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Our Ref: Breene-PCCC-2021

Parliamentary Crime and Corruption Committee
Parliament House
Brisbane QLD 4000
By Email Only: pccc@parliament.qld.gov.au

Dear Committee Secretary,

Re: Submission regarding the inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters.

This firm acted for Jennifer Breene with respect to her defence of the criminal charge brought against her by the Crime and Corruption Commission (CCC). Ms Breene has requested that these submissions be made on her personal behalf, to reflect matters of concern experienced by her in the criminal proceedings. These submissions are in addition to the collective submissions made by McInnes Wilson Lawyers, who acted for Ms Breene and her former councillor colleagues in their defence of the Queensland Industrial Relations Commissions (QIRC) proceedings.

Ms Breene is a former councillor of the Logan City Council who had her reputation and career destroyed when the CCC charged her with aggravated fraud. Ms Breene was cleared, but she should never have been charged.

The submissions on behalf of Ms Breene principally seek to highlight the importance of the following three questions that arise from the investigation and conduct of the CCC:

1. **Why did the CCC charge an offence of aggravated fraud under the Criminal Code, when the particularised case did not rise above a charge of reprisal under the Public Interest Act 2010 (Qld) (PID Act)?** This question is important because unlike the charge of reprisal under the PID Act, the charge of aggravated fraud triggered s. 175K of the *Local Government Act 2009* (Qld) and meant that each councillor was suspended by virtue of the charge preferred by the CCC.
2. **How did the CCC come to charge Ms Breene based on allegations that were unsupported, unsupportable, or contradicted by the evidence?** This question is important as records show the CCC had a flawed understanding of critical evidence. Given the CCC charged Ms Breene based on allegations that were unsupported, unsupportable, or contradicted by the evidence, it is important to determine how that occurred to prevent such unjust outcomes from occurring in the future.
3. **Given the CCC suspended the democratic rule of Logan City Council based on flawed allegations, how is it accountable and what lessons have been learned?** This question is important as there is evidence the CCC engaged in potentially illegal, unfair, and biased practices that undermine fundamental rights and liberties.



**Why did the CCC charge an offence of aggravated fraud under the Criminal Code¹,
when the particularised case did not rise above a charge of reprisal under the *Public
Interest Act 2010 (Qld)*² (PID Act)?**

1. To understand the importance of this question to this Inquiry, the following submissions will address four issues:
 - a. The charge of aggravated fraud had multiple, obvious legal flaws;
 - b. The prosecution case for aggravated fraud was indistinguishable from a civil-law adverse action proceeding under the *Industrial Relations Act 2016* (Qld) (IR Act) or a reprisal offence under the PID Act, indicating an offence was charged that was entirely disproportionate to the conduct alleged by the CCC;
 - c. The Guidelines of the Director of Public Prosecutions; and,
 - d. The charge selected by the CCC had the effect of terminating a democratically elected council, which was not a result possible through an adverse action proceeding or by a charge under the PID Act.
2. There were clear legal flaws with the charge of aggravated fraud against each councillor. It is apparent that the realisation by the prosecution of some or all of these legal and evidentiary flaws caused the prosecution to discontinue the charge.

The charge of aggravated fraud

Section 408C(1)(e)(2A)(a) Criminal Code

3. The CCC charged Ms Breene and other former councillors of Logan City Council (LCC) with aggravated fraud, contrary to s 408C(1)(e) and (2A)(a) of the *Criminal Code* in the following terms (other councillors were charged in essentially identical terms):

“That between the 9th day of October 2017 and the 8th day of February 2018 at Logan and elsewhere in the State of Queensland one Jennifer Rachel Julie BREENE dishonestly caused detriment namely the dismissal from employment to Sharon Rae Marie Kelsey and the detriment was of a value of at least \$100,000.

4. By the CCC charging each of the former councillors with the above offence, the essential elements required to be proved beyond reasonable doubt were (with respect to Ms Breene):
 - (1) Ms Breene caused a detriment, pecuniary or otherwise, to Ms Kelsey;
 - (2) Ms Breene acted dishonestly in doing so;
 - (3) The detriment caused is of a value of at least \$100,000.

The particulars of the charge preferred by the CCC

5. Consistent with obligations on the prosecution to precisely identify the basis for its charge, the prosecution provided particulars of the charge preferred by the CCC.
6. The particulars of the charge against Ms Breene and the other former councillors (separate to the particulars provided in respect of the former Mayor), provided:³

¹ An offence carrying a maximum penalty of 20 years imprisonment.

² An offence carrying a maximum penalty of 167 penalty units or 2 years imprisonment.

³ Although the Prosecution initially noted s 8 of the *Criminal Code* as an alternative basis of alleged criminal responsibility, the Prosecution has since verbally clarified that it does not rely upon s 8.



That on 7 February 2018 at Logan in the state of Queensland the defendants dishonestly caused a detriment to SHARON KELSEY.

And the property was of a value of \$100,000 or more.

- 1. At all relevant times the defendants were Logan City Councillors.*
- 2. At all relevant times SHARON KELSEY was the Chief Executive Officer ("CEO") of Logan City Council.*
- 3. The defendants are criminally responsible pursuant to s 7(1)(a) and/or s 7(1)(b) and/or s 7(1)(c) and/or s 7(1)(d) ~~and/or s 8~~.⁴*

The specific act was:

- a. Voted to terminate SHARON KELSEY's employment at a Special Council meeting held on 7 February 2018.*

The specific act was dishonest because:

- a. The defendants had knowledge SHARON KELSEY made a PID; and/or*
- b. The defendants had knowledge SHARON KELSEY could not be terminated for making a PID (whether directly or indirectly); and/or*
- c. The defendants intended to terminate SHARON KELSEY because she made a PID (whether directly or indirectly); and/or*
- d. A substantial reason to terminate SHARON KELSEY was because of or directly related to the Public Interest Disclosure ("PID").*

The act caused SHARON KELSEY a detriment, in excess of \$100,000. The detriment was:

- a. The amount owing on SHARON KELSEY's employment contract*

Legal issues with the aggravated fraud charge

7. It is to be observed that although the statement of the charge alleged the offence occurred 'between dates', the prosecution confined the date of the offence to 7 February 2018, being the date of the LCC Special Council Meeting. Further, although the charge alleged the act was done by Ms Breene individually, the written particulars alleged collectively that the "*the defendants dishonestly caused a detriment to Sharon Kelsey*".
8. The prosecution was required to prove that each councillor's dishonest act caused the alleged detriment. Although the specific act was particularised as "*voted to terminate Ms Kelsey's employment...*", the prosecution case remained ambiguous. Such ambiguity masked critical flaws in its case.
9. On closer scrutiny, the particularised specific act did not accord with the act that caused the alleged detriment. Each individual LCC councillor cast their own individual vote for or against the motion to terminate Ms Kelsey's appointment. The individual vote by itself did not cause any alleged detriment. The majority vote carried the motion and the resolution and decision became that of the LCC.⁵ The LCC then acted upon

⁴ Subsequent to the provision of the above particulars, the prosecution advised that it did not rely on a case based on section 8 of the Criminal Code (Qld).

