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From: PAUL TULLY [REDACTED]
Sent: Monday, 26 July 2021 8:38 AM
To: Parliamentary Crime and Corruption Committee
Subject: Submission re CCC investigation of former Local City Councillors and related matters
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Secretary
PCCC
Parliament House
Brisbane QLD 4000

Please find attached a submission on behalf of 9 current and former Councillors of the Ipswich City Council in relation to this Inquiry.

The 7 Attachments A to G referred to in the Submission are being emailed separately as PDFs because of their size. Could these be appended to our Submission please.

We seek approval to appear and be represented at the hearings of the Committee.

Our nominated representatives for any such approved appearances are:

- **Wayne Wendt**, former Ipswich Councillor & former State MP; and
- **Cr Paul Tully**.

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26 July 2021

Committee Secretary
Parliamentary Crime and Corruption Committee
Parliament House
Brisbane QLD 4000

By email: pccc@parliament.qld.gov.au

Dear Committee Secretary

**SUBMISSION TO PCCC RE INQUIRY INTO THE CRIME AND CORRUPTION
COMMISSION'S INVESTIGATION OF FORMER LOGAN CITY COUNCILLORS;
AND RELATED MATTERS**

This submission is made principally in relation to paragraphs (f) to (k) of the
Committee's Terms of Reference in respect of the above Inquiry.

It is made on behalf of the following Councillors and former Councillors of the Ipswich
City Council (ICC) who have served collectively for over 140 years in local government
and who are part of this joint submission:

Paul Tully	1979-2021*	40 years
David Pahlke	1991-2018	27 years
Charlie Pisasale	1995-2018	23 years
David Morrison	2000-2018	18 years
Sheila Ireland	2004-2021*	15 years
Cheryl Bromage	2004-2018	14 years
Kerry Silver	2016-2018	2 years
Wayne Wendt	2016-2018	2 years
David Martin	2017-2018	1 year

(* excluding August 2018 - March 2020)

The purpose of this submission is to raise serious issues regarding the operational
processes and investigative techniques of the Crime and Corruption Commission (CCC)
and its improper intrusion into matters beyond the jurisdictional and operational
responsibilities of the CCC.

In the case of Ipswich, this has led to harsh personal outcomes involving reputational, mental health and financial issues, as well as family breakdown.

BACKGROUND

Subsequent to the arrest of former Mayor Paul Pisasale by the CCC on 20 June 2017 on several charges, it became well-known in political circles that senior members of the State Government had made it clear that if one more Ipswich Councillor were to be charged, all Ipswich Councillors would be dismissed from office.

This was nothing more than “guilt by association” and reminiscent of the McCarthy era in America in the 1950s.

On 2 May 2018, former Ipswich Mayor Andrew Antoniolli was arrested and charged by the CCC on 7 counts of fraud. He was subsequently found guilty on 6 June 2019 on 14 revised charges in the Ipswich Magistrates Court. Following an earlier appeal hearing, he was acquitted on 11 December 2020 of all charges, with District Court Judge Dennis Lynch finding that he acted at all times in accordance with Council policy and without fraudulent intent. This decision is currently under appeal by the Crown to the Court of Appeal. Whilst the hearing of the appeal has been conducted, the decision is pending to a date to be determined.

MINISTERIAL INTERVENTION

On 3 May 2018, the day after Antoniolli’s arrest, Local Government Minister Hinchliffe made a statement in Parliament that he would be asking Ipswich City Council to show cause why they should not be dismissed.

Because of the comprehensive legal response by Ipswich City Council to the Show Cause notice which established that there were no lawful grounds for dismissal of the Council, the Minister was forced to withdraw the Show Cause notice. By this stage, Mayor Antoniolli had stepped down from his mayoral role and Deputy Mayor Wayne Wendt had become Acting Mayor.

A second Show Cause notice by the Minister was then issued on 20 June 2018, the legality of which was challenged in the Supreme Court by the Ipswich City Council.

In a letter to the Economics and Governance Committee of the Parliament on 25 July 2018, Ipswich Acting Mayor Wayne Wendt summarised the key legal issues to date, as follows:

23 On 26 June 2018, the ICC filed in the Supreme Court of Queensland and served on the Minister an Originating Application seeking:

(a) a declaration that the Minister had no jurisdiction to make a recommendation to the Governor in Council to dissolve the ICC and to appoint an administrator in reliance on the second notice under s. 120(3) of the Act; and

(b) an injunction to restrain the Minister from further acting on the second notice including making a recommendation to the Governor in Council under s. 123(3) of the Act: see attached Originating Application.

24 On 27 June 2018, curiously, the Minister colourfully characterised the ICC in asking the independent judiciary to rule on the legality of the second Notice as “hiding behind new legal proceedings” and using “delaying tactics in seeking to circumvent the legal process already underway”: Queensland Times, 27 June 2018.

