints contended that the ANAO's overarching finding (i.e. that management of the development project had been "largely effective") was essential context, which, because of its focus on the ANAO's negative findings, the chapter omitted.

We acknowledge that the chapter did tend to focus on certain ANAO-identified deficiencies in the project's management. However, a "negative focus" like this is not a problem per se. In fact, subject to accuracy, impartiality and fairness, taking a negative focus is in keeping with the public interest and accountability functions of investigate journalism. That the Minister, among others, expressed concern about these deficiencies suggests that this was an appropriate approach for *Four Corners* to have taken in the circumstances.

[...]

What the ANAO found was that, while the management of the project was largely effective, there was evidence of poor record keeping, of undeclared conflicts of interest involving contracts worth more than \$150m, and of the Memorial taking steps to vary one contract so that it came in \$1 below the threshold that triggers Ministerial scrutiny.

⁸ ANAO report, pages 8 and 9.

⁹ ANAO report, pages 10 and 11.

In responding to the ACMA's preliminary findings, the ABC Editorial Director's submissions (**Attachment C**), stated:

The program's presentation of the ANAO report and findings were absolutely faithful to the source material.

The ANAO report did not have four overarching findings. It made one finding against its audit objective, "to assess whether the Australian War Memorial is effectively managing the development project" ("Audit objective and criteria", ANAO p. 7). This objective was also reflected in the title of the ANAO report itself: Management of the Australian War Memorial's Development Project.

The ANAO then explained that to "form a conclusion against the [audit] objective" it had adopted three high-level criteria, each covering a different aspect of that overall management (ANAO p. 7). Crucially, the criteria were subordinate to and wholly reflected in the ultimate conclusion.

The ACMA accepts the ABC's submission that the ANAO report contained a single overall conclusion against the audit objective and that the Program expressly referred to the audit's finding that management of the Project was "largely effective". The ACMA also accepts that investigative journalism may legitimately focus on deficiencies identified through a public accountability process such as an ANAO performance audit. However, the ACMA does not accept that this relieved the Program from providing sufficient context to allow viewers to understand the significance of the ANAO's findings as a whole. The ACMA's concern is not that the Program examined deficiencies identified by the ANAO. Rather, it is the manner in which those deficiencies were presented and contextualised relative to the broader findings of the audit.

In the Program, the ANAO report was introduced by the host as 'uncovering some troubling information involving contracts and possible conflicts of interest'. The host continued by saying:

HOST: What the ANAO found was that while the management of the project was largely effective, there was evidence of poor record keeping, of undeclared conflicts of interest involving contracts worth more than \$150 million, and of the memorial taking steps to vary one contract so that it came in one dollar below the threshold that triggers ministerial scrutiny.

During some of the discussion of the ANAO report and the audit findings, the following words appeared on the screen for 23 seconds:

"...management... largely effective..."

"...deficiencies in record keeping..."

"...conflicts of interest were not adequately declared..."

"...one dollar below the threshold for ministerial approval..."

The above information that was presented on screen was taken from the ANAO report. The Program accurately reported the ANAO's overall conclusion that management of the Project was "largely effective". However, its treatment of the report focused predominantly on deficiencies identified by the ANAO and did not adequately assist viewers to understand the extent to which the ANAO's supporting findings were also positive.

The ACMA considers these omissions to be significant omissions. By failing to reference these matters, the Program focused on the deficiencies of the audit and did not fully explain the context of the overall findings, which in the ANAO report included these supporting findings. This has resulted in the ordinary reasonable viewer not being given all the relevant information to fully understand the extent or strength of the overall finding of the audit. As a result, this made the Program unbalanced.

On review of the relevant ANAO report, the ACMA is of the view that the ordinary reasonable viewer would have benefited from the Program clearly explaining the supporting findings within the overall context and finding of the ANAO Report. The ACMA appreciates that this type of Program is investigative in nature, however, the Program should not omit crucial information when presenting complex issues. In this particular context, the ACMA considers that the Program should not have focused on negative supporting findings without providing adequate context.

The ACMA notes that the Ombudsman's 22 May 2026 submission refers to the 'essential accountability function that investigative journalism serves' and to the Program as an 'accountability investigation'. The separate submission from the ABC dated 22 May 2026 also refers to audience expectations of accountability and investigative journalism in Australian democracy, and describes the Program as 'the home of Australian investigative journalism'. However, the Program chose not to report on all the ANAO's findings, instead focussing on the negative aspects of the findings. The fact that a Program is largely an 'accountability investigation probing deficiencies' (as the Ombudsman described it) does not mean that adequate context and balance need not be provided.

The Program did not explain that a 'largely effective' finding from the ANAO is considered a positive audit result.¹⁰ The fact that the AWM received such a finding from the ANAO was important information for viewers to be aware of, particularly in the context of the criticisms that the Program went on to make about the AWM (as discussed below). Significantly, the segment in the Program that focussed on the ANAO audit provided the views of the government auditor and the ANAO in relation to the project, but the Program did not explain that a 'largely effective' finding was considered a positive audit result. As discussed later, this omission meant that the critical supporting finding was not adequately contextualised for viewers.

The Program introduced contractual concerns with the Project and focused on the findings about a lack of ministerial oversight of the contracts, undeclared conflicts of interest and poor record-keeping. Through interviews with Senator David Shoebridge of the Australian Greens, Geoffrey Watson, Director of the Centre for Public Integrity and the Hon Matt Keogh, Minister for Veterans' Affairs, the Program presented a narrative that there were ongoing concerns with the dollar value of the contract and whether there should have been more ministerial scrutiny.

In one of the 3 supporting findings drawn from the ANAO report, the Program focused on one under the heading, 'Were procurement activities conducted in accordance with Commonwealth Procurement Rules?'. On this the ANAO report stated:

Conclusion

Procurement activities were largely conducted in compliance with the CPRs [Commonwealth Procurement Rules]. Higher value procurements were conducted through open and competitive processes and assessments were appropriately documented in tender evaluation reports. Value for money assessments were not adequately documented for the variation in price between tender responses and executed contracts or for lower value procurements. Management of ethical and probity risks was partly effective. Engagement with the external probity advisor was insufficient for the scale and risk of the procurements. Conflicts of interest were not adequately documented and declared or known conflicts were not adequately managed. Incumbency risks related to the procurement for ongoing project management services were not adequately managed and steps were taken to avoid seeking ministerial approval for the entering into

¹⁰ See page 13 of the 2024-25 Performance Audit Outcomes which discusses Audit conclusions at 1.21 and the four types of audit conclusions. See [2024-25 Performance Audit Outcomes](#) and also the ANAO website at [2024-25 Performance Audit Outcomes | Australian National Audit Office \(ANAO\)](#). Noting also it states on page 20 that 'In this report: 'positive' conclusions or findings consist of 'unqualified (fully effective)' and 'largely effective'; and 'negative' conclusions consist of 'partly effective' and 'adverse (not effective)' conclusions.

contracts on two occasions. Minister's briefs were insufficiently detailed to support the minister to meet their obligations under section 71 of the Public Governance, Performance and Accountability Act 2013.¹¹

There were several different opinions on the contract amount presented in the Program, including Major General (retired) Greg Melick AO, council member, AWM who defended the increases to the contract amount as being designed to 'allow a bit of headroom'. Mr Anderson stated that there was 'no need' for the ANAO to red flag the contract since it came in below the required threshold for scrutiny at \$820,000 and that the ANAO '...found that the project represents value for money for the taxpayer. So, by that score, yes, of course, I think it's a positive audit'.

The ACMA considers that the ordinary reasonable viewer may not have fully appreciated (or understood) that the ANAO report found the AWM's overall management of the Project was 'largely effective' (notwithstanding the text on screen), and that the Project was also 'largely effective' in the 3 supporting findings – including 'contract management'.

The Program instead concentrated on the ongoing concerns shared by politicians and integrity experts about the negative outcome contained in the ANAO report which was described in the report (and as extracted earlier) as 'deficiencies in record keeping, management of conflicts of interest, documenting value for money assessments and in the quality of advice to the minister'. The ACMA notes that these concerns were responded to, in part, by the comments made by Major General Melick and Mr Anderson.

While the ACMA considers that the ordinary reasonable viewer may have understood that there were differing views presented about the ANAO report, the Program should have made reference to the fact that the 3 supporting findings of the audit were also 'largely effective' to avoid the impression that there was serious wrongdoing by the AWM.

Further, the omission of key information from the ANAO report would have also influenced the ordinary reasonable viewer's understanding of the practical outcomes of the audit – both during the audit and after the conclusion of the audit.

For example, the Program does not mention that the ANAO report made five recommendations to the AWM and that all five were accepted and actioned by the AWM.¹²

This example highlights the focus of the Program, with only the negative findings and actions of the ANAO report being presented to the viewer. Within the time constraints of the Program, the ACMA considers that there should have been a more complete and balanced discussion of the ANAO report so that the ordinary reasonable viewer was provided with the context of all of the relevant information pertaining to the ANAO report.

The ACMA finds that the Program's framing of the ANAO report breached the impartiality provision of the Code.

2.2 Omitting the Project's accolades and awards for procurement

The complainant alleged that the Program omitted reference to the three national awards for the Project (the **awards**) which commended the AWM for aspects of procurement, as well as various positive reactions to the Project from persons including the current Prime Minister of

¹¹ ANAO report, pages 8 and 32.

¹² See ANAO report, pages 10 and 11. The Audit Snapshot also states that 'the Auditor-General made five recommendations to the Memorial to improve policies, record keeping, probity, conflicts of interest and contract management. to improve policies, record keeping, probity, conflicts of interest and contract management'.

Australia, the Hon Anthony Albanese, MP, (the **Prime Minister**) and the then Senator, the Hon Linda Reynolds CSC, former Minister for Defence of Australia (**Senator Reynolds**).¹³

In its submission, the complainant stated:

The Four Corners Program failed to refer to the various positive reactions to the Development Project, including:

- The report did not refer to the fact that ANAO report found no actual wrong doing or malfeasance, or the Hansard of the Joint Committee of Public Accounts and Audit – Inquiry into the contract frameworks operated by Commonwealth entities, which included among other things a quote from Senator Reynolds “I was very impressed to see how you're managing such a large project. It's important to note that, with all of the contracts that we're looking at today, I think that you've done an outstanding job”.

The soundness of the Memorial's management of the Project was also demonstrated through the receipt of two major awards in 2024 (and another in 2023) that the ABC was aware of but did not acknowledge:

1. 2024 Commonwealth Procurement and Contract Management Awards for Excellence | Department of Finance's Gold Award for Encouraging Environmental Sustainability through Procurement.
2. 2024 Asia-Pacific Project Controls Expo | Transformation Project of the Year for outstanding organisational and cultural transformation changes.
3. 2023 Commonwealth Procurement and Contract Management Awards for Excellence | Department of Finance Gold Award for generating broader benefits to the Australian economy above and beyond the value of goods and services being procured.

The complainant also wrote to the ABC Chairman, Mr Kim Williams AM, on 20 March 2025 and submitted the following about the program:

Finally, I close with a view that should have appeared in the Four Corners piece, as the contrary view to the detractors presented. At the official opening of the new main entrance on 3 February 2025, to which the news media were in attendance, Prime Minister Albanese said the extension was “magnificent” and “an addition that is both true to the spirit of the Memorial, and an enhancement of it”.

The ABC Ombudsman's initial report (**Attachment E**) further stated:

The complaints also contended that, by failing to refer to three awards (1,2,3) and certain praise (see Senator Reynolds at p.3) recently received by the Memorial, the chapter lacked other essential context and was not duly impartial. We think that these accolades, though not wholly irrelevant, are too remote from the chapter's examination of the ANAO's findings to have been essential context, and their omission therefore does not suggest to us a lack of impartiality.

Moreover, we do not think that including a reference to them would have added any significant or new context. The episode already included footage of the Memorial's representatives, including its Director and Chair, responding to the negative findings and defending the Memorial's sound management of the project. For example:

Matt Anderson (Director, Australian War Memorial): *They [the ANAO] went through and they found that the project represents value for money for the taxpayer. So by that score, yes, of course, I think it's a positive audit.*

¹³ See the [Opening of new main entrance of the Australian War Memorial | Prime Minister of Australia](#) dated 3 February 2025. See also the AWM article at [Prime Minister opens new Main Entrance 'for all' | Australian War Memorial](#)

The relevant provision of the Code requires the ABC to 'gather and present news and information with due impartiality'. Inclusion of the word 'due' indicates an element of flexibility depending on the context of the matter.

The ACMA notes that the Program provided some differing perspectives on the Project but also notes that the Program would have benefitted from the inclusion of comments in support of the AWM from an interviewee who was not part of the AWM, such as Senator Reynolds. The ACMA does not agree with the ABC Ombudsman that Senator Reynolds' comments would not have 'added any significant or new context'. The ACMA does, however, find that the omission of Senator Reynolds' comments did not in and of itself make the Program partial.

The ABC Ombudsman report did not consider the Prime Minister's comments on 3 February 2025. On balance, the ACMA considers the omission of the Prime Minister's comments did not result in the Program being partial.

Regarding the awards that the complainant had provided to the ABC, the ACMA considers that these Awards would not have provided any additional relevant context without requiring a detailed analysis of what the Awards were for. For example, the Department of Finance website states that the award for 'Encouraging Environmental Sustainability through Procurement' relates to the use of 'recycled content and embedding environmental sustainability into procurement design and delivery. This includes the management of ongoing arrangements.' The ACMA considers this would not have been relevant to the focus of the segment which was on ministerial oversight and declaring conflicts of interest.

The ACMA finds that the omission of the Awards and the comments from the Prime Minister and Senator Reynolds did not render the Program partial in this context. However, inclusion of at least some of this information would have resulted in the Program being more balanced.

2.3 Mr Anderson's interview on consultation processes

The complainant also alleged that some of Mr Anderson's comments about the Project and consultation processes were omitted from the Program and created a misleading impression for the viewer:

The Four Corners Program questions Mr Anderson about the National Capital Authority (NCA). In the transcript of his interview, possessed by the AWM, we know that Mr Anderson described how changes were made to the design of the Development Project based on the consultation process, including the NCA and Public Work Committee submissions. This statement was not included in the Four Corners Program. Instead, the Four Corners Program included an exchange between Mr Anderson and journalist, Mr Mark Willacy where Mr Anderson transposes the responses of two separate consultation processes run by the NCA: the Early Work submissions and the Major Works submissions. In the second stage (Major Works consultation) the overwhelming majority were in favour of the Development.

The ABC Ombudsman's initial report made the following statement about Mr Anderson:

[...]

The episode already included footage of the Memorial's representatives, including its Director and Chair, responding to the negative findings and defending the Memorial's sound management of the project. For example:

Matt Anderson (Director, Australian War Memorial): They [the ANAO] went through and they found that the project represents value for money for the taxpayer. So by that score, yes, of course, I think it's a positive audit.

It should be noted that the complainant's allegation regarding the National Capital Authority (NCA) consultation process was not raised in their original complaint to the ABC and as a

result was not considered by the ABC Ombudsman's initial report. Regarding the consultation processes, the Program included the following exchange:

HOST: The expansion encountered its first opposition, when the Australian Heritage Council warned it would have serious impacts on the memorial.

STEWART MITCHELL, FORMER BUILDINGS MANAGER, AUSTRALIAN WAR MEMORIAL: Well, they wrote two letters. They wrote one to the war memorial and one to the department. Both of those said that they couldn't support the proposal in its current form.

HOST: This is the government's own heritage advisor?

STEWART MITCHELL, FORMER BUILDINGS MANAGER, AUSTRALIAN WAR MEMORIAL: Exactly. Independent Heritage advisor. I thought that, okay, they can't go any further.

HOST: Despite these concerns, the government signed off on the redevelopment.

SHANNON BATTISSON, FORMER PRESIDENT, AUSTRALIAN INSTITUTE OF ARCHITECTS: I think that by ignoring its own Heritage Advisory Council, it shows how little genuine connection there was to the consultation.

HOST: The redevelopment was also scrutinised by parliament's powerful Public Works Committee.

STEWART MITCHELL, FORMER BUILDINGS MANAGER, AUSTRALIAN WAR MEMORIAL: The Public Works Committee got more submissions than they'd ever received on any project since I think 1913 when it was instigated. Right. And the majority of those submissions were against the development.

HOST: But it ticked off anyway.

STEWART MITCHELL, FORMER BUILDINGS MANAGER, AUSTRALIAN WAR MEMORIAL: Same. Yeah, exactly. So, so many red flags.

HOST: That left one last hurdle — the National Capital Authority...the federal agency that oversees planning and development in Canberra.

STEWART MITCHELL, FORMER BUILDINGS MANAGER, AUSTRALIAN WAR MEMORIAL: Everything was just falling into place. It was not, it was not gonna be able to stop. I didn't have much faith in the NCA stopping it.

MATT ANDERSON, DIRECTOR, AUSTRALIAN WAR MEMORIAL: So by the time all the information was on the table, and the National Capital Authority considered this project, and they doubled the time that was normally available for public consultations. The majority of submissions, I think you'll find were in favour of it.

HOST: Well, I believe what the National Capital Authority got 601 submissions only three in favour.

MATT ANDERSON, DIRECTOR, AUSTRALIAN WAR MEMORIAL: No, that's not right.

HOST: That's not as...

MATT ANDERSON, DIRECTOR, AUSTRALIAN WAR MEMORIAL: So what my understanding is the majority of submissions to the National Capital Authority, were in favour of it. Happy to fact check on that one.