⁵ See s. 260(2)(b) and (c) of the *Local Government Regulation 2012* (Qld).



the resolution passed by council to terminate Ms Kelsey's employment in accordance with clause 2.3 of the written contract of employment between LCC and the CEO. Any detriment caused was due to the act of LCC. The failure to observe this legal distinction⁶ grounded in the *Local Government Regulation 2012* was a real flaw in the charge that could not be circumvented by the form of the particulars referring jointly to 'the defendants'.

10. Given the prosecution abandoned any reliance on criminal liability under s. 8 of the Criminal Code (presumably because there was no evidence to sustain such a case), its case against Ms Breene appeared to be particularised on the basis that:
 - a. by casting her individual vote she did the act that constituted the offence – s. 7(1)(a); and/or
 - b. she cast her individual vote for the purpose of enabling or aiding another person to commit the offence – s. 7(1)(b); and/or
 - c. by casting her individual vote she aided another person to commit the offence – s. 7(1)(c); and/or
 - d. she counselled or procured another person to commit the offence – s. 7(1)(d).
11. As the prosecution did not rely upon an allegation of the defendants forming an intention to pursue an unlawful common purpose (cf. s 8 Criminal Code) the various acts and declarations of others were not admissible in the case against Ms Breene.
12. It is important to note that there was no evidence whatsoever to sustain the allegation of Ms Breene counselling or procuring another person to commit the offence, as per s. 7(1)(d) of the Criminal Code, and the prosecution case in that respect was entirely unsupported by any evidence.
13. Similarly, the prosecution case with respect to some form of aiding or enabling by Ms Breene, as per s. 7(1)(b) and (c) Criminal Code, was equally untenable. As explained above, the "person" who terminated Ms Kelsey's employment was the LCC. As at 7 February 2018, under s. 11 of the *Local Government Act 2009* (Qld), the LCC was a body corporate, capable of suing or being sued in its own name. Pursuant to s 32D of the *Acts Interpretation Act 1954* (Qld) a reference in any Act to a "person" includes a "corporation". The examples within s. 32D provide that a reference in any Act to a "body corporate" is an express reference to a "corporation". Further, s. 36 and Schedule 1 provide that in any Act a reference to "corporation" includes "a body politic or corporate".
14. In order to succeed on an allegation of criminal responsibility pursuant to either ss. 7(1)(b) or 7(1)(c) (and for that matter also s. 7(1)(d)) the prosecution would have been required to prove that LCC was the principal offender who would commit/committed the offence.⁷ Not surprisingly, that was not alleged by the prosecution. Accordingly, any case against Ms Breene under s. 7(1)(b) or s. 7(1)(c) could not be sustained as a matter of law.
15. For the same reasons set out above, with respect to s 7(1)(a), it could not be said that Ms Breene's individual vote was the act that caused the alleged detriment.

⁶ In other contexts, the failure to observe the legal distinction between an individual and a corporate entity has previously been ruled to be a fundamental flaw for charges of fraud: see, for example, *R v Lenahan* [2009] QCA 187.

⁷ See Supreme and District Court Benchbook Directions – Parties to an offence - No. 74.2.



16. With respect to the issue of “dishonesty” the prosecution was required to prove by its charge that what Ms Breene did was dishonest by the standards of ordinary honest people. It is not necessary for the prosecution to prove that a defendant realised that what they allegedly did was dishonest according to those standards.⁸ Nevertheless, there is an essential antecedent subjective state of mind that must be established in a case of fraud to prove that any act done was done dishonestly.

17. As was explained in *Peters v The Queen* (1998) 192 CLR 493:

*In a case in which it is necessary for a jury to decide whether an act is dishonest, the proper course is for the trial judge to identify the knowledge, belief or intent which is said to render that act dishonest and to instruct the jury to decide whether the accused had that knowledge, belief or intent and, if so, to determine whether, on that account, the act was dishonest. Necessarily, the test to be applied in deciding whether the act done is properly characterised as dishonest will differ depending on whether the question is whether it was dishonest according to ordinary notions of dishonesty or in some special sense. If the question is whether the act was dishonest according to ordinary notions, it is sufficient that the jury be instructed that that is to be decided by the standards of ordinary, decent people. ...*⁹

18. The prosecution identified in its particulars the knowledge and intention it relied upon to prove its case against Ms Breene. Particular (c) was the essential alleged intent upon which the prosecution rested. Particulars (a) and (b) alone did not, of course, prove anything about the alleged dishonesty. Whilst the particulars are expressed as “and/or”, (a)-(c) must be read conjunctively. That is, essential particular (c) could only provide a basis for proof of dishonesty if combined with (a) and (b).

19. The fundamental flaw in the prosecution particulars was that even if particulars (a)-(c) could have been proven by the prosecution beyond reasonable doubt (and the discontinuance of the charge obviously demonstrates that it could not), the combined effect of those states of mind would not provide a basis to establish the required dishonesty for the purposes of the offence charged. At most it would prove a case of deliberate reprisal. The prosecution mistook and conflated deliberate reprisal with dishonesty when the two concepts are not synonymous.¹⁰ The prosecution case was particularised as if the charge was an offence against s. 41 (read with s. 40) of the PID Act and/or the case involved proof of the same issue that was the subject of the employment dispute before the Queensland Industrial Relations Commission (QIRC). Neither provided a basis for proof of an element of dishonesty for an offence of aggravated fraud contrary to s 408C(1) of the *Criminal Code*.

20. Particular (d) impermissibly and illogically attempted to extend the prosecution case. Although not expressly stated, it appeared to assert that the act could be dishonest if (again when read with and following from (a) and (b)) Ms Breene knew/intended that a substantial reason to terminate Ms Kesley was because of or directly related to the PID. The underlined phrase is a creation of the prosecution’s own making and again draws upon the concept of “reprisal” under the PID Act. The law does not permit such a parsing of knowledge/intention for the purpose of proof of dishonesty. Further, it appears that particular (c) accepted that there may well have been other reasons to

⁸ *R v Dillon; Ex parte Attorney-General (Qld)* [2016] 1 Qd R 56.

