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Hon Natasha Fyles MLA
Attorney-General
Northern Territory Government
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Dear Attorney-General

Referral of alleged disclosure of confidential information to law enforcement for investigation into whether criminal offences have been committed

Today I write to formally request that, in your capacity as the Attorney-General and legal adviser to the Territory and to the Executive Council, you immediately refer allegations of potential criminal activity arising out of the disclosure of confidential information to Police or the Independent Commissioner against Corruption (ICAC).

On 28 November 2018, the NT News reported that a confidential letter from Ken Vowles MLA to the Northern Land Council (NLC) containing details of a \$10 million offer for the purchase of commercial fishing licenses had been provided to the NT News. The article went on to explain that Mr Vowles believed that unidentified members of the Territory Government were responsible for the disclosure of that information. A true and correct copy of that news article is attached hereto as **Annex A**.

Furthermore, as the ABC News also reported on 24 December 2018, Ken Vowles MLA has alleged that other confidential communications, between himself and other Labor Members of the Legislative Assembly warning that the community had lost faith in the Labor Government and criticising the handling of the budget crisis, had also been disclosed to the public. A true and correct copy of that news article is attached hereto as **Annex B**.

As you are aware, section 76 of the Criminal Code Act makes the disclosure of confidential information by a public officer a strict liability offence punishable by a maximum penalty of three (3) years imprisonment or up to five (5) years if disclosure is engaged in with the intention of gaining a benefit.

Public officer is defined by section 16(2) of the *Independent Commissioner Against Corruption Act 2017* and includes, among other persons: (a) a minister, (b) a Member of the Legislative Assembly; and (c) members, officers or employees of a public body. The notes to section 16(2)

give various examples of public officers, including 'an adviser to, or electorate officer of, a minister or an MLA' and 'a public sector employee'.

While the term 'confidential information' is not defined in the legislation, the Explanatory Statement to the *Independent Commissioner Against Corruption (Consequential and Related Amendments) Bill 2017* makes clear that the common law definition of confidential information, meaning that, in general, it encompasses information that is not 'common or public knowledge'. *Corrs Pavey Whiting and Byrne v Collection of Customs (Vic.) and Anor* (1987) 74 ALR 428, 437 (Gummow J), *Snell v Pryce* (1990) 99 FLR 213, ¶ 17.

Based on the facts that are currently on the public record, including those presented at **Annex A and B**, it appears that there is a high probability that criminal offenses have been committed. The public disclosure of a confidential letter from a then-minister to the NLC Executive, if accomplished by a public officer (whether a minister, MLA or adviser), is a serious matter. If these facts were established through investigation and supported by appropriate evidence, they would likely establish a prima facie case for violation of section 76 of the *Criminal Code*. Similarly, the disclosure of confidential emails from a MLA to colleagues that was intended to be confidential may also constitute an offence under section 76.

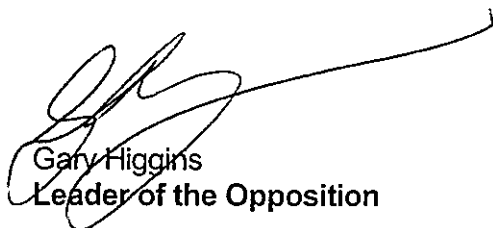
At the very least, it appears that there has been a serious breach of the public trust concerning ministers, MLAs, advisers and staff of the Labor Government has been committed. A breach which requires investigation.

In a press release that you issued on 23 August 2017, just prior to the introduction of the ICAC bill into Parliament, you stated that the purpose of the legislation was to 'rebuild trust in government'.

In order to live up to your pledge to restore trust in government, and to fulfil your duty as Attorney-General, I believe that is incumbent upon you to refer these allegations to either ICAC or the Police for thorough and detailed investigation.

I look forward to your response and if you have any questions or comments, please feel free to contact me directly at your convenience.

Yours sincerely



Gary Higgins
Leader of the Opposition

2 January 2019

ANNEX A

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 Fifth Floor leaks by ministerial staff are damaging the Gunner Government, says Minister Ken Vowles. Picture: Justin Kennedy

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FIFTH Floor leaks by unnamed ministerial staff have damaged the Government's relationship with the powerful Northern Land Council, Amateur Fishers Association and NT Seafood Council, Fisheries Minister Ken Vowles says.