HOST: Four Corners did fact check that and the National Capital Authority's first-stage approvals, involving demolition work for the redevelopment, did receive a record 601 submissions, with only three explicitly in favour of the expansion plans. Despite this, the NCA approved the work, which included knocking down the

memorial's award-winning Anzac Hall and felling 140 trees. By the time the second stage of the process had been reached, the majority of submissions were in favour of the redevelopment.

In this segment, the host was referring to the number of submissions from the Early Works consultation stage, whereas Mr Anderson was referring to the submissions from Main Works consultation stage. Immediately following this interaction, the host confirmed he was correct when he said that the NCA's 'first-stage consultation, involving demolition work for the redevelopment, did receive a record 601 submissions'. However, he did not go on to clarify that Mr Anderson was referring to the second stage of the process.

In the ACMA's view, the ordinary reasonable viewer may not have understood that they were speaking about different stages in the consultation process and would have thought Mr Anderson was not providing accurate information about the consultation process – whether intentionally or mistakenly.

Based on publicly available information, it is apparent that the majority of responses received for the stage 1 consultation were negative and that the majority of responses to the stage 2 consultation were positive.¹⁴ The Program did not properly explain the different stages of the consultation process and so confused the viewer's understanding of how people responded to the NCA's consultations.

The NCA report on first-stage consultation stated:

Community commentary and concern regarding this application revealed key issues. These were:

- Need for, and purpose of, the AWM expansion;
- Extent of tree removal;
- Impacts on heritage values;
- Demolition of Anzac Hall;
- Cost of works;
- Concern that early works are being considered separately from the Major Redevelopment Works application; and
- The NCA's consultation process¹⁵

In its submissions, the complainant alleged that the NCA sought additional information from the AWM as evidence of impartiality:

The Four Corners Program questions Mr Anderson about the National Capital Authority (NCA). In the transcript of his interview, possessed by the AWM, we know that Mr Anderson described how changes were made to the design of the Development Project based on the consultation process, including the NCA and Public Work Committee submissions. This statement was not included in the Four Corners Program.

The ACMA considers that the way in which the consultation process (and the AWM's response to it) was presented materially misled the audience and rendered the Program partial.

¹⁴ [Consultation Report - Block 3 Section 39 Campbell - Australian War Memorial Early Works.pdf](#); [NCA Consultation Report - AWM Main Works - Final.pdf](#)

¹⁵ [Consultation Report - Block 3 Section 39 Campbell - Australian War Memorial Early Works.pdf](#)

The ABC Ombudsman states in their submissions on the ACMA's preliminary findings (**Attachment D**) that:

I disagree with this finding and aspects of ACMA's reasoning.

The focus of this exchange was the National Capital Authority consultation process, which took place in two stages. According to the NCA's published consultation reports, the first stage received more negative submissions than positive, the second stage received more positive submissions than negative, and the stages together received more negative submissions than positive by some margin.

The program initially asked Mr Anderson about the majority-negative NCA consultation in general terms, without referring to either stage. Mr Anderson responded that the majority of submissions had been positive. When the program contested this statement by referencing 601 submissions received, only three in favour, Mr Anderson advised that his understanding was that the majority of submissions had been in favour. At this stage it would appear that Mr Anderson was referencing the second stage (the more favourable stage for the Memorial) while the 601 submissions related to the first stage.

A voiceover clarified that there was a first and second stage consultation process with the majority of submissions favouring the redevelopment by the time the second stage had been reached.

ACMA seems to suggest that the voiceover should have specified that Mr Anderson was limiting his remarks to the second stage consultation process and that not doing so confused the viewers' understanding of the process. However, the program presented a fair edit of the exchange and then set out the results of each consultation stage. It was not up to the program to speculate on how Mr Anderson framed the consultation process in order to achieve impartiality.

The ACMA accepts the ABC Ombudsman's submission that the Program subsequently referred to both stages of the consultation process and that the consultation process was more complex than the exchange alone conveyed. However, the ACMA does not agree that this cured the impression created by the presentation of the interview. The ACMA's concern is not that the Program failed to report the existence of two consultation stages, but that it presented the exchange in a manner that would likely have led the ordinary reasonable viewer to conclude that Mr Anderson's answer was inaccurate or disputed when the parties were in fact discussing different stages of the process.

The question of whether a majority of the submissions were positive or negative was a matter of fact easily ascertainable by reference to publicly available information published by the NCA. As noted in the ABC Ombudsman's and the ABC's submissions, the majority of the submissions in the first stage of consultation were negative while the majority in the second stage were positive.

The relevant part of the interview commenced with Mr Anderson stating:

'So by the time all the information was on the table, and the National Capital Authority considered this project, and they doubled the time that was normally available for public consultations. The majority of submissions, I think you'll find were in favour of it.'

It's clear from Mr Anderson's reference to all of the information being on the table, that he was referring to the second stage of the consultation (though this wouldn't have been clear to the audience). His statement, while not providing the full picture, was not incorrect. However, instead of clarifying or contextualising this for the viewer, the Host disputed Mr Anderson's comment by responding: *'Well, I believe what the National Capital Authority got 601 submissions only three in favour.'* It would have been obvious (either at the time of the interview, or during editing) that they were talking at cross-purposes about different stages of the consultation process. However, this was not obvious to the ordinary reasonable viewer who would have understood that the relevant facts were contested.

While the Program did then include a 'fact check', it created the overall impression of a dispute where the publicly available facts demonstrated both statements could be correct depending on which consultation stage was being discussed. This contributed to the impression that Mr Anderson was disingenuous or mistaken in how he answered the question.

With respect to Mr Anderson's interview, the ABC's submissions on the ACMA's preliminary findings stated that *'It is likely and entirely reasonable to expect that that AWM Director Matt Anderson would have known that the question referred to the initial first-stage submissions received by the NCA, however he answered by referring to the second-stage submissions.'* The relevant issue is not what Mr Anderson may have known, but what the ordinary reasonable viewer would have understood from the broadcast. In any case, the transcript demonstrates that Mr Anderson was clearly talking about the second stage of consultation, and that it was the Host who then introduced uncertainty by responding that of 601 submissions, only three were in favour, without clarifying for the audience that this was a reference to only one stage of the consultation. While it's understandable that genuine misunderstanding may arise during the course of interviews, such misunderstandings ought to be adequately contextualised and clarified for the benefit of the audience.

The ACMA finds that the Program's interview with Mr Anderson on the consultation processes was not presented with due impartiality.

2.4 Misrepresenting the conflict of interest process in relation to Mr Wayne Hitches

The complainant alleged that the Program misrepresented or omitted crucial pieces of information in its reporting on Mr Hitches. The complainant alleged that the Program insinuated that Mr Hitches' prior employment at Lendlease had assisted Lendlease in securing a contract and also implied that Mr Hitches 'did not answer' why he had not filled in a conflict of interest declaration. The complainant further asserts that these omissions misrepresented Mr Hitches' involvement in the Project and should have been explained in more detail.

The complainant stated:

Mr Hitches provided the ABC with responses in a timely and material manner, but the majority of Mr Hitches' responses were excluded from the Four Corners Program. No request was made for a formal interview with Mr Hitches, despite the producer, reporter and editor of the Program coming into contact with him on site. Mr Hitches was willing and prepared to participate in an interview. Instead, the ABC elected to cherry pick very small sections of Mr Hitches' responses, which gave a misleading impression to the ABC audience.

The ABC Ombudsman's initial report (**Attachment E**) stated:

Four Corners advised that, though it did not invite Mr Hitches to be interviewed, it did put questions to him for response, including the question why he had not completed a conflict of interest declaration with respect to his former employment at Lendlease when required. It also advised that it put questions about Mr Hitches and his potential conflict to other Memorial representatives at interview, as shown in the episode.

[...]

In the episode, Mr Hitches' 21 November 2024 response was described in this way:

Reporter: In a statement to Four Corners, Mr Hitches did not answer our question as to why he did not fill in the declaration but said his former role at Lendlease was known by the War Memorial executive and by the then-Minister.

Because the episode included this description of his response to the "conflict of interest issue", we do not accept the complaints' contention that the episode asserted that Mr Hitches had not provided one.

[...]

We note that, in recognition of this concern [about fair and honest dealing], *Four Corners* has uploaded Mr Hitches' whole 21 November 2024 response to the *Four Corners* webpage of the ABC website, in close proximity to the digital version of the episode, so that it can "speak for itself". We welcome this action¹⁶.

The Program introduced Mr Hitches' role at the AWM in relation to the ANAO report, as follows:

HOST: The audit office wasn't just concerned about apparent attempts to avoid ministerial scrutiny...it also found that possible conflicts of interest in the awarding of contracts were not adequately documented and declared.

BRENDAN NELSON, FORMER DIRECTOR, AUSTRALIAN WAR MEMORIAL [at a press conference]:
And I'd also say at the risk of embarrassing him, the project manager for this, the managing director is a man called Wayne Hitches.

HOST: One of those possible conflicts of interest involved Wayne Hitches, who's in charge of the redevelopment project. He'd worked in a high-level position at Lendlease months before the developer was awarded a multi-million-dollar redevelopment contracts. The audit office found Mr Hitches failed to complete a conflict of interest declaration. In a statement to *Four Corners*, Mr Hitches did not answer our question as to why he did not fill in the declaration but said his former role with Lendlease was known by the war memorial executive and by the then-minister. Just over three years after awarding that initial contract to Lendlease, Mr Hitches finally signed a conflict of interest declaration. By that time Lendlease had won another contract, this time worth \$130 million.

DAVID SHOEBRIDGE, SENATOR, AUSTRALIAN GREENS: Does that pass any kind of scrutiny pub test? I think everybody would reject it. And the ANAO rejected it. This is an obvious conflict of interest that should never have been permitted.

MAJ GEN (RET'D) GREG MELICK, COUNCIL MEMBER, AUSTRALIAN WAR MEMORIAL: All I can say is that we were satisfied that all conflicts were either expressly noted or were well known.

HOST: But it wasn't documented.

MAJ GEN (RET'D) GREG MELICK, COUNCIL MEMBER, AUSTRALIAN WAR MEMORIAL: It's a concern that it wasn't documented, although everybody knew everybody in the industry, everybody at the war memorial, it was common knowledge that he'd come from Lendlease.

HOST: But, according to the audit office, one person who didn't know that Mr Hitches had come from Lendlease was the war memorial's own probity adviser. The memorial's chairman defends Mr Hitches' role in the project and in considering contracts.

KIM BEAZLEY, CHAIR AUSTRALIAN WAR MEMORIAL: When he was appointed, the Minister of the day announced it and announced the fact that he had worked for Lendlease.

HOST: So it's not a conflict of interest, it's sloppy paperwork.

KIM BEAZLEY, CHAIR AUSTRALIAN WAR MEMORIAL: It's not a conflict of interest.

¹⁶ The ACMA notes that the ABC has taken steps to address the issues regarding fair and honest dealings raised by the complainant by including a link to Mr Hitches' full statement in the episode description on the [iView website](#) (which still remains on the iView website). The ACMA has not considered the publication of this statement relevant to its assessment of impartiality in this broadcast of 10 March 2025.

HOST: So why not just fill in a conflict of interest declaration?

KIM BEAZLEY, CHAIR AUSTRALIAN WAR MEMORIAL: Well, because we'd all thought that that was all done and dusted years before.

HOST: But you can understand the minister said, you know, it probably should have been done.

KIM BEAZLEY, CHAIR AUSTRALIAN WAR MEMORIAL: Whatever the minister says is obviously what must be done.

MATT KEOGH, MINISTER FOR VETERANS' AFFAIRS: The process was deficient. And when those processes are deficient, you can find yourself that there were conflicts of interest that no one knew about.

HOST: But it went beyond deficient processes — the audit office also found that Lendlease was briefed about a failed contract bid that may have allowed it to improve its tender for the biggest contract of them all, ultimately worth \$130 million. The auditors were also critical of the war memorial for not providing the minister with sufficient detail in its briefs about the redevelopment and contracts.

MATT KEOGH, MINISTER FOR VETERANS' AFFAIRS: Well, frankly, I wasn't happy. There was clear deficiencies that were brought up in the report, things that hadn't been done properly, and processes that needed to be improved.

On the issue of the conflict of interest declaration, during the Program, the host asked Mr Beazley why Mr Hitches had not completed a conflict of interest declaration until 3 years after he commenced employment at the AWM. Mr Beazley said 'well, because we'd all thought that that was all done and dusted years before'.

The ACMA acknowledges the complainant's submission that it sought to have the ABC acknowledge 'that Mr Hitches provided a response to the conflict-of-interest question, which was omitted from the Program'. We note that the host stated:

In a statement to Four Corners, Mr Hitches did not answer our question as to why he did not fill in the declaration, but said his former role with Lendlease was known by the war memorial executive, and then-minister.'

It is unclear from the statement provided by Mr Hitches, and now published on the ABC website, why Mr Hitches did not follow the processes required by employees of AWM to lodge a conflict of interest declaration.

While Mr Hitches was not interviewed or quoted, the ACMA considers that the ordinary reasonable viewer would have understood that there were contested viewpoints on the issue regarding the completion of the conflicts of interest declaration by Mr Hitches in relation to his prior employment at Lendlease, and how significant an issue it was for the integrity of the Project. Viewers would have been able to draw their own conclusions without hearing directly from Mr Hitches, but instead from more senior representatives from the AWM.

There is also the separate issue about whether Mr Hitches had assisted Lendlease to win the contract. The statement provided by Mr Hitches does outline some steps that he had taken in relation to management of perceived conflict of interest issues, including recusing himself from a Lendlease tender assessment panel within his first 12 months of employment.

The complainant's letter to the ABC Chairman on 20 March 2025 submitted the following about the Program:

The report further insinuated that Mr Hitches gave feedback information to Lendlease that assisted them in securing a contract. I can confirm that debriefing sessions are afforded to our unsuccessful tenderers as required by the Commonwealth Procurement Guidelines paragraph 7.17 relating to why they were

unsuccessful. This does not extend to pricing and was falsely represented as a unique benefit afforded to Lendlease.

The ACMA acknowledges the complainant's view that the Program insinuated Mr Hitches was involved in the Lendlease briefing. While this was not explicitly stated, the ACMA agrees that some viewers may have understood he was so involved. On balance and because this was implied only, this reference to the debriefing does not render the segment partial.

However, the ABC could have taken more care – not only to make it clear that Mr Hitches was not involved but also to detail how such debriefings work for the layperson who may not understand the operation of such industry protocols. This would also have resulted in a fairer treatment of Mr Hitches.

The broadcast reflects the ANAO report, which stated:

3.23 The Memorial used the same evaluation criteria for the procurement for MWP1, 2 and 3. Each package had a different closing date. The Memorial provided a tender debrief to Lendlease for MWP2, before the closing dates for tender submissions for MWP1 and MWP3. The other tenderers for MWPs1 and 3 did not make a submission for MWP2 and therefore were not debriefed at the conclusion of the process for MWP2. This may have afforded Lendlease the opportunity to improve its tender submissions. Lendlease was the successful tenderer for MWP3.

In this context the ACMA considers that the audience's understanding of the issues being considered would have been enhanced if the Program had explained that the AWM (not Mr Hitches) was involved in the debriefing process with Lendlease and that the debriefing is a required feature of the Commonwealth procurement rules.¹⁷

On balance, the ACMA finds that the Program's representation of the AWM's failure to follow the conflict of interest declaration process in relation to Mr Wayne Hitches, and the Program's reference to the Lendlease briefing did not amount to a breach of the impartiality provision in the Code.

2.5 The diversity of interviews

The complainant submits that:

The narrative heavily favoured known critics of the AWM, whose views have been repeatedly featured by the ABC over multiple outlets since 2020.

Professor Peter Stanley makes 11 appearances in the program. For context, Professor Stanley left employment at the AWM in 2007, 18 years ago.

Professor Stanley is a known detractor of the AWM since ceasing to work at AWM. He has published a book titled *Beyond the Broken Years*, criticising the AWM, that included various factual inaccuracies.

We note that these factual inaccuracies in *Beyond the Broken Years* have been corrected by the publisher in the online edition of *Beyond the Broken Years*.

The publication of factual inaccuracies demonstrates that Professor Stanley is not a reliable source of information about the current functioning of the AWM.

¹⁷ See Commonwealth Procurement Rules 20 April 2019 at 7.17 which states that 'Following the rejection of a submission or the award of a contract, officials must promptly inform affected tenderers of the decision. Debriefings must be made available, on request, to unsuccessful tenderers outlining the reasons the submission was unsuccessful. Debriefings must also be made available, on request, to the successful supplier(s).'

In his appearances in the program, Professor Stanley, consistent with his publication of *Beyond the Broken Years*, makes the following inaccurate statement:

“It’s planning to depict frontier conflict in the so-called Pre-1914 gallery, and that’s one per cent of the Memorial’s floor space.”

In accordance with the Memorial’s publicly available Gallery Master Plan, the Pre-1914 Gallery is currently planned to be approximately 3% of the total new gallery floor space; the division of this space between conflicts (including Frontier Wars) has not yet been determined. Professor Stanley’s statement was conveyed as fact and with authority. However, he has no role in the development planning or project management at the AWM. The AWM was not provided the opportunity to respond to the inaccurate statement of Professor Stanley.

[...]

