Complaint and Investigation Assessment (CIA)

COMPLAINT AND/OR BROADCAST DETAILS

Complainant Name	ACMA Complaint ID	Date Complaint received by ACMA	Related matters
[redacted] obo of The Hon Kim Beazley AC (Council Chairman of the Australian War Memorial)	BM-015373	13 August 2025	[redacted]

Broadcaster or licensee	Australian Broadcasting Corporation
Station ID or name	8121801 || ABC TV || ABC
Type of service	National Broadcasting
Program or service title	Four Corners
Date of broadcast	10 March 2025
Relevant provision/s of BSA, standard or code	ABC Code of Practice 2024 (ABC Code) - accuracy, impartiality, fair and honest dealing
Complaint or matter description	Allegation that the program contained inaccurate information about the Australian War Memorial, did not provide fair and honest dealing, and failed to report impartially.
Relevant breaches by the licensee/ network/broadcaster in last 12 months	NIL

Comments

> A copy of the complaint to the ACMA can be found in CRM at BM-015373

> A copy of the original complaint to the broadcaster, the broadcaster's response, the ABC's Ombudsman's Office Investigation Report and the original complaint to the ACMA (with all of the relevant documents attached) can be found here.

> A timeline of the complaint includes:

(i) Broadcast aired 10 March 2025

(ii) 20 March 2025, the Australian War Memorial (AWM) Council Chairman, The Hon Kim Beazley AC (the complainant), sent a letter to Mr Kim Williams, the Chairman of the ABC;

(iii) 21 March 2025, the complainant received a one-page response from Mr Gavin Fang, the ABC Editorial Director; and

(iv) 16 April 2025, the ABC Ombudsman published an Ombudsman Investigation Report online and it is available here.

> A copy of what appears to be the broadcast was located on the ABC iView website here.

> A copy of the ABC Code is here.

> The complaint outlines allegations with reference to the ABC Code and ABC editorial policies. The ACMA considered these allegations with reference to compliance with the ABC Code.

> [redacted]

RISK RATING & DECISION MAKER LEVEL FOR INVESTIGATION

The ACMA has established a system of risk oversight and management by virtue of the MI on Risk Management and the *ACMA Risk Management Guide*. The risks assessed in this CIA are operations level risks associated with the investigations undertaken by the Content Safeguards Branch. Once identified, risks and consequences will generally be reduced by the use of integrated, everyday controls.

Low to medium risk decisions will generally be made under delegation. High risk matters will generally be considered by the Authority. Extreme risk matters will always be considered by the Authority. The risk level will be determined by completing the below table with reference to the risk level matrix at **Attachment B**. The level of risk may change in the course of an investigation and the level of decision-maker changed accordingly.

Risk category and key examples	Key risk and consequence	Current Controls	Likelihood	Consequence
Compliance, e.g. the matter: - is of significant public interest - may impact on the community at large - may be novel and/or have precedent value - may concern systemic non-compliance - may involve formal enforcement action - may raise concerns about the adequacy of the relevant code or involve policy considerations.	Decision and subsequent actions not adequately informed by Authority views / Level of compliance and safeguards not adequate and/or consistent	The ACMA will make decisions in accordance with the Codes and BSA. Authority oversight of investigation outcomes and delegated decisions enables monitoring of the effectiveness and relevance of a code. Work with industry to develop regulatory and non-regulatory responses to audience concerns and complaints.	Unlikely	Minor
Stakeholder management, e.g. the matter has, or may: - develop, strong community, political, media or industry sensitivity - involve a wider context and/or broader environmental considerations.	Stakeholder expectations not met and/or not managed at appropriate level / Reduced confidence in ACMA and/or legislative framework	Work with industry to develop a culture of broadcasting code and act compliance and reduce costs of compliance over time. Educate citizens, proactively via published decisions, social media and website information. Quality assurance monitoring of complaints processing and CSC interaction including adherence to ACMA customer service charter and complaints handling manual.	Possible	Moderate

Given the above, the risk level is: Medium and it is anticipated that the decision maker will be:

☒ **A delegate**, where the power is delegated in the *Instrument of Delegation*; or
☐ **The Authority**; or
☐ **Not applicable** (for matters that will not be investigated).

