



PARLIAMENTARY CRIME AND CORRUPTION COMMITTEE

Members present:

Mr JM Krause MP—Chair
Ms JM Bush MP
Mr MJ Crandon MP
Mrs MF McMahon MP
Ms JC Pugh MP
Dr MA Robinson MP
Mr JA Sullivan MP

Counsel assisting:

Dr J Horton QC
Mr B McMillan

**Staff of the Office of the Parliamentary Crime and
Corruption Commissioner:**

Mr M Woodford—Commissioner
Mr M Kunde—Principal Legal Officer

Staff present:

Ms E Jameson—Committee Secretary
Ms M Salisbury—Inquiry Secretary
Mr S Finnimore—Principal Legal Officer

INQUIRY INTO THE CRIME AND CORRUPTION COMMISSION'S INVESTIGATION OF FORMER COUNCILLORS OF LOGAN CITY COUNCIL; AND RELATED MATTERS

TRANSCRIPT OF PROCEEDINGS

TUESDAY, 7 SEPTEMBER 2021

Brisbane

TUESDAY, 7 SEPTEMBER 2021

The committee met at 9.33 am.

CHAIR: Good morning, everybody. Welcome to day 9 of the Parliamentary Crime and Corruption Committee inquiry. I declare open this day's hearings and acknowledge the traditional owners of the lands on which we meet—and elders past, present and emerging—whose lands, winds and waters we all now share. My name is Jon Krause. I am the member for Scenic Rim and chair of the committee. Other committee members here today are Mr Jimmy Sullivan, the member for Stafford and deputy chair; Ms Jonty Bush, the member for Cooper—welcome back; Mr Michael Crandon, the member for Coomera; Ms Jess Pugh, the member for Mount Ommaney; and Dr Mark Robinson, the member for Oodgeroo. Mrs Melissa McMahon, the member for Macalister, is an apology for this morning's session but should be in attendance later today.

This committee's proceedings are proceedings of the parliament and are subject to the standing rules and orders of the parliament. As parliamentary proceedings, under the standing orders any person may be excluded from the hearing at the discretion of the chair or by order of the committee. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. All those present today should note that it is possible you may be filmed or photographed during the proceedings by media and images may also appear on the parliament's website or social media pages.

I also welcome Mr Michael Woodford, the Parliamentary Crime and Corruption Commissioner—thank you for being here with us again today—and Mr Kunde. With that all said, we will get underway. Mr Horton, when we finished yesterday you were in the midst of a particular line of questioning. I would invite you to pick up where you left off with Mr MacSporran as the witness and go from there.

Dr HORTON: Thank you, Chair.

Mr Alan MacSPORRAN QC (accompanied by Mr Peter Dunning QC and Mr Matthew Wilkinson)

Dr HORTON: Mr MacSporran, I think you were looking at some aspects of the director's guidelines and the public interest question when we left. What, if anything, did you wish to say about that?

Mr MacSporran: Thank you, Mr Horton. If I can go back to the director's guidelines, which I think I had started to refer to in part yesterday, the test which is given for both our assessment of the public interest and the DPP's assessment once the brief of evidence matter is delivered to him after charging is the same. We all work off the same set of guidelines. I think we said that yesterday. So the public interest matters are enumerated at page 3 on to page 4 of the guidelines and the assessment starts, I suppose really, with the seriousness of the offence, and the level of seriousness or triviality indeed is a relevant public interest consideration as to whether charges should be laid. Indeed in this case, it was clear to me that the charge—the conduct evidenced in the investigation of this matter was extremely serious. So that public interest factor favoured going ahead with the prosecution, as it were.

The second discretionary factor under the public interest criteria is the existence of any mitigating or aggravating circumstances. I considered that one of the aggravating circumstances was that not only was Ms Kelsey, as a public interest discloser, facing the conduct of the mayor initially and supported by the seven councillors to terminate her employment, but there appeared from the telephone intercept evidence and the WhatsApp material a concerted campaign or network, if you like, supported by Mr Hallam and Mr Soorley, to effect that outcome not only in Logan but had tentacles right across the local government sector. So that was an aggravating factor in my view which favoured the continuation of the prosecution.

The degree of culpability of each alleged offender: that was a relevant factor to be weighed because it was clear from the evidence we had gathered that some of the seven were not as culpable or involved as some of the others of the seven, but at the end of the day the evidence was such that it was clear—right to the end, including just before they were charged and were offered but refused

an interview to give an explanation if they wished—that there was a united front being promoted by all of them—the eight—to hold the line and effect the outcome they had chosen. The prevalence of the alleged offence: again here it was a concern because of the serious implications it had for the local government sector more generally. Whether or not the alleged offences are of minimal public concern: that was clearly a case where it was of major public concern and again favoured prosecution.

The likely length and expense of a trial: clearly, it was going to be an expensive, lengthy, complex matter, but that is always the case where there are nuances and the evidence is gathered over a long period of time. So that was not a reason you would not prosecute. Whether or not the alleged offender is willing to cooperate in the investigation or prosecution of others or the extent to which the alleged offender has done so: that is really covered by the earlier response I gave about their attitude when they were approached. Again, it did not favour not prosecuting. And then the necessity to maintain public confidence in the parliament and the courts: the relevance of those factors, all of which I have mentioned in passing, will obviously depend on individual cases, so the assessment has to be done individually, and which of those that apply will depend on the circumstances, but ultimately, as I think I said yesterday, the more serious the offence the more likely the public interest would require a prosecution, as in this case.

Dr HORTON: We do not see a weighing of the factors which you just described in the memoranda to which I took you in volume 2 of the bundle. Those factors you described we do not see being weighed, do we, in the memoranda to which I took you in volume 2?

Mr MacSporran: I think some of those are—not mentioned by reference to the guidelines subset but the concepts are mentioned, the seriousness of the offence particularly, which is the gravamen of and the most important public interest test here and the need for deterrence. I apprehend it is mentioned in that memo.

Dr HORTON: Now, what I had questioned you about at the end of yesterday was the public interest factors which weighed against—weighed, I want to emphasise, against—prosecution. You just ran through those public interest criteria and, so far as I could tell, each of the answers you gave were, again, about the factors which favoured charging.

Mr MacSporran: That is so.

Dr HORTON: I understand that and I took you to the memo in the public interest criteria and put to you that they were all factors which weighed in favour. There seemed to be in your mind, even as you sit there today, no public interest criterion which weighed in favour of not charging.

Mr MacSporran: That is so.

Dr HORTON: Thank you. Yesterday there was an exchange between us about this question: what was delivered to the council in October 2018 and what was delivered to the council in November 2018 compared to what had been produced in the QIRC in response to the notice of attendance to produce. Remember that?

Mr MacSporran: I remember many questions along those lines.

Dr HORTON: Good. I am going to clarify it with a table which I am going to seek to have handed to you. This is my understanding from the CCC's discovery to this committee of what was and was not delivered compared to what was produced to the QIRC. You will see there, Mr MacSporran, a column headed 'QIRC'. That is what was delivered, in my understanding, to the QIRC in response to the notice of attendance to produce, and I took you to the schedule yesterday.

Mr MacSporran: That is in July 2018, I think?

Dr HORTON: Correct.

Mr MacSporran: Yes.

Dr HORTON: Then the column after that, 'LCC-Oct', those delivered to the council on 3 October 2018?

Mr MacSporran: Yes.

Dr HORTON: And then the last column, 'LCC-Nov', is that delivered on 19 November 2018 to council?

Mr MacSporran: Yes.

Dr HORTON: Now, so far as I can tell, the only difference between the delivered documents—treat them as a group for the minute—compared to what was given to the QIRC, is those in the last two rows, '1-page extraction report (Luke Smith and Greg Hallam)', '1-page extraction report (Luke Smith and Tim Fynes-Clinton)'.

Mr MacSporran: That is what your schedule says, Mr Horton, yes.

Dr HORTON: Yes. I am asking you is it true?

Mr MacSporran: I have gone as far as I can, and went yesterday, with my appreciation of this exercise. I thought we had finished on the basis that we would provide material to indicate our appreciation of the differences, which is in the process of being done as we speak.

Dr HORTON: I would very much like to clarify this, which should be an objective fact, while you are in the witness box now.

Mr MacSporran: Well, it is not possible to do that for the reasons I have said yesterday and maintain today.

Dr HORTON: To be clear, as you sit there in the box now you are not able to clarify for me, by reference to this table or other documents, what was produced to the QIRC, what was sent to the council in October, what was sent to the council in November and the comparison between them?

Mr MacSporran: Personally, no, for the reasons I articulated clearly yesterday, I thought.

Dr HORTON: Right. This schedule I seek to table, Chair, which is my understanding of the matters which I have just put to this witness.

CHAIR: Thank you, Mr Horton. That document will be tabled but not published at this time, in accordance with previous guidance.

Dr HORTON: If I am right about that, Mr MacSporran, there are two sheets which differ, which were not before the QIRC, in effect, in response to the notice of attendance to produce. Does that sound right?

Mr MacSporran: I have given my answer, Mr Horton.

Dr HORTON: Just testing before you left the box. What I want to do is ask you a couple of remaining topics. The first is to go back for a moment to 6 August 2018 when, you will recall, there was a meeting with Ms Kelsey.

Mr MacSporran: Yes.

Dr HORTON: And which I think you attended.

Mr MacSporran: Yes, I did; that is right.

Dr HORTON: That is the meeting at which Ms Kelsey talks about reinstatement and uses the word 'feasible'.

Mr MacSporran: I did not catch your last word, Mr Horton.

Dr HORTON: 'Feasible'.

Mr MacSporran: Yes.

Dr HORTON: The next day I think, 7 August, is the date of your letter to the minister seeking funding on her behalf.

Mr MacSporran: Yes.

Dr HORTON: That letter, should the committee understand, is a direct result of the meeting which had occurred on 6 August with Ms Kelsey?

Mr MacSporran: Yes, I think that is a fair conclusion.

Dr HORTON: Thank you. I want to take you to some documents to understand what other ramifications the meeting might have had internally within the CCC and I am going to ask you to go to volume 1, page 277. That is the meeting note. I just wanted to remind you where that lies. Then the letter, remember, to the minister follows soon after in the bundle, 7 August, at page 291. Would you just note at page 293 is an email from Mr Hutchings to you of 8 August, so the day after the date of the letter to the minister from you, and you are told certain things by Mr Hutchings. Dan—assume this is Dan Williams of MinterEllison—being spoken about—

... he was very appreciative of the efforts you have made. He will keep Sharon informed. He was especially interested in the prospect of the appointment of an administrator as he sees it as the only practical solution now.

You respond 'Thanks Rob' at the top of the page.

Mr MacSporran: Yes.

Dr HORTON: You discussed something with Mr Hutchings on the afternoon of 8 August. What was it?