⁹ *Peters v R* (1998) 192 CLR 493, [18] per Toohey and Gaudron JJ; cited with apparent approval in *MacLeod v The Queen* (2003) 214 CLR 230, [37] by Gleeson CJ, Gummow and Hayne JJ and more recently considered in *R v Orchard* [2018] QCA 58 at [38]-[39] per Gotterson JA (Sofronoff P and Henry J agreeing).

¹⁰ The difference was dealt with in the judgment of *Smith v Kelsey & Ors; Dalley & Ors v Kelsey & Ors* [2020] QCA 55.



terminate Ms Kelsey but provided that retaliation for making the PID was one of them (and a substantial reason) that would provide a sufficient basis for proof of dishonesty. Again, as with particular (c), acceptance of particular (d) would do no more than prove a case of deliberate reprisal but not dishonesty. In reality, (d) added nothing to (c).

21. In summary, before the evidence is even considered, it is apparent that the charge against Ms Breene was critically flawed in many respects and doomed to fail.

Adverse action under the IR Act / Reprisal offence under the PID Act

22. The particularised conduct against each councillor amounted to nothing more than what would be alleged in a civil-law adverse action proceeding under the IR Act, or, at most, a criminal offence under s. 41 of the PID Act.
23. The decision of *Smith v Kelsey & Ors; Dalley & Ors v Kelsey & Ors* [2020] QCA 55 related to an appeal in which the Queensland Court of Appeal was asked to stay the QIRC proceedings until the determination of the criminal proceedings. The central argument for the appellants was that the substantial overlap between the proceedings would prejudice the fair trial of each defendant. In dismissing the appeals, Morrison JA, with whom Philippides JA and Brown J agreed, provided detailed reasons why there was a significant difference between criminal proceedings and other proceedings that may be taken in relation to the conduct. As his Honour observed at [54]:

In my view, there is a substantial difference between the issues to be determined in the civil proceedings in the IRC, and the criminal proceedings. In the IRC proceedings, the entitlement to relief is grounded simply by a finding that s 285 of the IR Act has been contravened. Neither s 285 nor any individual part of it requires consideration of, let alone a finding about, whether the person was dishonest when they took the adverse action. The adverse action must merely be because the other person has exercised a workplace right.

24. The fact that the particulars of the aggravated fraud charge did nothing than allege a basal reprisal action case as the means of proving dishonesty demonstrates the overreach in the charge preferred by the CCC.
25. Proof of taking adverse action under s. 285 of the IR Act is a civil penalty provision, meaning it is not a criminal offence. Proof of reprisal under s. 41 of the PID Act is a criminal offence and carries a maximum penalty of 2 years imprisonment. In circumstances where the prosecution case did not, so far as the particulars were concerned, rise above what would be in issue in a case under s. 285 of the IR Act or s. 41 of the PID Act, a real question emerges as to why the charge of aggravated fraud was selected by the CCC.

Guidelines of the Director of Public Prosecutions (Qld)

26. Section 11 of the *Director of Public Prosecutions Act 1984* gives the Director powers to furnish guidelines to various people with respect to prosecutions for offences prosecuted in Queensland.
27. Among the guidelines issued by the Director (as at June 2016) are that “Charges must adequately and appropriately reflect the criminality that can reasonably be proven.”¹¹

¹¹ See Guideline 10(iii).



28. The charge of aggravated fraud preferred by the CCC was one that:
- was centred around proof of reprisal action against Ms Kelsey, for which there is a specific offence under the PID Act;
 - carried 10 times the maximum penalty of the specific offence of reprisal under the PID Act;
 - denied the possibility of an adverse costs order against the CCC;¹² and,
 - carried automatic suspension consequences under s. 175K of the *Local Government Act 2009*.
29. Given the prosecution case was essentially that reprisal action had been taken against Ms Kelsey, it is open to find that a charge of aggravated fraud was disproportionate to the criminality that could reasonably be alleged.

Operation of the *Local Government Act 2009*

30. Despite the clear legal flaws with the aggravated fraud charge, and notwithstanding it being based on the same conduct as a civil penalty provision or specific, lesser offence, it was the charge chosen by the CCC for each of the former councillors of Logan City Council.
31. Due to the operation of s. 175K of the *Local Government Act 2009*, the aggravated fraud charge had the effect of automatically suspending each of the councillors charged. It meant that the Logan City Council was inquorate and left no choice but for the entire Council to be dismissed by the Minister for Local Government.
32. If the CCC had charged each of the councillors with the offence under s. 41 of the PID Act, no such result would have followed. Moreover, the CCC would have been exposed to costs for a failed prosecution as in the ordinary course of events, a proceeding for that charge would be dealt with summarily in the Magistrates Court of Queensland.
33. It is submitted that it is important for this Inquiry to examine whether the CCC had regard to the operation of s. 175K of the *Local Government Act 2009* prior to charging each councillor with aggravated fraud, and, if so, how it took into account that law in its choice of charge.

Conclusions regarding the charge selected by the CCC

34. In the context of issues relevant to this Inquiry, it is respectfully submitted that this Inquiry has good reason to reflect on the choice of charge by the CCC.
35. The charge of aggravated fraud had a number of flaws, which are apparent even without consideration of the evidence. It was a charge initiated by the CCC but ultimately discontinued upon review by the Director of Public Prosecutions.
36. It is respectfully submitted that it is open to find that the role of the CCC in deciding charges, particularly those that interfere with democratic results, requires modification.

¹² Costs cannot be awarded to a defendant discharged or found not guilty of aggravated fraud, due to the general unavailability of costs orders for offences that proceed on indictment. Compare the offence under s. 40 of the PID Act, which, though described as an indictable offence, is required to be heard and decided summarily unless the Magistrates Court abstains from dealing summarily with the charge: see s. 69 of the PID Act. In the event a charge of reprisal is dealt with summarily, costs may be awarded to a party under Part 6, Division 8 of the *Justices Act 1886* (Qld).



There are many mechanisms by which this could be achieved. For example, in Queensland, some charges¹³ cannot be instituted without the approval of a Crown Law Officer. It is a protection to prevent overcharging and to maximise consistency, particularly with respect to unusual, serious, or politically sensitive cases.