25 On 28 June 2018, the matter came before Her Honour Justice Mullins of the Supreme Court of Queensland for hearing and determination.

26 Her Honour Justice Mullins indicated that the matter could be heard that morning: see Transcript 1-2 at lines 33 to 35.

27 The Minister’s counsel sought an adjournment of the hearing: Transcript 1-3 at line 16.

28 When asked by Her Honour if the Minister was prepared to give an undertaking, counsel for the Minister replied in the negative: Transcript 1-3 at lines 21 to 25.

29 Later that morning:

(a) counsel for the Minister gave an undertaking that, pending the hearing and determination of the Application or earlier order, the Minister would not act further on the Notice; and

(b) the hearing was adjourned with directions to 31 July 2018.

46 On 9 July 2018, the Minister:

(a) withdrew the second notice; and

(b) announced that the Bill was to be introduced into the Parliament.

The Minister subsequently introduced the *Local Government (Dissolution of Ipswich City Council) Bill 2018* in Parliament on 21 August 2018, despite the Minister's earlier undertaking to the Court that there would be no further action by the Minister on the Notice until the Court had ruled on the matter.

On 31 July 2018, the Supreme Court proceedings were reported in *The Courier-Mail* as follows:

JULY 31 2018 - 5:15PM

Taxpayers to pay Qld council's legal bill

- **Aaron Bunch**

National

Taxpayers face a bill of up to \$200,000 after the Queensland government was ordered to pay the majority of costs for an aborted legal case sparked by their bid to sack the Ipswich City Council.

The embattled council, which is under a corruption cloud, challenged the government's show-cause notice earlier this year.

The case became a legal stoush over costs after Local Government Minister Stirling Hinchliffe changed tack and opted for a special law to sack councillors.

In the Queensland Supreme Court on Tuesday, Justice Debra Mullins ruled the short timeframe given to the council to respond to a second show-cause notice had forced it to incur costs.

Justice Mullins said it was "superficial" for the government to suggest its decision to pursue a legislative pathway exempted it from the fallout of the show-cause notices, especially when the minister was involved in the decision making at an executive level.

Veteran councillor Paul Tully said it was a tremendous win for the council and the government would have to pay hundreds of thousands of dollars.

"They'll have to pay about \$100,000 of Ipswich's cost plus their own, so the government is probably out of pocket by \$200,000," Mr Tully told reporters outside the Queensland Supreme Court on Tuesday.

"This is a real F for fail for the minister."

Mr Tully said it was a big win for the ratepayers of Ipswich, but not the taxpayers of Queensland.

Mr Hinchliffe promised to resolve the matter "once and for all" with his legislation.

"Councillors need to stop thinking about themselves and put the people of Ipswich first," he said in a statement.

Australian Associated Press

For inexplicable but clearly discriminatory reasons, this opportunity to "show cause" was never finally afforded to the 10 former Ipswich Councillors who have never been charged with any criminal wrongdoing.

ACT OF PARLIAMENT

A special Act of Parliament, unique in Australian legal history, was passed by the Queensland Parliament in August 2018, unilaterally dismissing the Ipswich City Council and removing any right of review or appeal by the Queensland Supreme Court in section 6 of the *Local Government (Dissolution of Ipswich City Council) Act 2018*, which stated that the Act, inter alia:

(a) is final and conclusive; and

(b) can not be challenged, appealed against, reviewed, quashed, set aside or called into question in another way, under the Judicial Review Act 1991 or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and

(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

In itself, the need for a special Act of Parliament unquestionably shows that the Minister's second Show Cause notice was also doomed to fail, particularly with the Supreme Court ordering costs in the matter against the State Government.

ABUSE OF PROCESS BY CCC

On 29 May 2018, Antoniolli was arrested late in the day for an alleged breach of bail, by serving police officers seconded to the CCC and transported from his home at Brassall to the Ipswich Watchhouse. He was having dinner with his wife and children when his arrest took place in front of his extremely distraught family. His arrest occurred when no Magistrates were available at such late hour to grant bail and Antoniolli was forced to endure a totally-unnecessary night in watchhouse. He was not a flight risk and unlikely

to re-offend, which was confirmed by his prompt release the following morning in the Ipswich Magistrates Court.

The CCC police officers exercised their powers in a totally high-handed, improper and completely unnecessary manner, knowing the consequences and the considerable adverse publicity after Mayor Antoniolli had spent the night on the watchhouse floor. Given the very minor nature of the alleged breach, which must have been obvious to the arresting CCC officers, this was clearly an abuse of process as the need to arrest him that night around the family dinner table was not proportional to the alleged wrongdoing. Those powers of arrest were available to the CCC only as a direct result of its secondment of serving police officers.

This incident alone serves to show that the secondment of serving police officers to the CCC is fraught with dangers to the community in a free and democratic society where the immediate arrest of an alleged offender is not always the most-appropriate method of proceeding.