Mr Vowles was scathing of the leak to the *NT News* of a confidential letter he sent to the NLC late last week.

The letter contained details of a \$10 million offer he made to the NLC for the purchase of commercial fishing licences and increased participation of Aboriginal Territorians in the fishing industry.

Mr Vowles wouldn't name those he believed were responsible for the leak, but laid the blame on those in his own party.

He said he had to "scramble" to placate stakeholders including the NLC after confidentiality was breached.

The leak came at a "delicate point" in negotiations, he said.

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He said he had felt compelled to apologise to his caucus colleagues after the contents of the letter became public as they hadn't yet been informed of the proposal.

Mr Vowles said he hadn't received an apology from the leaker.

It is well documented Mr Vowles has a tumultuous relationship with Chief Minister Michael Gunner.

The pair tussled over the role of Aboriginal Affairs Minister, which was held by Mr Gunner before he gave it up to Mr Vowles in the August reshuffle.

Mr Vowles said he accepted criticism from fishing tour operators that they had been left out of discussions.

"I do apologise for that but we will make sure we include them because we need to give certainty and that certainty can only come from the NLC," he said.



ANNEX B

WINEVVS

Sacked Northern Territory minister Ken Vowles to file FOI request to own Government over leaked emails

By Neda Vanovac and Jano Gibson

Updated Mon 24 Dec 2018, 7:03am

Dumped Northern Territory minister Ken Vowles says he will file a Freedom of Information (FOI) request to his own Labor Government in an effort to prove it leaked emails so it could sack him.

Mr Vowles was minister for Aboriginal affairs and primary industry and resources before he was dropped from caucus on Friday, along with assistant minister Jeff Collins and backbencher Scott McConnell.

The trio had spoken out about the Government's handling of the NT's escalating debt crisis, with both Mr Collins and Mr McConnell criticising Chief Minister Michael Gunner for dropping a damning interim report on the fiscal black hole at lunchtime on Friday December 14, letting Treasurer Nicole Manison face the media before leaving for a holiday in New Zealand.

During the week, emails which Mr Vowles wrote to his colleagues in caucus — warning them the community had lost faith in Labor and that the Government could not simply repeat its spin — were leaked to the media.

"I firmly believe they were leaked so as to discredit Ken ... to manufacture this sort of dispute so this sort of action can be taken to remove Ken, Scott, and myself from the caucus," Mr Collins told the ABC on Saturday.

NT News journalist Hayley Sorensen, who broke the initial story, tweeted that she received the emails from the fifth floor of NT Parliament, which is the engine room of the Government.

The Chief Minister cut short his Christmas holiday to return to Darwin and address the sackings, and repeatedly denied that the leak of the emails — or an earlier leak of a confidential letter Mr Vowles sent to the Northern Land Council (NLC) about Blue Mud Bay fishing access arrangements — came from his Government.

Mr Vowles said he had refused to leak the letter when asked to by Mr Gunner's powerful chief of staff, Alf Leonardi, but that it landed on the NT News website an hour after he sent it. He said only he, his own chief of staff, his media adviser, Mr Leonardi and Mr Gunner had the email containing the letter.

Mr Gunner said on Saturday that he had always intended to release the information after it was provided to the NLC.

"I promised at a press conference, I think it was the Monday, Tuesday that week that there would be no secret deals," he said.

"I got asked to provide a copy of our deal, I said 'no, the NLC will receive it first and then we will make it public'. That was a public promise from me at a press conference. There was no leak."

Mr Gunner also denied that the fifth floor had leaked Mr Vowles's other emails critical of the Government.