How did the CCC come to charge Ms Breene based on allegations that were unsupported, unsupportable, or contradicted by the evidence?

The obvious, credible, and compelling innocent explanation of Ms Breene

37. The CCC charged Ms Breene, despite being in possession of evidence that contained an obvious, credible and compelling rational hypothesis consistent with her innocence. The consistency of her views about the suitability of Ms Kelsey to the role of CEO of LCC were obvious. It was summed up by Jon Raven, who is currently a LCC councillor and was a prosecution witness. His evidence was that he had commented to Ms Breene that she was the only person he felt could vote for termination of the CEO as that had always been her position.¹⁴
38. That Ms Breene acted honestly and in accordance with her consistently held opinion of Ms Kelsey, clearly arose on the evidence in the prosecution's own case and simply could not be excluded by the prosecution.
39. The evidence at the committal proceeding in the Magistrates Court confirmed that at a meeting of councillors on or about 23 May 2017 (well before the PID) just after the time Ms Kelsey was interviewed for the CEO role, Ms Breene expressed her preference for another candidate and stated her opinion that Ms Kelsey was not suitable for the role and stated her reasons for her opinion. Other councillors also expressed their preferences for a candidate other than Ms Kelsey. At the conclusion of that meeting an informal 'straw poll' was taken. Although the majority indicated support for Ms Kelsey's to be appointed as CEO, each of Ms Breene and Ms Schwarz voted against her appointment.¹⁵
40. In her interview with Ms Hunter, the independent consultant brought in to review Mr Kelsey's probation process, Ms Breene is recorded as variously stating:

Overall

- *Not the greatest.*
- *Wouldn't say impressed.*
- *Haven't seen what expected*

Leadership

- *CEO has own vision – not necessarily in tune with Council*

Strategy

- *Haven't seen this occur – only the restructure. Did not go well*

¹³ See for example offences in the Criminal Code such as ss. 120 and 229B. A Crown Law Officer must also consent to an indictment charging the serious organised crime circumstance of aggravation under s. 161Q of the *Penalties and Sentences Act 1992* (Qld).

¹⁴ Committal Day 3, T 3-52, LL 3 – 13.

¹⁵ See the committal evidence of Lisa Koranski, Jon Raven and statement of Stacey McIntosh at [15]. Lisa Bradley also agreed that some councillors had preferred another candidate and that some had voted against Ms Kelsey – but she could not recall which councillors. Bradley's evidence is consistent with the evidence of Koranski, Raven and McIntosh that Ms Breene preferred another candidate and was opposed to Kelsey being appointed as CEO as she did not consider her suitable for the role.



- *Don't feel confident in advice CEO provides*
- *Not sure she has her head around the LGA*

Delivery

- *Not seen any evidence – wouldn't be hard*
- *This organization is at risk – last four months of CEO. Not putting in enough effort*¹⁶

41. On 22 January 2018, at a LCC meeting, Ms Breene voted against extending Ms Kelsey's probation when that proposal from Ms Kelsey's lawyers was considered by the LCC.
42. Both Ms Koranski and Mr Raven confirmed in their committal evidence that Ms Breene was generally quiet and made little comment at most LCC meetings. This is borne out by the transcripts of the recordings of those meetings. Further, it is evident that when Ms Breene did speak in these meetings:
- (a) she did not state in any way, expressly or implicitly, that Council should terminate Ms Kelsey's employment because of she had made the PID;
 - (b) she often asked for legal advice to be obtained so she could be assured of her (and LCC's) position and that any action taken would be lawful and permissible; and,
 - (c) during the meeting on 8 November 2017 she expressly stated her understanding: *"So the PID and the probation review are separate?... That is all I needed to know."*
43. Further, given the circumstances immediately prior to the meeting, it stretches credulity beyond breaking point that Ms Breene would have acted dishonestly to vote to terminate Ms Kelsey's employment because she had made the PID, where:
- (a) on 5 February 2018, all LCC councillors (except for the Mayor and Cr Pidgeon) met for a confidential councillor only meeting. During that meeting LCC's lawyers, Mr Tim-Fynes Clinton, partner with King & Company Solicitors and Mr Andrew Herbert, barrister retained by King and Company to act for the LCC, gave legal advice with respect to the QIRC interim injunction decision and the upcoming Special Council Meeting.¹⁷
 - (i) With respect to the Hunter Report, Mr Herbert advised: *"If you say, well there's a report here that seems to think that she's not so bad but you have another view, then it would be quite wrong of you to go with the report against your own views on the matter because the report seemed to be more favourable than a previous report might be because there's always a question of, how good is good? There is no standard about that. It's all a matter of you deciding what's best for the ratepayers of Logan City and if you think that what's best for the ratepayers of Logan City is to remove her, reboot, get somebody else and start again — well it doesn't matter how empathetic or sympathetic or favourable Ms Hunter's report was and says that she's not doing a bad job, well it may have been that you don't want someone who's just not doing a bad job, you want someone who's doing an absolutely first rate job and that's not good enough for you. Then you vote according to that."* (p. 13)

¹⁶ Committal Exhibit 110 - Interview notes - R Hunter 2 of 2 at p. 25.

¹⁷ Committal Exhibit 156 – Transcript No. 25.