Mr MacSporran: Well, what he records there about the appointment, the prospect of the appointment of an administrator, does not resonate with me as something we discussed. I am trying to place the timing: August 2018. That was a week after I had given evidence at the committee considering the bills to dissolve Ipswich City Council. That is a coincidence of timing, but in terms of how that related to this matter I cannot immediately make a connection. Certainly I have no memory of a connection in discussions with Mr Hutchings or anyone else about that.

Dr HORTON: The connection, I want to suggest, is this: you have seen Ms Kelsey on the 6th and she has indicated reinstatement would suit her interests.

Mr MacSporran: Yes.

Dr HORTON: You have sent a letter to the minister about seeking funding for her and now there is a discussion about Ms Kelsey's interest in the prospect of an administrator being appointed to the council. That is the context, I want to suggest to you.

Mr MacSporran: As I say, I have no recollection. That is Mr Hutchings's reference to a discussion with me and Dan Williams and it does not spark any memory in me about that issue. I cannot see why, as at August 2018, we would have been discussing anything about the administrator so far as Logan goes.

Dr HORTON: Because you are trying to help Ms Kelsey with reinstatement.

Mr MacSporran: Well, we are 'trying to help Ms Kelsey with reinstatement': I do not know that is a fair assessment of what was actually happening here throughout this. I have explained in some detail yesterday what the position with managing Ms Kelsey as a PID by Rob Hutchings under my direction was and the context in which that happened.

Dr HORTON: And this has progressed now, by 8 August 2018, to assisting a PID with what she wants as the only practical solution now.

Mr MacSporran: I do not get the connection. 'Practical solution' being, Mr Horton?

Dr HORTON: This reinstatement in industrial law—please tell me if I am saying things you already know—would be assisted by the removal of those in the organisation with whom there was conflict that led to the termination.

Mr MacSporran: Again, this is August 2018. None of that happened.

Dr HORTON: No. It would only happen if, hypothetically speaking at this stage, you pinched the mayor with an offence which resulted in his disqualification and a decent portion of the seven other councillors such as would cause the council to be unable to continue to maintain a quorum.

Mr MacSporran: So the proposal, on your theory, Mr Horton, is being floated in August 2018 and if your theory is right nothing is done about it until it is executed in April 2019? Is that the proposition I am meant to comment upon?

Dr HORTON: The first half is. I am going to put it to you very squarely at the end. The first half is that on 8 August what has commenced is a purpose of assisting Ms Kelsey achieve reinstatement—in particular here, the disqualification of the mayor and some councillors—and what we are seeing is the genesis of this, coming off the back of the 6 August 2018 meeting.

Mr MacSporran: I do not accept that.

Dr HORTON: Thank you. I am going to show you some more documents. Mr Hutchings anyway, in what he said to you at the time, must not have been saying things to you that were controversial given your response—

Thanks Rob.

Regards,

Al

Correct?

Mr MacSporran: That is your conclusion.

Dr HORTON: I am giving you a chance to disagree with me and state why you disagree if you do disagree.

Mr MacSporran: I am acknowledging what he has put to me. I am just thanking him for the update.

Dr HORTON: If you change bundles—and I am sorry for the overlap in the chronology here but this is where we begin to see an intersection between these two streams, the QIRC matter being managed by Mr Hutchings and the investigation. This is volume 2, page 9. I would ask you to look at 9, 10 and 11. I will start asking you questions about page 10, dated 8 August 2018.

Mr MacSporran: This actually helps me remember the context which we are dealing with here.

Dr HORTON: Good. What is the context?

Mr MacSporran: The context is, as I think I mentioned right at the start of this series of questions, that Mark Docwra had accompanied me down to the committee hearing for the Economics and Governance Committee considering the bill for the dissolution of Ipswich City Council on 30 July 2018. He had provided me with a High Court case that I had referred to in that hearing and that was the issue being ventilated at that time. Rob Hutchings has asked Mark Docwra, in that context, to forward information to him about those issues.

Dr HORTON: But you are not suggesting that these issues are being forwarded about Ipswich?

Mr MacSporran: No. It is an exchange between Mr Docwra and Mr Hutchings, and I am not clear the purpose of that other than, as you say, emails to me later which has some connection to an administrator.

Dr HORTON: The connection is on page 10, at the top—

Alan

Rob has asked me to forward you with a copy of my email below touching upon issues you both discussed yesterday.

Mr MacSporran: Maybe it is an assessment of what is an integrity offence for councillors to be stood down.

Dr HORTON: Maybe it is research about what can be charged to bring about a disqualification of councillors and a disbandment of local government meetings on the basis of a failure to constitute a quorum?

Mr MacSporran: So here, as we knew or know, from this time it seems from Mark Docwra's research, as you refer to it, whilst our reprisal was not an integrity offence, misconduct in public office and fraud—I will see if misconduct in public office is referred to.

Dr HORTON: Fraud is mentioned at the bottom of page 10, 408C.

Mr MacSporran: I see that. Conspiracy is mentioned as well, 541 of the code. What is not mentioned here but we know is in this category is the other matter that we were considering in the Front investigation, which is misconduct in public office. This sets out that the law had come in, I think, in May 2018 to provide for councillors who were charged to be required to automatically stand down. That requirement was linked to only charges of a so-called integrity offence, which was fraud, misconduct in public office—

Dr HORTON: Can we come back to the documents soon, Mr MacSporran? It is day 9 and the committee well understands the provisions of the Local Government Act and that they were enacted in May 2018. Coming back to what actually happened here on the documents, the research goes to you, correct, from Mark Docwra?

Mr MacSporran: Yes, it appears to, on page 10.

Dr HORTON: And you would agree, as it says there, it touched the issues you had discussed with Mr Hutchings the day before?

Mr MacSporran: That is what is being said. I assume that that is right. I do not remember that, but I am assuming by this chain that is what happened.

Dr HORTON: What is being discussed the day before is what I have taken to you at volume 1, referred to at page 293, and the email of 8 August 2018 from Mr Hutchings.

Mr MacSporran: Right.

Dr HORTON: Correct?

Mr MacSporran: Yes.

Dr HORTON: If there is another email that you want to point my attention to, anywhere, whether it be in the bundles or not, that explains why it is not the subject of the discussion referred to on page 293 of volume 1, please do so now.

Mr MacSporran: No, I think that connection is—I do not quarrel with that in light of the dates, the topics and so forth, now that I have seen the material.

Dr HORTON: So what is underway then is a discussion between you and Mr Hutchings, with the assistance of Mr Docwra's research, about what offences may be charged that would bring about disqualification of the accused?

Mr MacSporran: Yes.

Dr HORTON: Which is directly arising from Ms Kelsey's request—sorry, indication that she would like to be reinstated?

Mr MacSporran: Can we just go back to where you say that the request from her to be reinstated? Do you mean the meeting with Mr Alsbury and I of 6 August?

Dr HORTON: Yes, 277 of volume 1 is Mr Alsbury's typed version of the notes.

Mr MacSporran: Yes, which is where it said that reinstatement would—

Dr HORTON: 'Makes it feasible'—278.

Mr MacSporran: Yes. We dealt with that yesterday and again this morning. The context is, as I think I said yesterday, make it feasible in terms of her financial capability to survive.

Dr HORTON: So this discussion with Mr Hutchings and this research was directed to assisting her with reinstatement?

Mr MacSporran: Well, it is a consideration being looked into.

Dr HORTON: And you knew at this time—that is early August 2018—that charging the mayor and/or councillors with certain offences would result in the disqualification?

Mr MacSporran: Yes. There is an integrity offence under the provision which came in in May 2018.

Dr HORTON: And that if a majority were charged such as they could no longer constitute a quorum, the council would likely be disbanded?

Mr MacSporran: That would be an objective fact on the numbers, yes.

Dr HORTON: That it would be likely from that that an administrator would be appointed?

Mr MacSporran: Yes.

Dr HORTON: And that under industrial relations law, that would make Ms Kelsey's desire for reinstatement more likely because those persons with whom she had had the conflict in the workplace would, by definition, no longer be there?

Mr MacSporran: Yes, but ultimately it would be a matter, I would think, for the administrator to decide.

Dr HORTON: Charges are laid, council is disbanded and administrators are appointed on 2 May 2019?

Mr MacSporran: Yes.

Dr HORTON: And you spoke to her and requested that she reinstate Ms Kelsey?

Mr MacSporran: I do not accept that there was a request as such to reinstate Ms Kelsey. I made the inquiry of Ms O'Shea, who had been appointed the administrator.

Dr HORTON: Just leave it at this for a minute. We will go to Ms O'Shea's particular evidence in a minute. What possible statutory function or organisational legitimate interest could there be in calling an administrator who has been appointed to be independent by the minister and seeking or suggesting or raising with her the reinstatement of the former CEO?

Mr MacSporran: Mr Horton, the inquiry I made of the administrator who had then recently been appointed was an inquiry in passing during the course of discussions about other relevant matters between the administrator and myself. She was seeking advice from me about various aspects of the administration, and during the course of that discussion I simply asked what she intended to do in the administration and did she intend to reinstate Ms Kelsey. On my recollection, she said she was going to remain neutral as the administrator, maintain the status quo, and, for the same reasons, was not proposing to reinstate Ms Kelsey.

Dr HORTON: I see. So the call ended with you understanding that reinstatement was not something that she was going to give Ms Kelsey?

Mr MacSporran: That is my memory of it, yes.

Dr HORTON: Even putting it in your terms, what possible statutory power or proper organisational interest was there to raise a matter with her which was completely a matter for her as the appointed independent administrator?

Mr MacSporran: Mr Horton, it was a general discussion that arose during the course of other more significant discussions and in the context where the administrator had rung me to discuss issues with the administration.

Dr HORTON: But she had not said to you that she had called you about Ms Kelsey or whether she should be reinstated?

Mr MacSporran: No, she did not. She rang me about something else and we discussed generally the administration and the topic that she had rung me about.

Dr HORTON: Can you understand, Mr MacSporran, this difficulty: simply raising this matter in a general discussion with no background might be one thing but, when one has gone through, as I have with you yesterday and when you first appeared, the history of expressing and acting on a desire to assist Ms Kelsey, raising the matter with Ms O'Shea the committee might regard as a continuation of this particular line you are pressing?

Mr MacSporran: When you say 'particular line I am pressing', are you suggesting there is something improper about it?

Dr HORTON: I am suggesting this—I have suggested it before and I will continue to suggest it and I will suggest it at the end: you were seeking to achieve the reinstatement of Ms Kelsey from at least the time that she said it would make things feasible, namely, 6 August 2018.

Mr MacSporran: But are you suggesting that is done for an improper motive and purpose, something dishonest about that, are you?

Dr HORTON: I said yesterday that when I need to be direct I will be direct. You are worried about where I am going and you are using a word I have not used for the minute. Could you just focus on the question for the moment?

Mr MacSporran: I had, Mr Horton, as I said yesterday, taken a course to assist Ms Kelsey where possible within the bounds of the jurisdiction and powers that we had to manage a PID without getting into an injunction in the Supreme Court or the QIRC but so that our investigation of what was clearly, in our view, corrupt conduct of a mayor and seven councillors could be pursued to its logical conclusion. I was not setting out on a crusade to have Ms Kelsey reinstated at all costs and for any reason.