In Antoniolli's successful District Court Appeal, Judge Dennis Lynch noted:

"[208] The appellant submitted that in the event the appeals against conviction were upheld in relation to all charges, the appropriate order is that no conviction should be recorded for the breach of bail charge. This submission was made on the basis the offence involved the appellant speaking to Council employees about the case, in breach of a condition prohibiting him from doing so. The offence occurred in circumstances where the appellant was emotionally upset and psychologically fragile. The appellant spent a night in custody as a result of being charged. He has no prior convictions, and as found by the Magistrate, was a person of otherwise good character.

[209] This submission should be accepted."

If CCC Chair MacSporran claims he was unaware of such practices by CCC officers, it says more about his failure to be across all aspects of the organisation he had led for 6 years than his supposed good governance of the organisation. If he supports such practices, it is even worse.

ICAC in New South Wales - that state's equivalent of the CCC - does not permit the secondment of serving police officers to ICAC. In Queensland, the secondment of serving police officers to the CCC with powers of arrest - and operating effectively as judge, jury and executioner - should cease.

SECONDMENT OF POLICE OFFICERS TO CCC

The absurdity of the CCC claiming that police officers seconded to the CCC are effectively at arm's length from the rest of the organisation in relation to such police officers' decisions to prosecute alleged offenders belies the intended legal operational responsibilities of the CCC.

In practice, it is not a genuinely arguable position that a serving junior police officer, anxious to protect and preserve their position at the CCC by not forming a view contrary to that of his or her superiors who had directed the commencement of a prosecution to that officer, would do other than what they were directed to do.

As the CCC does not have the legislative power to prosecute alleged offenders, it is using a "back door" method of directing serving police officers seconded to the CCC to commence prosecutions which the CCC wishes to instigate.

This matter came up in the Supreme Court of Queensland in the case of *PRS v Crime and Corruption Commission* [2019] QSC 83 on 21 March 2019.

In that case, it was revealed that the CCC may give serving police officers seconded to the CCC a lawful direction to commence prosecution proceedings.

In that situation, the CCC argued that even though a senior officer of the CCC might give a direction to a seconded police officer to arrest or otherwise prosecute an alleged offender, the police officer is under no "duty" to follow such direction if he or she does not believe it to be lawful i.e., that it does not raise a "reasonable suspicion" of unlawful conduct.

It would be exceedingly brave for a CCC-seconded police officer to defy a direction to proceed in a particular manner if their ongoing career at the CCC was only a signature away from termination at any time. In addition, there may be ramifications for their QPS career if their secondment to the CCC were to be withdrawn for allegedly failing to follow a "lawful direction".

In essence, it is the CCC's apparent argument, that the ultimate decision of whether or not to comply with a supposed unlawful direction falls on a junior police officer, with the CCC basically saying that if the direction is unlawful, that it would be automatically remedied by putting the onus on the junior police officer to ignore the direction.

This appears to raise disingenuity to a whole new level.

The reality and practical absurdity of such argument would be obvious to any first-year law student.

CCC MEDIA LEAKS

Criminal penalties and strict procedures should be put in place to stop the routine unlawful leaking of information to the media by the CCC. For example:

- On the day of Paul Pisasale's arrest by CCC officers on 20 June 2017, while he was being transported from Ipswich to Brisbane, Acting Mayor Paul Tully received 3 phone calls in the space of some 3 minutes from Brisbane media outlets seeking confirmation of Pisasale's arrest, of which he had no knowledge. The unofficial CCC media alert hotline appeared to be in full swing.
- On the day of Mayor Antoniolli's arrest on 2 May 2018, Channel 7 was at the Ipswich Police Station BEFORE Mayor Antoniolli's arrival, following a CCC tipoff to local Ipswich and metropolitan media. **(See attachment "A")**

The CCC routinely issues media releases along the lines similar to this one issued on 27 September 2017:

"A 53-year-old Karana Downs man was charged this afternoon with Official Corruption and Disobedience to Statute Law following a Crime and Corruption Commission (CCC) investigation."

Within minutes, media outlets were reporting the name and occupation of the person. This has happened numerous times in the past 4 years in Ipswich and no doubt, elsewhere. In view of the relative paucity of the information in the CCC media releases, there is only one conclusion to be made and that is that the CCC hotline is informally and improperly running hot by providing such information to the media. If it is not appropriate to put such information in the original media release, it is not appropriate for the CCC to secretly provide such information direct to any media outlet.

Again, if CCC Chair MacSporran claims he was unaware of such practices or even supports those practices, it says a lot about his stewardship of the CCC.

LESS-FAVOURABLE TREATMENT

Why were the 10 Ipswich councillors dismissed by the State Government in 2018 - who were never charged by the CCC with any criminal offences relating to the lengthy ICC investigation - treated less favourably than the 4 comparable un-accused, dismissed Logan City Councillors who were immediately re-engaged as Council advisors on the Interim Management Committee in 2019, on their former salaries until the conclusion of the 2020 local government election. This provided a clear political advantage for them by remaining in the public eye up until the new Council election in Logan City in March 2020.