Aside from Mr Willacy, 15 people appear in the episode, 11 of the participants are critics of the AWM or Development Project. There was no representation of modern veterans (whose stories will be told in the new galleries of the Development Project), nor did the Program interview a single AWM supporter who is not employed by the AWM. This bias conveys to viewers that the only people defending the Development Project are those with a current active role at the AWM.

The ABC Ombudsman’s initial report (**Attachment E**) stated:

The episode included perspectives both for and against the development project. However, the complaints contended that, in various ways, the episode tended to favour the perspectives against it over those for it.

First, the complaints contended that the episode “diminished” and “minimised” the voices of participants who spoke in favour of the project, especially the current representatives of the Memorial.

On the participation of these representatives, *Four Corners* commented:

Early in production, we travelled to Canberra to meet with Memorial officials and explain to them our lines of inquiry. We also explained the episode’s topics in our subsequent correspondence. We were open with the Memorial’s representatives, taking time to brief each of them before interview. Like many other aspects of the episode, this reflected our respect for the Memorial and its function.

We consider that, by informing the Memorial as it did, *Four Corners* made at least reasonable efforts to enable the Memorial’s representatives to speak effectually in favour of the project at interview. We also consider that the episode included extensive footage from these interviews across its chapters. It follows that we do not accept this contention.

Secondly, the complaints contended that those who spoke against the project (or certain aspects of it) were inappropriately selected for participation in the episode. In support of this contention, the complaints made two key claims:

a. Those who spoke against the project were “overused[,] known critics” of the project

In relation to this claim, *Four Corners* commented:

As for the “critics” who appeared in the program, four of them had held very senior roles at the Memorial.

Steve Gower was, for a long while, the Memorial’s Director. He is also a Vietnam War veteran, a retired Major General in the Australian Army, and, according to the Memorial’s own website, a “first-rate administrator”.

Michael McKernan was the Memorial's Deputy Director, Peter Stanley was its Principal Historian, and Stewart Mitchell was its Buildings Manager. These three participants have written books about the Memorial and are also featured on the Memorial's website.

Together, these four participants have a combined 77 years of service at the Memorial. Their expertise is beyond question.

Because of their credentials, as outlined above by *Four Corners*, and their knowledge of the issues in dispute, as demonstrated in the episode, we consider that these participants were well qualified to provide their perspectives. In any case, the fact that they might have previously spoken in other fora about the same or similar matters, and were therefore “known”, does not disqualify them under the Standards from participating.

b. Those who spoke against the demolition and replacement of Anzac Hall had an undisclosed bias, arising from their relationships with (and so attachment to) the original structure

In relation to this claim, *Four Corners* commented:

Those who spoke against the demolition and replacement of Anzac Hall presented their reasons and were interrogated about them.

As above, these participants were well qualified to provide their perspectives. Shannon Battisson was formerly the President of the Australian Institute of Architects, John Denton was the original Anzac Hall's architect, and Steve Gower (also mentioned above) was the Memorial's Director when the original Anzac Hall was built and opened. In our view, the episode was transparent about, and even made a feature of, their relationships with the original Anzac Hall, and this enabled viewers to decide for themselves whether these participants' perspectives were reliable.

Thirdly, the complaints contended that the episode's production treatment of the competing perspectives differed, favouring those against the development project. Our close review of the episode did not lead us to this conclusion.

For these reasons, the Ombudsman has not found any breach of the Editorial Standards on impartiality in light of this concern.

In response to the ACMA's preliminary findings, the ABC Editorial Director's submissions stated that:

[...]

The ABC submits the ACMA has erred in its finding.

All the principal relevant perspectives were included. Not all perspectives are either principal or relevant and the examples cited by ACMA that were not included are neither. The interviewees included in the program were not marginal but the significant institutional decision makers. AWM Chairman Kim Beazley, AWM Council (board) member Greg Melick, and AWM Director Matt Anderson are the responsible officeholders for managing all parts of the institution. Expert views included that were critical of the AWM were all editorially relevant, had different expertise and different knowledge. Impartiality is not achieved by adding up interview times.

As noted at the beginning of this response, there is an important distinction between perspectives that may be relevant to a story and **principal** relevant perspectives. The ACMA acknowledges that not every perspective needs to be included in a story and not every perspective requires equal time.

The ACMA has noted many times over the years that, as the ABC guidance on impartiality states, equal time is not a measure of impartiality.

In investigative journalism it is accepted and quite common for a single person to be held accountable for actions that have affected a range of people, many of whom are represented in the program. This is why due impartiality does not require equal time or equal treatment.

The complainant cites 11 appearances by Professor Stanly as evidence of disproportionality, which seems to have been accepted. However, Mr Beazley himself appears 14 times, second only to Mr Anderson who appears 23 times in the program.

In fact, the perspective of the War Memorial is well represented by three very senior current representatives, Mr Beazley, Mr Anderson and Maj Gen (Ret'd) Greg Melick.

[...]

The ACMA does not identify in this finding a single relevant principal perspective that was not represented in the program. The only reference is that ACMA believes there was an 'opportunity' for a 'broader range of stakeholders', 'for example veterans' to be included while at the same time acknowledging that not all perspectives can be included on a single program. Veterans are stakeholders but they are not principal relevant perspectives in a program that was seeking accountability for the management of the War Memorial. The veteran perspective, none the less, was represented by Greg Mellick who as well as being a council member of the AWM was at the time of the interview the National President of the RSL.

There would, no doubt, be a range of views among recent veterans both supporting and not supporting the redevelopment. They were not included because they would not be relevant or material to the subject of the program.

The ACMA then concludes: *"that there was a bias conveyed by the fact that the only supporters of the Project were also current employees of the AWM."*

The ABC does not concede that this displayed bias; quite the contrary. The program was very clearly focussed on the desirability and management of the redevelopment. Only those responsible for the redevelopment decisions and management of it are in a position to explain, defend and be accountable for those actions and decisions. Not only are they the people best equipped to defend the War Memorial, but they are also the people accountable, not merely 'supporters' and nor are they all 'employees' – one is an employee (general manager) and two are board members, including the chairman.

The program also requested interviews with AWM Governing Council member and former SAS officer James McMahon, former AWM director Brendan Nelson and former AWM chairman Kerry Stokes for interview. The latter were instrumental in the redevelopment getting government approval and support. All either declined or did not respond to requests for interviews.

Further, the ABC Ombudsman's submissions to the ACMA's preliminary findings stated:

[...]

Importantly, at no point in the course of its reasoning did ACMA specify a principal relevant perspective that the program omitted. The closest it came was expressing the view that there had been an "opportunity" for the program to interview a broader range of "stakeholders", such as veterans from recent campaigns and, if I understand correctly, supporters of the development not currently employed by the Memorial. I understand that the ABC has explained in its submission why the views of stakeholders such as these do not necessarily amount to principal relevant perspectives for the purpose of the Code, especially in the context of an accountability investigation. I therefore limit myself to the point that there are other ways, apart from conducting and presenting more interviews, to incorporate the views of stakeholders, and the program made good use of them to bring in each of the stakeholder groups ACMA identified. For example, the program included:

Brendan Nelson (former Director, Australian War Memorial): The opportunity and the responsibility our nation now has is to tell the stories of what has been done in recent years in Afghanistan, Iraq, the Solomon Islands and East Timor.

The ACMA acknowledges the ABC's submissions in response to the findings in the preliminary report but remains of the view that the principal relevant supportive perspectives were not sufficiently represented.

The ACMA notes that the focus of the Program, was broader than the ANAO audit of the Project and discussed broader elements of the redevelopment and the role of the AWM. Consequently, the Program would have benefited from including views from people who were not 'known critics' of the re-development which would have resulted in a more balanced program as a whole.

In relation to the redevelopment of the AWM, while the Program made it clear that there were views for and against, the ACMA considers that there was a bias conveyed by the fact that the only supporters of the Project were also current employees or current office-holders of the AWM – there were no supporters of the AWM redevelopment who could be described as independent of the AWM. While the ABC is entitled to make editorial decisions about who appears on the Program, there was a disproportionate selection of known critics chosen to be presented, including former employees and contractors of the AWM and John Denton, the 'award winning creator' of the Anzac Hall that was scheduled to be demolished as part of the Project. This selection of opinions that was presented would have likely resulted in the ordinary reasonable viewer failing to appropriately appreciate the perspectives of both supporters and critics of the Project.

The ACMA appreciates the ABC's position that there are constraints on the amount of information that can be included in a program of this length. The ACMA does consider, however, that a 45-minute Program allows for a fair degree of depth in the consideration of a matter, and agrees with the concerns of the complainant that there was an opportunity for a broader range of stakeholders to be interviewed for the Program, including for example, veterans of more recent wars or their families.

As noted above, impartiality does not require that every perspective receives equal time, nor that every facet of every argument is presented. Assessing the impartiality due in given circumstances requires consideration of all relevant factors including the type, subject and nature of the content; the likely audience expectations of the content, and the degree to which the content is contentious.

Having carefully considered the information provided, the ACMA finds that there is evidence that the ABC failed to provide opportunities for a more diverse and balanced range of viewpoints to be expressed.

2.6 The interview style of the Program and how the interviews were conducted

The complainant alleged that the Program regularly undermined or challenged AWM interviewees' views, while supporting, emphasising or leaving the Project's detractors views unchallenged. The complainant also submitted that the editing of the different interviewees and the time they were given to speak or make their point was not balanced.

The complainant submitted:

Three critics of AWM participate in this segment. They each speak once, stating their opinions. At no point during the segment are they interrogated, asked to provide evidence or challenged. It should be noted, that according to MAJGEN Gower's own book, *The Australian War Memorial: A century on from the vision* (pages 106-107), the original Anzac Hall experienced similar criticism during the approvals process. This point was not raised with him during his interview or used to challenge his perspective of *the new Anzac Hall*.

Mr Anderson appears making a total 21 statements in the Four Corners Program. Five times these are interactions with Mr Willacy, making up 11 of his 21 statements. These exchanges are characterised by Mr Willacy questioning the statements of Mr Anderson or introducing doubt for the viewer in the veracity of Mr Anderson's statements.

[...]

This bias is also demonstrated in Mr Willacy's exchange with Mr Beazley regarding conflicts of interest.

Mr Beazley stated:

"When he [Mr Hitches] was appointed, the Minister of the day announced it and announced the fact he had worked for Lendlease."

Mr Willacy replied:

"so it's not a conflict of interest, it's sloppy paperwork."

Mr Beazley stated:

"it's not a conflict of interest".

Mr Willacy asked:

"So why not just fill in a conflict of interest".

The ANAO audit found there were no actual conflicts of interest but "*deficiencies in management of conflicts of interest*". As such Mr Willacy is correct in his first statement when he refers to the issues found in the ANAO audit as '*sloppy paperwork*', being deficiencies in record keeping and documenting the management of conflicts of interest. However, the continued questioning of Mr Beazley implies to viewers that the *opposite is true and that Mr Beazley is avoiding the question*.

When compared to the style of questioning to detractors of AWM and the Development Project, such as Stewart Mitchell, Former Buildings Manager AWM, see below, it is clear that the Program does not challenge them in the same way it does to the AWM interviewees.

[...]

In the rare exchanges with detractors, Mr Willacy offers them support for their opinions, confirming their thinking rather than questioning the veracity of their statements.

As referenced under heading 2.4, the ABC Ombudsman's initial report (**Attachment E**) stated:

Four Corners commented:

Early in production, we travelled to Canberra to meet with Memorial officials and explain to them our lines of inquiry. We also explained the episode's topics in our subsequent correspondence. We were open with the Memorial's representatives, taking time to brief each of them before interview. Like many other aspects of the episode, this reflected our respect for the Memorial and its function.

We consider that, by informing the Memorial as it did, Four Corners made at least reasonable efforts to enable the Memorial's representatives to speak effectually in favour of the project at interview. We also consider that the episode included extensive footage from these interviews across its chapters. It follows that we do not accept this contention.

The ABC's Ombudsman's submissions on the ACMA's preliminary findings (**Attachment D**) stated:

The Memorial representatives whose interviews ACMA referred to and worked with in this section of its report (Mr Anderson and Mr Beazley) were no mere supporters of the redevelopment — they were the Memorial's Director and Chair respectively and therefore had a public duty to manage the redevelopment

soundly. In my view, the reasonable viewer would have appreciated that these interviews formed part of an accountability investigation probing deficiencies previously identified by the ANAO and that the style and tenor of questioning was referable to this. They would have suspended their judgment and made up their mind based on the quality of the answers Mr Anderson and Mr Beazley were able to provide rather than the program's questions.

The Program did speak to a variety of interviewees and asked probing and, at times, pointed questions about the Project and ANAO report. However, this type of questioning was predominantly directed at supporters of the Project and AWM. For example, the Program asked Mr Matt Keogh, Minister for Veterans' Affairs, Mr Anderson and Mr Beazley very direct questions about the handling of a particular contract referred to in the ANAO report:

HOST: What the ANAO found was that while the management of the project was largely effective, there was evidence of poor record keeping, of undeclared conflicts of interest involving contracts worth more than \$150 million, and of the memorial taking steps to vary one contract so that it came in one dollar below the threshold that triggers ministerial scrutiny.

[...]

MATT KEOGH, MINISTER FOR VETERANS' AFFAIRS: Well, it didn't look good and the audit, that's why the Auditor General called it out. Those sorts of things, as they should do, raise red flags. And you wanna make sure that there is actually no problem.

HOST: It would appear though, coming in \$1 under a million dollars that they want to keep the minister out of the loop here.

MATT KEOGH, MINISTER FOR VETERANS' AFFAIRS: Well, it certainly would appear that way. And if you're an auditor and you look at that and think that's ridiculous, and if you're a minister and you see that in an auditor's report, you think that is ridiculous. What are you doing.

MATT ANDERSON, DIRECTOR, AUSTRALIAN WAR MEMORIAL: The auditor told us that sent a red flag. Now, the disappointing element of that is, you know, the contract came in about \$820,000, so well below that anyway, so there was no need to do that. So I can't understand why they did it, but they did it.

HOST: It does look like, you know, an attempt to dodge ministerial scrutiny to the untrained or the trained eye even.

MATT ANDERSON, DIRECTOR, AUSTRALIAN WAR MEMORIAL: Well, that was- the auditor's sense was it was a red flag. And, and that's a fair enough assessment. And it certainly could have been executed better.

HOST: That does look a little strange.

KIM BEAZLEY, CHAIR AUSTRALIAN WAR MEMORIAL: It was not clever.

HOST: It's not clever?

KIM BEAZLEY, CHAIR AUSTRALIAN WAR MEMORIAL: Not clever.

HOST: The audit office wasn't just concerned about apparent attempts to avoid ministerial scrutiny...it also found that possible conflicts of interest in the awarding of contracts were not adequately documented and declared.

The opening scene sets the theme, tone and narrative of the Program. The first two minutes and twenty seconds of the Program are clips of some of the interviewees speaking about their views on the AWM and the Project. The ACMA is of the view that the Program used overtly emotive language and appeared to unfairly favour critics of the Project in its opening statements. For example, the Program refers to the AWM as a 'battleground' and states:

The Australian War Memorial itself has become a battleground, fought over by those who want it to expand and evolve, and by those who warn that it's being turned into a half-a-billion-dollar military theme park that celebrates, rather than commemorates war.

And two critics of the Project immediately followed up the host's comments with the phrases 'I'm appalled by it. It's a kind of Disneyland of war' and 'Redevelopment is, to put it bluntly, an abomination.'

The Program continues to set the tone and position when it states:

Not only is there outrage over the expansion... but serious questions have been raised about government funding processes, conflicts of interest and the awarding of lucrative contracts.

The ordinary reasonable viewer would have understood what the Program's position was on the AWM with the closing remarks of the introductory segment by Peter Stanley, a known critic of the AWM:

Now, I think that's dirty money. It should not be accepting money from merchants of death.

Further, the ordinary reasonable viewer would have been aware that there were 'serious questions' raised about the government funding process. The supporters of the AWM and Project were not given an opportunity to respond to these claims until much later in the Program and by then, the ordinary reasonable viewer may not have understood that there was an alternative position to the claims that were made.

The opening montage of the Program implies that the AWM did not comply with government processes and sets the tone of the broadcast by using provocative and emotive language from the host and critics of the Project and AWM. For example, when speaking about the Project and the AWM, the following phrases were used, 'battleground', 'half-a-billion dollar military theme park', 'Disneyland of war' and 'abomination'.

The ABC Ombudsman's submissions on the ACMA's preliminary findings (**Attachment D**) stated:

Likewise, the reasonable viewer would have recognised the opening "tease" for what it was. Any emotive language or negative commentary it contained might have stimulated their interest in the remainder of the program, but, considering their "fair average intelligence", it would not have closed their mind. None of these program elements, alone or cumulatively, had the effect of rendering the program partial.

The ABC Editorial Director's submissions on the ACMA's preliminary findings (**Attachment C**) similarly stated in relation to the opening segment:

This segment, commonly referred to as the "tease" of the program is typical of the genre and does not signify a lack of impartiality. The purpose of the tease as a film-making and journalistic device is to present the viewer with an abbreviated preview of the questions and issues the program will be dealing with. It is a device Four Corners and other TV current affairs programs (e.g. 60 Minutes) have used for decades.

While the ACMA accepts that teaser sequences commonly employ condensed and provocative language, in this case the teaser formed part of a broader pattern throughout the Program which consistently favoured one perspective. The concern does not arise from the teaser in isolation, but from its cumulative effect when considered alongside the interview treatment, selection of participants and presentation of contentious issues.