Dr HORTON: That is, Mr MacSporran, what it looks like, I suggest to you, from the documents I have just taken you to.

Mr MacSporran: I do not accept that at all.

Dr HORTON: That is, a statement by Ms Kelsey on 6 August—reinstatement would make it feasible—followed by a discussion with Mr Hutchings about offences which might disqualify councillors, followed by research provided to you about the topic discussed on 8 August. Could you offer—and now is the time to do it—an alternative explanation for what occurred than the one I put it to you?

Mr MacSporran: I have given my alternative explanation, which is the course we steered from the time we decided not to take the injunctive action in the QIRC or elsewhere but to monitor Ms Kelsey's matter with a view to helping her where we could within the bounds of our powers and so forth. I have said it three or four times already. That is what happened throughout the course of this.

Dr HORTON: Do you accept the call to the administrator occurred on 29 May, which is the time when—

Mr MacSporran: Just a moment, Mr Horton. I was just looking for something. I have found it now. It is in the diary note of Mr Alsbury—the typed diary note, 277 and 278.

Dr HORTON: Yes.

Mr MacSporran: At the end of that diary note, which is close to the end of the meeting, you will see a reference by Mr Alsbury which I think is accurate, on my memory. He says—

per Alan—

that is me.

Dr HORTON: Yes. What is the point you want to make from that?

Mr MacSporran:—

we will revisit issue of what we can do (i.e. whether we become a party).

Dr HORTON: Yes, and you did not become a party; right?

Mr MacSporran: Exactly, but we were always assessing what our position would be, but we never, ever did become a party, for the reasons I have discussed time and again.

Dr HORTON: Mr MacSporran, one thing I will not suggest to you is that you were not constantly assessing or monitoring this matter. There are two bundles full of effort and interest and resources being directed to Ms Kelsey's matter. It seemed to have taken up quite a lot of your time, Mr MacSporran, these matters?

Mr MacSporran: Which matters are you referring to?

Dr HORTON: Ms Kelsey's matters.

Mr MacSporran: I do not accept that. My memory of it is—and I do not think it is contradicted by the documents I have seen—I was being kept up to date from time to time as matters developed. My main focus still, albeit from a higher level as well, was the corrupt conduct investigation itself. But I kept an eye on this and Mr Hutchings, as you have seen in the documentation, referred back to me as he thought necessary from time to time, and I was content with that.

Dr HORTON: You had strong personal feelings about the matter?

Mr MacSporran: I was sympathetic to Ms Kelsey's position, as I would be for every PID who had been in the position that she found herself in.

Dr HORTON: Feelings which we see expressed by you in October 2019 of 'outrage', to use your word?

Mr MacSporran: I think we went to that yesterday, yes.

Dr HORTON: And a strong personal feeling of sympathy for Ms Kelsey such that she should be reinstated if at all possible?

Mr MacSporran: I would not go that far. I think I was sympathetic. I was hopeful that she would be successful in the action. I was having grave doubts about whether that would be the case, but that was a matter for her in the Industrial Relations Commission. Whatever we did during the course of that proceeding is well documented and justifiable, in my view, and I do not resile for a moment from the action we took in that respect.

Dr HORTON: Put it this way: what did you not do for Ms Kelsey besides not intervene in the proceeding?

Mr MacSporran: Well, that is a fairly significant 'not'. We did not intervene directly.

Dr HORTON: Yes, in the sense of section 48(2), section 49(2)?

Mr MacSporran: I am sorry, I did not mean to talk over you.

Dr HORTON: No, that is all right.

Mr MacSporran: We did not directly disseminate information to her, as we could have under our policies and powers, but made it available, as you know—and I have said this a number of times already—to the registrar of the commission or to other parties who had a legitimate interest in receiving the material, with notice to all parties in the action. Frankly, I think it is obvious, with respect, Mr Horton, that we were totally fair, independent as much as we could be, and proceeded at all times along that path.

Dr HORTON: We will come back to that. Page 41 and 42 of 26 August *Hansard* is Ms O'Shea's evidence about the telephone call which she says occurred probably, she seems to say, on 29 May.

Mr MacSporran: Just bear with me.

Dr HORTON: Certainly.

Mr MacSporran: Can I have the reference again, please?

Dr HORTON: Yes. 26 August, page 41 and 42. She is not absolutely certain about the date, but she said she made that note probably a week or so after the phone call.

Mr MacSporran: Yes.

Dr HORTON: You have seen a copy of the diary note?

Mr MacSporran: Yes.

Dr HORTON: What do you say about whether the phone call occurred on 29 May?

Mr MacSporran: It didn't.

Dr HORTON: When did it occur?

Mr MacSporran: My best estimate of when it occurred—and I can say this from an examination of my phone records—the call occurred on 17 May, I think, 2019.

Dr HORTON: Thanks. Do you know what duration that call was for, from your phone records?

Mr MacSporran: That was 30 minutes.

Dr HORTON: You called her; is that correct?

Mr MacSporran: No, she called me.

Dr HORTON: Right.

Mr MacSporran: Her office had called my EA, it seems, on 2 May, which is the day I think she was appointed, looking at the sequence of events. Her office had called my office—just bear with me; I will pick up the detail—for a short period of about 55 seconds, I think. The next contact between the Logan administrator's office and my office was on 17 May and the call went for 30 minutes.

Dr HORTON: You will see that she says at the top of page 42 that you initiated the call. I want to suggest to you that is the case.

Mr MacSporran: The call I am talking about was initiated by her to my office.

Dr HORTON: Yes.

Mr MacSporran: But I do not know that I can take issue with what she says. My records indicate a call in from her and we spoke for 30 minutes. That is the call I certainly remember. There was another call by me to her on 3 June. I was in Adelaide. It was at 4.49 in the afternoon. That call was for 12 minutes and 32 seconds.

Dr HORTON: How confident can you be that your phone records there capture every call that you made from any phone at the relevant time on 29 May?

Mr MacSporran: I am very confident. Ms O'Shea's contact details are in my work mobile phone. The way they are in my work mobile phone—the formatting of them—indicates to me that my EA at the time put them in. My best estimate is that occurred on 2 May, the day that her appointment began. Whether it was her EA or someone from Logan rang my EA to put Ms O'Shea's details in my phone, I am assuming for subsequent contact—which you would expect would happen, given that she had been appointed and we were investigating the Logan councillors.

Dr HORTON: Mr MacSporran, if you turn to volume 1, following on from this, page 591. It is an email from Andrew Francis to Mark Andrews, 30 May 2019. You do not appear as a recipient of these, or a sender of the emails I am about to take you through.

Mr MacSporran: This is 591, Mr Horton?

Dr HORTON: Yes.

Mr MacSporran: Thank you.

Dr HORTON: Now have you before—reviewing them perhaps for giving evidence—seen the email exchanges which occur at 589 to 592 of volume 1?

Mr MacSporran: Yes. I reviewed these in between giving evidence on the first occasion—17 and 18 August—and yesterday, because I had gone away to look through the bundle as best I could.

Dr HORTON: Is that the first time you had seen them?

Mr MacSporran: Yes.

Dr HORTON: Had the contents of these been raised with you at some time on, about or immediately after 31 May 2019?

Mr MacSporran: No, they had not.

Dr HORTON: I ask you that because at 589 things are forwarded for information to Mr Alsbury and discussion with the chair, who would be you.

Mr MacSporran: That did not occur.

Dr HORTON: I see. You never had a discussion—

Mr MacSporran: I am actually not surprised it did not occur when I look at the response from Mr Caughlin and Mr Alsbury's response. That would explain to me immediately why it did not come to me.

Dr HORTON: Yes. Did it surprise you to read that a police officer in your organisation was making accusations of a very serious kind against a senior public servant who had been appointed by the minister as the independent administrator?

Mr MacSporran: Mr Horton, what makes police officers and detectives particularly good investigators is that they have a very healthy scepticism about what they are told about people's motivations for doing anything. That is what makes them effective, committed and good investigators. They do not normally—nor should they, in my view—as investigators accept at first blush what they are told is happening.

Dr HORTON: I am going to put one more question—

Mr MacSporran: They have a healthy scepticism and I see these emails in a different light to the way I think you might see them. They are simply workshopping ideas about what is actually happening. They are concerned about what is going on here and they want it brought to attention and something done about it. Then the lawyers, whose job it is to step in and make a rational determination of things, put it to bed. As Mr Caughlin says—and I agree entirely, quite rationally—without seeing the correspondence in the affidavit it is difficult to judge, but I think each of the steps taken by the administrator are capable of being seen as an effort to maintain the status quo with respect to the contentious matters within council. Obviously we need to bear in mind that the administrator's role is to run the council, not to favour the views of one side or another, and certainly not to protect the interest of either the four councillors or Ms Kelsey or the charged councillors. It is totally rational, and I must say it accords with what Ms O'Shea said to me about what she intended to do in her role: simply maintain the status quo and let the—I am sorry, Mr Krause. Did you want me to stop?

CHAIR: No, no, no. Finish your answer.

Mr MacSporran: Exactly what Ms O'Shea had indicated to me she was going to do. I do not see the concern that you see, I think, in this email.

Dr HORTON: You seem to in fact say that what we are looking at on 591 and 592 is good conduct and what you would expect from a good investigator.

Mr MacSporran: No, I am saying it is a sign of what makes them a good investigator and they—

Dr HORTON: And you come here proudly defending what is done at 591 and 592 and offer no excuse for it to this committee, other than you defend it?

Mr MacSporran: It is not a matter of offering excuses for it; it is a matter of explaining the context for it. And significantly, the point you seem to be missing entirely, with respect, Mr Horton, is that the gatekeeper—the lawyers—knocked it on the head, as they should have.

Dr HORTON: Thank goodness.

Mr MacSporran: And you know, Mr Horton, the gatekeepers we have at the CCC would do this routinely.

Dr HORTON: I might take that up with you at a later stage.

CHAIR: Mr Horton, I was not meaning to interrupt your line of questioning. Please continue. I was just indicating to you before that as Mr MacSporran spoke about police officers who bring a sceptical mind to initial explanations provided to them, so do committee members. I would encourage you to continue your line of questioning, if you would.

Dr HORTON: There was no occasion for even a sceptical investigator to be investigating the conduct of an administrator who had an untarnished reputation and, to the contrary, a well-established reputation in public service and one recognised by the minister by reason of her appointment?

Mr MacSporran: I agree entirely, but they were not investigating the administrator. They were talking about whether it should be advanced down that line and it was stopped as soon as it was suggested.

Dr HORTON: I am sorry, that is not right. This is discussion between police officers about an allegation that they have made—not which is initiated from outside—about what they say amounts to conduct which should lead to her removal.

Mr MacSporran: They are not investigating the administrator; they are talking about what they see is a possible direction the investigation might take, but they cannot go off on their own bat and investigate something. That is why it goes up the line.