DECISION WHETHER TO INVESTIGATE MATTER

I, being the appropriately delegated officer of the Australian Communications and Media Authority, noting the information provided under 'comments' above (including the information contained in the links), the public interest considerations at **Attachment A** and the following factors:

> Four Corners is a 45 minute investigative current affairs program (the program). The relevant episode, titled Sacrifice, focused on the management, funding, and redevelopment project of the AWM [also known as the Australian War Memorial Development Project (the Project)] . The program was hosted by Mark Willacy (the host).

> The relevant sections of the ABC Code are accuracy, impartiality, and fair and honest dealing. The complainant raised numerous concerns about the program but the main focus was the lack of impartiality afforded to the AMW, in particular, for the redevelopment and funding of the AWM. The ACMA has assessed the complaint based on the general themes of the complaint and determined that the majority of the concerns raised would be better dealt with by impartiality provisions of the ABC Code.

Relevant Code standards:

> **Accuracy**: The ABC Code states the ABC will make reasonable efforts to ensure that material facts are accurate and presented in context.

> **Impartiality**: The ABC Code states the ABC will gather and present news and information with due impartiality.

> **Fair and honest dealing**: The ABC Code states participants in ABC content will normally be informed of the general nature of their participation. Where allegations are made about a person or organisation, the ABC will make reasonable efforts in the circumstances to provide a fair opportunity to respond.

Matters not to be investigated.

Accuracy

When determining the accuracy of a material factual statement under the ABC Code, the ACMA will consider relevant contextual factors including the type, subject, and nature of the content, the likely audience expectations of the content and the circumstances in which the content was made and presented. The requirement for accuracy does not apply 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.

Issue 1 – omission of materially relevant information relating to the Project and the findings of an Australian National Audit Office (ANAO) Report (the Report)

> The complainant made allegations that the program:

- failed to refer to positive reactions to the Project, for example, three national awards recognising the Project's excellence and sustainability. The complainaint stated that they provided these details to the program during the investigation period;
- only referred to one of the four of the overarching 'largely effective' conclusions of the Report;
- did not mention the scale of the Report or the Project;
- deliberately misled viewers by not providing adequate information about the Report; and
- did not convey an accurate and unbiased view of the Report, for example, the program did not mention that the Report made five recommendations to the AWM to improve policies, record keeping, probity, conflict of interest and contract management and that all five recommendations were accepted and actioned by the AWM.

> The complaint alleges that the omission of the above information rendered the program inaccurate and misleading.

> The ordinary reasonable viewer would not have known that the information was inaccurate, for example, the program did not state that the AWM did not receive three awards, rather they omitted to include them in the program. For these reasons, the ACMA considers the broader allegations regarding the omission of necessary contextual information relating to Project and Report would more appropriately be considered under the impartiality provisions of the ABC Code (see below at *Issue 8*).

Issue 2 – The narrative of the program heavily favoured known critics of the AWM, in particular, a former historian at the AWM, Professor Peter Stanley, who inaccurately stated, '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 contrast to statement from Professor Stanley, the complainant stated:

> '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 Peter Stanley's statement was conveyed as fact and with authority'.

> The ordinary reasonable viewer would have understood that Professor Stanley was conveying that there was a very small allocation for frontier conflicts displays in the AWM's floorspace rather than a literal figure to be relied upon. Further, it is unclear whether Professor Stanley's statement would be viewed as a material fact in the context of the broadcast. It may also be argued that he was also expressing an opinion rather than a material fact, given he was commenting on the small amount of space allocated to the frontier conflict.