The treatment of interviewees was varied and dependant on their views. The Program treated known critics of the AWM and the Project more favourably than the supporters of the Project, like Mr Beazley and Mr Anderson. The Program's interview style when interviewing AWM's employees was more combative in nature when compared to critics of the Project. The language used about the AWM and its redevelopment was strong and emotive. The ordinary

reasonable viewer would have been aware of the different questioning style and could have influenced them to form a negative view about the interviewees and the Project by the way the questions were framed.

Further, some of the questions were partial, namely, they showed a negative and preconceived position on the Project and about the people associated with the AWM. For example, when the host was speaking with Mr Anderson about the Project there was the following discussion:

HOST: It was done without a detailed business case having been completed or considered. Do we know why that happened?

MATT ANDERSON, DIRECTOR, AUSTRALIAN WAR MEMORIAL: The government had everything it needed at the time that it took the decision to, to take that decision with 75 per cent confidence. And that was all then backed in by the detailed business case.

HOST: What about a hundred percent confidence? Wouldn't that have been better?

MATT ANDERSON, DIRECTOR, AUSTRALIAN WAR MEMORIAL: Oh, well, I think that's, that's the ideal world.

The ACMA notes the interview time also varied depending on who was being interviewed. The host gave known critics more time to respond to questions and asked them follow up questions. In contrast, the host cut off supporters of the Project or gave them less opportunity to explain or clarify their position. The ordinary reasonable viewer is likely to have understood that the critics of the Project and AWM were treated differently in that they appeared to be given more freedom to speak and also that the editing seemed to favour the critics of the Project and AWM.

The nature of current affairs reporting requires reporters and presenters to be probing and, at times, sceptical in their analysis of important issues. The ACMA acknowledges the ABC's submissions that the relevant question under the Code is not whether the program adopted a neutral tone or devoted equal time to all viewpoints. Similarly, the ACMA acknowledges that the inclusion of negative commentary on an issue does not necessarily signify impartiality. The ACMA accepts that it is appropriate for a current affairs program to explore controversial issues. However, the canvassing of these issues must be fair in the context of the program and care must be taken to ensure that relevant perspectives are presented with due impartiality.

The ACMA has concluded that the Program was unduly partial to critics of the Project because of the cumulative effect of the negative commentary from interviewees, evocative language used throughout the Program and the host's interview style when posing questions.

The ACMA considers that more care should have been taken in dealing with contentious matters by providing a more balanced explanation of complex issues (particularly the ANAO report) as well as having a more balanced approach in interviews in the Program, both in relation to who was interviewed and how they were interviewed. The examples referred to in section 2.6 are not relied upon as separate findings but as examples illustrating the broader interview style adopted throughout the Program.

The ACMA notes the seriousness of the issues raised, and the public interest of the information raised in the ANAO report. However, the leading nature of the questioning, the nature of the interviews, the variation in the treatment of the interviewees, and the language and tone used in the Program would have likely led an ordinary reasonable viewer to conclude that this was a partial program and not an impartial program.

Conclusion

The ACMA accepts that the Program was entitled to investigate matters of substantial public importance and to adopt a critical approach to issues concerning public administration.

However, in the circumstances of this broadcast, the presentation of the ANAO findings, the treatment of the consultation process, the selection and treatment of interviewees and the cumulative framing of contentious issues unduly favoured one perspective.

For those reasons, ACMA is satisfied that the Program was not presented with due impartiality.

Accordingly, the ACMA's finding is that the ABC breached the impartiality provision of the Code.

ACMA considerations for determining factual content:

- > In practice, distinguishing between factual material and other material, such as opinion, can be a matter of fine judgement.
- > The ACMA will have regard to all contextual indications (including subject, language, tenor and tone and inferences that may be drawn) in making its assessment.
- > The ACMA will first look to the natural and ordinary meaning of the language used.
- > Factual material will usually be specific, unequivocal and capable of independent verification.
- > The use of language such as 'it seems to me' or 'we consider/think/believe' will tend to indicate that the content is contestable and presented as an expression of opinion or personal judgement. However, a common sense judgement is required and the form of words introducing the relevant content is not conclusive.
- > Statements in the nature of predictions as to future events will rarely be characterised as factual material.
- > Statements containing argumentative and exaggerated language or hyperbole will usually indicate a subjective opinion and will rarely be characterised as factual material.
- > The identity of the person making a statement (whether as interviewer or interviewee) will often be relevant but not determinative of whether a statement is factual material.
- > Where it is clear in the broadcast that an interviewee's account is subjective and contestable, and it is not endorsed or corroborated, their allegations will not be considered as factual assertions.
- > Where an interviewee's stance is separately asserted or reinforced by the reporter or presenter, or proof of an allegation is offered so that it becomes the foundation on which a program or a critical element of the program is built, it may be considered a factual assertion.¹⁰
- > Sources with expertise may be relied on more heavily than those without, in determining whether material is factual, but this will depend on:
 - > whether the statements are merely corroborative of 'lay' accounts given by other interviewees
 - > the qualifications of the expert
 - > whether their statements are described as opinion
 - > whether their statements concern past or future events¹¹
 - > whether they are simply comments made on another person's account of events or a separate assertion about matters within their expertise.

The relevant ABC editorial policies

Accuracy

Principles

[...]

The ABC requires that reasonable efforts must be made to ensure accuracy in all fact-based content. The ABC gauges those efforts by reference to:

- the type, subject and nature of the content;
- the likely audience expectations of the content;
- the likely impact of reliance by the audience on the accuracy of the content; and
- the circumstances in which the content was made and presented.

The ABC accuracy standard applies to assertions of fact, not to expressions of opinion. An opinion, being a value judgement or conclusion, cannot be found to be accurate or inaccurate in the way facts can. The accuracy standard requires that opinions be conveyed accurately, in the sense that quotes should be accurate and any editing should not distort the meaning of the opinion expressed.

The efforts reasonably required to ensure accuracy will depend on the circumstances. Sources with relevant expertise may be relied on more heavily than those without. Eyewitness testimony usually carries more weight than second-hand accounts. The passage of time or the inaccessibility of locations or sources can affect the standard of verification reasonably required.

The ABC should make reasonable efforts, appropriate in the context, to signal to audiences gradations in accuracy, for example by querying interviewees, qualifying bald assertions, supplementing the partly right and correcting the plainly wrong.

Standards

2.1 Make reasonable efforts to ensure that material facts are accurate and presented in context.

2.2 Do not present factual content in a way that will materially mislead the audience. In some cases, this may require appropriate labels or other explanatory information.

Impartiality and diversity of perspectives

Principles

[...]

In doing so, the ABC is guided by these hallmarks of impartiality:

- a balance that follows the weight of evidence;
- fair treatment;
- open-mindedness; and

- opportunities over time for principal relevant perspectives on matters of contention to be expressed.

The ABC aims to present, over time, content that addresses a broad range of subjects from a diversity of perspectives reflecting a diversity of experiences, presented in a diversity of ways from a diversity of sources, including content created by ABC staff, generated by audiences and commissioned or acquired from external content-makers.

Impartiality does not require that every perspective receives equal time, nor that every facet of every argument is presented.

Assessing the impartiality due in given circumstances requires consideration in context of all relevant factors including:

- the type, subject and nature of the content;
- the circumstances in which the content is made and presented;
- the likely audience expectations of the content;
- the degree to which the matter to which the content relates is contentious;
- the range of principal relevant perspectives on the matter of contention; and
- the timeframe within which it would be appropriate for the ABC to provide opportunities for the principal relevant perspectives to be expressed, having regard to the public importance of the matter of contention and the extent to which it is the subject of current debate.

Standards

4.1 Gather and present news and information with due impartiality.

4.2 Present a diversity of perspectives within a reasonable timeframe, aiming to reach a similar audience, so that no significant strand of thought or belief within the community is knowingly excluded or disproportionately represented.

4.3 Take care in the presentation of analysis and commentary. Do not present them as the editorial opinion of the ABC.

4.4 Do not misrepresent any perspective.

4.5 Do not unduly favour one perspective over another.

Attachment C



22 May 2026

[REDACTED]
Manager, Content Investigations Section
Australian Communications and Media Authority (ACMA)
By email

Dear [REDACTED]

RE: ACMA reference: BI-753

Thank you for providing the ABC with the opportunity to respond to the preliminary investigation report about *Four Corners 'Sacrifice'* broadcast on 10 March 2025.

Please find attached a detailed submission responding to the specifics of the investigation report.

The ABC welcomes the finding that the program was accurate. However, the ABC submits the ACMA has seriously erred in its finding of a breach of the impartiality provision of the Code of Practice.

Given the seriousness of the finding, the ABC Managing Director Hugh Marks and appropriate representatives of the Corporation request a meeting with the ACMA to discuss the report, our response and the implications of the finding if it stands.

At this stage, the ABC is not proposing any remedial action in response to the preliminary report.

Yours sincerely,

[REDACTED]
Gavin Fang
ABC Editorial Director



22 May 2026

ABC response to ACMA preliminary finding

Introduction

Thank you for this opportunity to respond to the Preliminary Investigation report no. BI-753 in relation to the Four Corners program, 'Sacrifice'.

The ABC respectfully disagrees with the finding that the program was in breach of Impartiality standard of the Code of Practice.

The program was prepared and presented in a manner that demonstrated all the hallmarks of impartiality and standards outlined in the ABC's editorial policies as well as the ABC guidance note on impartiality.

Four Corners has a very special role in Australian journalism. It is not the only, but it is one of the few remaining outlets for in-depth investigative and analytical public interest journalism.

The ABC must be objective, fair and impartial. There are clear guidelines set out in the ABC editorial policies, guidance notes and Code of Practice on how to conduct investigations of this sort. These guidelines were followed to the letter.

To fulfill its public purpose Four Corners cannot be anodyne or shy away from holding people in positions of authority accountable, particularly those who are custodians of one of Australia's most cherished cultural icons and are responsible for many millions of dollars of public money. The AWM controls \$1.5 billion in public assets and has been entrusted with more than half a billion dollars in taxpayer money for a redevelopment.

The audience and the Australian public expect Four Corners to be robust, holding public officers to account. This finding does not recognise the audience expectations of accountability and investigative journalism in Australian democracy. In places it misrepresents the program, misunderstands the intention of the Code and fails to recognise the evidence of objectivity and impartiality demonstrated by the reporter and the finished program.

The introduction to the Code notes that:

To fulfil its Charter, the ABC must create innovative and challenging content and pursue strong public interest journalism. In doing so, the ABC will at times cause offence, discomfort, even outrage. Brave public broadcasting can ruffle feathers. It can also bring people together, reflect the nation back to itself, disinfect with sunlight, and give a platform to diverse communities and perspectives.

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This episode of Four Corners was entirely consistent with the aims of the ABC Charter and the requirement for impartiality set out in the Code.

This finding, if confirmed, will have a chilling effect on public interest journalism and broadcast interviewing, not just at the ABC but across the broadcast industry.

Executive Summary

Four Corners 'Sacrifice' was a program of high public interest value. It explored the management and redevelopment of Australia's most important national shrine dedicated to the memory of those who died fighting for this country.

This was not, as ACMA frames it, a program about "critics" and "supporters" of the AWM as though each perspective was essentially of the same weight and character, but an important discussion about the future of an institution where those responsible are held accountable.

It featured AWM Chairman Kim Beazley, AWM Council (board) member Greg Melick, and AWM Director Matt Anderson. Those office holders were not included merely as 'supporters' of the project, but as the authoritative decision makers responsible for explaining and defending it. To mischaracterise them as 'supporters' undermines the legitimacy of the robust journalism demonstrated in the program. It is essential to this assessment to recognise that the intent of this program was to present significant criticisms of the AWM from many different quarters and to get those responsible to respond to those criticisms.

The ABC submits that the program was duly impartial, and disputes each of the individual findings and the conclusion:

1. Due impartiality

The program was duly impartial and demonstrated all the hallmarks of impartiality outlined in the standards:

- a balance that follows the weight of evidence;
- fair treatment;
- open-mindedness; and
- opportunities over time for principal relevant perspectives on matters of contention to be expressed.

The draft finding also fails to fully take into account the factors required when assessing due impartiality. The Code of Practice says that it is to be interpreted '*with due consideration of the relevant principles outlined in the Editorial Policies, and any associated guidance notes.*'

Relevant factors to be considered are clearly outlined in the Principles section of ABC's editorial policy on impartiality, in particular:

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- *the type, subject and nature of the content;*
- *the likely audience expectations of the content;*
- *the degree to which the matter to which the content relates is contentious; and*
- *the range of principal relevant perspectives on the matter of contention.*

In our view each of the findings is flawed both in the interpretation of the policies and of its representation of the program.

2. That the Program's framing of the ANAO report breached the impartiality provision of the Code (2.1)

The program purpose was to examine the controversies surrounding the AWM project and who was accountable, not to summarise the entire ANAO report. None the less, the finding that management of the project was 'largely effective' was clearly and prominently reported and the overall findings were accurately and fairly presented.

3. The Program's interview with Mr Anderson on the consultation processes was not presented with due impartiality. (2.3)

The relevant part of the interview was presented in full and the reporter's explanation of the different accounts of the public submissions was clear, accurate and presented without judgement. Audiences heard Mr Anderson dispute the claim and it was explained to viewers how both stage 1 and 2 worked. The section was fair and due impartiality was met. ACMA's finding of what a reasonable viewer would expect does not give viewers any credit for being able to follow an exchange in an interview between a reporter and interviewee and it doesn't take into account the reporter's accurate explanation of the issue.

4. The ABC failed to provide opportunities for principal relevant perspectives to be expressed. (2.5)

All the principal relevant perspectives were included. Not all perspectives are either principal or relevant, and the examples cited by ACMA that were not included are neither. The interviewees included in the program were not marginal but the significant institutional decision makers. AWM Chairman Kim Beazley, AWM Council board member Greg Melick, and AWM Director Matt Anderson are the responsible officeholders for managing all parts of the institution. Expert views included that were critical of the AWM were all editorially relevant, had different expertise and different knowledge. Impartiality is not achieved by adding up interview times.

5. The leading nature of the questioning, the nature of the interviews, the variation in the treatment of the interviewees, and the language and tone used in the Program would have likely led an ordinary reasonable viewer to conclude that this was not an impartial program. (2.6)

The preliminary report does not identify any leading questions to substantiate this finding or substantiate any other evidence of bias of the reporter. The nature of each interview varied

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only in as much as different interviewees had different roles, but irrespective all interviews were civil and fair. The reference to language and tone seems to confuse the perspectives of critics and the reporter's summaries of those criticisms. Reporting the criticisms is not evidence of bias.

Due impartiality is reporting that is appropriate to the subject, the nature and the audience expectations of the program. It does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument have to be represented. Fair treatment of interviewees is a crucial factor as is accurately representing their diverse principal and relevant perspectives. The program clearly achieved that.

The ACMA contends that the cumulative effect of some of the issues referenced above resulted in the Program being partial.

However, the program did not as the ACMA concludes: omit critical information about the ANAO report; mislead viewers on the consultation process; give preferential treatment to critics or treat AWM 'supporters' unfairly; use sustained emotive language or convey prejudgement or give effect to enmities of the 'host' [sic]; or provide a partial depiction of the ANAO report and AWM.

ABC response to the ACMA preliminary finding

We are pleased that the ACMA found no breaches of the accuracy standards in the program. This is indicative of the care and professionalism of the Four Corners team in its production of the story. Accuracy is a key indicator that the team approached the story diligently and importantly with objectivity.

In our view that objectivity is evident in all aspects of the program and the result is a program that is in all aspects duly impartial and consistent with the highest standards and expectations of public interest journalism.

The ACMA's finding that the program was accurate supports this view.

However, the ACMA has erred in finding the program was not impartial according to the Code of Practice.

As we will demonstrate the ACMA has incorrectly applied the standards of due impartiality in its conclusion (subheading 1) and in each one of its separate findings (subheadings 2-5).

1. Due Impartiality

The ABC's editorial policies in relation to assessing due impartiality state that: *"Assessing the impartiality due in given circumstances requires consideration in context of all relevant factors."* The relevant factors are then outlined. It is evident that taking this guidance into account a fair assessment would conclude the program was duly impartial.

- *the type, subject and nature of the content*

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Four Corners programs are documentary-style television current affairs programs that examine or investigate issues of public importance. This genre of reporting has a long history of critically challenging authority on behalf of the public. It is known for seeking accountability from those the public have invested with their trust whether in government, business or any other public endeavour.

Fundamental to the purpose of public interest journalism, of which Four Corners has long been an exemplar, is to focus on the alleged failings of government bodies which are responsible for spending large sums of taxpayer money.

The program was clearly a program seeking accountability on a subject in the public interest. Consequently, it was appropriate for it to outline criticisms and in a robust manner seek answers from those in positions of power.

- *the circumstances in which the content is made and presented*

While 45 minutes is relatively long for television current affairs, it still requires difficult decisions about what to include in a complex story. The program quite properly only included key decision makers and eminent experts and other relevant stakeholders across the range of issues.

- *the likely audience expectations of the content*

The audience expectation is that the program will air valid criticisms of the policies or actions of individuals, organisations and companies and seek accountability from those allegedly responsible. Consequently, the subject matter of the program is typically contentious involving strongly differing opinions on public policy, broader social issues and sometimes allegations of wrongdoing, negligence or incompetence by authorities or individuals.