Just 1 sitting Ipswich Councillor was facing charges when the entire Ipswich Council was dismissed in August 2018 but 13 Logan City Councillors were dismissed in May 2019 with 4 of them given lucrative positions on the Logan Interim Management Committee. The Ipswich Councillors were clearly discriminated against by the failure to treat un-accused Councillors on both Councils in a similar manner.

IMPROPER INTERVENTION BY CCC

On the eve of the appointment of a new Ipswich CEO on 30 April 2018, the CCC advised the Acting Ipswich CEO Kellar how the appointment of a serving ICC officer to the position could be perceived amid ongoing CCC investigations. It was a not-so-subtle warning to Ipswich Councillors not to appoint any inside candidate. It was the reverse of the Logan situation where CCC Chair MacSporran warned Councillors against sacking their CEO. The CCC was engaging in conduct far beyond its legal remit and its advice brings into question the lawfulness and/or propriety of such action by the CCC.

It is understood the CCC subsequently recommended to the Ipswich Interim Administrator that the earlier appointment of the "inside candidate", highly-respected and experienced ICC CEO Sean Madigan should be terminated. Mr Madigan was a former Queensland Police Officer and senior state public servant. Such advice constituted a wrongly-based perception by the CCC of "guilt by association" and an improper interference by the CCC into the operations of the Ipswich City Council, well beyond its legislative responsibilities.

It is understood that the CCC also provided an unlawful and/or inappropriate additional "hit list" of ICC officers - against whom no legal action was ever taken by the CCC - which it had determined and/or recommended to the ICC CEO or Interim Administrator, should be dismissed or who were effectively forced to resign to avoid dismissal. This

clearly constitutes ongoing improper interference by the CCC in relation to one of the state's 77 councils.

WHO WAS TELLING THE TRUTH?

The issue of apparent inappropriate conduct by either the Chair of the CCC MacSporran or Local Government Minister Hinchliffe in relation to who knew what and who recommended the dismissal of the Ipswich City Council, beggars belief.

On 10 July 2018, it was reported in *The Courier-Mail* that Minister Hinchliffe stated that his decision to remove the Ipswich City Council was: *"acting on the advice that I've had from the chair of the CCC"*.

Head of CCC 'wanted me to sack council': Minister

Stirling Hinchliffe said his decision to remove the council was him "acting on the advice that I've had from the chair of the CCC".

By Hayden Johnson

"THE head of the state's Crime and Misconduct Commission advised the State Government to sack the council, Minister Stirling Hinchliffe has said.

Mr Hinchliffe, speaking on ABC radio, said his decision to remove the council was him "acting on the advice that I've had from the chair of the CCC".

"The chair of the CCC wants me to take this action," Mr Hinchliffe said.

"I've been speaking to him about this matter."

Fending off strong comments from councillors he has sacked, Mr Hinchliffe said the council's problems ran "deep into the organisation".

"I believe after the turmoil that the council's been through that the best thing for the city and the community is to have a period of stability, a root and branch reform within the organisation and then facing those fresh elections along with others across the state when the council elections are due in March 2020," he said.

He acknowledged some people would be hurt.

"I completely believe that there is going to be some innocent people damaged out of this process, there has been already, but I know that there are people out there and about in the community of Ipswich and certainly amongst the staff of the Ipswich City Council who will be damaged."

*Comment has been sought from the CCC." **(See Attachment "B")***

This report is in complete contradistinction to the subsequent statement of CCC Chair MacSporran reported on *9News.com.au* on 12 July 2018:

CCC head not consulted in council sacking

The head of Queensland's corruption watchdog says he was not consulted about laws to sack Ipswich City Council following corruption allegations, but does support the move.

His comments come after criticism of the government's move to draft special legislation to sack the council after 15 councillors and staff were charged with a total of 79 offences.

The Liberal National Party Opposition has raised questions about whether the government consulted the Crime and Corruption Commission before announcing the laws.

Ms Frecklington on Thursday repeated her question over when the government had approached the CCC about the laws.

"The minister (Stirling Hinchliffe) said very clearly that he had been advised or had spoken to the CCC and had been told he could sack the council on that advice," Ms Frecklington told reporters.

"If Mr Hinchliffe has verbaled the CCC and if that is not correct then we want to see the briefing."