- (ii) With respect to the CCC investigation, Mr Herbert advised: *"You know, you need to be careful when you are making your deliberation that you aren't bluffed into doing something that you wouldn't have done otherwise because you are a bit worried about the prospect of that she might do to you what she is currently doing to the Mayor or try to implicate you in all of that...One way you could do that would be for everybody to carefully examine the only way to do that would be to carefully examine...all of the available evidence."* (p. 14)
 - (iii) With respect to councillors making their own individual decisions, Mr Herbert advised: *"..., the best thing to do in your situation, look 6 months down the track, and assume you are in a witness box answering questions about why you took the decision you did... And make sure that you have in your own mind when you make the decision, your reasons set out..."* (p. 23)
 - (iv) With respect to the PID, Mr Herbert advised: *"The QIRC doesn't strictly, well it doesn't ultimately, it doesn't deal with the PID, but it deals with the fact that the PID has been made. Now you can take all those matters into account but you can't, in your own mind, you can't decide to take retaliatory action against her because she had put on the PID."* (p. 29)
 - (v) Later in the meeting, Ms Breene stated: (referring to upcoming vote): *"Can I, is it possible to get in writing that whatever decision I choose to make that I will be covered by legal advice. Should it then go to court ahhh because I decided to make... Well no, I need to know"* (p. 31);
- (b) on 5 February 2018 at 4:55PM, Ms Breene and other councillors (but not the Mayor) received a letter via email from the Chairperson of the CCC, Mr MacSporran QC, warning them of various potential criminal offences that might be committed by them when they voted at the Special Council Meeting (including the offence of reprisal under ss 40 and 41 of the *Public Interest Disclosure Act*) and strongly recommended *"...any resolutions voted on by Council in relation to this, or any other motion, be carefully considered in light of the above matters and that you each seek independent advice as appropriate"*,¹⁸
- (c) on 5 February 2018 at 8:43PM, Deputy Mayor Dalley forwarded an email chain to Ms Breene and all other councillors of an email exchange between herself and Mr Greg Hallam, CEO of the LGAQ¹⁹ regarding the CCC Chairperson's letter.²⁰ In addition to the letter originally being sent to all councillors, it was also cc. to Mr Hallam. Ms Dalley asked Mr Hallam for his opinion on the letter. In response, Mr Hallam stated: *"...as per Andrew Herbert SCs advice today stick with his wording and you are home free with no comeback from the CCC. I rang McSporran this afternoon and straight out accused him of intimidation. He agreed the council is free to make a decision to dismiss the CEO as long as it wasn't retribution. Tim F-C, Andrew Herbert, Troy Wild and I are all in absolute agreement on this matter ie. Don't let the CCC intimidate you. You can make the decision the majority of councillors want and for the right reasons without legal retribution..."*
- (d) on 6 February 2018, Minter Ellison lawyers sent a letter, via email, to Mr Tim Fynes-Clinton at King & Company Solicitors titled *"Sharon Kelsey – employment decision"*.²¹ The letter referred to the upcoming Special Council Meeting set to take place the following day and the resolution to be considered and asked that various matters be drawn to the attention of the full Council. In particular the letter warned of potential legal action against councillors and stressed that any councillor who

¹⁸ Committal Exhibit 176 (attached to the email sent on 5 February 2018 at 4:55PM by Ms Rachel Davis, Executive Assistant to the Chairperson – within Exhibit 177).

¹⁹ The Local Government Association of Queensland.

²⁰ Committal Exhibit 178.

²¹ Committal Exhibit 250.



- voted to terminate Ms Kelsey might be acting unlawfully and that if any individual councillor did vote for termination they would have to individually justify their reasons for that decision when Ms Kelsey's QIRC proceedings came to trial;
- (e) on the morning of 7 February 2018, immediately before the Special Council Meeting, Mr Tim-Fynes Clinton and Mr Andrew Herbert addressed all councillors and gave further advice in a confidential councillor only meeting. They specifically addressed the 5 February CCC Chairperson letter and the 6 February Minter Ellison letter. They confirmed that councillors were permitted to vote for termination provided they were not doing so because of the PID.
44. Ms Breene's prior statements and conduct are entirely consistent with her voting honestly in favour of the motion to terminate Ms Kelsey's employment on 7 February 2018 and not because Ms Kelsey had made a PID. It is in that context that Jon Raven said to Ms Breene at about the time of the vote that she was the only one who could properly vote in favour of termination as that had been her position all along.
45. The CCC was never in possession of any credible, admissible evidence that could overcome the obvious, clear and compelling innocent explanation Ms Breene had for voting the way she did.

The QP9 and the absence of evidence against Ms Breene

46. In Queensland, at the time of the first mention of a charge in the Magistrates Court, defendants are generally provided a copy of Queensland Police Form 9 (QP9), which sets out the essence of the alleged facts or case against them. As is stated in section 3.4.3 of the current Operations Procedures Manual²² for the Queensland Police Service with respect to a QP9:

Before charging a person with an offence, the investigating officer is to ensure there is sufficient admissible evidence to prove the charge to the requisite standard. The admissible evidence must be clearly articulated in the QP9 to enable a prosecutor to deal effectively with the matter, including case conferencing, at the first appearance (see s. 3.7.2: 'Documentation at first appearance' of this chapter).

47. The QP9 was signed by Detectives Andrews and Francis on 30 April 2019.
48. Aside from casting a vote to terminate Ms Kelsey, in the whole QP9 there were only two other specific acts alleged against Ms Breene. All other allegations against her were generalised, vague assertions of a group of aligned councillors with the Mayor plotting and effecting reprisal action against Ms Kelsey for making a PID.
49. One specific act alleged against Ms Breene was entirely contradicted by evidence available to the CCC. The other allegation omitted crucial details that altered the character of a statement attributed to Ms Breene.

The statement wrongly attributed to Ms Breene

50. In the QP9, Ms Breene is mentioned on page 5 with the statement "*I don't trust her*" (a reference to Ms Kelsey) being attributed her. It was clarified in the QIRC proceedings in February 2019 that it was in fact Ms Dalley who made that comment. Despite Ms Dalley stating she made that comment, and that evidence of Ms Dalley being available to the CCC, the CCC persisted with the allegation that the statement was made by Ms Breene.

²² OPM Issue 82 Public Edition.



51. The wrongly attributed statement must have been important to the CCC in its decision to charge her, as it was one of only two specific acts mentioned with respect to Ms Breene. As is clear, however, it was an allegation against Ms Breene that was contradicted by evidence before the QIRC that was available to the CCC prior to the decision to charge her.

The misrepresentation of the partial statement

52. Ms Breene's name is next listed in reference to a WhatsApp group on page 7 of the QP9. In a message to the WhatsApp group, in the context of discussing Ms Kelsey's handling of legal advice in her role as CEO, the following statement attributed to Ms Breene:

*I'm over it too and I haven't had that much to do with it!
I don't trust the CEO is there an option to dismiss her?*

53. The CCC omitted the significant third line of the full message, which alters its context in a way that did not assist the CCC in its allegations. The full message read:

*I'm over it too and I haven't had that much to do with it!
I don't trust the CEO is there an option to dismiss her?
If not we must find a way to work with her.*

(Emphasis added)

54. It must be recalled that the CCC omitted the highlighted sentence in the context of it alleging that Ms Breene, an otherwise honest, hardworking representative of Logan City Council, was so moved to see Ms Kelsey dismissed as CEO that she was prepared to terminate her employment dishonestly. It would appear the CCC did not consider it relevant to mention that Ms Breene, in the very same message, urged others that they may need to "find a way to work with her".
55. It was a telling omission by the CCC. The words "If not we must find a way to work with her" clearly implies that the word 'option' meant a lawful option. It demonstrated a resolution to "find a way to work with her" otherwise. Such a statement completely undermined the prosecution allegation that Ms Breene was dishonestly working to dismiss Ms Kelsey. It is important to note that the evidence shows WhatsApp messages attributed to Ms Breene repeatedly refer to the need for legal advice about the issues being discussed. In that context, it was a particularly egregious omission by the CCC.