Dr HORTON: There is no healthy scepticism here in what we see being done between these police officers at 589 to 592 but instead a blind acceptance of what is being asserted by Ms Kelsey and the remainder of the councillors.

Mr MacSporran: I do not agree with that interpretation.

Dr HORTON: You will know that, in addition to the emails at 589 and 592, some others were produced by the CCC?

Mr MacSporran: Yes.

Dr HORTON: Which explain—and we are grateful to the CCC for pointing this out—the versions which are the versions other than the '(consider this version)' emails. So there was an exchange which occurred in between. Have you had an opportunity to see those?

Mr MacSporran: Which ones are you referring to—which page?

Dr HORTON: I am referring to—I will not use the CCC descriptor because it is probably not meaningful to you—emails between the same players. I will get you a reference, if it helps. The reference we were given to them—I must say not very helpfully—was this: 'TermsOfReference—02816; TermsOfReference—02815; TermsOfReference—01653; RedactSet—01627; and RedactSet—01382.' I think you might have been given them. I wanted to show you these to fill out that exchange in case you had not seen them. In the pause, Mr Chair, I might seek to table these documents, which the committee has already. If they might also be tabled, because they complete the story in the bundle at pages 589 to 592.

CHAIR: Those documents are deemed to be tabled and not yet published in relation to previous guidance.

Mr MacSporran: I have now looked at the bundle.

Dr HORTON: I want to take you to two examples from the additional bundle that has just been tabled. The first is an email headed 'Concerns held about Administrator LCC & A/CEO' on 30 May—Mark Andrews to David Preston.

Mr MacSporran: And the time for that, so I can pick it up? That is 30 May at 2.03 pm. Is that the one we are referring to?

Dr HORTON: This one is 30 May at 1.44 pm. If it is any help to you, the identifier given, I think, was 'RedactSet—01382'.

Mr MacSporran: I have it now, thank you.

Dr HORTON: If you look down to the bottom, the string is from Andrew Francis and it says 'Very draft'. This seems to be the version before the '(consider this version)' maybe?

Mr MacSporran: 1.17 pm.

Dr HORTON: 1.17 pm, and over the page at the end of his email is this bit which we see later, having been polished more. This is under the heading 'To be further elaborated upon: Principles of PSA—possible breaches by Administrator'. Then he says in this draft, which he sends to others—

Investigate possibilities for CCC consultation with administrator ...

Mr MacSporran: Yes.

Dr HORTON: We are not investigating though, you say? Do not read this as an investigation?

Mr MacSporran: It is an email I did not see. That is what Andrew Francis is telling Mark Andrews.

Dr HORTON: You would wish to say, would you, that this is not an investigation the CCC is conducting?

Mr MacSporran: I still do not see it as such.

Dr HORTON: It continues—

When Ipswich Administrator was appointed Chair & SEO met with him.

And then he mentioned Ipswich. It continues—

Engage the four similarly suffering detriment asap.

This does not cause you any additional concern? You think that what is being done here is perfectly appropriate investigative work by a police officer?

Mr MacSporran: I have not seen these until now so it is a little bit difficult to—

Dr HORTON: These are your documents, Mr MacSporran. They came from your organisation. They were produced to us a while ago. Admittedly, they were not included in the bundle, but ones like it were and these fill out that exchange.

Mr MacSporran: I have read that now, thanks.

Dr HORTON: This has reached the stage, I want to suggest to you from these documents, of breathless, out-of-control police officers off on a complete detour.

Mr MacSporran: That is your interpretation. As I say, it is difficult for me to assess it after the event to see what they were actually doing, but I had placed it in my own mind—the part I had seen earlier—in the same category as, I think it was, Sergeant Beattie's plea to me about the issue of the cost exposure for the CCC.

Dr HORTON: Just stick with these emails for a minute. You are going—

Mr MacSporran: I know, but I am just putting in context my assessment of what this conduct by the investigators—workshopping ideas about where the investigation was going and what it might reveal, in that same category.

Dr HORTON:—

The commission must, at all times—

at all times—

act independently, impartially and fairly having regard to the purposes of this Act and the importance of protecting the public interest.

Mr MacSporran, is this what the public is to expect of the commission at all times acting in the manner compelled by section 57 of your act?

Mr MacSporran: The commission consists of the lawyers supervising and monitoring the police officers. As I say to you, and is apparent from this material, these thoughts of the investigation team did not progress, as they shouldn't have.

Dr HORTON: Is this a convenient time, Chair?

CHAIR: I think we could take a break, Mr Horton. It is 10.31 am. We will take a break and pick up again at 10.50 am.

Proceedings suspended from 10.31 am to 10.53 am.

CHAIR: We will resume our hearing now. Mr Horton, could you carry on with the witness?

Dr HORTON: Before I start, I will clarify that the table that has been tabled has had added to it a heading 'Table of WhatsApp documents delivered by the CCC'. For this reason, that table only deals with WhatsApp material because, as explained in evidence by reference to volume 1 pages 223 to 225, the material delivered to the QIRC was of a larger kind in the eight categories there described.

CHAIR: Do you have an updated copy that you want to give to the table?

Dr HORTON: I think it has been provided by the secretariat.

CHAIR: We will table that document as well but not for publication at this time.

Dr HORTON: The intention of the table is to show the differences between the deliveries. One has to read it in the context of volume 1 pages 223 to 225 for knowing what additional material was before the QIRC.

CHAIR: Mr Horton, for ease of convenience administratively, we might just amend the document that was tabled earlier as you suggest, rather than tabling it again.

Dr HORTON: Mr MacSporran, I am now going to put matters to you—some of them I have covered before. To the extent you have covered them sufficiently, please just say so. To the extent you wish to comment or explain, please do so.

Your decision to assist Ms Kelsey and to have your organisation pursue that course became a commitment to help her cause without restraint or any real concern for impartiality.

Mr MacSporran: I do not accept that.

Dr HORTON: That included not accepting the ruling of the QIRC of 24 August 2018 as binding upon your organisation.

Mr MacSporran: I do not accept that.

Dr HORTON: You were at the outset of this matter incensed by a call you received from Mr Hallam.

Mr MacSporran: Yes.

Dr HORTON: That remains, and has since that time remained, a matter of outrage to you.

Mr MacSporran: It is a matter of concern of mine.

Dr HORTON: It, among other things, has produced strong personal feelings in you about this matter.

Mr MacSporran: It has produced strong personal feelings in me about the influence Mr Hallam and Mr Soorley had throughout this entire matter and extending beyond this matter into the local government sector more generally.

Dr HORTON: Your organisation sought to get around that ruling by the QIRC.

Mr MacSporran: I do not accept that.

Dr HORTON: It did this on 3 October 2018 for a weighty and substantial purpose of rendering the delivered documents liable to disclosure in the QIRC.

Mr MacSporran: I do not accept that for the reasons I have given.

Dr HORTON: That was notwithstanding that all the documents delivered, save perhaps for one page of those documents, were the subject of the QIRC ruling on 24 August.

Mr MacSporran: Mr Horton, that is your comment. I do not accept that there was an ulterior motive or improper purpose for such a delivery.

Dr HORTON: That the delivery to the council on 3 October 2018 was slipshod and irregular.

Mr MacSporran: I do not accept that.

Dr HORTON: That that material delivered to the council contained documents to which—communications to which—legal professional privilege attached.

Mr MacSporran: I do not accept that.

Dr HORTON: That the circumstances just discussed with you including that it was done without a written dissemination authority was a reportable matter to this committee under section 329(4) of the Crime and Corruption Act.

Mr MacSporran: I do not accept that.

Dr HORTON: The 19 November delivery of documents to the council was about documents which were all before the QIRC for the purpose of its ruling on 24 August besides perhaps two pages.

Mr MacSporran: I do not accept that conclusion for the reasons I have given earlier in evidence.

Dr HORTON: And that delivery was for a weighty and substantial purpose of rendering the documents delivered liable to disclosure in the QIRC.

Mr MacSporran: I do not accept that.

Dr HORTON: And an indication of the strength of your organisation's purpose of rendering the documents disclosable is its continued assistance to the Logan City Council that documents be disclosed in Mr Alsbury's letter of 12 February 2019.

Mr MacSporran: I do not accept the way in which you have concluded, as you have, in that proposal.

Dr HORTON: On no view was the Public Records Act purpose something which changed the question of whether the delivered documents were or were not subject to disclosure in the QIRC.

Mr MacSporran: The purpose was the Public Records Act purpose, as I have said in evidence earlier, and I maintain that in light of your proposition.

Dr HORTON: It was a slightly different proposition that I put: whether or not these records were public records for the purpose of the Public Records Act did not change their susceptibility to disclosure in the QIRC proceeding, given the ruling on 24 August 2018.

Mr MacSporran: I do not understand that proposition.

Dr HORTON: I will strive to make it clearer. Some documents had been ruled upon by the QIRC; correct?

Mr MacSporran: Correct.

Dr HORTON: Those documents were ones which were obtained under compulsion.

Mr MacSporran: I have already taken issue with that terminology for the reasons I have given and I cannot add to my explanation about that from yesterday.

Dr HORTON: And in particular all the WhatsApp extractions were ones obtained under compulsion.

Mr MacSporran: In the sense of it being obtained by a search warrant, yes.

Dr HORTON: Yes, that is the sense. Whether documents of the quality you have just described were disclosable in the QIRC was not a question which turned upon whether or not they were public records once they were materials obtained under compulsion.

Mr MacSporran: That may be the case.

Dr HORTON: But it is not the way in which you put the matter in your evidence here yesterday.

Mr MacSporran: Well, do you want to refer me to the passages?

Dr HORTON: I am offering you to contradict me if you wish.

Mr MacSporran: Thank you.

Dr HORTON: Next, the charging of the mayor and the seven councillors on 26 April 2019 for fraud was for a weighty and substantial purpose of assisting Ms Kelsey's reinstatement.

Mr MacSporran: I reject that.

Dr HORTON: She told you she wanted reinstatement on 6 August 2018.

Mr MacSporran: She told me reinstatement would make it feasible.

Dr HORTON: You had decided before then already to assist her.

Mr MacSporran: In the way that I have described and the qualified way I have made known here many times, yes.

Dr HORTON: Immediately after the 6 August meeting, you discuss with Mr Hutchings what might be charged in order to bring about a result that would assist Ms Kelsey with her desire for reinstatement.

Mr MacSporran: We discussed, as the note reveals, it seems to me, together with the Mark Docwra email, what were integrity offences for the purposes of the Local Government Act amendment.

Dr HORTON: And research was done about disqualifying offences at about that time and the results were provided to you.

Mr MacSporran: If the research you refer to is Mark Docwra's email, I accept that, yes.

Dr HORTON: Yes, it is. The charges—namely, those laid on 26 April 2019 by DS Francis—were laid at a time which could only have been directed to making sure the dissolution of the council was known to the QIRC when it heard closing submissions then scheduled for 2 May 2019.

Mr MacSporran: I reject that for the reasons I gave yesterday.