There is no doubt that considering the well-known reputation of Four Corners and the obviously contentious nature of the story foreshadowed in the introduction that audiences would have expected strongly worded criticism and robust questioning of people in positions of power and authority. The audience would have expected different perspectives to be presented over the length of the program so they could make up their own minds. Ordinary reasonable viewers would have understood that each part of the program does not represent the whole program and that each critical comment does not represent the view of the reporter.

- *the degree to which the matter to which the content relates is contentious*

The subject matter was clearly contentious. The core matters of contention were whether the renovation of the War Memorial was justified, in keeping with its heritage values, was appropriate to its purpose and whether its execution was competent and conducted in a manner appropriate to a major publicly funded redevelopment project. In addition to those responsible for the project, there was a wide range of critical perspectives including the responsible minister, the Auditor-General, former leaders of the War Memorial, a prominent architect, experts on public administration and public accountability etc. In that context, the audience would expect conflicting views and accountability.

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- *the range of principal relevant perspectives on the matter of contention*

There was a wide range of different critical perspectives presented, each person had their own distinct, relevant view. However, there was a relatively small range of people who could answer those criticisms authoritatively. Collectively, they represented all the genuinely relevant and principal perspectives. As indicated previously, they were all included in the program.

While there are many potentially relevant perspectives on a contentious issue, the principal relevant perspectives are typically people making informed criticisms or allegations and those responsible. Many people with an interest in an issue or an opinion on the issue are not principal perspectives.

- *the timeframe within which it would be appropriate for the ABC to provide opportunities for the principal relevant perspectives to be expressed, having regard to the public importance of the matter of contention and the extent to which it is the subject of current debate."*

It was appropriate for the principal relevant perspectives to be included in one program, which was achieved.

Taking these requirements as a guide, it is evident that the program was duly impartial. In making its determination, the ABC contends the ACMA should also seek to rely on its own previous treatment of these issues.

In a previous finding (no. BI-631) it noted:

Under the Code, impartiality does not require that every perspective receives equal time, nor that every facet of every argument is presented within a single program. A program that presents a perspective that is opposed by a particular person or group is not inherently partial.

The ABC can legitimately prosecute an argument as long as it adheres to the principles of due impartiality and does not unduly favour one perspective over another. As noted above, audiences should be provided with information that allows them to form their own views based on the material they are presented with.

The inclusion of the words 'due' and 'unduly' recognises that news and information programs will differ in their nature. Whether a breach of the Code has occurred will depend on a range of factors including the type of content, the likely audience expectations of that content and the degree to which the content is contentious and the range of principal relevant perspectives on matters of contention.

Most viewers would be aware of Four Corners' history and the way it investigates and examines controversial issues in detail, which often entails presenting a particular perspective on an issue and reaching a particular conclusion on an issue. The ABC Code does not preclude a program from doing this, including by a presenter, host, or reporter. (Investigation report no. BI-631, pages 19-20)

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In our view the preliminary report has interpreted the policies in a manner that is inconsistent with established journalistic practice, the ABC's editorial policies and the ACMA's own previous interpretation of those policies and the Code.

It fails to take account that the purpose of a program such as Four Corners is to investigate and analyse contentious issues and allegations. It is not to expound on matters that are not contentious. Much of the management of the War Memorial redevelopment was not contentious and that was clearly stated in the program. There has been praise for the redevelopment as well as criticism. For instance, [this story](#) by the ABC was highly praiseworthy of the announcement about inclusion of the Frontier Wars in the new space. However, the overall conception of the redevelopment was contentious, and some aspects of the management were contentious. These were the issues that it was clearly in the public interest to examine and that, quite properly were the focus of the program.

In examining those issues, Four Corners was objective and fair. It gave representatives of the War Memorial a fair opportunity to respond to allegations and fairly and accurately presented their perspectives on the various issues raised in the program.

It is the role of public interest journalism to report contentious issues and actions and to seek accountability from those responsible.

2. 2.1 The negative framing of the ANAO report

ACMA: Despite the time restraints of the Program, the ACMA considers that there should have been a more thorough and balanced discussion of the ANAO report so that the ordinary reasonable viewer was provided with the context of all of the relevant information pertaining to the ANAO report.

This finding misrepresents the program and is a misunderstanding of the proper purpose of public interest accountability journalism. The relevant question is not whether every conclusion and recommendation of the report was exhaustively summarised, but whether the program distorted the report or omitted material information necessary for viewers to understand the overall findings. It did not.

The discussion of the ANAO report and the issues it raised comprised about 7 minutes of the 45-minute program. In this section the program clearly outlined the key findings of the ANAO report.

At the time of its release in April 2024, the report attracted substantial public and media attention due to its critical findings on procurement, conflicts of interest and ministerial oversight. The Sydney Morning Herald headline for instance was "\$500m war memorial scandal". The Guardian wrote "Australian War Memorial kept ministers in the dark on contracts for \$550m redevelopment, audit finds" and the ABC reported 'Auditor-general slams \$540 million upgrade to Australian War Memorial, finding steps taken to dodge ministerial oversight'.

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There was no insinuation in the program that there was serious wrongdoing by the War Memorial. Nowhere in the program is it suggested that there was any illegality or corruption by the War Memorial.

However, one of the key findings of the report was that *'There were deficiencies in record keeping, management of conflicts of interest, documenting value for money assessments and in the quality of advice to the minister.'*

This is a damning finding and one that deserved to be scrutinised and for the War Memorial to be asked to account for the failings outlined by the Auditor-General.

We explain below:

- a) The correct interpretation of the ANAO report
- b) The framing of the ANAO report as positive or negative
- c) Relevant perspectives on the ANAO report

Each of these three points demonstrates how the ACMA's preliminary finding on this issue is incorrect.

a) The correct interpretation of the ANAO report

The ACMA's preliminary finding that the Program's framing of the ANAO report breached the impartiality provision of the Code is based on the conclusions that the ANAO's finding that the project was 'largely effective' was not adequately reported and that *"the Program should have made reference to the fact that the four overarching conclusions of the audit were 'largely effective' to avoid any insinuation or impression that there was serious wrongdoing by the AWM."*

Mr Beazley wrongly submitted to the ACMA, and ACMA has accepted that the ANAO report had four overarching findings and that the program had omitted three, indicating bias. In fact, it included one conclusion (overarching finding based on three criteria). We note that Mr Beazley did not express this concern in his complaint to the ABC.

The program's presentation of the ANAO report and findings were absolutely faithful to the source material.

The ANAO report did not have four overarching findings. It made one finding against its audit objective, "to assess whether the Australian War Memorial is effectively managing the development project" ("Audit objective and criteria", ANAO p. 7). This objective was also reflected in the title of the ANAO report itself: *Management of the Australian War Memorial's Development Project*.

The ANAO then explained that to "form a conclusion against the [audit] objective" it had adopted three high-level criteria, each covering a different aspect of that overall management (ANAO p. 7). Crucially, the criteria were subordinate to and wholly reflected in the ultimate conclusion.

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On p. 8 of the ANAO report, under the heading "Conclusion", the ANAO stated:

*The Memorial's management of the Development Project was largely effective.
Shortcomings in the management of probity risks would have been improved with full
implementation of internal policies and procedures.*

On pp 8–9 of the ANAO report, under the separate heading "Supporting findings" the ANAO set out its findings on the three criteria.

The conclusion and the findings on the three criteria are presented in the dot points included in the 'Audit snapshot' at the beginning of the ANAO report under the heading 'What did we find?'. These do not represent the report as a whole or its conclusions which are outlined in the body of the report.

In relation to the *What did we find?* section of the ANAO's "audit snapshot" (ANAO p. 6), upon which the ACMA placed its reliance (ACMA pp 8–9), we note:

- the first dot point recorded the conclusion (aka overarching finding),
- the fifth dot point listed the key ANAO-identified deficiencies, and
- the second to fourth dot points recorded the supporting findings on the three criteria.

The formatting of the "audit snapshot" is unfortunate. By placing all five points at the same list level, all five points may be read as being of equal significance.

However, it is clear from the body of the ANAO report that points two to four are not three additional overarching findings as Mr Beazley submitted and the ACMA erroneously accepted.

We note the ACMA went so far as to expressly agree with Mr Beazley's submission that the program's framing of the ANAO report had "intentionally misled viewers" (ACMA p. 10). However, Mr Beazley's complaint and the ACMA's finding rely on a mistaken understanding of the ANAO's report and findings.

We submit the ACMA must reconsider this finding in light of the correct interpretation of the ANAO report and its findings.

b) The framing of the ANAO report as positive or negative

ACMA also observed in its reasons for issue 2.1 (ACMA p. 9):

Also, the Program did not explain that a 'largely effective' finding from the ANAO is considered a positive audit result.

This suggests that the finding was a wholly or overwhelmingly positive result, which it was not.

The program framed the ANAO report by clearly stating that it found that the management of the redevelopment was largely effective and included Mr Anderson's view that it was a positive audit, which was reinforced in the reporter's voiceover.

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The program set out the overarching finding, then reported the key criticisms in the report (our emphasis):

"What the ANAO found was that while the management of the project was largely effective, there was evidence of poor record keeping, of undeclared conflicts of interest involving contracts worth more than \$150 million, and of the memorial taking steps to vary one contract so that it came in one dollar below the threshold that triggers ministerial scrutiny".

By using the word "while" to juxtapose the overarching finding, and the deficiencies that followed, the program made sufficiently clear to ordinary reasonable viewers that the finding was positive despite the deficiencies.

As well as describing the audit findings as 'largely effective', the program twice referenced the audit result as being positive. First in program voice over in which the reporter said: *'Despite the minister's unhappiness, the War Memorial's director describes the audit office's findings as positive'.*

Then in the interview with museum director Mr Anderson, summarising the ANAO report (our emphasis):

"they went through and they found that the project represents value for money for the taxpayer. So by that score, yes, of course, I think it's a positive audit."

In fact, it could be argued that the program underplayed the criticisms. The suggestion that the 'largely effective' findings are wholly positive is simply wrong.

The audit objective was to assess whether the Australian War Memorial is effectively managing the development project. This was assessed against three high-level criteria which are addressed in turn in the main body of the report. There are criticisms of management and processes against each of these three criteria (see sections 2-4 of the ANAO report).

- Procurement policies, governance and project management arrangements (ANAO, p. 20)

largely effective. The Director's Instructions are not supported by a delegation from the Council as the accountable authority... Record keeping practices did not follow approved processes.

- Procurement activities (ANAO, p. 32)

largely conducted in compliance with the CPRs. Value for money assessments were not adequately documented for the variation in price between tender responses and executed contracts or for lower value procurements. Management of ethical and probity risks was partly effective. Engagement with the external probity advisor was insufficient for the scale and risk of the procurements. Conflicts of interest were not adequately documented and declared or known conflicts were not adequately managed. Incumbency risks related to the procurement for ongoing project management services were not adequately managed and steps were taken to avoid

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seeking ministerial approval for the entering into contracts on two occasions. Minister's briefs were insufficiently detailed to support the minister to meet their obligations under section 71 of the Public Governance, Performance and Accountability Act 2013.

- Contract management (ANAO, p. 53)

Largely effective contract management arrangements have been established... The documentation of assessment of value for money considerations for contract variations was insufficient. Ministerial briefs lacked sufficient detail of value for money assessments. In one instance, the signed contract variation exceeded the value approved by the Minister for Veterans' Affairs and the value of the variation was incorrectly stated in the subsequent ministerial brief

If the program had chosen to go through each of the conclusions, it would have had to state that most were largely effective, none were wholly effective and each conclusion included criticism of the War Memorial.

In its conclusions the report did not find processes or management were fully effective in any category and each part of the conclusions section found significant failings.

The ACMA also found the program should have included:

that the ANAO report made five recommendations to the AWM to improve policies, record keeping, probity, conflicts of interest and contract management and that all five were accepted and actioned by the AWM.

That the program did not state that recommendations flowing from critical findings were accepted was used as evidence of a lack of impartiality in the ACMA's preliminary findings.

However, that the War Memorial accepted the auditor's recommendations for improvement is not material. In fact, that there were several serious recommendations for improvement is indicative that the Auditor-General concluded that there were serious deficiencies that needed to be addressed. Under the circumstances, it would have been highly unusual and noteworthy had the War Memorial not accepted the recommendations. Furthermore, their acceptance of the recommendations indicates that they accepted that there had been serious failures of process.

To report, as the program did, that the overall finding was that management was largely effective but there were serious criticisms, was fair and accurate.

c) Relevant perspectives on the ANAO report

The section on the ANAO report outlined some of the criticisms, including by the minister responsible for War Memorial and included analysis of those criticisms and responses from the people best qualified and most relevant to respond, the director of the War Memorial, Matt

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Anderson, the chairman, Kim Beazley and a member of the governing council, Maj Gen (ret'd) Greg Mellick.

The program sought the view of the person with ultimate public responsibility for the AWM - the Veteran Affairs Minister Matt Keogh. In his interview, Mr Keogh stated repeatedly that there were deficiencies in the processes employed by the AWM for the redevelopment. In one of its most serious findings, the ANAO stated that "advice to the minister was insufficiently detailed to support the minister in carrying out their duties, including those under the PGPA Act."

The Minister's publicly stated concern is in itself highly significant and worthy of further investigation by Four Corners. By any measure, these are serious deficiencies identified by the Auditor-General.

The first issue examined in this section was that of a contract that had been signed for \$999,999, just one dollar under the \$1m threshold for ministerial approval. This was obviously a matter of concern for the minister who was responsible for the project. He was one of three interviewees who questioned the propriety of that action. Each was well qualified to offer analysis. Three interviewees representing the War Memorial in different capacities were asked to respond.

Both Maj Gen (ret'd) Greg Mellick and Matt Anderson defended the contract noting that ultimately it cost less than that number - as had been expected. Mr Anderson conceded that the auditor raising it as a red flag was 'fair enough' and Mr Beazley merely noted that 'it was not clever'.

In summary, three qualified people criticised the action and three representatives of the project were given an opportunity to respond. It was a significant issue, and it was demonstrably handled fairly and impartially.

The second issue in the ANAO section concerned conflicts of interest and in particular, the criticism that possible conflicts in the awarding of contracts were not properly declared.

One of those possible conflicts of interest involved Wayne Hitches, Executive Program Director, in charge of the redevelopment project. He had previously held a high-level position at Lendlease months before the developer was awarded a multi-million-dollar redevelopment contracts. The audit office found Mr Hitches failed to complete a conflict of interest declaration.

The management of conflicts of interest was a key concern of auditor's report and this failure was a prominent example of an alleged failure of process. The factual basis of the section was not disputed; the issue was how serious a failure it was and whether it had an impact on the outcome of the tender.

Senator David Shoebridge said this was "*an obvious conflict of interest*".

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The Minister, Matt Keogh said in the program: *'The process was deficient. And when those processes are deficient, you can find yourself that there were conflicts of interest that no one knew about.'*

Maj Gen (ret'd) Greg Mellick defended the War Memorial saying that despite the failure, Mr Hitches prior employment was well known. Mr Beazley denied that this was a conflict of interest noting that his previous employment was public knowledge and he understood that the issue had been dealt with 'years before'.

Mr Beazley did concede when informed that the minister had said the interest should have been declared that *"Whatever the minister says is obviously what must be done."*

This relatively short section – about three minutes – accurately summarised the issue and included the responses of three of the participants responsible.

The program put criticisms of the War Memorial to the people responsible and presented their responses fairly in the program.

Conclusion

The ACMA's preliminary finding states in its conclusion:

- *The Program omitted critical information about the ANAO report which resulted in the Program being partial.*

We strenuously deny the allegation that the program had any intention to mislead the audience in this section or was partial. This is a very damaging allegation that is not supported by the content of the program or the evidence identified in the preliminary report.

The ACMA's finding relied on a misunderstanding of the ANAO report. The reference to 'four overarching findings' was incorrect; the report had one conclusion (as represented in the program) with three sub findings relating to three criteria.

The significance of the ANAO report lay in its critical findings. It was important to point out that the overall finding of the auditor was that the process and management was largely effective and that was done very clearly. Further elucidation on what was 'largely' although not completely effective was not material to the story and would have added nothing to a reasonable viewer's understanding of the issues being discussed.

The program did report that the ANAO found management was largely effective, and repeatedly stated that the museum director saw the audit as a 'positive result'. The audit was not overwhelmingly positive with criticisms of the project under each of the high-level criteria considered. Accordingly, the program was fair and accurate in how it presented the ANAO report and findings.

The criticisms of the War Memorial management were put to those responsible and their responses included fairly in the program.

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3. 2.3 Mr Anderson's interview on consultation processes

ACMA: *In this segment, the host was referring to the number of submissions from the Early Works consultation stage, whereas Mr Anderson was referring to the submissions from Main Works consultation stage. Immediately following this interaction, the host confirmed he was correct when he said that the NCA's 'first-stage consultation, involving demolition work for the redevelopment, did receive a record 601 submissions'. However, he did not go on to clarify that Mr Anderson was referring to the second stage of the process.*

The ABC submits that the ACMA has erred in its finding that the program did not clearly distinguish between stage 1 and stage 2 of this process which contributed to a failure to be duly impartial.