Conclusions regarding the QP9

56. It is open to find that the CCC failed to properly consider critical exculpatory evidence and misrepresented evidence as part of the decision to charge Ms Breene.

The flawed allegations of alignment of councillors with Mayor Luke Smith

Voting patterns

57. There were many different meetings of the LCC over the time that Ms Kelsey was employed as CEO. Those meetings varied from statutory meetings (Ordinary Council Meetings and Special Council Meetings) at which Council would formally vote upon



motions and pass resolutions of the LCC, Council of the Whole (COW) meetings, Civic Leadership Cabinet (CLC) meetings, Executive Leadership Team (ELT) meetings, committee meetings, budget meetings and other informal workshop/councillor confidential meetings that occurred from time to time, including before or during any of the other types of meetings.

58. The relevant meeting which underpinned the CCC's case was the LCC Special Council Meeting held on 7 February 2018. At that meeting the former councillors were each present (former Mayor Luke Smith was not) and each voted in favour of the motion to terminate Ms Kelsey's employment.
59. Opinions were expressed, in support of the prosecution allegations against each former councillor, that the inference of dishonesty by them was supported by the fact that throughout Luke Smith's tenure as Mayor, they each voted as a bloc, aligned with him. As Silvio Trinca's evidence at the committal proceeding made plain however, such a suggestion is not borne out by the objective facts. Consistent with his evidence already available to the CCC from the QIRC hearings, Mr Trinca gave evidence at the committal proceeding confirming that entirely contradicted such allegations. As Mr Trinca stated, *"The statistics definitely didn't show that"*.²³

Communications amongst councillors

60. The fact of WhatsApp messages being exchanged among certain councillors and the Mayor featured heavily in the allegations of the CCC, as did meetings where only certain councillors were invited.
61. Any suggestion that the former councillors improperly or dishonestly colluded in some way by communicating privately on WhatsApp or in separate meetings is naïve, contrary to all common sense and reality and flies in the face of the evidence given at the committal hearing by various witnesses.
62. The reality of legitimate and permissible lobbying and advocacy in local government politics was acknowledged by various witnesses at committal, particularly Jon Raven. Contrary to the CCC's allegations, there was nothing improper about the councillors communicating with each other (including to the exclusion of others) to discuss issues, strategies and tactics and to advocate, lobby or urge others to support a particular view.
63. It is important to note that even if the councillors might accurately have been described as a collective bloc or faction of the LCC, there would be nothing improper or dishonest per se by in such an alliance. As the evidence revealed, the "opposition" councillors who assisted the CCC as part of its investigation did precisely the same thing.
64. What is clear from the WhatsApp messages obtained by the CCC is that the councillors were communicating by WhatsApp to engage in informal personal and council business related discussions well before the PID. It therefore could not be suggested that the councillors deliberately used WhatsApp to conceal their communications about the PID and Ms Kelsey's employment.
65. In this regard, it is important to note that in the WhatsApp messages, the CCC had evidence of Ms Breene consistently seeking legal clarity about the issues that may have been raised. The CCC therefore had available to it reliable evidence of Ms

²³ Committal Day 4, P 4-4, L 46.



Breene's interest in understanding her legal rights and obligations, which ran contrary to its case.

The flawed allegation of preferential treatment for aligned councillors

66. In the QP9, the CCC made the following claim at page 13:

Councillors aligned to the Mayor have executed the Mayor's plan for their own self and political interests. Cr Power in his statement provides evidence of favouritism to aligned Cr's within the recent LCC budget. Cr's aligned to the Mayor can be seen to have obtained significant expenditure for projects within their respective divisions. Cr's supporting Ms Kelsey have clearly have received little financial support from the Mayor and treasurer Cr Trevina Schwarz in their divisions. Such expenditure is clearly political gain and speaks to a council alliance acting in concert for further dishonest gain.

67. The CCC, in making this allegation, appeared to rely on the opinion of Councillor Power. However, it is apparent that the interim administrator appointed to LCC reviewed an allegation of budget favouritism for certain divisions. As was noted in the evidence of Silvio Trinca during the committal proceeding:²⁴

The administrator reviewed that allegation and concluded in these terms:

No factual evidence was found that any divisions were favoured over others in the budget. Where certain divisions have received more funding than others is due to whole of city priorities, i.e. in regards to Kingston Butter Factory, waterparks or city summits

?---Yes.

Do you recall seeing that letter?---Look, I can't remem – I can't – it's not in – burnt in my retina, but I absolutely would understand that we, as officers, would have done that analysis for the interim administrator.

68. Had the CCC conducted an independent, non-partisan investigation into the opinion of Councillor Power, it would have discovered the flawed basis for the assertion. It is open to conclude that the CCC too readily accepted the inadmissible opinions of witnesses and chose not to test or verify the accuracy of such opinions with expert evidence or analysis.

Inadequacies relating to witness evidence

69. There was a significant amount of objectionable and inadmissible hearsay and opinion evidence in the witness statements obtained by the CCC. In particular, the statements of the witnesses Kelsey, Power, Bradley, Koranski, Raven and McIntosh were littered with inadmissible descriptions of their opinions, things they "sensed", speculative conclusions and suspicions, often based upon nothing more than things they were told or later came to know as a result of the investigation. All such evidence was inadmissible and could form no part of the prosecution case to be considered by any court or a jury at any trial.

70. The heavy reliance on that evidence bespeaks the fundamentally flawed nature of the charges brought by the CCC. It was reliant on inadmissible opinions that were not

²⁴ Committal Day 4, P 4-22, LL 27 – 38.



adequately scrutinised or investigated. As Detective Francis conceded in his evidence during the committal proceeding with respect to Ms Kelsey, he did nothing more than a Google search into her background:

Did you do anything more than google it?---Nope.

All right. Is that the usual way you investigate the backgrounds of people, by googling?---I'm not investigating a witness here, sir.