Dr HORTON: For the dissolution of the council to occur was to remove a serious obstacle to Ms Kelsey's reinstatement—namely, the removal of those with whom the relationship had soured.

Mr MacSporran: Not the purpose.

Dr HORTON: It was a weighty and substantial purpose.

Mr MacSporran: I do not accept that.

Dr HORTON: The official records by which the decisions were made about charging are silent on the topic of the legal effect of the charging—namely, the disqualification of the accused, the council to be dissolved and an administrator appointed.

Mr MacSporran: Yes. The records are silent because, whilst that was a clearly known fact, it had no impact in respect of a balancing exercise of why the matter should go ahead with charges in the public interest, as I have explained earlier.

Dr HORTON: Those matters just described by you were matters of important public interest which the DPP guidelines called to be given active intellectual consideration by you in your decisions on 30 January 2019 and 24 April 2019.

Mr MacSporran: I am just not clear on what matters you are referring to there. If you are referring to the integrity offences being charged meant the dissolution of council, they were not required to be considered as public interest factors under the DPP guidelines. What consideration they were given, as I have explained to you—they were widely known to be a clear consequence of the charging, but they had no impact, nor should they, as public interest considerations in that decision to charge or not charge.

Dr HORTON: And we do not see in the memorandum in which public interest is considered close to the time of the charging on 26 April 2019 at volume 2, pages 309 and 310 a balanced consideration of the public interest?

Mr MacSporran: Whatever you see in that memorandum, I do not accept what you characterise as what is not there. What is clear in the material that you have seen and we have seen is a very detailed, appropriate consideration of all of the issues relevant to whether charges should be laid, and there is no evidence, in my assessment of it, of any improper purpose coming into play at all.

Dr HORTON: And the language there used and the manner of compilation of the public interest questions there expressed are ones which reveal strong personal feelings of the prosecutor concerning the offender and the victim.

Mr MacSporran: I do not accept that.

Dr HORTON: That the material before you on 30 January and 24 April 2019 failed to treat the matter of dishonesty in any structured or analytical way.

Mr MacSporran: It did not have to, Mr Horton. The memo was coming to a person, namely myself, who had vast experience in criminal law and routinely dealt with issues of dishonesty, including as a young prosecutor. I was one of the first prosecutors to use the new amendment 408C in 1979, I think it was. So I had very great experience with 408C and aspects of dishonesty. I was well versed in assessing evidence to see whether it met the test of dishonesty. No-one had to spell out to me for my recommendation that a police officer consider charging what was involved in evidence of dishonesty.

Dr HORTON: And that usual processes were not followed in the charging that culminated in the 26 April 2019 decision—importantly here, preparation of legal advice/observations.

Mr MacSporran: A legal advice, as you showed me yesterday, had been commenced but not completed by Ms McIntyre. But that is in the context of Mr Alsbury, a senior officer and immediately junior to me, taking over that role and briefing me on the relevant matters that I needed to consider, which led to my decision on both occasions—30 January and 26 April.

Dr HORTON: In the ordinary and proper process involving questions of whether to charge offences such as fraud, you would have had before you some structured analysis or legal advice/observations about the elements comprising the offences to be charged and a consideration of the evidence relevant to each.

Mr MacSporran: Most often I would have but it was not necessary, as it was not in this case, for the reasons I have given with some particularity.

Dr HORTON: The next one is a bit of a longer proposition, so I will go a bit slowly.

Mr MacSporran: You might break it down too, if you could Mr Horton, on the way through.

Dr HORTON: I think I have made it as short as I can, but let's see if I can be as clear for you. It is open to the committee to infer that it was a desire of those involved in the decisions about charging that the consequence of the laying of the charge—namely, disqualification of councillors and dissolution of the council—is not stated in the decision-making documents because that consequence was a substantial purpose of charging, and mention of those consequences might suggest it was a motivating purpose.

Mr MacSporran: Well, I am not quite sure I understand the proposition, but I think I understand enough of it to completely reject it.

Dr HORTON: It is this proposition: if something has a consequence—an obvious important consequence—not to face up to that in documents you prepare to consider objectively what you are doing might suggest to the objective observer that there is a reason you are not stating that consequence.

Mr MacSporran: Mr Horton, with great respect to you, the parliament of Queensland decided that it was appropriate if an elected official was charged they should be automatically stood down. That was this parliament's decision—not mine, not the CCC and indeed not yours. That being a consequence, it was a known fact which could never have any impact on other considerations that favoured charging and prosecution, and that was this case. The failure to mention the consequence of the elected officials being charged, in the entire council ultimately being dissolved through a question of numbers, is what this parliament decided should happen in May 2018—well before the charging in April 2019. That might be why—and in fact in my view is why—that fact was never given weight in the decision in weighing up the public interest factors—and nor should it have been given any weight, for the reasons I have said.

Dr HORTON: It is open to the committee to infer that it was a substantial or weighty purpose of charging fraud and deciding to refer to a police officer the decision of whether to charge fraud—

Mr MacSporran: It had nothing do with it.

Dr HORTON:—that to do so would assist materially Ms Kelsey's request for reinstatement by removing those from her place of employment with whom the relationship had soured.

Mr MacSporran: I reject that.

Dr HORTON: And that is available to the committee including because you yourself raised the reinstatement of Ms Kelsey with Ms O'Shea on 17 or 29 May 2019.

Mr MacSporran: I reject that. If that is a submission you are going to be making to this committee, to make findings adverse to me, we will be making submissions in response.

Dr HORTON: Thank you. That is why I am putting it to you now, so you yourself can answer. But of course there might be other opportunities. When what you said to Ms O'Shea on 17 or 29 May—

Mr MacSporran: It was the 17th, I think, Mr Horton.

Dr HORTON: She said the 29th. For the minute I am just putting it as neutrally as I can, Mr MacSporran.

Mr MacSporran: My phone records indicate there was no call on 29 May but there was one on 17 May, 3 June, 5 June and 2 May.

Dr HORTON: Yes, I understand that.

Mr MacSporran: And the phone records have been disclosed, of course, to you.

Dr HORTON: Thank you. All of that, Mr MacSporran, is all clear.

Mr MacSporran: I am glad to hear it.

Dr HORTON: When you became clear that Ms O'Shea was not going to reinstate Ms Kelsey, your organisation took steps to investigate the removal of Ms O'Shea on grounds which included dishonesty.

Mr MacSporran: Forgive me for saying so, Mr Horton, but that is absurd. I reject it. It is utterly absurd.

Dr HORTON: The matters I put to you show on the part of the commission a failure at all times to act independently, impartially and fairly having regard to the purpose of the CC Act and the importance of protecting the public interest.

Mr MacSporran: I do not accept that.

Dr HORTON: And your involvement in those things, by reason of having resolved to assist Ms Kelsey in the terms I put it to you, was part of that failure.

Mr MacSporran: I do not accept that.

Dr HORTON: And so, too, was your failure as the head of the organisation to bring to bear an impartial and detached mind on those who otherwise may have lost detachment and impartiality.

Mr MacSporran: I do not accept that.

Dr HORTON: You closed your mind completely to avenues by which detachment might have been reintroduced.

Mr MacSporran: I do not accept that.

Dr HORTON: Including by obtaining external independent advice.

Mr MacSporran: I do not accept that.

Dr HORTON: You became blinded to the limits of your statutory power and the proprietary of the assistance your organisation was affording to Ms Kelsey.

Mr MacSporran: No.

Dr HORTON: In doing so, usual procedures were not followed in the eagerness to assist her.

Mr MacSporran: No.

Dr HORTON: You directed an enormous amount of time, energy and resources of your own and of the organisation, the CCC, to helping Ms Kelsey.

Mr MacSporran: I agree with that.

Dr HORTON: These attempts were ultimately unsuccessful with the QIRC, the DPP and the administrator, Ms O'Shea.

Mr MacSporran: Well, I am not quite sure what you mean by that proposition. We devoted a huge amount of time and resources to helping Ms Kelsey in the context of—I have explained a number of times; I will not go over it again, but I am sure we all are aware of that. I do not agree that we were ultimately unsuccessful. We did what we could and always intended to do but maintaining our independence, fairness to all parties and consistently within the bounds of section 57 of our act.

Dr HORTON: The next matter may be one that is not for you to comment on here, but you may wish to defer: the discretion in deciding whether to refer to a matter to a police officer to charge and the charging miscarried for these reasons—one, because it was affected or infected by an improper purpose which was weighty and substantial, namely, to assist Ms Kelsey with reinstatement.

Mr MacSporran: I do not accept that.

Dr HORTON: Second, because it was coloured by the personal feelings of you and the prosecutor concerning the alleged offenders and the victim.

Mr MacSporran: I do not accept that.

Dr HORTON: And third, because in making those two decisions there was a failure to consider material and important considerations.

Mr MacSporran: I do not accept that.

Dr HORTON: Being primarily public interest factors which weighed against the decision to refer the matter to a police officer for discretion whether to charge and in the exercise of the discretion to charge itself.

Mr MacSporran: I do not accept that.

Dr HORTON: And a further material consideration—no, I will leave it at that.

Mr MacSporran: I will accept that!

CHAIR: You have not come to members' questions yet, Mr MacSporran.

Dr HORTON: Chair, they are I think the questions I have, at least at this stage, for Mr MacSporran.

CHAIR: Thank you. We do have some members' questions. Deputy Chair, would you go ahead, please?

Mr SULLIVAN: I just have a couple of issues, Mr MacSporran. One of the propositions Mr Horton put to you then was in relation to the November document dissemination, and I think you rejected the notion that it was a weighty and significant purpose in delivering the documents, that the purpose was for the purposes of disclosure in the QIRC. Do you accept that at least people in your organisation intimately involved in that process did think that was a purpose?

Mr MacSporran: I think there is a—I have seen the material that you are no doubt referring to in the email trails and so forth. I cannot think who was involved in them, but I think I know the material you mean. They were expressing those views, yes, in part.

Mr SULLIVAN: Do you accept that your officers now consider that that was a purpose?

Mr MacSporran: I do not know if I can go that far. I have read the transcript, but I am—a bit hurriedly obviously—

Mr SULLIVAN: I will be more specific. I take you to *Hansard* on Thursday, 19 August please at page 19, which is Mr Hutchings's evidence. We have a fair exchange on pages 18 and 19. I will wait until you have it, sorry.

Mr MacSporran: That is 19 August. And the page, please?

Mr SULLIVAN: Page 19.

Mr MacSporran: Nineteen; thank you. Yes.

Mr SULLIVAN: We have a fair exchange, to summarise, where Mr Hutchings agrees that issues of the Public Records Act are not discussed from early on and I put to him about halfway down the page—

You have confirmed in that email of 28 August and in your notes of 30 August that the core issue was providing information to the council for the purpose of disclosure. That is what you are confirming?

Mr Hutchings: Yes.

Mr SULLIVAN: So from the start—not day 1; day 4, I will call it, 28 August—the purpose was to get the material to the council for the purpose of disclosure?

Mr Hutchings: Yes.