> The ACMA is of the view that it is more appropriate to consider this issue in the broader context of the allegations regarding the program unduly favouring perspectives critical of the Project under the impartiality provisions of the ABC Code (see below at *Issue 9*).

Issue 3 – General submission about the program undermining AWM representatives:

> In the case of Mr Matt Anderson (AWM Director) the host questions the statements of Mr Anderson and/or introduces doubt for the viewer about the veracity of Mr Anderson's statements. For example, in respect of the Detailed Business Case, the host asked Mr Anderson:

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

> The complainant also alleges that the host's comments undermine Mr Anderson and support the allegations made by critics of the Project, like Mr David Shoebridge, Senator, Australian Greens, who at the start of the program (time stamp 01:41) stated that:

'No one should be entitled to allocate half-a-billion dollars of public money to a project without a business case.'

> The complainant submits that:

'By way of context, the confidence levels in costs for detailed business cases are a technical industry term, probably unknown to most viewers. "A hundred percent confidence" sounds ideal but is not realistic and certainly not industry standard.'

> The complainant alleges that the host's comments undermine Mr Anderson and support the allegations made by critics of the Project who were interviewed about the AWM's processes for the allocation of public money.

> While the complainant's general submission that the program undermined and misrepresented AWM representatives like Mr Anderson were framed in terms of impartiality under the ABC's editorial standards, the ACMA considers that this specific reference to Mr Anderson and the reference to 'hundred percent confidence' can be more appropriately considered under accuracy.

> The ACMA considers that ordinary reasonable viewers would have understood that the host was being provocative and challenging Mr Anderson and would have known that the host was trying to make a point that the Project could have been handled better.

> The ACMA notes that the above general allegations regarding the undermining of AMW representatives are more appropriately considered under the impartiality provisions (see below at *Issue 9*).

<u>Impartiality</u>

The ACMA notes that 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 likely audience expectations of the content, and the degree to which the content is contentious.

Issue 4 – Images and commentary are used in the program to demonstrate the size of the Project in a critical manner.

> The fact that a judgemental tone is adopted at times or that a particular image may be shown in a negative light is not, of itself, conclusive evidence of partiality.

> The program included perspectives both for and against the AWM, with a large number of current and former AWM representatives interviewed.

> While some of the interviewees' opinions were critical of the AWM, there were other opinions and perspectives from current representatives of the AWM presented throughout the program.

> The ACMA notes that the ABC is not precluded from making a critical examination of an issue in a current affairs program such as *Four Corners* and the presentation and style of the program appeared consistent with other *Four Corners* episodes. For these reasons, the ACMA will not investigate this aspect of the complaint.

Fair and honest dealing

Issue 5 - AWM representatives were not adequately informed about their participation in terms of the allegations raised during the program.

> The information provided by the ABC to the AWM appears to be sufficient to inform them of the general nature of their participation as required by the ABC Code and the ACMA will not investigate this aspect of the complaint.

Issue 6 - AWM representatives particularly the AWM's Executive Program Director, Mr Wayne Hitches (Mr Hitches) and Mr Anderson were not provided with a fair opportunity to respond to allegations made about them.

> While Mr Hitches was not interviewed on the program, questions were put to him prior to the episode being aired. The ABC Ombudsman Report states that on 8 November 2024, the ABC sent the AWM questions that they asked to be sent to Mr Hitches. The ABC received Mr Hitches response on 21 November 2024 and the ABC also asked a follow up question but no response was provided by Mr Hitches or the AWM.

> The complainant alleges that the program:

> > 'elected to pick very small sections of Mr Hitches responses, which gave a misleading impression to the ABC audience.'

> The complainant also alleges that the program misrepresented or omitted crucial pieces of information in their reporting of Mr Hitches' involvement in the Project. For example, the program insinuated that Mr Hitches had debriefed Lendlease in a manner that assisted them 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 ABC Ombudsman Report states:

> > 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.