71. Beyond ignoring information or evidence that contradicted its case, the assumption of the CCC appears to be that it had no function in investigating matters that centrally concerned the credibility and reliability of its case. As the President of the Queensland Court of Appeal recently stated in *R v Ernst* [2020] 30 QLR at paragraph [35]:

The administration of criminal justice depends heavily upon the work of police. In this sphere, the investigative work of police culminates in the evidence led at a criminal trial because it is the function of police, not the Director of Public Prosecutions, to investigate an alleged offence and to collect and assemble relevant evidence. Judges and juries depend utterly upon the integrity of that process. To a great degree, that integrity depends upon the assumption that police investigators have been objective and have attempted to uncover *all* relevant evidence that can reasonably be assembled, whether it is inculpatory or exculpatory. Indeed, sometimes a prosecution case can gain unassailable strength in the eyes of a jury if it is evident that the evidence that has been put forward has been the result of an utterly objective investigation and one in which, having regard to the truth of the Crown case, the investigators did not fear to find and put forward evidence that might exculpate an accused person. That is why paragraph 2.5.1 of the *Police Operations Procedures Manual* provides:

“When conducting investigations, officers are to remain objective and impartial and consider their initial appreciation of an occurrence, based on the preliminary information provided by complainants, witnesses or informants, may differ to what has occurred.”

(Footnote omitted)

72. Moreover, the handling of secret recordings by councillors who became prosecution witnesses also raises questions about the investigation by the CCC. As the CCC did not seek to seize and examine devices belonging to those councillors, records were destroyed or unavailable. As the committal proceeding made clear, the failure to properly enquire into the coordination among those councillors, including private communications and meetings, led the CCC investigators to portray a distorted picture of communications among councillors.
73. It is open to conclude that the CCC both ignored evidence that contradicted its allegations or made inadequate investigations into a range of issues that were central to the credibility and reliability of its witnesses and claims they made.

The failure to keep proper notes and record

74. There is clear evidence of significant, personal involvement by the Chairperson of the CCC in the investigation prompted by Ms Kelsey. The notes and records relevant to meetings held between the Chairperson and Ms Kelsey are inadequate and thereby undermine the disclosure obligations of police and prosecutors under the Criminal



Code 1899 (Qld). In circumstances where the Chairperson exercised significant powers available under the *Crime and Corruption Commission Act 2001* (Qld) as part of the investigative process, as well as personally lobbied a Minister for special government funding for Ms Kelsey, it was incumbent on the CCC to ensure fulsome records were kept about those matters.

75. The Executive Director (Corruption) within the CCC gave evidence that he could not recall a single other occasion in which the CCC Chairperson had met with a complainant in a case which was being investigated where there was a real prospect of charges being laid or charges having been laid.²⁵ Unusual activities within any organisation, particularly those such as the CCC that have significant powers, stand out as the occasions when thorough record-keeping is most important.

Given the CCC suspended the democratic rule of Logan City Council based on flawed allegations, how is it accountable and what lessons have been learned?

76. It is accepted that a law enforcement agency can be correct to bring a charge even if it does not result in a conviction. However, this is not such a case. The decision to bring the charge of aggravated fraud against Ms Breene was based on allegations that were unsupported, unsupportable and contradicted by other evidence.
77. If it was to be suggested that it was only through evidence given by witnesses at the committal that it was discoverable that the charge should be discontinued, then an obvious question arises. What answers were not reasonably foreseeable or came as a such a surprise as to warrant the charges to be discontinued?
78. The charges against the former councillors, including Ms Breene, serves as a disturbing reminder of the reality that powerful law enforcement agencies can and do get it wrong. A clear focus of this Inquiry is seeking to uncover what may need to change to minimise the chance of such results reoccurring.

The decision and considerations of the CCC to charge the former councillors

79. The decision to charge the former councillors with aggravated fraud, causing the LCC to be placed into administration, warrants close scrutiny by this Inquiry. The decision to charge aggravated fraud made it inevitable that each councillor would immediately lose their employment.
80. In circumstances where the CCC made a decision that so dramatically altered election results delivered by the people of Logan, it is anticipated that it carefully documented its considerations for its decision, according to all relevant laws and guidelines.
81. It is respectfully submitted that this Inquiry, in examining the decision and considerations of the CCC to charge the former councillors, take into account the flawed allegations against Ms Breene. It is submitted that in doing so, it will be open to find that the CCC priority of seeking to protect Ms Kelsey was ultimately flawed and signals the need for changes to be made.

²⁵ Committal Day 8, T 8-7, LL 6 – 11.



The importance of the CCC being, and being seen to be, impartial

Personal involvement of the CCC Chairperson

82. Detective Francis stated in evidence that he considered the CCC had a common interest with Ms Kelsey's civil lawyers (Minter Ellison) to protect Ms Kelsey.²⁶ That was a view formed during the investigation stage and before any LCC councillor was charged with aggravated fraud. In fairness to Detective Francis, he was engaged in an investigation about which the CCC Chairperson had shown a real personal interest in assisting, to the extent the CCC could, Ms Kelsey:
- a. First, the CCC Chairperson met with Ms Kelsey personally. It is notable that the Executive Director (Corruption) could not recall a single other occasion in which the CCC Chairperson had met with a complainant in a case which was being investigated where there was a real prospect of charges being laid or charges having been laid.²⁷
 - b. Secondly, he sent a letter to councillors on 5 February 2018, referring to possible offences under s. 212 of the *Crime and Corruption Act 2001* (Qld) or the PID Act.
 - a. Thirdly, he advocated for Ms Kelsey to receive *ex gratia* government funding to support her private litigation against LCC.
83. While the functions of the CCC may be, at times, to engage in the above activities where appropriate, such acts *may* become a source of bias. At the very least, the perception that a person may lose their objectivity when acting to protect someone or advocate for them is a reason to consider what steps should be taken to ensure the impartiality of decisions is not compromised. It is one of the reasons why the observations of the President of the Queensland Court of Appeal in *R v Ernst* [2020] 30 QLR at paragraph [35] are so critical to understanding the important role of thorough investigations to the criminal justice system.

Public commentary by the CCC Chairperson

84. The CCC Chairperson, Mr Alan Macsporrán QC, is a well-respected and experienced advocate who is also a public figure. His commentary understandably carries significant weight and often is widely reported by media.
85. At the Institute of Public Administration Australia, the Chairperson said about this matter:

So he has been charged with corruption and perjury in front of our hearing and we uncovered also, and this is before the courts so they'll be deciding this in due course, he and his fellow councillors, the "Fab 7" he called them, and he's blocked the majority of councillors in his camp, got wind of the fact that this poor woman, Sharon Kelsey, the newly appointed CEO, came to me to report his misconduct. That then led to a campaign by him to have her sacked, which he's done. The last two years she's been fighting for reinstatement through the commission. The councillors are all funded by director's insurance or equivalent. Doesn't cost them a cent, they've taken every point. They've dragged it out for as long as they can. Sharon Kelsey as the CEO, has no support other than moral support and she's hanging by a fingernail while she tries to get a just outcome in all this. The courts

²⁶ Committal Day 8, T 8-22, LL 24 – 27.