*CCC Chair Alan MacSporran QC released a statement on Thursday clarifying he had only been consulted about the legislation after it had been announced, to ensure it did not clash with the ongoing investigation into the council's corruption allegations." **(See Attachment "C")***

If the Minister's version of events is correct, did the action of the CCC Chair MacSporran in allegedly providing false information to the media and the people of

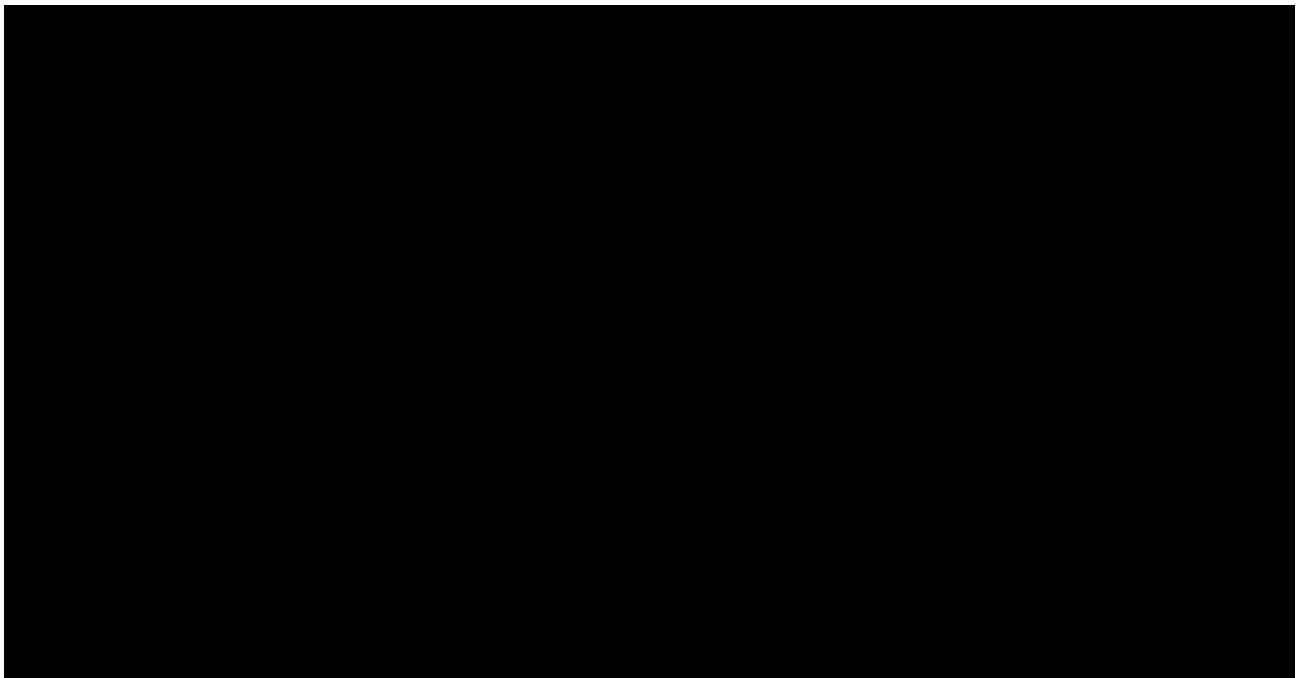
Queensland constitute Abuse of Office or Misconduct in Relation to Public Office under sections 92 or 92A of the Queensland Criminal Code?