The relevant part of the interview was presented in full and the reporter's explanation of the different accounts of public submissions was clear, accurate and presented without judgement. Audiences heard Mr Anderson dispute the premise of the question and it was then clearly explained to viewers how both stage 1 and 2 worked and what the results of the two consultations processes were. The section was fair and due impartiality was met.

Below is the entire unedited transcript of the exchange in the program between the reporter and Mr Anderson referring to NCA's involvement in the approval process:

Reporter: The process, um, you know, we know we've had to go through a process of approvals. The redevelopment, the Public Works Committee, the National Capital Authority, both received record submissions, but the vast majority were against the project. Doesn't this show that very few people really were in favor of the redevelopment?

Matt Anderson: Well, I don't think that's right. The, the majority of submissions, for example, you know, so in order, there was, uh, you know, we had the national, uh, sorry. We had the Public Works Committee process, and simultaneously we went through the, the EPBC process, that two stage process, which ultimately led to the consideration by the National Capital Authority. So by the time all the information was on the table, and the National Capital Authority considered this project, and they doubled the time that was normally available for public consultations. The majority of submissions, I think you'll find were in favour of it.

Reporter: Well, I believe what the National Capital Authority got 601 submissions only three in favor.

Matt Anderson: No, that's not right.

Reporter: That's not as

Matt Anderson: For not the National Capital Authority. So what my understanding is the majority of submissions to the National Capital Authority, were in favour of it. Happy to take a fact check on that one, but I, I'd encourage you to do it, because my understanding is the majority of submissions to NCA were in favour.

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This entire exchange was included in the program. It was followed by this from the reporter:

Four Corners did fact check that and the National Capital Authority's first-stage approvals, involving demolition work for the redevelopment, did receive a record 601 submissions, with only three explicitly in favour of the expansion plans. Despite this, the NCA approved the work, which included knocking down the memorial's award-winning Anzac Hall and felling 140 trees. By the time the second stage of the process had been reached, the majority of submissions were in favour of the redevelopment.

In June 2021, the National Capital Authority published a consultation report in relation to the Memorial's early works. It received 601 submissions, with 3 supporting the works, 8 provided a neutral response but raised concerns or questions, and 590 expressed concerns about some or all of the proposal (NCA, p. 7)

It is likely and entirely reasonable to expect that that AWM Director Matt Anderson would have known that the question referred to the initial first-stage submissions received by the NCA, however he answered by referring to the second-stage submissions. Mr Anderson then invited Four Corners to "fact check" his statement. This was done, as seen in the program and the transcript. The voice over is clear, and any reasonable viewer would understand the program referenced both the first and second stages of submissions.

It is not true to say that Mr Anderson was not given a reasonable opportunity to respond. Nor is it accurate to say that the program "failed to properly explain that there were two stages of the consultation in relation to which different submissions were received. As a result, the ordinary reasonable viewer would not have understood this difference and would not have been able to draw their own conclusions"

It is absolutely clear and explicit that there were two stages and that the majority of submissions were in favour of the development in the second stage.

The section was important in that it identified that there was widespread public and expert concern about the proposal at an early stage. The interview was a normal accountability interview where one of the key persons responsible for the project was asked to respond to that widespread criticism.

The ACMA's conclusion references this finding:

- *The interview with Mr Anderson about the consultation processes created a misleading impression for the viewer.*

This finding is a blatant misrepresentation of the substance of this section of the story. The section ended with the reporter saying, 'By the time the second stage of the process had been reached, the majority of submissions were in favour of the redevelopment'. It would have been absolutely clear to any reasonable viewer that there were two stages to the process; the first attracted mostly objections and the second were mostly in favour.

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4. 2.5 The diversity of interviews

ACMA finding: the ACMA considers that there is evidence that the ABC failed to provide opportunities for principal relevant perspectives to be expressed.

The ABC submits the ACMA has erred in its finding.

All the principal relevant perspectives were included. Not all perspectives are either principal or relevant and the examples cited by ACMA that were not included are neither. The interviewees included in the program were not marginal but the significant institutional decision makers. AWM Chairman Kim Beazley, AWM Council (board) member Greg Melick, and AWM Director Matt Anderson are the responsible officeholders for managing all parts of the institution. Expert views included that were critical of the AWM were all editorially relevant, had different expertise and different knowledge. Impartiality is not achieved by adding up interview times.

As noted at the beginning of this response, there is an important distinction between perspectives that may be relevant to a story and **principal** relevant perspectives. The ACMA acknowledges that not every perspective needs to be included in a story and not every perspective requires equal time.

The ACMA has noted many times over the years that, as the ABC guidance on impartiality states, equal time is not a measure of impartiality.

In investigative journalism it is accepted and quite common for a single person to be held accountable for actions that have affected a range of people, many of whom are represented in the program. This is why due impartiality does not require equal time or equal treatment. The complainant cites 11 appearances by Professor Stanly as evidence of disproportionality, which seems to have been accepted. However, Mr Beazley himself appears 14 times, second only to Mr Anderson who appears 23 times in the program.

In fact, the perspective of the War Memorial is well represented by three very senior current representatives, Mr Beazley, Mr Anderson and Maj Gen (Ret'd) Greg Melick.

The report also acknowledges that: *"Assessing the impartiality due in given circumstances, requires consideration of all relevant factors including the type, subject and nature of the content; the likely audience expectations of the content, and the degree to which the content is contentious"*.

The ACMA does not identify in this finding a single relevant principal perspective that was not represented in the program. The only reference is that ACMA believes there was an 'opportunity' for a 'broader range of stakeholders', 'for example veterans' to be included while at the same time acknowledging that not all perspectives can be included on a single program. Veterans are stakeholders but they are not principal relevant perspectives in a program that was seeking accountability for the management of the War Memorial. The veteran perspective, none the less, was represented by Greg Mellick who as well as being a council member of the AWM was at the time of the interview the National President of the RSL.

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There would, no doubt, be a range of views among recent veterans both supporting and not supporting the redevelopment. They were not included because they would not be relevant or material to the subject of the program.

The ACMA then concludes: *“that there was a bias conveyed by the fact that the only supporters of the Project were also current employees of the AWM.”*

The ABC does not concede that this displayed bias; quite the contrary. The program was very clearly focussed on the desirability and management of the redevelopment. Only those responsible for the redevelopment decisions and management of it are in a position to explain, defend and be accountable for those actions and decisions. Not only are they the people best equipped to defend the War Memorial, but they are also the people accountable, not merely ‘supporters’ and nor are they all ‘employees’ – one is an employee (general manager) and two are board members, including the chairman.

The program also requested interviews with AWM Governing Council member and former SAS officer James McMahon, former AWM director Brendan Nelson and former AWM chairman Kerry Stokes for interview. The latter were instrumental in the redevelopment getting government approval and support. All either declined or did not respond to requests for interviews.

The provisional finding then states: *the ABC is entitled to make editorial decisions about who appears on the Program, there was a disproportionate selection of known critics chosen to be presented, including aggrieved former employees of the AWM and John Denton, the ‘award winning creator’ of the Anzac Hall that was scheduled to be demolished as part of the Project. This selection of opinions that was presented would have likely resulted in the ordinary reasonable viewer coming away from the Program with a negative view of the Project.*

The ABC does not accept that the selection was disproportionate. The program canvassed a number of distinct and separate issues in relation to the redevelopment – among them issues of governance, design, heritage values and more. Inevitably, and quite properly, different people had different expertise in particular areas but a smaller coterie was responsible. As noted above, some of those responsible declined to be interviewed.

Each of those separate issues raised in the program required the perspectives of different people with different expertise and experience and spoke to different issues. It is very common practice in accountability journalism to have a range of people addressing and explaining the issues and criticisms and then seeking responses and the perspectives of a small number of people who are responsible.

While most of the critics have spoken in the past, their views have never been prominently canvassed in the mainstream media and therefore have never been broadcast to a large proportion of the population.

The report characterises these people as ‘aggrieved former employees’. There is no evidence that any of these people are aggrieved. The Oxford English Dictionary defines aggrieved as *“feeling resentment at having been unfairly treated”*. None of project’s critics claimed they had

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been unfairly treated by the War Memorial. Nor did they have any conflict of interest that may have compromised their credibility. To suggest they are 'aggrieved' improperly ascribes motivation that is unfair and unsupported by any evidence.

Further, the report describes them as former employees; four of the critics are former employees (Stewart Mitchell fmr Head of Building Services, Steve Gower, fmr Director, Michael McKerna, fmr Deputy Director and Peter Stanley fmr AWM historian), most are not and every one of them is highly respected and accomplished in their professional lives. Some of the critics are independent experts who are offering measured and disinterested analysis; for instance, respected lawyer and former ICAC commissioner, Geoffrey Watson and Dr Sue Wareman, medical practitioner and representative of the Medical Association for the Prevention of War. John Denton, the architect of Anzac Hall is clearly a relevant perspective on the decision to demolish that building. Mr Stanley, the former Principal Historian of the War Memorial is well-qualified to comment on the heritage and ethical issues raised in the story.

This characterisation of critics as aggrieved former employees is inaccurate and insulting to respected professionals with impeccable reputations. It is also an unfair criticism of the program.

It is simply inaccurate to suggest that the program failed to provide opportunities for principal relevant perspectives to be expressed.

5. 2.6 The interview style of the host and how the interviews were conducted

ACMA finding:

The ACMA has concluded that the Program was unduly partial to critics of the Project because of the cumulative effect of the negative commentary from interviewees, evocative language used throughout the Program and the host's interview style when posing questions.

And:

The ACMA notes the seriousness of the issues raised, and the public interest of the information raised in the ANAO report. However, the leading nature of the questioning, the nature of the interviews, the variation in the treatment of the interviewees, and the language and tone used in the Program would have likely led an ordinary reasonable viewer to conclude that this was not an impartial program.

The ABC submits the ACMA has erred in its finding.

The relevant question under the code is not whether the program adopted a neutral tone or devoted equal time to all viewpoints, but whether the tone and content were appropriate to the story and whether it presented relevant perspectives with due impartiality.

This finding also seems to suggest that there is a problem with including negative commentary from interviewees or at least including too much. As already noted, the role of the program is to present, discuss and analyse those criticisms. If the cumulative effect of critics is negative that does not signify partiality by the program, it reflects the strength of their arguments.

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We address this finding in two parts:

- a) Language and tone
- b) Interview style
- a) *Language and tone*

The reference to language and tone seems to confuse the language of those critical, which the program does not control, and summaries of those criticisms by the reporter with bias.

The ACMA references in this section the opening scene of the program (the first 2 minutes 20 seconds) and criticises it for using “provocative and emotive” language.

This segment, commonly referred to as the “tease” of the program is typical of the genre and does not signify a lack of impartiality. The purpose of the tease as a film-making and journalistic device is to present the viewer with an abbreviated preview of the questions and issues the program will be dealing with. It is a device Four Corners and other TV current affairs programs (e.g. 60 Minutes) have used for decades.

The audience expectation of a program such as Four Corners is that it will deal with contentious issues in a bold way and seek accountability from authority. The opening will give the audience a taste of the issues that will be explored with the intention of exciting interest and defining the contours of the story.

The use of the term “battleground” is both an accurate and appropriate military metaphor to use in this context. Apart from the fact that it is commonly used in English to describe any hotly contested dispute, in the context of a story about the War Memorial it is a predictable, possibly cliched term that the audience would expect. It would not excessively colour or prejudice their conclusions about the issues subsequently explored.

The ABC does not agree that *‘The ordinary reasonable viewer would have understood what the Program’s position was on the AWM with the closing remarks of the introductory segment by Peter Stanley, a known critic of the AWM’*

These are clearly Mr Stanley’s views, not those of the program. To suggest that merely including a comment from a critic would be seen as an endorsement of that view is completely untenable. To accept this logic would make inclusion of any criticism in a program unacceptable.

The ACMA points to the fact that the tease said that there were ‘serious questions’ raised about the government funding process and then asserts that *‘The supporters of the AWM and Project were not given an opportunity to respond to these claims until much later in the Program and by then, the ordinary reasonable viewer may not have understood that there was an alternate position to the claims that were made’*

We strongly contest that an ordinary reasonable viewer would have come to that conclusion. It was clear that this was a contentious issue and given the nature of the program and the likely

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expectations of the audience, any reasonable viewer would expect Four Corners to examine the issues raised and present alternative relevant perspectives throughout the program.

In this opening, the reporter poses the questions without making conclusions. He sets up the criticisms but does not endorse them. The introduction includes short grabs from both critics and representatives of the War Memorial – Kim Beazley and Matt Anderson – clearly indicating to the audience that there are differing perspectives going to be presented. There were only four short remarks from critics. The following 43 minutes then lay out the arguments in an objective manner to allow audiences to make up their own minds. In short, the tease sets out the issues but isn't seen as the conclusion of the argument and would not be perceived as such by any reasonable audience member.

b) Interview style

The tone of the interviews was consistently fair. Each of these interviews was demonstrably in the public interest. They included appropriately testing questions consistently securing further and better information in the public interest.

ACMA quotes from several of the program's interviews with Memorial representatives in its report. It makes specific adverse findings or comments about some of these extracts.

The preliminary report referenced 'the leading nature of the questioning' but does not identify any leading questions to substantiate this finding. The nature of each interview varied only in as much as different interviewees had different roles, but irrespective all interviews were civil and fair.

The ACMA states that the *"treatment of the interviewees was varied and dependent on their views"* and that the program *"treated known critics of the AWM and the Project more favourably than the supporters of the Project"*.

This is a very serious and unfounded allegation by ACMA. It fundamentally misrepresents the nature and purpose of investigative or accountability journalism. The process is that in research a decision is made that various criticisms or allegations are worthy of being addressed. That is not a conclusion that they are right or fair criticisms or allegations, only that they are sufficiently relevant or credible to be put to those responsible.

The critics or those making allegations get to make their case and that is put to those responsible. They are quite different interviews and will inevitably in all cases have a different dynamic where the latter is interrogated in a way that others are not. The distinction between explanatory interviews and accountability is a well-established feature of investigative journalism and would be readily understood by ordinary reasonable viewers. Put simply, the role of the interviewer is to hold power to account. In this case, that power resides in the AWM Chairman, in its Director, in the members of the Memorial's Council and the minister.

Importantly, the requirement for impartiality requires that all interviewees are treated respectfully and fairly.

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In this program that was undoubtedly the case. The tone of every interview was civil and polite and the interviewees, Mr Beazley and Mr Anderson in particular, were given ample opportunity to answer questions and their answers were presented fairly in the final program. No interviewees, including the complainant have made complaints about the reporter's conduct of the interviews.

The ACMA asserts that *'The host [sic] gave known critics more time to respond to questions and asked them follow up questions. In contrast, the host cut off supporters of the Project or gave them less opportunity to explain or clarify their position'*.

No evidence is presented in the preliminary report to justify this assertion. In fact, most of the lengthier exchanges are between the reporter and representatives of the War Memorial. There is no allegation from the complainant or anyone else that interviews were edited in a way that was misleading or that they were not given an opportunity to respond.

The ACMA accuses the reporter of cutting off supporters of the redevelopment while allowing critics time to respond. As demonstrated below, the interviewees were not cut-off. These "supporters" are actually the highest-ranking office holders at the AWM and, as such, should be the subject of detailed questioning about the decisions, governance, and running of the AWM.

In asking follow-up questions the reporter was merely giving these office holders an opportunity to be precise with the audience, and to leave as little ambiguity as possible. Again, neither the Four Corners team nor the ABC received any complaints about the tone or conduct of Mr Beazley's interview immediately after it, or at any time until this complaint to the ACMA.

Below we outline how the interviews and what was included in the program was necessary to meet the investigative purpose of the program.

Greg Melick interview ACMA pp 16-17

Melick:

All I can say is that we were satisfied that all conflicts were either expressly noted or were well known.

Four Corners:

But it wasn't documented.

Melick:

It's a concern that it wasn't documented, although everybody knew — everybody in the industry, everybody at the War Memorial, it was common knowledge that he'd come from Lendlease.

Initially, Mr Melick suggested that so long as a potential conflict was well known, then the Memorial could be satisfied that it had been appropriately managed.

Four Corners pressed lightly.

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Mr Melick immediately conceded, in obvious contrast to his first statement, that it was “a concern” that the relevant potential conflict had not been documented. This was plainly further and better information in the public interest.

Kim Beazley interview ACMA p 17

Beazley:

When he was appointed, the Minister of the day announced it and announced the fact that he had worked for Lendlease.

Four Corners:

So it's not a conflict of interest, it's sloppy paperwork.

Beazley:

It's not a conflict of interest.

Four Corners:

So why not just fill in a conflict of interest declaration?

Beazley:

Well, because we'd all thought that that was all done and dusted years before.

Four Corners:

But you can understand, the Minister said, you know, it probably should have been done.

Beazley:

Well, that's... whatever the Minister says is obviously what must be done.

*

In his complaint to the ACMA, Mr Beazley suggested that this exchange demonstrated bias because Four Corners continued its questioning after the third line (Mr Beazley's second statement) (ACMA pp 20–21).

In making this allegation, Mr Beazley omitted the last three lines of the exchange and so omitted his eventual concession in the last line (his fourth statement) that the conflict of interest declaration should have been filled in.

Had Four Corners discontinued its questioning after the third line, it would not have secured this concession, which was plainly further and better information in the public interest.

Mr Beazley also suggested in his complaint that the continued questioning implied to viewers that he was avoiding the question. When the exchange is reviewed in its entirety, it is apparent that he was initially obfuscating and only conceded after fair testing.