> Although not all facets of Mr Hitches' submissions may have been included, his answers were included in the broadcast to the extent that it was clear that he disputed the allegations made. As referred to above, the ABC has taken steps to address the issues raised by including a link to Mr Hitches statement in the episode description on the iView website (which still remains on the iView website).

> The ACMA considers the ABC made reasonable efforts as required by the ABC Code, to provide Mr Hitches with a fair opportunity to respond to allegations raised in the broadcast, and will not investigate this aspect of the complaint.

> In relation to the segment on the Report findings where Mr Geoffrey Watson (Mr Watson), Director of The Centre for Public Integrity, offers an opinion on whether Mr Anderson read the Report, the ACMA takes the view that the allegations related to accuracy, insofar as the ordinary reasonable viewer would have considered the meaning of the statement:

'*He mustn't have read the report or the same report as I read. The report that I read had problems from the start to the finish.*'

> The ACMA considers that the ordinary reasonable viewer would have understood that Mr Watson did not literally mean Mr Anderson did not read the Report but rather Mr Watson significantly disagreed with Mr Anderson's statement. The ACMA will not investigate this aspect of the complaint. It should be noted that Mr Anderson was not offered an opportunity to respond to the above comments made by Mr Watson. However, this allegation was considered under accuracy, rather than fair and honest dealing provisions of the Code.

> Further, Mr Anderson was interviewed by the host and was given an opportunity to respond to questions and criticisms about the Project. The ACMA considers the ABC made reasonable efforts as required by the ABC Code, to provide Mr Anderson with a fair opportunity to respond to allegations raised in the broadcast, and will not investigate this aspect of the complaint.

> However, the ACMA will consider the more general allegations that representatives of the AWM were not treated fairly during the program under the impartiality provisions, namely, unduly favouring perspectives that were critical of the Project (see *Issue 9).*

> Finally, the ACMA considers the broader allegations regarding the omission of necessary contextual information relating to Mr Hitches would more appropriately be considered under the impartiality provisions of the ABC Code (see below at *Issue 8*).

Matters to be investigated.

Accuracy

Issue 7- the program presented misleading and distorted representations by manipulating the audio during the bugle sounding of the Last Post Ceremony

> The complainant alleges that the 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 Last Post Ceremony.'

> The ABC Ombudsman Report concluded that the ordinary reasonable viewer would have understood that the footage of the Last Post Ceremony was not a continuous segment.

> However, given the gravity of the allegations raised by the complainant and the significant public interest and concern, this matter warrants further investigation to determine what the ordinary reasonable viewer would have concluded when they watched the footage.

Impartiality

> As outlined above at *Issue 1*, the ACMA will consider the following allegations as they relate to impartiality, rather than accuracy:

Issue 8 – Omission of materially relevant information relating to the Project despite it being publicly available and/or provided to the producer and/or occurring during the investigation period of the filiming and newsgathering. For example:

> On 3 February 2025, during the official opening ceremony of the AWM's new main entrance, Prime Minister Albanese, commented that the extension was 'magnifcent' and 'an addition that is both true to the spirit of the Memorial, and an enhancement of it'.

> AWM's management of the Project received two major awards in 2024 (and another in 2023):

(i) The Asia-Pacific Project Controls Expo 2024 award for Transformation Project of the Year;

(ii) 2024 Department of Finance Commonwealth Procurement and Contract Management Awards for Excellence 'Gold Award' for Encouraging Environmental Sustainability through Procurement; and

(iii) 2023 Department of Finance Commonwealth Procurement and Contract Management Gold Award for Generating Broader Benefits to the Australian Economy through Procurement with the Memorial's Veterans Employment and Opportunity Plan.

> More information about the findings of the Report and its overall findings should have been covered in the program, including the segment in the program (time stamp 21:33) that only referred to one of four of the overarching 'largely effective' conclusions of the Report. Further, the ABC Ombudsman's report also did not refer to the other 'largely effective' overarching conclusions omitted by the program.