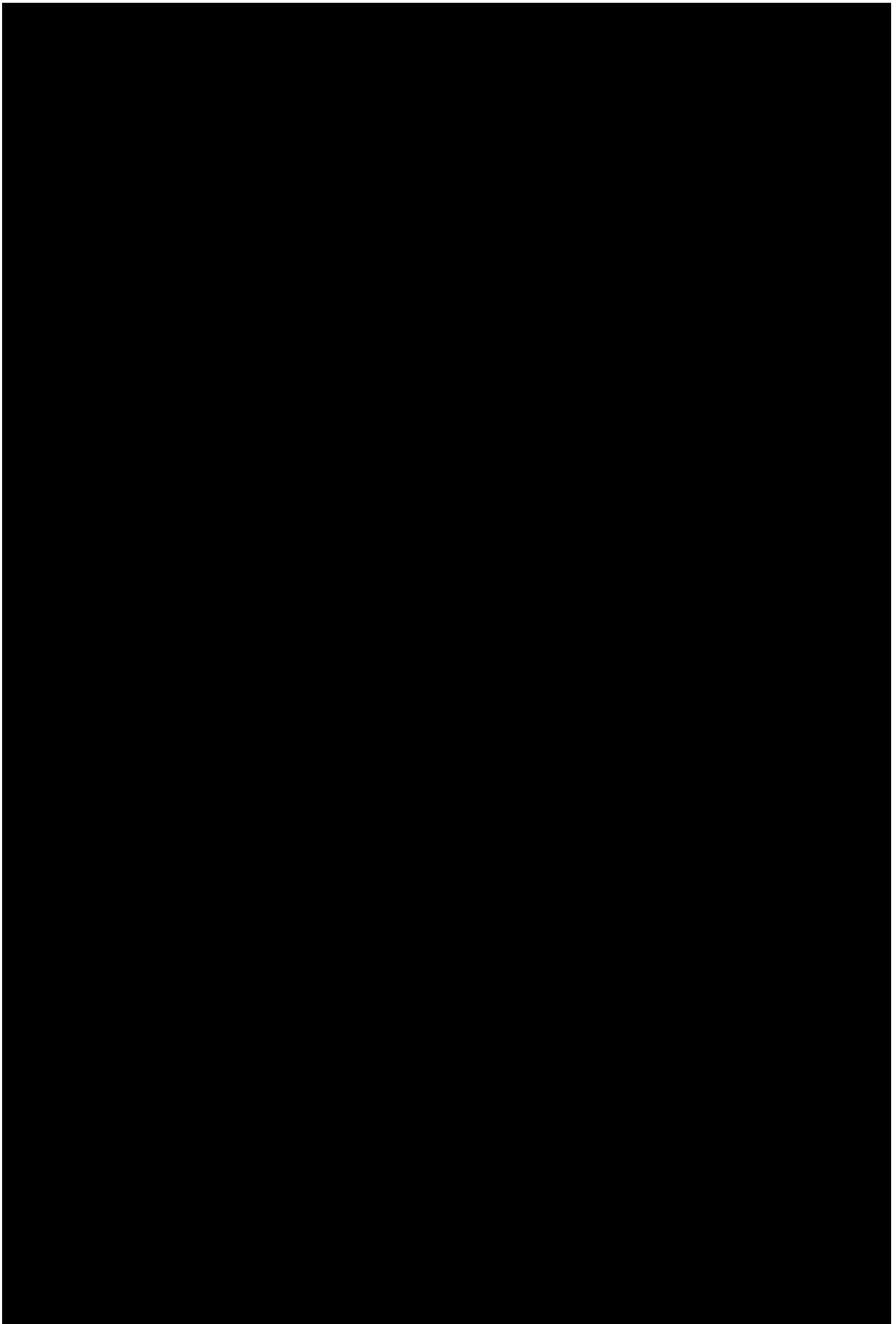
Alternatively, if CCC Chair MacSporran's version is correct, it appears that Local Government Minister Hinchliffe may have misled the Parliament.

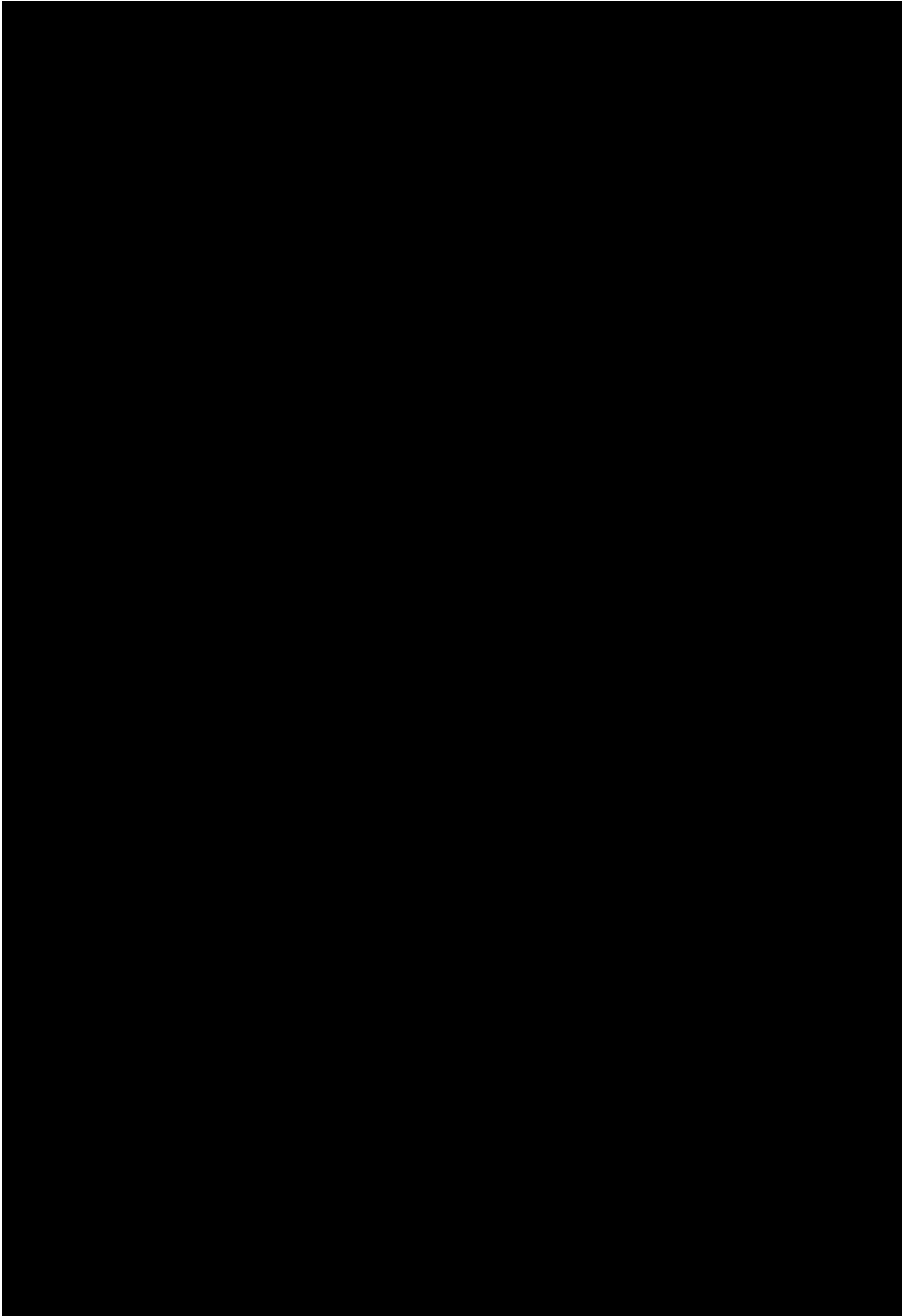
If the dismissal of the entire Ipswich City Council was predicated simply on the basis of the arrest of a second Ipswich Councillor (Mayor Antonioli) – a subsequent failed prosecution – as well as the two failed Show Cause notices, there is an overwhelming perception that the dismissal should never have occurred and that the reported CCC Chair's recommendation to the Minister to dismiss the Council was ill-considered, lacked any proper sense of fair play or reasonableness and was totally inappropriate given that the 10 un-accused Ipswich Councillors have never been charged with any wrongdoing.