So you accept that Mr Hutchings was intimately involved in that matter and before us confirmed that a core purpose of providing that information to the council was disclosure in the QIRC?

Mr MacSporran: No. I accept what he says here, and he is managing the PID side of this equation. He is not managing but I would think would know something of the purposes of the corrupt conduct investigation being run by Mr Alsbury and the investigators which clearly had as its purpose the Public Records Act aspect to this. So all I am saying—I am not quarrelling with what Mr Hutchings said. That is his—

Mr SULLIVAN: So you agree it was a purpose in—

Mr MacSporran: I am agreeing that Mr Hutchings understood that was the purpose.

Mr SULLIVAN: And Mr Hutchings was the point person with Ms Kelsey's lawyers?

Mr MacSporran: Yes, because the effect of what the—what was being done on the 19th was as a consequence to provide, to facilitate—ultimately it facilitated the material being available for disclosure. It was not the purpose for the dissemination as I apprehended it, for the reasons I have given earlier.

Mr SULLIVAN: Okay, but you can accept that officers who were intimately involved in the matter believed then and believe now that it was a purpose?

Mr MacSporran: Well, I accept that on the basis of what is in here. That is the only basis I have to go on because that is—I did not have involvement myself.

Mr SULLIVAN: I take you to the transcript of Friday, 20 August at page 13—sorry, pages 7 and 8. This is evidence from Ms McIntyre.

Mr MacSporran: Yes.

Mr SULLIVAN: At the bottom of page 7 Ms McIntyre accepts that there were different motivations.

Mr MacSporran: Yes.

Mr SULLIVAN: And halfway down page 8, when I put to her that she should have included that extra 'side effect', as she called it, she said—

On reflection, that is probably what I should have put in there—

that is, the memo—

not necessarily the advantages of providing that material for Logan City Council but also any, I suppose, disadvantages ...

She said it was 'legitimate' but accepted that she had—sorry, I will turn to page 13.

Mr MacSporran: Thirteen?

Mr SULLIVAN: Page 13. Halfway down in a follow-up question from counsel assisting—

Mr McMILLAN: And nowhere in your request for information signed on 19 November ... do you acknowledge that purpose, do you?

Ms McIntyre said—

I have already conceded that.

Do you agree with Ms McIntyre that, on reflection, she should have included in her memo to Mr Alsbury the second purpose, which is to include that material for the purpose of disclosure?

Mr MacSporran: No, I do not.

Mr SULLIVAN: You disagree with Ms McIntyre's evidence?

Mr MacSporran: I disagree. I disagree because Ms McIntyre has that view. I am not suggesting for a moment she does not honestly hold that view, and that is reflected in there—in her responses as I read them to the questioning and what she said was her motivation and so forth. My view, I think consistent with Mr Alsbury's view, is that the purpose, as I keep saying, with respect, was the Public Records Act matter, or whatever the dissemination authority indicated it was. A benefit, quite collaterally but a benefit nonetheless, to Ms Kelsey was it made them available potentially for disclosure in the QIRC proceedings.

Mr SULLIVAN: Not potentially, Mr MacSporran; deliberately.

Mr MacSporran: I do not accept that, Mr Sullivan, for the reasons I have been at pains to explain.

Mr SULLIVAN: So Ms McIntyre was the author of the memo for the dissemination authority?

Mr MacSporran: Yes. She was the author of the application—

Mr SULLIVAN: Sorry; correct, yes: the memo that went to Mr Alsbury, and it was Mr Alsbury who signed the authority?

Mr MacSporran: Yes.

Mr SULLIVAN: So as author of that document that set out the reasons, on reflection she believes that she should have included that information and you disagree?

Mr MacSporran: I do, because the purpose of it is, as she articulates—the fact that it is collaterally beneficial in different proceedings is frankly neither here nor there, but it is consistent with our desire to help Ms Kelsey within the bounds we have described if possible but not to go out of our way in the way that you are suggesting or to try and construct something to help her that has not been fully articulated honestly.

Mr SULLIVAN: I did not suggest dishonesty—

Mr MacSporran: Well, Mr Horton I think has, Mr Sullivan.

Mr SULLIVAN:—and I take offence at the word 'constructing'. I put it to Ms McIntyre, so I will put it to you, Mr MacSporran, that you could have come in here as an organisation or as individuals and said, 'We recognise there was a PID. She was hurt for standing up. We tried to do what we could do with the QIRC. We thought about intervening but didn't think that was appropriate, so we wanted to get the information to them. We did it in a way that we thought was appropriate through the registry. That didn't work, so as good lawyers, as smart investigators, we legitimately found another way to do it.' But that is not your evidence?

Mr MacSporran: That is not my evidence, no, because it is not the case as I apprehend it. If it was the case, Mr Sullivan, I would be the first to be telling you it was the case.

Mr SULLIVAN: Can I go to a different issue which is around the charges, particularly the charges against the seven councillors. For obvious reasons, perhaps we can leave the mayor aside. There is a fair bit of evidence that—sorry. I put to several of your officers, particularly the police officers, that I could not see on the papers any detailed setting out of various charges—various offences available for charging and the elements to be proved, so I am going to be asking you about recollections of discussions because I cannot see it on the papers, or if I have missed it please point me to them; otherwise, we will have to have questions around recollection and discussion. When did discussions occur around what elements of fraud would need to be charged—would need to be proved? When did those discussions occur and with whom?

Mr MacSporran: Mr Sullivan, I am not—my memory is that it may never have occurred in the way you are wanting to see if it did, for the simple reason that there are only four elements of fraud—a person dishonestly causes detriment; they are the four. The only one in issue ever in this case was dishonesty. It was not a complex legal provision. It was certainly less complex than reprisal as an offence and certainly less complex than misconduct in public office. It was not necessary for there to be long, detailed discussions between investigative members of the team and the lawyers and ultimately myself and Mr Alsbury because we all understood, innately and instinctively, what those four elements required and there was only one ever in issue. The whole issue was whether we could prove dishonesty by negating all of the innocent so-called explanations for the termination by the bloc of councillors.

Mr SULLIVAN: Yes, so fraud is not mentioned in the memo from Detective Inspector David Preston in March and it is not really included in the memorandum from Mr Francis which was attached to the memo that Mr Alsbury provided you ahead of that—signed by Mr Alsbury on 23 April ahead of the meeting on 24 April?

Mr MacSporran: That is so, because if we look at the memo of Sergeant Francis—and just consider what he is describing in there. It is replete, everywhere, with evidence of dishonesty. That was this case. He did not have to say, 'I am looking at dishonesty as an element of 408C', or 'dishonesty as an element of misconduct in public office', or 'dishonesty in one form or another so far as it might relate to an offence of reprisal'. He and I and Mr Alsbury and all the investigators and lawyers all knew what we were talking about. On 9 January Mr Alsbury mentioned, to my recollection, the fallback position always was fraud.

Mr SULLIVAN: I am surprised, if it was back in January, it was not in any of the material that was put to you for that April meeting, including the memo from Mr Francis and Mr Preston.

Mr MacSporran: Because Mr Alsbury and I had discussed fraud. We both knew fraud was the obvious offence that applied to these circumstances and we proceeded on that basis. I might add, if I can just finish for a moment, Mr Sullivan: no-one at the DPP ever said to us, when we delivered the material and spoke initially to Mr Byrne, the director at that time, 'Why in heaven's name are you Brisbane

thinking of a fraud offence for these seven councillors as opposed to something else—reprisal on one hand or misconduct in public office on the other?’ None of the prosecutors ever suggested that to us in the lead-up from the brief delivery—in about September the full brief finally was delivered, I think, 2019—through to the committal which started in November/December 2020. There was a lot of contact between the CCC, investigators, lawyers and the DPP. No-one ever said, ‘The charge of fraud you have laid against the seven councillors was entirely inappropriate, improper, wrong exercise of discretion or, for any other reason, not sustainable.’

Mr SULLIVAN: By definition, that is after the fact. I am trying to get to your decision before and up to the meeting on the 24th and I am asking you about discussions and recollections because it is not on the papers, and I think you and many of your officers have given evidence to that effect and we cannot see it in the papers where it has gone up the line and where any thorough thought has gone into what offences should be preferred, what would need to be proved beyond reasonable doubt to achieve a successful outcome and what would need to be negated to do it. Can I take you to a few of—

Mr MacSporran: Can I just respond to that assertion? I accept all of that, but you are taking issue with what happened after the event.

Mr SULLIVAN: No, sorry, Mr MacSporran. I am trying to work out, between the memo being written in March and your meeting on 24 April, where police officers walked out of the room to arrange charging, how you as an organisation or you as an individual and you as a collective, because there were five or six people in that meeting, came to that decision. What happened afterwards you have discussed. I am trying to work out how you got to that point. Can I take you to evidence from DS Andrews, *Hansard* of 25 August, pages 74 and 75.

Mr MacSporran: Yes.

Mr SULLIVAN: Mr Andrews says on page 75 when asked around, again, the decision-making—I am just trying to fill in these gaps—that the decision to charge fraud was made ‘right at the death’.

Mr MacSporran: I am just trying to pick that up.

Mr SULLIVAN: Page 75, I believe.

Mr MacSporran: I have 75.

Mr SULLIVAN: The very top of 75.

Mr MacSporran: Yes—

... right at the death, like on the 23rd or 24th ...

Mr SULLIVAN: That is right—

My recollection of the fraud for the seven councillors—the decision was only made right at the death, like on the 23rd or 24th when we had the meeting.

Mr MacSporran: My recollection is that, and I cannot remember the file notes that were made of the meeting of 29 and 30 January, where we decided on the fraud charge, from memory, with other charges on the mayor. So we might need to revisit that material, but my recollection is there was a fraud charge decided on the mayor as at 30 January. I might be wrong about that.

Mr SULLIVAN: That is on different terms, though. We are talking about the seven, in terms of the action against Ms Kelsey. That is the basis of fraud.

Mr MacSporran: But a fraud charge, was it? Was my memory right about it being a fraud charge as opposed to misconduct in public office? I am just not sure on the detail of that.

Mr SULLIVAN: On the 31st I am not sure, but specifically with the seven. I mean, you are not quibbling with the fact that the decision to charge those councillors was made on 24 April?

Mr MacSporran: I am just going back to 29 and 30 January to illustrate the point that fraud had been discussed as early as that. It may not have been. But in any event, even if it was not, on 9 January Mr Alsbury has referred in the documentation to the fraud charge. That is in his ‘noise’—‘there is a lot of noise around this’ case—email where Mr Alsbury is expressing concern about the sustainability of charges and he develops, as he told you in evidence, and as I confirmed—he initially had some reservations but came around to the way of thinking that there were no longer reservations, there was a case, there was sufficient evidence and it had reasonable prospects and it should be prosecuted in the public interest.

Mr SULLIVAN: It has been put by counsel assisting several times that there has been language around a consensus or group thinking in terms of the charges developing over time. That is a paraphrase, sorry, counsel assisting. Detective Sergeant Beattie was one of those. Can I take you to 26 August at page 22.