PHOTO: Mr Vowles says Mr Gunner should resign if the Government leaked his emails. (ABC News' Ian Redfern)

RELATED STORY: NT Government 'manufactured' leaks to throw out critical caucus members, dumped MLA says

RELATED STORY: Axed minister says he's seen more spin 'than Shane Warne' in NT Government

RELATED STORY: 'An absolute bloody disgrace': Three NT Labor Government ministers dumped from Caucus

Key points:

- Ken Vowles says that if he can prove the NT Government leaked his emails, Chief Minister Michael Gunner should sack himself
- Mr Gunner says a letter Mr Vowles sent to the Northern Land Council was not leaked, but strategically released
- Mr Vowles says he has no interest in becoming chief minister, and has been drawn into internal Labor Party politics against his will



Hayley Sorensen
@HayleySorensen

Finally got around to watching entire Gunner presser. Interesting admission. He says he can "guarantee" source of my original story wasn't from fifth floor (it was). He can "guarantee" because leak "served no useful purpose to anyone" #ntpol

9 12:28 AM - Dec 23, 2018

[See Hayley Sorensen's other Tweets](#)

"Those emails were not leaked by the fifth floor, they were not leaked by us, they served no useful purpose to anyone," he said.

"I can guarantee they came — they did not come — that was not a leak from the fifth floor."



PHOTO: Scott McConnell (left) and Jeff Collins (right) have been dumped from the Labor caucus. (Supplied Scott McConnell/Jeff Collins)

'This is just smoke and mirrors'

On Sunday, Mr Vowles told the ABC he was "in the process of FOI-ing relevant people on the fifth floor to prove they did leak" his letter to the NLC.

"The credibility of the Chief Minister is on the line here," he said.

"If it comes true, I expect Michael Gunner to sack himself.

"We've got a Chief Minister who's been desperate, we've got a Chief Minister who will do anything to take the focus off him, and this has certainly done that; this has certainly taken the focus off how we're struggling with the budget, we've got no plan, how crime's out of control, and what we're doing.

"This is just smoke and mirrors and I'm absolutely disgusted [with the treatment]."

Since Labor won government in a landslide in 2016, Mr Vowles said Mr Gunner had seen him as the biggest threat to his leadership.

"I have said consistently, regardless of what you read in the media ... I have no interest in being the chief minister of the NT," Mr Vowles said.

"I just want to do the job given to me in those portfolios ... and you've seen the support I've got by the industry.

"It's unquestionable that I've just put my head down and got on with the job I've needed to do.

"And for the last two-and-a-half years I've been drawn into the internal politics of the Labor Party when I've said, 'leave me alone, I just want to do my job and that is all'."

Mr Vowles said he was "very, very hurt" to hear only silence from his caucus colleagues, who Mr Gunner said voted unanimously voted for the three MLAs to be dismissed from caucus.

Why is the NT in so much debt?



Hearing senior Treasury staff describe the Northern Territory's budget as being in "dire straits" is the bureaucratic equivalent to saying "we're stuffed".

Christmas season now 'killing season', local says

On Sunday morning at the Rapid Creek Markets in Darwin, in Mr Vowles's electorate, a number of locals praised the work he had done.

"We fought a war with the Nazis on dictatorship and that's exactly what we've got," a natural honey stallholder said.

"The people are the ones that vote. Aren't they allowed to have a say?"

Local man Pieter Bekkers said it was not the Christmas season but rather "the killing season".

"The repercussions will be a long time coming ... I believe Ken Vowles exercised a masterstroke in his press conference and chucked his CEO [Michael Gunner] under the bus. I loved it," he said.

"In the end it will count against them [Labor]. The real pricks out there will be taken down."

Former NT Country Liberals treasurer and deputy leader David Tollner tweeted his support for Mr Vowles over the weekend, referencing his own government's string of scandals during its single term in power.

"Ken, they've bankrupted Government and tanked the economy, but look on the bright side ... none of them have sent a tossing video or come back from Vietnam with a new girlfriend," Mr Tollner wrote.

Mr Vowles said the message made his day.

"It was certainly one of those spit-my-coffee-out moments," he said.

"I just thought it was the funniest thing I've seen."

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First posted Sun 23 Dec 2018, 1:24pm

Contact [Neda Venovac](#)



ken vowles
@KenVowles

Dave. This has made my day.

David Tollner @tollner

Replying to @KenParish1 and 3 others

Ken, they've bankrupted Government and tanked the economy, but look on the bright side.....none of them have sent a tossing video or come back from Vietnam with a new girlfriend. 🙄

17 7:27 AM - Dec 23, 2018

[See ken vowles's other Tweets](#)