> The scale of the Report was not mentioned in the program. For example, the Report involved the review of 221 contracts for project management, design, engineering, construction and speciality advice.

> The summary of the Report intentionally misled viewers by not presenting adequate information about the Report.

> The program does not mention that the 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.

> The host's discussion with Mr Anderson about the Project's approval process was mispresented and there may have been an omission of information. For example, the complainant alleges that Mr Anderson provided information about the Report that would have cleared up the confusion surrounding the different stages of the Project approval process.

> The references to Mr Hitches on the program asserted that he did not answer why he did not fill in a conflict of interest declaration and also implied that he was involved in the debriefing of Lendlease, who were subsequently awarded a contract. (see details in *Issue 6* above)

Issue 9 – The program unduly favoured perspectives critical of the Project, for example:

> The complainant alleges that the program heavily favoured known critics of the AWM, for example, Professor Stanley (former historian at the AWM and author of the book *Beyond the Broken Years*, including criticism of the AWM that included various factual inaccuracies) and he repeated an inaccurate statement in the program (see above at *Issue 2*).

> The ratio of people interviewed for the program was heavily weighted towards those critical of the Project, for example, the complainant alleges that eleven of the fifteen people interviewed were opposed to the Project.

> The complainant further alleges that there was bias in the selection of the people interviewed for the program and it was not a good cross section of the community's views, for example, there were no supporters of the Project interviewed on the program who were not employees of the AWM.

> There was a distinct difference in the treatment of supporters of the Project compared with critics of the Project, for example, the interviews with Professor Stanley, Mr Hitches and Mr Anderson.

Issue 10: The interview style of the host and how the interviews were conducted were not impartial:

> The complainant alleges that the host regularly undermined or challenged AWM interviewees' views, while supporting, emphasising or leaving the Project's detractors views unchallenged. For example, when interviewing Mr Kim Beazley, about conflicts of interest, the host continued to question Mr Beazley after it was established that the Report found that there were deficiencies in record keeping and documenting the management of conflicts of interest. The host continued to imply to the viewers that there were also conflicts of interest and that Mr Beazley was avoiding the question.

> The editing of the different interviewees and the time they were given to speak or make their point was not balanced. For example, Mr Anderson's interview with the host was more disjointed and combative than other critics of the Project.

> The ACMA notes that the complaint has been made on behalf of the subject of the broadcast and based on a preliminary examination of the broadcast and considering the complex nature of aspects of the material, an investigation will enable relevant facts and material to be considered appropriately.

decide that the matter:

☒ **will be investigated under the *Broadcasting Services Act 1992* being an own motion investigation under s 170; or;**

☐ **will not be investigated.**

__ [redacted] Date: _10/10/20205

Clara Hawker
Acting Executive Manager
Content Safeguards Branch

Attachment A

The ACMA's discretion to investigate matters

The ACMA has a broad discretion to commence an investigation into broadcasting and datacasting matters.[1] It can do so upon receipt of a complaint[2], on its own initiative[3] or at the direction of the Minister[4]. The scope is also a matter for the ACMA's discretion.

The ACMA's primary consideration is whether it is in the public interest having regard to the subject matter, and the purpose of the BSA.[5] Importantly, each matter must be considered on its merits. A consideration of the public interest in any given case may be informed by a range of factors, including one or more of the considerations noted below.