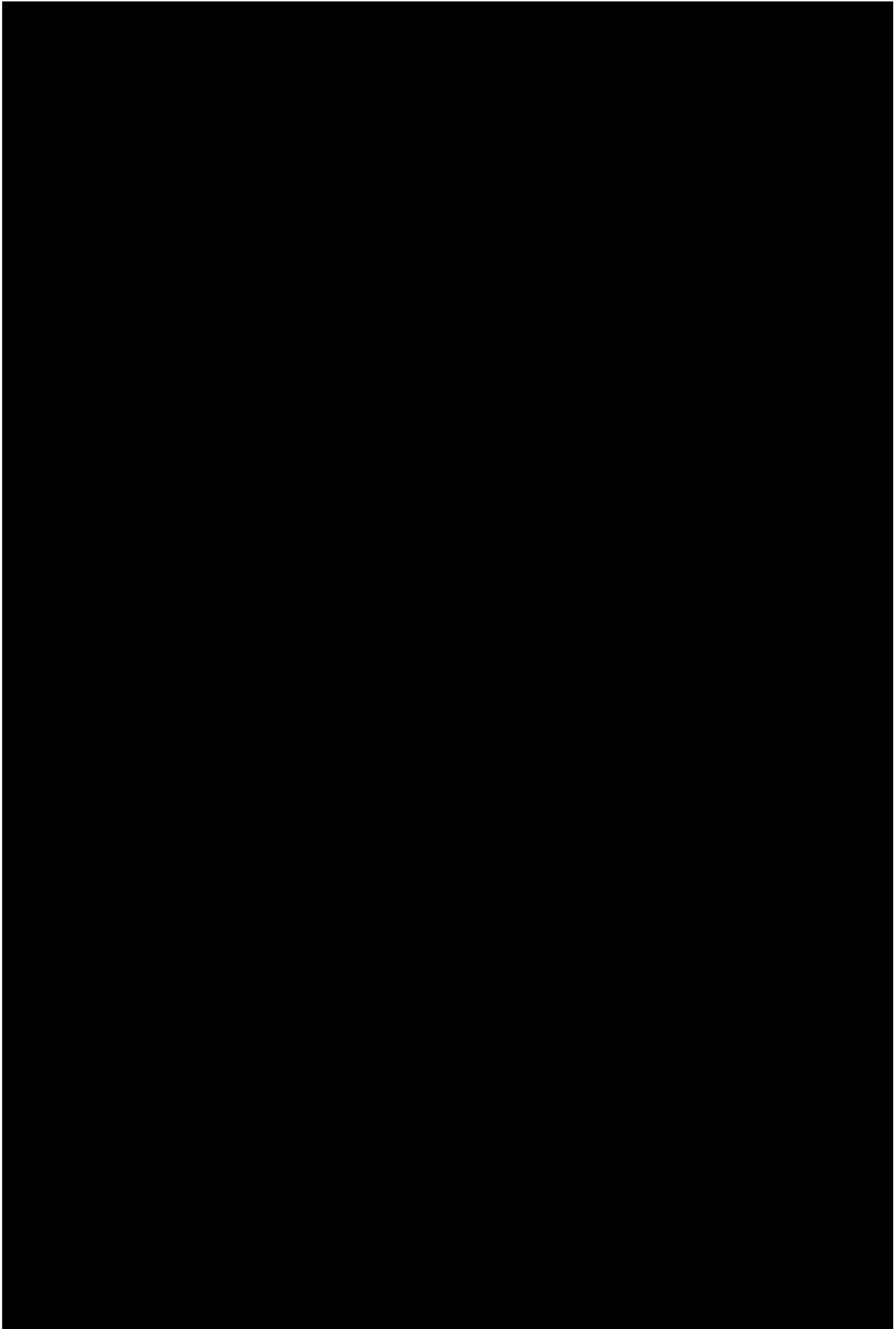
This appears to be a compelling example of CCC Chair MacSporran wrongly pressing the Government to act at the behest of the CCC to achieve its own ends without any proper consideration of the propriety or fairness of the outcome he was seeking to achieve.