²⁷ Committal Day 8, T 8-7, LL 6 – 11.



will decide. We've charged the "Fab 7" plus the mayor with fraud based upon their disgraceful conduct, dishonest conduct and causing a detriment to her by sacking her without the proper reasons. And that will play out as you say.

(Emphasis added)

86. The comments of the CCC Chairperson are still publicly accessible.²⁸ It is open to find emotive language was used ("this poor women") and the right to procedural fairness questioned ("they've taken every point").
87. It is unknown how many judges, lawyers and others were present for the address and who else may have been aware of the strong views held by the CCC Chairperson about this particular matter. It is open to question whether commentary of this kind about ongoing charges demonstrates the necessary restraint and impartiality expected of the head of a powerful law enforcement and anti-corruption body. More specifically, it is submitted that it is open to question whether commentary of this kind is compatible with the power to bring charges unrestrained from any checks or oversight.

The importance of independent prosecutorial discretion

88. The decision by the CCC to charge aggravated fraud against councillors of the LCC was demonstrably wrong. It has had significant and lasting consequences.
89. In Queensland, the Office of the Director of Public Prosecutions (ODPP) has an important role in the criminal justice system. A well-resourced and independent prosecution service not only has the ability to deliver just outcomes for victims of crime and the wider community, it also has the capacity to fearlessly decline to prosecute if there is a lack of evidence or public interest in charges proceeding.
90. It is open for this Inquiry to find that greater oversight of proposed charges by the CCC, such as by the ODPP, may provide an important safeguard against disastrous outcomes of the kind experienced in this case.

CCC powers and evidence gathering processes

91. The investigation that saw the former councillors of LCC charged with aggravated fraud showed a reliance on the significant powers of the CCC, and pointed to a potentially concerning culture where the use of powers to obtain or disseminate evidence failed to consider all the laws that applied to protect the rights and liberties of individuals.

Dissemination powers of the CCC

92. The conduct of the CCC in seeking to disseminate information to the QIRC reveals a clear, urgent need to clarify its powers to disseminate information obtained under its significant, coercive powers.
93. There was clear, settled authority against the CCC to produce certain material to the QIRC. As is revealed in the correspondence of the LGAQ that called for this Inquiry,²⁹ despite the safeguards attending to certain material the CCC obtains, it nevertheless

²⁸ YouTube: <https://www.youtube.com/watch?v=cClpoGpE9NE>

²⁹ See correspondence from the Local Government Association of Queensland, dated 5 May 2021.



appears to have taken a view of its powers that seems at odds with fundamental rights and liberties.

94. It is open to find that the powers of the CCC with respect to the dissemination of information gathered under its powers requires amendment to strengthen the protection of rights and liberties of individuals.

Evidence obtained from the Australian Border Force

95. There was evidence that the CCC served a warrant on the Australian Border Force (ABF) to obtain a phone used by the former Mayor, but which was carried back from an overseas trip by a colleague (Ms Orr). Ms Orr was stopped by the ABF and they happened to search the phone and find messages on WhatsApp relevant to the investigation by the CCC. The CCC were then able to serve a warrant on the ABF to obtain the phone being held by the ABF.
96. The reason ABF had stopped Ms Orr was that an alert had been created by the CCC and they were looking for Mayor Luke Smith's phones. A real question emerges as to whether the CCC procured the ABF to act beyond its powers in this case.
97. It is open to conclude from the evidence that the ABF acted as an agent of the CCC for its own investigative priorities. While s. 186 of the *Customs Act 1901* (Cth) contains a general power to inspect goods brought into Australia (such as a phone), such powers do not extend to the detention of person nor seizure of their property for purposes beyond the *Customs Act 1901* (Cth). When evidence is improperly 'laundered' to another agency, it is liable to be excluded from evidence on the basis of unfairness.³⁰
98. Despite it previously being stated that the ABF had an unacceptable level of ignorance and indifference to the law, which a majority of the Victorian Court of Appeal considered need to be addressed with "urgency"³¹, it is apparent that the CCC was still able to procure (1) the inspection of the contents of a phone by the ABF; and, (2) the seizure of a phone by the ABF even though its contents appeared to have no relevance to contraventions of the *Customs Act 1901* (Cth) or related laws.
99. The discontinuance of the charge of aggravated fraud meant that any potential illegality or unfairness involved in the seizure of evidence by the CCC by its use of the ABF and its search powers under the *Customs Act 1901* (Cth) cannot be determined by a criminal court. However, it does not dispel the legitimate questions that may be asked about what powers the CCC understood it was asking a partner agency (ie, ABF) to exercise and on what basis.
100. It is open to find that the CCC should report to the PCCC any circumstance where questions have been raised as to whether the CCC obtained evidence unlawfully or unfairly, including where the issue is raised but not decided in a proceeding (such as when a charge is discontinued, as in this case).

Summary of issues for the Inquiry

101. There are numerous questions to be asked of and about the CCC because of its conduct and handling of the investigation into councillors of LCC. It is evident that

³⁰ As occurred in the case of *R (Cth) v Rapolti; R (Cth) v Russell; R (Cth) v Speedy Corporation Pty Limited* [2016] NSWCCA 264.

³¹ See *DPP (Cth) v Farmer (a Pseudonym) and Ors* [2017] VSCA 292.



democratically elected community representatives were wrongly stopped from carrying out their work for their local community.

102. The impact on Ms Breene has been profound. Ms Breene made a decision she honestly believed was in the best interests of her community and LCC. She faced allegations that were unjustified, unsupported and unsupportable. Despite being presumed innocent, the charges led to the instant and irretrievable loss of her career and reputation. The flawed charge brought against her continues to have a profound impact on her life.
103. It is appropriate to constantly review and consider the appropriateness of the significant powers available to the CCC. It is respectfully submitted that what occurred to Ms Breene and her fellow councillors was wrong and tends in favour of a number of substantive changes to the operation of the CCC.

Andrew Anderson
Principal Lawyer
26 July 2021