Public interest considerations
Complaints process (where relevant): > Has the matter been raised with the broadcaster/licensee under the co-regulatory complaints process? > If a matter has not been raised under applicable co-regulatory processes, why not? > Is the complaint vexatious, frivolous and/or not made in good faith?
Timing: > How long ago did the broadcast or issue occur (e.g. was it more than a year ago)? > Are there extenuating circumstances to explain any delay in making the complaint? > Are there matters suggesting an early intervention may deliver a better outcome?
Community concern: > Has the matter raised genuine or widespread community concerns? > Does the matter potentially affect the community at large, and if so, how does or could it affect others?
Significance: > What is the nature and seriousness of the issues raised? > Does the matter concern a possible or likely breach of legislative provisions? > Does the matter raise matters of substance rather than issues of a trivial or technical nature? > Is an issue of principle or precedent raised? > Does the matter raise potential aspects of the regulatory framework (e.g. codes) that should be considered as a matter of priority?
Systemic issues: > Is the ACMA aware of matters that may indicate a potential systemic issue or pattern of conduct? > Is the alleged misconduct potentially ongoing? > Has a similar issue been investigated recently? Was a breach or no breach finding involved?
Compliance history: > Has the broadcaster/licensee been the subject of breach findings in relation to similar matters? > Is intervention by the ACMA warranted because the conduct suggests a poor compliance culture or that previous regulatory intervention was ineffective?
Other avenues for redress and/or proceedings in train: > Are there other avenues for redress (taking into account the complainant's capacity to pursue them)? > Is the matter the subject of current legal, administrative or regulatory proceedings that may be complicated or compromised by opening an investigation at this time?
Efficiency and effectiveness: > Would the resources used in an investigation be proportionate to the public interest matters involved? > Would an investigation disproportionately divert resources from other priority matters? > Has the broadcaster/licensee responded conscientiously to the complainant (if relevant)? > Has the broadcaster/licensee done anything to address the issues raised by a complaint?

1 The ACMA may conduct investigations for the purposes of the performance or exercise of any of its broadcasting, content and datacasting functions and related powers under s170 of the BSA.
2 Where it is 'desirable to do so', the ACMA may investigate a complaint made under s147, 148, 150 & clause 36 of Schedule 6 to the BSA.
3 The ACMA may investigate any kind of complaint or part of a complaint, or without a complaint, under s170 of the BSA.
4 Section 171 of the BSA.
5 The objects of the BSA (s3), the regulatory policy (s4) and the ACMA's role (s5) are particularly relevant.

Attachment B

Using the ACMA's risk matrix[6]

The level of risk, or risk rating, is calculated by combining the consequence and likelihood ratings. For any risk, there may be a number of different consequence/ likelihood scenarios. Within each category there may be multiple scenarios ranging from "minor but likely" to "catastrophic but very unlikely".

It is important to rate what is the realistic worst-case scenario, and which is the worst-case level of risk considering both consequences and likelihood. In these instances, it may be appropriate to rate the same consequence category more than once. Where there are multiple ratings for a risk, the highest combination of consequence/likelihood is taken as the level of risk.

Once you have evaluated the likelihood and consequence, each risk should be plotted against the ACMA's risk matrix to determine its overall risk rating.

	Insignificant	**Minor**	**Moderate**	**Major**	**Catastrophic**
Very Likely	Medium	High	High	Extreme	Extreme
Likely	Medium	Medium	High	High	Extreme
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Very Unlikely	Low	Low	Low	Medium	Medium

The ACMA uses the following definitions to evaluate risk against our acceptable level of risk tolerance:

Extreme	The risk is well above tolerable limits and must be further treated to reduce it to the lowest level practicable. Quarterly or monthly monitoring is required if the risk is accepted.
High	The risk is above tolerable limits, and further treatment is required to reduce the risk to the lowest level practicable. Quarterly monitoring is required if the risk is accepted.
Medium	The risk is tolerable, but should be reduced if practical. The risk should be monitored through routine operational and management practices.
Low	The risk is acceptable and no further treatment is required.

6 See further the *ACMA's Management Instruction for Risk* and *the Risk Management Guide*, available at: http://intranet.internal.govt/~/media/Files/SP Lists/SP2013_FFB_ACMA Guides/ACMA Risk management Guide.pdf.pdf