



Treasurer
Minister for State and Regional Development
Minister for Ports and Waterways
Minister for the Illawarra
Special Minister of State

FILE COPY

The Hon B O'Farrell MP
Premier and Minister for Western Sydney
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Contact: M. Smith
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Our Reference: EA1639487

28 APR 2011

Dear Premier

**Public Account's Committee's Report
on Issues Arising from the Premature Release of Draft Auditor-General's Reports**

I am writing to refer a recommendation made by the Public Accounts Committee (PAC) in its report on *Issues Arising from the Premature Release of Draft Auditor-General's Reports* for your consideration and direct response to the Legislative Assembly.

The PAC tabled this report on 21 September 2010 following the Sydney Morning Herald's publication of excerpts from a draft Auditor-General's report before it was tabled. The PAC's report makes two recommendations. The first of these recommendations concerns Government requirements for storage, management and transmission of confidential documents by Government agencies. I understand that the Clerk of Legislative Assembly requested that the former Premier report the Government's proposed action on this recommendation to Legislative Assembly.

The second of these recommendations is for an amendment to the *Public Finance and Audit Act 1983* (PFAA) making it an offence for any person, including journalists, to disclose or reproduce any part of a draft Auditor-General's report prior to it being tabled in Parliament (see attached). The Clerk of Legislative Assembly referred this recommendation to me because I have Ministerial responsibility for the PFAA. However, I consider that the scope of this recommendation goes beyond my Ministerial responsibility because:

- the general public and members of the press (including journalists) are currently not subject to PFAA requirements,
- the rights and responsibilities of public servants and the press when dealing with confidential Government information are set out in legislation and policies outside of my portfolio responsibilities,
- the *Protected Disclosures Act 1994* which you administer permits disclosure of confidential Government information to journalists in certain circumstances, and
- the Government must decide whether its existing legislation and policies on confidential Government information require change before acting on the PAC's recommendation.

Accordingly, I am referring this recommendation for your consideration and direct response to the Legislative Assembly. In addition, I have advised the Clerk of Legislative Assembly that I have referred this recommendation to you.

Yours sincerely



THE HON MIKE BAIRD MP
Treasurer