It would not have been appropriate for Four Corners to further edit down this exchange. Doing so would have misleadingly concealed this obfuscation from viewers, and the public is entitled to know how readily officials answer fair questions.

At p. 18, the ACMA said that the exchanges with Mr Melick and Mr Beazley above, as they were presented in the episode, were sufficient to inform viewers about the management of Wayne Hitches' potential conflict of interest without hearing from Mr Hitches directly. This led to its positive finding re issue 2.4.

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To rely on the very same exchange with Mr Beazley to help support an adverse finding re issue 2.6, as the ACMA appears to (see ACMA pp 20–21, 23), is both contradictory and unsound. If it had edited down this exchange with Mr Beazley, the program would have also risked exposing itself to an adverse finding re issue 2.4.

Four Corners x Matt Anderson (set out at ACMA p. 22)

Anderson:

The Auditor told us that sent a red flag. Now, the disappointing element of that is, you know, the contract came in about \$820,000, so well below that anyway, so there was no need to do that. So, I can't understand why they did it, but they did it.

Four Corners:

It does look like, you know, an attempt to dodge Ministerial scrutiny to the untrained or the trained eye even.

Anderson:

Well, that was... The Auditor's sense was it was a red flag. And, and that's a fair enough assessment. And it certainly could have been executed better.

*

Initially, Mr Anderson suggested that, notwithstanding the Auditor's red flag, there was no substantive problem.

Four Corners again pressed lightly. It only suggested that third parties might perceive the Memorial's action as deliberate and surreptitious.

Mr Anderson immediately conceded that such a perception would be reasonable and that the Memorial could have done better. This was plainly further and better information in the public interest.

Importantly, Mr Anderson's first statement (the first line) was retained in the program so that the Memorial's best defence for its action was put before viewers, allowing them to make up their own minds.

Four Corners x Kim Beazley (set out at ACMA p. 22)

Four Corners:

That does look a little strange.

Beazley:

It was not clever.

Four Corners:

It's not clever?

Beazley:

Not clever.

*

As with Mr Anderson in the exchange above, Four Corners put to Mr Beazley that the Memorial's action could be perceived negatively.

Mr Beazley responded with a concession: not only did the Memorial's action look strange, but it was also not clever.

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Four Corners again pressed lightly, repeating his response. Mr Beazley stuck to his initial response.

Four Corners put Mr Beazley answering the same way twice in front of the audience.

It would not have been appropriate for Four Corners to further edit down this exchange. Doing so would have misleadingly concealed this consistency from viewers, which would not have been fair to Mr Beazley.

Four Corners x Matt Anderson (set out at ACMA p. 23)

Four Corners:

It was done without a detailed business case having been completed or considered. Do we know why that happened?

Matt Anderson:

The government had everything it needed at the time that it took the decision to... to take that decision with 75 per cent confidence. And that was all then backed in by the detailed business case.

Four Corners:

What about a hundred percent confidence? Wouldn't that have been better?

Matt Anderson:

Oh, well, I think that's, that's the ideal world.

*

The ACMA says, in reference to this section, that the reporter 'cut off supporters of the Project' and this contributed to viewers' understanding that the supporters were treated differently.

It is simply wrong to suggest that Mr Anderson was cut off during this interview. He was given the time to answer the questions and the exchanges were included. The reporter's questions were fact-based and contained no prejudgement. Considering the importance of this issue this was a fair line of questioning to any person in a position of authority. It is noteworthy that Mr Anderson conceded that the process was less than ideal.

This interview was relevant and reasonable given the ANAO found that the Detailed Business Case (DBC) for the half-billion-dollar redevelopment was not finalised until after the decision to green light the project was announced. The ANAO also found there was no evidence the DBC was ever considered by the government.

As noted elsewhere the interviews with representatives of the of AWM served a different function from interviews with critics. Ordinary reasonable viewers would have understood that and would not have 'understood' that this was a sign of bias.

The ACMA also said that the questions in this exchange "showed a negative and preconceived position on the Project and about the people associated with the AWM" (p. 23). To the contrary, Four Corners only referred to adverse facts already established by the ANAO and asked if Mr Anderson knew why the funding had been prematurely approved.

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Conclusion

The ACMA noted in its conclusion, on this issue:

- *The Program was preferential in its treatment of critics of the Project and the AWM and unfairly treated supporters of the Project and AWM, like Mr Anderson and Mr Beazley.*

This finding represents an apparent misunderstanding of the normal processes involved in reporting contentious issues and allegations and misrepresents the manner in which the story was reported. Consistent with normal objective and impartial reporting, each of the critics and commentators was given an opportunity to present their criticisms of the redevelopment project. Those principally responsible for the project, the chairman Mr Beazley, and the Director of the Memorial Mr Anderson, then were given an opportunity to respond to each of those criticisms. They were given ample time and were treated respectfully in the interviews. Their answers were fairly and accurately included in the program, consistent with the public interest purpose of the program. To suggest that they were treated unfairly is completely unsupported by the evidence of the program itself.

This finding also seems to suggest that there is a problem with including negative commentary from interviewees or at least including too much. As already noted, the role of the program is to present, discuss and analyse those criticisms. If the cumulative effect of critics is negative that does not signify partiality by the program, it reflects the strength of their arguments.

The relevant question under the code is not whether the program adopted a neutral tone or devoted equal time to all viewpoints, but whether the tone and content were appropriate to the story and whether it presented relevant perspectives with due impartiality. The ABC submits that it did.

ACMA Conclusion and the ABC response:

The ACMA has made five preliminary findings of partiality relating to these five sections of the complaint from Mr Beazley identified at the beginning of the report:

- 2.1 the negative framing of the ANAO report;
- 2.3 Mr Matt Anderson's (Director, Australian War Memorial) interview on consultation processes;
- 2.4 misrepresentation of the conflict of interest process in relation to AWM's Executive Program Director, Mr Wayne Hitches;
- 2.5 the diversity of interviews; and
- 2.6 the interview style of the host and how the interviews were conducted.

We have addressed each of those issues above. The ACMA conclusions largely reflect agreement with these complaints. The ABC refutes each of the ACMA's conclusions of partiality.

We make one final comment on the following finding:

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- *The host did not maintain a neutral tone throughout the broadcast and relied on sustained emotive language. The ACMA considers that the style, language and tone did convey prejudgment, and it did appear to give effect to the opinions and enmities of the host.*

This is a very subjective judgement that is unsupported in the preliminary report. The only example of emotive language by the reporter cited in the report is in the tease. As noted above it is the role of the tease to signal to the viewer the nature and seriousness of the allegations in the program. The tease does not represent the position of the reporter. Nowhere else in the report is there any specific examples of highly emotive language or prejudgements. The program does, of course present and describe the criticisms of the redevelopment but that it is both inevitable and entirely appropriate in a program that is setting out to explore the widespread criticisms that have been made of the redevelopment.

At various crucial points in its analysis, the ACMA appears to wrongly assume that the reporter worked autonomously and had complete editorial control over the program.

It goes so far as to allege (without any substantiation whatsoever) that the reporter holds adverse opinions and enmities and these were allowed to influence the program's style, language and tone.

This finding is premised on the belief that the reporter prosecuted a particular theme, by which we assume is meant an agenda and that he had a particular 'stance' on the subject. This is not the case and as outlined above the evidence supporting this conclusion – that the description of ANAO report and the AWM was partial – does not bear scrutiny.

To allege that one of Australia's most respected journalists, winner of the Gold Walkley award among many accolades, of pursuing 'enmities' without evidence is grossly unfair. It is also unfair to the team who supervised this project, which itself included multiple award-winning senior journalists.

Let us be clear: all elements of the program, including the interviews, and the questions of which they consisted, are attributable to the whole program team. Each member of the team materially contributed to the program, and the team collectively decided that the program met the Standards and Code and was fit for broadcast.

We request the ACMA rectify all such errors in attribution before publishing its final report. This would be consistent with its task of assessing the program rather than any individual contributors to it.

Conclusion

This was a program with a high public interest value. A wide range of highly qualified, independent and respected individuals along with the Auditor-General of Australia and the Commonwealth Minister for Veterans' Affairs made well-informed criticisms of the management of the redevelopment of one of Australia's most important national institutions.

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Very large amounts of public money are at stake. Many, but not all of these criticisms had received public attention but never before had they been brought together and never before had those responsible had to account for their decisions.

The allegations and criticisms were clearly and accurately outlined from the beginning and throughout the program.

The program sought responses from those who have been criticised.

The program presented all principal relevant perspectives accurately and fairly.

The tone of the program was measured, respectful and revealed no pre-judgement. To make any finding of lack of impartiality would be unwarranted and unfair. It would send a powerful signal that could potentially be very damaging for investigative and public interest journalism not just at the ABC but at all broadcasters.

Critics need to be heard and accountability must be sought. That clearly can be uncomfortable for those in the spotlight. The fact that a subject strongly disagrees with criticism or robust questioning does not establish lack of impartiality. Journalists should also be accountable, but it must be recognised that journalism that is rigorous, critical and in the public interest is vital for maintaining the health of Australia's democracy.

Attachment D



22 May 2026

Nerida O'Loughlin
Chair and Agency Head
Australian Communications and Media Authority
By email

Dear Nerida,

Thank you for sharing ACMA's preliminary investigation report into *Four Corners*, "Sacrifice" for the ABC's review and response. The ABC's response has now been submitted to your Content Investigations Section within the extended time allowed.

As you are aware, I am well positioned to understand that the ABC has historically not been well disposed to breach findings from ACMA. Hopefully you have noticed that this pattern has subsided in more recent years with ACMA having less call to investigate serious matters pertaining to the ABC Code of Practice, in part due to the investigation function and public reporting of the Ombudsman's Office. However, in this case I feel compelled to write to you as I believe this preliminary report fails to make the necessary case for a breach of due impartiality and in the process seriously impugns the lead reporter and unduly criticises investigative (accountability) journalism in an unusually subjective manner.

I have set out my concerns below and I am hopeful that you will reconsider the findings and reasoning.

Yours sincerely,
Fiona

Fiona Cameron
ABC Ombudsman

Cc [REDACTED]

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2.1 "The negative framing of the ANAO report"

ACMA found that, due to a lack of thoroughness and balance, the program's framing of the ANAO report breached the Code's impartiality provision.

I disagree with this finding and aspects of ACMA's reasoning.

In relation to the alleged lack of thoroughness, ACMA repeatedly said (echoing Mr Beazley's submission) that the program presented only one of the ANAO's four overarching findings. However, the ANAO only made one overarching finding, and, as I explained in my investigation report, the program accurately and prominently presented this finding through both audio and visual program elements. The overarching finding was the ANAO's conclusion against its stated audit objective, which concerned the effectiveness of the Memorial's management of its redevelopment overall. The three other findings that ACMA pointed to were expressly labelled "supporting findings" in the ANAO's report. The misunderstanding in relation to these supporting findings is likely a result of ACMA placing undue reliance on the ANAO's "audit snapshot", which I note ACMA both cited and extracted material from in its reasons. Regrettably, the chevrons used in the one-page snapshot do not differentiate between the overarching finding and the supporting findings when the body of the ANAO report clearly does.

In relation to the alleged lack of balance, ACMA suggested that the program made too much of the ANAO-identified deficiencies in the Memorial's management of its redevelopment. Having fairly presented the ANAO's overarching finding, the program was entitled to probe into these deficiencies in the public interest and thereby discharge the essential accountability function that investigative journalism serves. The deficiencies were of obvious concern to the ANAO, notwithstanding its overarching finding, and, as the program itself demonstrated, were also of significant and ongoing concern to other key stakeholders, including the responsible Minister. At interview, the program put these deficiencies to those responsible for managing the Memorial's redevelopment and fairly and accurately presented their responses to the audience.

I also note that ACMA, in the course of its reasoning, adopted a submission from Mr Beazley that the program intentionally misled its viewers. This is a concerning and serious allegation for ACMA to make without substantiation.

I respectfully request that ACMA reconsider this finding and its reasoning.

2.3 "Mr Anderson's interview on consultation processes"

ACMA found that the program's presentation of its exchange with Mr Anderson on the consultation processes was not duly impartial.

I disagree with this finding and aspects of ACMA's reasoning.

The focus of this exchange was the National Capital Authority consultation process, which took place in two stages. According to the NCA's published consultation reports, the first stage received more negative submissions than positive, the second stage received more positive submissions than negative, and the stages together received more negative submissions than positive by some margin. The program initially asked Mr Anderson about the majority-negative NCA consultation in general terms, without referring to either stage. Mr Anderson responded that the majority of submissions had been positive. When the program contested this statement by referencing 601 submissions received, only three in favour, Mr Anderson advised that his understanding was that the majority of submissions had been in favour. At this stage it would appear that Mr Anderson was referencing the second stage (the more favourable stage for the Memorial) while the 601 submissions related to the first stage.

A voiceover clarified that there was a first and second stage consultation process with the majority of submissions favouring the redevelopment by the time the second stage had been reached.

ACMA seems to suggest that the voiceover should have specified that Mr Anderson was limiting his remarks to the second stage consultation process and that not doing so confused the viewers' understanding of the process. However, the program presented a fair edit of the exchange and then set out the results of each consultation stage. It was not up to the program to speculate on how Mr Anderson framed the consultation process in order to achieve impartiality.

ACMA also observed that my investigation report did not consider Mr Beazley's allegation regarding the NCA consultation process. This is because Mr Beazley did not make any such allegation in his original complaint to the ABC. It appeared for the first time in Mr Beazley's subsequent complaint to ACMA. Should ACMA wish to make this observation in its final report, I request that this information be fairly added so readers can appreciate that I did not fail to appropriately consider the concerns Mr Beazley expressed.

I respectfully request that ACMA reconsider this finding and its reasoning.

2.5 "The diversity of interviews"

ACMA expressed the view that there was evidence that the program failed to provide opportunities for principal relevant perspectives to be expressed.

To the extent that ACMA intended for this to be a finding (the language used leaves some doubt), I disagree with this finding and aspects of ACMA's reasoning.

Importantly, at no point in the course of its reasoning did ACMA specify a principal relevant perspective that the program omitted. The closest it came was expressing the view that there had been an "opportunity" for the program to interview a broader range of "stakeholders", such as veterans from recent campaigns and, if I understand correctly, supporters of the development not currently employed by the Memorial. I understand that the ABC has explained in its submission why the views of stakeholders such as these do not necessarily amount to principal relevant perspectives for the purpose of the Code, especially in the context of an accountability investigation. I therefore limit myself to the point that there are other ways, apart from conducting and presenting more interviews, to incorporate the views of stakeholders, and the program made good use of them to bring in each of the stakeholder groups ACMA identified. For example, the program included:

Brendan Nelson (former Director, Australian War Memorial): *The opportunity and the responsibility our nation now has is to tell the stories of what has been done in recent years in Afghanistan, Iraq, the Solomon Islands and East Timor.*

The program requested an interview with Dr Nelson, but he was not available. Yet, by including this earlier clip of him speaking (which also incorporated Memorial-supplied footage of uniformed soldiers walking through the Memorial site and a recent veteran interacting with the Tarin Kowt Wall exhibition), the program managed to give its audience a sense of not only Dr Nelson's personal support for the development as a former employee but also the development's potential importance to recent veterans.

I also note with concern that, in this section of its report, ACMA purported to extract from my investigation report but, without explanation, and in some places without ellipses, omitted most of my analysis, retaining little more than my subheadings and my restatement of the complainants' concerns. Readers would be none the wiser that I had, in this section of my report, detailed the credentials and expert knowledge of various participants in the program to support my conclusion that they were well qualified to provide their perspectives to the audience. Should ACMA wish to retain this

extract, I request that my reasoning be fairly restored, so that readers can appreciate my decision was reasoned not arbitrary.

I respectfully request that ACMA reconsider this finding (if it is one) and its reasoning.

2.6 "The interview style of the host and how the interviews were conducted"

ACMA found that, due to the cumulative effect of various program elements, the program unduly favoured critics of the Memorial's redevelopment project and so was partial.

I disagree with this finding and aspects of ACMA's reasoning.

ACMA's reasoning in this section continued to expressly rely on the notion that the program's explanation of the ANAO report was insufficiently thorough. As advised in my comments on 2.1 above, this reasoning is flawed and cannot sustain ACMA's finding on this issue.

The Memorial representatives whose interviews ACMA referred to and worked with in this section of its report (Mr Anderson and Mr Beazley) were no mere supporters of the redevelopment — they were the Memorial's Director and Chair respectively and therefore had a public duty to manage the redevelopment soundly. In my view, the reasonable viewer would have appreciated that these interviews formed part of an accountability investigation probing deficiencies previously identified by the ANAO and that the style and tenor of questioning was referable to this. They would have suspended their judgment and made up their mind based on the quality of the answers Mr Anderson and Mr Beazley were able to provide rather than the program's questions. Likewise, the reasonable viewer would have recognised the opening "tease" for what it was. Any emotive language or negative commentary it contained might have stimulated their interest in the remainder of the program, but, considering their "fair average intelligence", it would not have closed their mind. None of these program elements, alone or cumulatively, had the effect of rendering the program partial.

To the extent that ACMA's finding at 2.3 already impugned the program's approach to dealing with Mr Anderson, this finding is also duplicative in a way that, in my view, is unfair to the program.

Finally, I note with concern ACMA's frequent and highly critical references to the lead reporter, some of which appear to amount to unsubstantiated allegations that impugn his personal and professional integrity. I recommend that, as the ABC has requested in its submission, all references to the reporter be replaced with references to the program or program team.