Mr MacSporran: Yes.

Mr SULLIVAN: It was put to Detective Sergeant Beattie that the evidence put before the QIRC would be important information to be considered for criminal charges. It was put to him—

Mr SULLIVAN: Do you think that the evidence that was put to the QIRC would be relevant for criminal charges?

Det. Sgt Beattie: Not at all.

Mr SULLIVAN: In deciding whether the councillors were charged and what they were charged with, you do not consider the evidence that was before the QIRC relevant?

Det. Sgt Beattie: No.

Are you concerned that one of the officers involved in the investigation, involved in briefing you and Mr Alsbury and indeed at that meeting of the 24th, thought that the evidence before the QIRC was completely irrelevant?

Mr MacSporran: I am to this extent, because I had the view that the evidence in the QIRC was relevant, that it made the Crown case stronger, because in the QIRC the councillors had all sworn for the first time what their reasons were for Ms Kelsey's termination on 7 February. Those reasons were scrutinised in the QIRC proceedings and on one view, but this would have been a matter for a jury entirely. On one view those reasons were trivial, had never been put to Ms Kelsey and they had sworn them for the first time in the QIRC in January to April 2018. I thought the QIRC material should have gone to the DPP, as did Mr Alsbury. It was only when the case became problematic, after nine days of committal, that I discovered that the QIRC material had not gone to the DPP and then we agitated in our submissions to the DPP on 2 February 2021 to assess that material. Mr Heaton's memo discontinuing the proceedings acknowledges the probative value of those reasons in the QIRC proceedings by saying they helped to narrow the focus of what the true reasons were. So even he acknowledges the value in the QIRC material.

Mr SULLIVAN: I am not suggesting it is not valuable; I am suggesting that one of your investigators and decision-makers in this case said they were irrelevant.

Mr MacSporran: But he was not the officer who charged the seven councillors, Mr Sullivan.

Mr SULLIVAN: Did you discuss in that meeting of the 24th the differing culpability of the seven councillors?

Mr MacSporran: We did. Well, bear with me. The differing culpability was an issue that was discussed along the road. I cannot tell you whether it was specifically discussed on the 24th, but it was always clear from all the evidence we had that there were differing levels of culpability, as I think I said earlier about the public interest considerations, because it is one of the director's guideline criteria to be considered.

Mr SULLIVAN: Can you show us anywhere where you have considered the various elements of fraud against each of the people charged?

Mr MacSporran: I cannot show you a written record of that process because it was not necessary. Mr Alsbury and I both knew the relevance of all those criteria to the decision to refer it to a police officer.

Mr SULLIVAN: You even said this morning, I think—and I do not have *Hansard* from this morning, obviously, but you referred to varying culpability and consideration as to whether each of them would be charged. That is paraphrasing.

Mr MacSporran: Yes.

Mr SULLIVAN: No consideration of the various evidence and the various defences that would need to be negated appear in Mr Alsbury's memo, do they, of 23 April?

Mr MacSporran: No, not in that detail, no.

Mr SULLIVAN: Nor do they appear in Mr Preston's memo?

Mr MacSporran: No, I agree with that.

Mr SULLIVAN: In that meeting then or in the lead-up to that meeting, between the 23rd when Mr Alsbury signed it and the 24th when you signed off on the cover note, did you discuss the various evidence against each of the seven, including—I will ask that. Did you discuss the various evidence against each of the seven?

Mr MacSporran: Not on the 24th because by then we all understood the evidence matrix, what evidence was available. The only issue to be closed off on, as I understood it—and I have a very clear memory of this for the meeting of 24 April—was to consider whether we should wait. The

investigation, so far as it had gone, was concluded. Everyone understood the evidence was available. The question then became whether we should, as the investigators' inclination was to do, I was told, wait until the QIRC proceedings had been finally decided before we charged or not.

I came into that meeting with a very clear view which I expressed to those present, and you have seen who was there: Mr Alsbury and the investigators. I said—and I have said this a number of times, including in the public, I think, meeting of the PCCC earlier—considerations I brought to bear in that decision; I said we would be criticised either way; if the evidence is sufficient and has prospects, there is no basis for us to be waiting for any QIRC proceedings to go one way or the other; if we have the evidence, it is sufficient and it has prospects, we should go ahead. Everyone at the meeting accepted that as being an appropriate course to take. Then it was referred to Detective Sergeant Francis, who then charged.

Mr SULLIVAN: If I take that evidence, are you effectively suggesting that the decision to charge fraud had been made prior to 23 April when Mr Alsbury provided that memo?

Mr MacSporran: Not the decision to—

Mr SULLIVAN: Or the decision to refer, yes?

Mr MacSporran: It had to be closed off on. That was the purpose of the meeting of 24 April because my close off, I think, was the same day. If you might remind me of the date?

Mr SULLIVAN: It was the 24th.

Mr MacSporran: The memo is dated the 23rd, from memory.

Mr SULLIVAN: The memo from Mr Alsbury is the 23rd. The meeting and your signature is the 24th.

Mr MacSporran: And the 24th was the day of the meeting. I had had the material. I think the entire brief, I am indicating from the table here, must have been a couple of feet thick with all the folders and the statements and materials.

Mr SULLIVAN: Mr MacSporran, anywhere in that couple of feet of material did it set out what evidence and against the elements of the charges to be preferred against each of the seven? Was any of that set out?

Mr MacSporran: Mr Sullivan, it was not. Can I qualify by saying it was not necessary, in my view. The evidence admissible against each of the seven was ultimately a matter in final terms for the DPP. Providing the evidence admissible against each was sufficient to warrant a police officer laying the charge, which is what happened—and remember, contrary to the submissions that were made by the lawyers for the seven after the event as part of this complaint, I think, it was not a case of cases against the seven succeeding or failing all together. Even though it was a decision of the council, the individual councillors voted and there needed to be a majority vote to carry the motion of council to terminate Kelsey's employment. The case of fraud made against each of the individual councillors and the mayor was to be assessed in its own right.

Mr SULLIVAN: That is exactly my point, Mr MacSporran.

Mr MacSporran: Yes. And a jury would have had available to it relevant evidence, some of which was common to all eight, some of which was only relevant to one or more. That exercise in gathering the evidence for that purpose had convinced Mr Alsbury and myself, if not the investigators—and I am sure they were convinced as well—that the evidence was more than sufficient to lay charges of fraud against each of them. And whether a jury accepted that evidence sufficiently to negative the explanations for their reasons for termination was a matter for the jury. It might have resulted, at a jury trial, in three of the seven being acquitted. We will never know. Or it may have resulted in seven of them and the mayor being convicted. We do not know. We will never know. But in our view, there was a compelling circumstantial case fit for the jury's consideration, but that was our judgement—

Mr SULLIVAN: But not set out anywhere and, I think it is fair to say from your evidence and from evidence of your officers, no-one can point me to a meeting or a discussion where any sort of detail as to the individual case against each of the seven was discussed separately or discussed individually.

Mr MacSporran: I think that is right. But the reality is in the real world, when investigators are compiling evidence and pushing it up the line to be assessed by the lawyers—and ordinarily there would be a legal advice/observations, as you have seen. You have seen part of that in Makeeta McIntyre's advice.

Mr SULLIVAN: Yes, none of which went to fraud on this basis, though.

Mr MacSporran: No, you are right, but such advices would ordinarily be produced for that sort of purpose. I think I have seen in this material at some point Inspector Preston setting out some details about the elements of the offence of misconduct in public office but not fraud.

Mr SULLIVAN: Correct.

Mr MacSporran: I accept everything you say. I have not seen it in the material. I am sure it is not there, frankly. If it is, someone will remind me. All I am saying is it might not be the best practice because it does not allow the sort of scrutiny you are now talking about to be effected—

Mr SULLIVAN: For an organisation like the CCC which, as you said, has dedicated extraordinary resources for the protection of a PID—and I am not quibbling with your motivation there—do you think it was probably time for the organisation to turn their mind to whether or not someone has committed an offence that a jury would find and convict on before charges are laid?

Mr MacSporran: Yes, routinely. Those considerations are made routinely, as I have explained. The fact they are not documented chapter and verse does not undermine that fact.

Mr SULLIVAN: They are not documented chapter and verse; they are not documented at all.

Mr MacSporran: Except that is an administrative matter that has been addressed since. The observations are routinely done now. I am sure we can improve further and I am sure we will be eagerly awaiting the committee's report to suggest how it might be done. We are very open to suggestions about how it might be improved, Mr Sullivan, I am sure.

Mr SULLIVAN: Not only is it not found in the papers, as you described, as an administrative action; I would say from a legal point of view putting things in writing actually turns your mind to it. You still cannot point me to—and I do not think your officers were able to point us to in evidence—where any detailed discussion of those legal matters were considered at a meeting or in a discussion. You just think it was part of the noise, as you described it earlier? It was part of the general thinking that went into—

Mr MacSporran: I do not think that is a fair assessment, to be frank with you, with respect, because I think what this case reveals to me when I look through the entire material—not just the material that I had access to—is, frankly, the very careful consideration given to this matter at every step of the way. We know that because of the material we have disclosed to you, the committee, in doing your role as you must in this inquiry. I am very comfortable with the careful consideration given. It was not documented as well as it might have been—the elements of the offence and so forth—but that is in the context of extremely experienced criminal lawyers who do these sorts of things every day of the week.

I am not suggesting we cannot improve on the procedures and I can tell you, as you probably remember, we have since this time—this is four years ago now—put in place an operations manual that draws together in written form procedures and practices that need to be followed in matters like this and we will be keen to hear any other ways we might be able to improve our practices. But the fact that we did not document the elemental analysis of the fraud offence in respect of these seven councillors, with respect, does not mean that the decision was not carefully considered and appropriately executed.

Mr SULLIVAN: I think you said this morning, Mr MacSporran, that you did consider whether or not to charge the seven in the entirety and you gave consideration to not charging some of them but in the end, I think you said because of lack of cooperation—although they were a solid bloc, I think you said—you proceeded with approval for charging.

Mr MacSporran: I think I said—and if I did not I meant to say—that the decision about whether the entire seven or less than seven should be charged as a public interest criteria did in part turn upon our assessment of the evidence available against each of them. In turn, we were very comfortable that the evidence indicated very early in the piece when the investigation started and then continued without any real change in direction that the seven had been very much aligned to the mayor and had done what was intended to be done by—

Mr SULLIVAN: Sure. That is not illegal, is it?

Mr MacSporran: Sorry?

Mr SULLIVAN: That is not illegal?

Mr MacSporran: It is if you terminate a PID, which is our case.

Mr SULLIVAN: You said before the only complexity with the charge of fraud was the element of dishonesty. That is obviously what a case like this turns on.

Mr MacSporran: Entirely.

Mr SULLIVAN: I do not want to repeat myself, Mr MacSporran. What I might do is invite you, through submissions, to point to and provide any information to any meeting or discussions held or if you do find more documents where it was discussed where evidence against the different seven individuals was considered.