The era of CCC Chair MacSporran must end.









RECOMMENDATIONS TO THE PCCC

1. That the *Crime and Corruption Act 2001* be amended to ensure that no serving police officers are engaged by, or seconded to, the CCC in any capacity as with ICAC in New South Wales.
2. To ensure a clear separation of powers of its current investigative and prosecutorial roles in practice by using seconded serving police officers, the power of the CCC to institute criminal proceedings through any means be removed from the CCC – as well as by any persons seconded to the CCC - and vested in the Director of Public Prosecutions (DPP), to ensure full public confidence in the CCC, considering the many sensitive inquiries and investigations which it conducts.
3. If neither of the above Recommendations 1. or 2. is accepted, that the CCC be authorised to commence legal proceedings only by way of a *Notice to Appear* rather than through the arrest and notorious CCC public parades of individuals who are supposed “innocent until proven guilty”, except in the gravest of cases such as persons attempting to flee the jurisdiction.
4. That the PCCC Inquiry examine the proper separation of powers between the CCC and the State government and issues arising from the systemic failure of the CCC to accord natural justice.
5. That criminal penalties and strict procedures should be put in place to stop the routine unlawful leaking of information to the media by the CCC. In particular, the Inquiry should examine the routine leaking of information by the CCC to the media about imminent planned arrests of high-profile individuals and investigate if those disclosures have been sanctioned in any way by management.
6. That the CCC be prevented from involving itself in the day-to-day Council matters including the appointment or removal of any Council staff members and other operational matters for which the relevant Council is solely responsible, subject to the general oversight of the Minister for Local Government.

7. That the CCC engage a highly-experienced person(s) with previous senior local government experience in Queensland or at elected member level to advise on the proper processes of local government, the appropriate roles of councillors and Councils' operational policies and procedures to ensure there is a substantive understanding of the "real world" of local government.
8. That the PCCC recommend to the State Government the payment of compensation to each of the Ipswich Councillors unfairly dismissed in 2018 generally in accordance with any similar recommendation in respect of former dismissed Logan City Councillors in 2019, given the inappropriate conduct of the CCC and alleged improper advice from CCC Chair MacSporran to the Minister for Local Government to dismiss the Ipswich City Council and the failure of the Minister to provide subsequent procedural fairness to the dismissed Ipswich Councillors who were not charged with any criminal misbehaviour, combined with the Minister's discriminatory failure to engage them on the Ipswich Interim Management Committee, as was afforded to Logan City Councillors in an identical situation.
9. That a public apology be provided to relevant Logan and Ipswich Councillors and former Councillors to restore elected members' reputations and refute unfounded imputations made against them during the past 4 years.
10. That an independent, comprehensive review of the CCC be undertaken by a Judge or retired Judge of the Queensland or an interstate Supreme Court, with the powers of a Royal Commission, to examine the proper role of the CCC moving forward, including its powers, its protocols, its people, its secondment of serving police officers, its failures and the appropriateness of its investigative methodologies and operational processes and techniques.

This submission is made by Paul Tully, David Pahlke, Charlie Pisasale, David Morrison, Sheila Ireland, Cheryl Bromage, Kerry Silver, Wayne Wendt and David Martin, listed in order of their length of service on Ipswich City Council and in the case of David Pahlke, on Moreton Shire Council 1991-1995 and Ipswich City Council 1995-2018.

26 July 2021

ATTACHMENTS

A. 2 May 2018 - Mayor Antoniolli arrives at Ipswich Police Station with Channel 7 already staking out his arrival

B. 10 July 2018 - The Courier-Mail: Head of CCC 'wanted me to sack council': Minister

C. 12 July 2018 - 9 News: CCC head not consulted in council sacking

[REDACTED]

[REDACTED]

F. 25 July 2018 - Letter from Queensland Law Society to the Economics and Governance Committee of the Queensland Parliament highlighting the legal and procedural flaws in the Local Government (Dissolution of Ipswich City Council) Bill 2018

G. 11 July 2018 - The Courier-Mail: Council sacking 'as bad as Bjelke-Petersen era': Barrister