I respectfully request that ACMA reconsider this finding and its reasoning.

09/09/2026, 09:29

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Ombudsman Investigation Report

Fiona Cameron, ABC Ombudsman

Posted Wed 16 Apr 2025 at 5:37pm

ABC NEWS | Four Corners | 'Sacrifice' | 10 March 2025 | No Breach

Summary

The Ombudsman received seven content complaints about the *Four Corners* episode "Sacrifice", broadcast on 10 March 2025, which investigated the [Australian War Memorial's development project](#) and related matters.

The Ombudsman retained three complaints for investigation, including one submitted on behalf of the Australian War Memorial (the Memorial). Across the three retained complaints, the following key concerns were expressed:

- The episode presented negative findings from the Australian National Audit Office's report about the development project out of context.
- The episode misleadingly suggested that construction noise from the development site had disrupted a Last Post ceremony.
- The episode highlighted the development site's destruction rather than its eventual rejuvenation.
- The episode unduly favoured perspectives against the development project over perspectives for it.
- The episode made the following allegations about Memorial employee Wayne Hitches without giving him a fair opportunity to respond:

<https://www.abc.net.au/about/ombudsman/significant-no-breach-findings/four-corners-sacrifice-10-march-2025-no-breach/105184342>

1/14

- he did not complete a conflict of interest declaration when required; and
- he helped his former employer Lendlease improve its Anzac Hall tender by debriefing it after an earlier unsuccessful tender.

The Ombudsman considered the complaints against the following Editorial Standards:

- 2.1 Make reasonable efforts to ensure that material facts are accurate and presented in context.
- 2.2 Do not present factual content in a way that will materially mislead the audience. In some cases, this may require appropriate labels or other explanatory information.
- 4.1 Gather and present news and information with due impartiality.
- 4.5 Do not unduly favour one perspective over another.
- 5.3 Where allegations are made about a person or organisation, make reasonable efforts in the circumstances to provide a fair opportunity to respond.

Analysis

The episode presented negative findings from the Australian National Audit Office's report about the development project out of context

The Australian National Audit Office (the ANAO) conducted a performance audit of the management of the Memorial's development project and, in April 2024, set out its findings in [this report](#). One of the episode's chapters examined the report. The complaints contended that the ANAO's overarching finding (i.e. that management of the development project had been "largely effective") was essential context, which, because of its focus on the ANAO's negative findings, the chapter omitted.

We acknowledge that the chapter did tend to focus on certain ANAO-identified deficiencies in the project's management. However, a "negative focus" like this is not a problem per se. In fact, subject to accuracy, impartiality and fairness, taking a negative focus is in keeping with the public interest and accountability functions of investigative journalism. That the Minister, among others, expressed concern about these deficiencies suggests that this was an appropriate approach for *Four Corners* to have taken in the circumstances.

Because of the chapter's focus, the ANAO's negative findings were material facts. Under Standard 2.1 (accuracy), *Four Corners* therefore needed to make reasonable efforts to present them in context. We accept the complaints' contention that the ANAO's overarching finding was essential context, necessitating its inclusion in the chapter.

Upon introducing the ANAO's negative findings, the reporter said (our emphasis):

What the ANAO found was that, while the management of the project was largely effective, there was evidence of poor record keeping, of undeclared conflicts of interest involving contracts worth more than \$150m, and of the Memorial taking steps to vary one contract so that it came in \$1 below the threshold that triggers Ministerial scrutiny.

The on-screen graphic initially highlighted the overarching finding by prominently showing it as a quote attributed to the ANAO's report.



This quote remained on screen for the duration of the scene, during which further quotes, capturing the negative findings, appeared.



This allowed the audience to consider first the overarching finding in isolation and then all of the relevant findings together. Based on the above, we consider that *Four Corners* made at least reasonable efforts to present the ANAO's negative findings in the context of its overarching one.

The complaints also contended that, by failing to refer to three awards (1 - 2 - 3) and certain praise (see Senator Reynolds at p. 3) recently received by the Memorial, the chapter lacked other essential context and was not duly impartial. We think that these accolades, though not wholly irrelevant, are too remote from the chapter's examination of the ANAO's findings to have been *essential* context, and their omission therefore does not suggest to us a lack of impartiality.

Moreover, we do not think that including a reference to them would have added any significant or new context. The episode already included footage of the Memorial's representatives, including its Director and Chair, responding to the negative findings and defending the Memorial's sound management of the project. For example:

Matt Anderson (Director, Australian War Memorial): *They [the ANAO] went through and they found that the project represents value for money for the taxpayer. So by that score, yes, of course, I think it's a positive audit.*

For these reasons, the Ombudsman has not found any breach of the Editorial Standards on accuracy or impartiality in light of this concern.

The episode misleadingly suggested that construction noise from the development site had disrupted a Last Post ceremony

In the episode, a recording of the *Last Post* was played under a series of four scenes.

Scene	<i>Last Post</i> recording timestamps	<i>Last Post</i> recording duration	Our scene description
1	20:41:09– 20:41:16 Part of scene	00:00:07	Interment of the unknown Australian soldier (archival footage) Note: This scene started at 20:40:23
2	20:41:16– 20:41:34 Whole of scene	00:00:18	Veterans attend a Last Post ceremony in the Memorial's Commemorative Courtyard
3	20:41:34– 20:41:58 Whole of scene	00:00:24	The reporter observes the Tomb of the Unknown Australian Soldier
4	20:41:58– 20:42:27 Whole of scene, except for a brief fade out	00:00:29	Construction occurs on the Memorial's development site

The recording of the *Last Post* started towards the end of the first scene and then continued playing for the entirety of the second to fourth scenes, except for a brief fade out at the end. Although the second scene does depict a Last Post ceremony, *Four Corners* has advised that the recording of the *Last Post* used as musical soundtrack for these four scenes was captured at another time entirely.

In addition to the *Last Post* recording, the third scene's soundtrack included voiceover narration, and the fourth scene's soundtrack included audio, ostensibly live from the development site, which the complaints rightly described as construction noise.

In relation to this concern, *Four Corners* commented:

No reasonable viewer would interpret this series of scenes as a continuous sequence.

The use of a single piece of music across multiple scenes as part of the soundtrack is a standard technique in documentary storytelling to provide thematic and aesthetic unity. Viewers are familiar with this technique and would not assume that the scenes are occurring simultaneously, concurrently, or even in the same location.

There is a gap of almost 25 seconds between the ceremony scene and the development site scene, as well as other intervening audio material, like the reporter's voiceover narration.

Importantly, at no time during the ceremony scene is any construction noise present, and the footage of the ceremony and the development site is never intercut.

We think that *Four Corners* is correct that no reasonable viewer would interpret this series of scenes as a continuous sequence. Even a viewer who might have got the impression that the recording of the *Last Post* was live audio from the ceremony in the first or second scene would have understood that it was then "borrowed" as a unifying musical soundtrack for the following (related but separate) scenes.

It follows that the episode did not suggest that construction noise from the development site had disrupted a *Last Post* ceremony.

For these reasons, the Ombudsman has not found any breach of the Editorial Standards on accuracy in light of this concern.

The episode highlighted the development site's destruction rather than its eventual rejuvenation

The complaints contended that the episode highlighted the development site's destruction by relying too extensively on October 2024 footage.

We understand that most of *Four Corners*' footage from within the Memorial precinct, including the development site, was captured in October 2024, by arrangement with the Memorial. In February 2025, *Four Corners* managed, after multiple requests, to obtain the Memorial's further permission to briefly return to the precinct to film some supplementary footage.

Four Corners has demonstrated to us that it included not only primary October 2024 footage but also some supplementary February 2025 footage in the episode. It also incorporated Memorial-supplied "future state" renderings of the new spaces. In our view, the site's eventual rejuvenation was therefore a clear feature of the episode. In any case, most of the footage of the development site included in the episode appears to us to show *construction* rather than *destruction*.

The limited amount of footage that showed *destruction* instead was mainly confined to the chapter on Anzac Hall and, in that context, we consider that its use was editorially relevant because of the dispute between the participants about whether so new and lauded a structure should have been demolished and replaced.

For these reasons, the Ombudsman has not found any breach of the Editorial Standards on impartiality in light of this concern.

The episode unduly favoured perspectives against the development project over perspectives for it

The episode included perspectives both for and against the development project. However, the complaints contended that, in various ways, the episode tended to favour the perspectives against it over those for it.

First, the complaints contended that the episode “diminished” and “minimised” the voices of participants who spoke in favour of the project, especially the current representatives of the Memorial.

On the participation of these representatives, *Four Corners* commented:

Early in production, we travelled to Canberra to meet with Memorial officials and explain to them our lines of inquiry. We also explained the episode’s topics in our subsequent correspondence. We were open with the Memorial’s representatives, taking time to brief each of them before interview. Like many other aspects of the episode, this reflected our respect for the Memorial and its function.

We consider that, by informing the Memorial as it did, *Four Corners* made at least reasonable efforts to enable the Memorial’s representatives to speak effectually in favour of the project at interview. We also consider that the episode included extensive footage from these interviews across its chapters. It follows that we do not accept this contention.

Secondly, the complaints contended that those who spoke against the project (or certain aspects of it) were inappropriately selected for participation in the episode. In support of this contention, the complaints made two key claims:

a. Those who spoke against the project were “overused[,] known critics” of the project

In relation to this claim, *Four Corners* commented:

As for the “critics” who appeared in the program, four of them had held very senior roles at the Memorial.

Steve Gower was, for a long while, the Memorial’s Director. He is also a Vietnam War veteran, a retired Major General in the Australian Army, and, according to the Memorial’s own website, a “first-rate administrator”.

Michael McKernan was the Memorial’s Deputy Director, Peter Stanley was its Principal Historian, and Stewart Mitchell was its Buildings Manager. These three participants have written books about the Memorial and are also featured on the Memorial’s website.

Together, these four participants have a combined 77 years of service at the Memorial. Their expertise is beyond question.

Because of their credentials, as outlined above by *Four Corners*, and their knowledge of the issues in dispute, as demonstrated in the episode, we consider that these participants were well qualified to provide their perspectives. In any case, the fact that they might have previously spoken in other fora about the same or similar matters, and were therefore “known”, does not disqualify them under the Standards from participating.

b. Those who spoke against the demolition and replacement of Anzac Hall had an undisclosed bias, arising from their relationships with (and so attachment to) the original structure

In relation to this claim, *Four Corners* commented:

Those who spoke against the demolition and replacement of Anzac Hall presented their reasons and were interrogated about them.

As above, these participants were well qualified to provide their perspectives. Shannon Battison was formerly the President of the Australian Institute of Architects, John Denton was the original Anzac Hall’s architect, and Steve Gower (also mentioned above) was the Memorial’s Director when the original Anzac Hall was built and opened. In our view, the episode was transparent about, and even made a feature of, their relationships with the original Anzac Hall, and this enabled viewers to decide for themselves whether these participants’ perspectives were reliable.

Thirdly, the complaints contended that the episode’s production treatment of the competing perspectives differed, favouring those against the development project. Our close review of the episode did not lead us to this conclusion.

For these reasons, the Ombudsman has not found any breach of the Editorial Standards on impartiality in light of this concern.

The episode made the following allegations about Memorial employee Wayne Hitches without giving him a fair opportunity to respond:

- *he did not complete a conflict of interest declaration when required; and*
- *he helped his former employer Lendlease improve its Anzac Hall tender by debriefing it after an earlier unsuccessful tender.*

During the chapter about the ANAO's report, the reporter said:

The Audit Office wasn't just concerned about apparent attempts to avoid Ministerial scrutiny. It also found that possible conflicts of interest in the awarding of contracts were not adequately documented and declared.

Then, to particularise this, the reporter said:

Reporter: One of those possible conflicts of interest involved Wayne Hitches, who's in charge of the redevelopment project. He'd worked in a high-level position at Lendlease months before the developer was awarded multi-million dollar redevelopment contracts. The Audit Office found Mr Hitches failed to complete a conflict of interest declaration.

...

Just over three years after awarding that initial contract to Lendlease, Mr Hitches finally signed a conflict of interest declaration. By that time, Lendlease had won another contract, this time worth \$130m.

We consider that, through these particulars, the episode did make the first allegation about Mr Hitches. *Four Corners* was therefore required by Standard 5.3 (fair and honest dealing) to make reasonable efforts in the circumstances to provide Mr Hitches with a fair opportunity to respond to that allegation (discussed further below).

The chapter later included:

Minister: The process was deficient. And when those processes are deficient, you can find yourself that there were conflicts of interest that no one knew about.

Reporter: But it went beyond deficient processes. The Audit Office also found that Lendlease was briefed about a failed contract bid that may have allowed it to improve its tender for the biggest contract of them all, ultimately worth \$130m.

Based on the context in which the Minister's remarks were presented, we understand that his first sentence ("The process was deficient") referred to the process in Mr Hitches' specific case and his second ("And when those processes are deficient...") to processes for managing conflicts of interest in general. The reporter then segued, through his first sentence ("But it went beyond deficient processes") and the start of his second ("The Audit Office also found") to a separate topic also involving Lendlease.

Importantly, the reporter did not mention Mr Hitches in this section.

In light of these elements of the section, we consider that the episode did not state or insinuate that Mr Hitches debriefed Lendlease. As such, we are satisfied that the episode did not make the second allegation about Mr Hitches.

In expressing this concern, the Memorial confirmed that it (not Mr Hitches) had debriefed Lendlease but said that it had done so properly, pursuant to a requirement in para 7.17 of the Commonwealth Procurement Rules. For completeness, we briefly respond to this.

We agree with the Memorial on the effect of para 7.17 of the Rules. It appears to us that, on request from Lendlease, the Memorial would have become dutybound to provide a debriefing.

However, on our reading of the ANAO's report (at para 3.23), the ANAO was not concerned with the Memorial having debriefed Lendlease per se. Rather, it was concerned that, by debriefing Lendlease for MWP2 *before the closing date for MWP3*, to which the same evaluation criteria applied, the Memorial may have given Lendlease a competitive advantage over the other MWP3 tenderers, who had not participated in MWP2 and were therefore not entitled to be debriefed.

We think that the reporter's second sentence above adequately captured this concern of the ANAO.

In relation to fairness, the complaints contended that *Four Corners* unfairly denied Mr Hitches the opportunity for an interview and falsely asserted that he had not responded on the "conflict of interest issue".

Four Corners advised that, though it did not invite Mr Hitches to be interviewed, it did put questions to him for response, including the question why he had not completed a conflict of interest declaration with respect to his former employment at Lendlease when required. It also advised that it put questions about Mr Hitches and his potential conflict to other Memorial representatives at interview, as shown in the episode.

In an email dated 8 November 2024, *Four Corners* wrote to Mr Hitches in care of the Memorial:

I'd like to request a response from the [Memorial's] Executive Program Director, Wayne Hitches, to the audit office's assertion (as documented in its report on the "Management of the Australian War Memorial's Development Project") that he did not complete a conflict of interest declaration, noting his prior working relationship with Lendlease, which was awarded the contract for MWP3. [Ref ANAO report, Paras 3.36 and 3.41].

I'd be grateful if Mr Hitches could get back to me with a response by 15th November 2024.

On 15 November 2024, *Four Corners* wrote again:

On 8th November, I wrote requesting a response from the [Memorial's] Executive Program Director, Wayne Hitches, to the audit office's assertion (as documented in its report on the "Management of the Australian War Memorial's Development Project") that he did not complete a conflict of interest declaration, noting his prior working relationship with Lendlease, which was awarded the contract for MWP3. [Ref ANAO report, Paras 3.36 and 3.41].

I had asked that we obtain a response from Mr Hitches / the [Memorial] by 15th November, but I understand how busy you've been. If you could ensure that we have a response by close of play on Thursday 21st November, I'd be grateful.

On 21 November 2024, *Four Corners* received Mr Hitches' attributable response from the Memorial. That same day, *Four Corners* wrote again:

However, I still do not understand why Mr Hitches did not complete a Conflict of Interest declaration and, for clarity, I would request his response to this question.

That is, in *Four Corners'* view, Mr Hitches had not answered its question why he had not completed a declaration and so followed up Mr Hitches' response, with a deadline of close of business that day. *Four Corners* has advised us that it received no further response from either the Memorial or Mr Hitches.

In the episode, Mr Hitches' 21 November 2024 response was described in this way:

Reporter: *In a statement to Four Corners, Mr Hitches did not answer our question as to why he did not fill in the declaration but said his former role at Lendlease was known by the War Memorial executive and by the then-Minister.*

Because the episode included this description of his response to the "conflict of interest issue", we do not accept the complaints' contention that the episode asserted that Mr Hitches had not provided one.

In light of the above, we consider that, even without being invited to participate in an interview, Mr Hitches received a fair opportunity to respond to the allegation made against him in the episode.

For these reasons, the Ombudsman has not found any breach of the Editorial Standards on fair and honest dealing in light of this concern.

We note that, in recognition of this concern, *Four Corners* has uploaded Mr Hitches' whole 21 November 2024 response to the *Four Corners* webpage of the ABC website, in close proximity to the digital version of the episode, so that it can "speak for itself". We welcome this action.

Ombudsman's Finding

The episode did not breach the Editorial Standards on accuracy, impartiality, or fair and honest dealing.

Posted Wed 16 Apr 2025 at 5:37pm



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