Mr MacSporran: Yes. I take it by your question, Mr Sullivan—and please do not take offence at this query, but I take it you are not suggesting to me that the charges were improperly laid?

Mr SULLIVAN: No, I am asking—

Mr MacSporran: That is all I need to know, thank you. I just need to know that. I am very happy to—

Mr SULLIVAN: I said the word 'dishonesty' in relation to your discussion of fraud. You said the complexity around the fraud charge is dishonesty.

Mr MacSporran: Yes, as a matter of evidence, yes.

Mr SULLIVAN: I am going to that that obviously is what it turns on.

Mr MacSporran: Yes.

Mr SULLIVAN: I do not know if you heard that word differently.

Mr MacSporran: Sorry, what I was asking—

Mr SULLIVAN: What I am saying is: we cannot find on the papers and you cannot point me to a particular meeting or a particular discussion where evidence against the seven as individuals was discussed or intellectually contemplated. That is what I am asking.

Mr MacSporran: I understand. I think you invited us to make submissions to the committee along those lines. Thank you.

CHAIR: Mr MacSporran, why are you so concerned about whether an improper motive is being suggested by either counsel assisting or the members of the committee?

Mr MacSporran: Because if it is, I would like the opportunity to put it to bed, as it should be.

CHAIR: I just notice that you have raised that a couple of times today.

Mr MacSporran: It is procedural fairness. If you are going to allege I have done something improper, dishonest or wrong, you should, with respect, put it to me, as Mr Horton has been doing, quite properly, so I can comment on it—deny it, accept it, say I do not know.

CHAIR: Okay. Just following on from the deputy chair, before I hand over to the member for Coomera, Mr MacSporran, one of the issues in my own mind that I have in accepting your explanation about administrative errors when it comes to documenting considerations around charging is that the committee has before it bundles and bundles of documents which document in quite a bit of detail how the commission was going about assisting Ms Kelsey in that quest. We do not have anything about the other matter that we discussed. So what are we to glean from that, Mr MacSporran? You have all this documentation on the one hand but nothing when it comes to the pointy end of actually laying a charge, which surely must be the most important part of a process when it comes to investigating corrupt criminal conduct.

Mr MacSporran: I do not think it is correct to say that you have nothing at the pointy end of the matter.

CHAIR: No? Well, okay, sorry, we do have some material but, as the member for Stafford was going through with you, there are some things that are not documented.

Mr MacSporran: The only thing that is not documented, as I apprehended what Mr Sullivan was putting to me and may well be right—and I think he is right—is an elemental analysis of the four elements of the offence of misappropriation and fraud, which is a person dishonestly causes detriment, only one of which was in issue, which is dishonesty. Mr Francis' detailed memoranda in the various forms are very comprehensive and are replete with references to evidence and considerations of dishonesty. It does not say, 'I am considering dishonesty as an element of the charge of fraud, 408C.' But experienced criminal lawyers like Mr Alsbury and myself and others in the commission, who are assessing this material, well understood the significance of Sergeant Francis' dissertation about the evidence as it reflected in particular the only live question of dishonesty. So I do not accept that there is no documentation which reflects careful consideration being given to what was in issue in the case. I do accept, I think, subject to my lawyers and my staff doing a complete search to answer Mr Sullivan's imputation to make submissions on the point that we may not have documented it as an elemental analysis.

CHAIR: Okay. Member for Coomera, go ahead.

Mr CRANDON: Forgive me if I ask for clarification on a couple of things that you may have already covered whilst I was unable to be here, but just following on from the member for Stafford and the chair's questioning there—I just made a few notes as you were going through—you said 'administrative matter that has been addressed since'. Mr MacSporran, you were bringing to an end the careers of seven people, before they were found guilty of anything, and you say that there are administrative matters that you have addressed since. I just find that incomprehensible, to hear that kind of terminology when the gravity of what was being done was to bring the careers of seven people to an end, and for quite some time.

Mr MacSporran: Mr Crandon, the careers of seven people, as you put it, were brought to an end because they were charged on evidence which was sufficient to render a prima facie case of fraud which also revealed sufficient prospects of the matter going to a jury and a jury being able to, but not necessarily would, convict of that offence. The fact that they lost their livelihoods as councillors was just an inevitable consequence not determined by the CCC or the police at the CCC but by your parliament, our parliament, the Queensland parliament.

Mr CRANDON: Following a recommendation from you, Mr MacSporran.

Mr MacSporran: Well, Mr Crandon, it may have been a recommendation from me, but you and others in this House voted for it and passed the law in May 2018, as I recall it.

Mr CRANDON: Following on once again from the member for Stafford and your comments there, there was no analysis done—nothing that we have seen anyway suggests that there is an individual analysis done for each individual councillor. Earlier you said there needed to be a majority vote—this was to determine whether or not Kelsey was going to be sacked or not. There also needed to be a majority sacked, did there not, for the council to be sacked, and that was in the front of your mind—sacking the council?

Mr MacSporran: Not at all. What was in the front of my mind was whether the evidence that the investigation team had gathered over a lengthy period of time was sufficient to establish a prima facie case of fraud; if so, whether there were reasonable prospects that the jury might convict; and, if so, whether it was in the public interest overriding all of those factors to continue with the charging and prosecution. That was our focus. We exercised care and consideration in exercising and executing that—

Mr CRANDON: You just bundled them all up, Mr MacSporran. You just bundled them all up together and said, 'Those seven will do us. That's enough. We will get it over the line and we can sack them.'

Mr MacSporran: I did not say that at all, Mr Crandon. What I said was we gave careful consideration to the culpability of each of the seven councillors in the evidence we had gathered, and whilst there were differing levels of—

Mr CRANDON: The member for Stafford has made it clear—

Mr MacSporran: Can I just please finish my response, if I may?

Mr CRANDON: Sure.

Mr MacSporran: Whilst there were differing aspects to the evidence, meaning that there were different levels of involvement in the voting pattern, we were ultimately convinced that the evidence was sufficient to include all seven with the mayor.

Mr CRANDON: Well, you needed all seven. The member for Stafford has been asking you the question about where was the individual cases considered. Where were the individuals considered? Is it not true that if you charged five, that is not enough?

Mr MacSporran: It would have been enough.

Mr CRANDON: It would have been enough?

Mr MacSporran: Can I just explain it this way. There has been this misapprehension, and it commences, I think, with the submission by McInnes Wilson on behalf of the seven councillors, which goes along these lines: it is the 'all in or all out' argument. That is not the criminal law. The charges here are—

Mr CRANDON: That is your law?

Mr MacSporran: I beg your pardon?

Mr CRANDON: That is your law. It was all in.

Mr MacSporran: No, no. We charged all. But a jury, for instance—just hypothetically—could have said, 'Look, we're convinced that the mayor and the balance of the mayoral cabinet had set out to dishonestly terminate, cause detriment to, Ms Kelsey but the remaining councillors had not.' We charged the mayor and seven; the jury found the mayor and the rest of the mayoral cabinet had dishonestly caused her a detriment but not the others. That was open on the evidence and could have been the result. That is a matter for a jury. You did not have to have a majority of seven. You had to have a majority of seven to carry the vote, but the question of whether they did so dishonestly is the issue that we were investigating.

Mr CRANDON: Mr MacSporran, you had to have a majority of seven to sack the council.

Mr MacSporran: Yes.

Mr CRANDON: You needed to charge seven to get the council sacked, on laws that you recommended to this parliament—on laws that you recommended.

Mr MacSporran: I think you are conflating a number of issues, with respect, and I am trying to explain why that is. Take this case: if we charge eight—that is the case—the eight go to the DPP. The DPP proceeds with the prosecution as far as nine days into the committal. If the matter had gone to trial, the jury could have said, 'Well, we're satisfied that the mayor and the mayor cabinet but not the others acted dishonestly.'

Mr CRANDON: You have said that. You are just repeating what you said a short while ago. You are missing the point, or preferring not to take the point, that you intended to get rid of the seven. Isn't it true that if you charge five it is not enough? It is as simple as that. We have heard and read throughout this material where different people have put various propositions. Police officers have suggested that 'maybe we go after the mayor and the treasurer and deputy mayor'. We have heard others suggesting—and I just read a short while ago where at least one of them said that they would not have employed her. We have heard evidence here that two of them informally would not have employed her in the first place. So, that was a weakness in the argument. It was a weakness, I put it to you, that caused you not to consider going through seven individual people and looking at the material on seven individual people, because you needed the seven individual people and if you did look at them individually you would not get seven up; you would not get seven to be able to be charged?

Mr MacSporran: I do not for a moment accept any of those propositions. They are based on a clearly false premise which I have been clearly trying to explain. It is probably my fault; I am being obtuse and not clear. But it was not necessary for us to charge seven.

Mr CRANDON: It was, to do what you wanted to achieve: to get Kelsey back, to get the administrator to employ her. As MinterEllison has referred to in emails back to the CCC, they liked the idea of an administrator being appointed.

Mr MacSporran: Well, I—

Mr CRANDON: Let me go back to page 80, if I can.

Mr MacSporran: Before you go on, I should formally deny what you are suggesting, I think—which is that we had some improper purpose to do any charging at all. I deny that, and I have denied that a number of times to a number of different questioners here.

Mr CRANDON: I take you to the transcript of Wednesday, 25 August 2021, page 80—Detective Senior Sergeant Andrews, in questioning by me. Are you there?

Mr MacSporran: Yes.

Mr CRANDON: Two-thirds of the way down the page, the first comment from Detective Sergeant Andrews is—

It was above us.

I was asking who decided fraud.

Mr MacSporran: Sorry, I am just trying to pick up the—

Mr CRANDON: That is all right. Take your time.

Mr MacSporran: That is Andrews saying 'It was above us'?

Mr CRANDON: 'It was above us' are the first words on that particular line. Just below—

Mr CRANDON: On the charge of fraud, who in your team—

Immediately below that, his words are—

It was above us. It was not us that decided on the fraud, otherwise we would have put it in the memo.

There is no mention from the senior sergeant or his team of fraud. That decision was made 'above us'.

Mr MacSporran: Yes, it was made by Mr Alsbury and myself. I have said that.

Mr CRANDON: You made the decision of fraud? I am sorry. My apologies if you said that in the hearings here and I was not here for it. You made the decision to charge fraud?

Mr MacSporran: Well, Mr Alsbury and I had discussed fraud. I have made a number of references to the 9 January email where Mr Alsbury made reference to the fallback position being fraud. It is on the bottom line of the email page that I have seen. It is the 'there is a lot of noise around this matter' email. That is the earliest reference I can see, in the material I have seen—there might be others—to mention of fraud, but I know for a fact that after that time there were discussions between Mr Alsbury and myself—I do not know others—about fraud.

Mr CRANDON: You see, you gave evidence here in these hearings initially that you did not make those calls, that Detective Sergeant Francis made the call to charge fraud. Now you are telling us that it was you that made the decision to charge fraud?

Mr MacSporran: I need to perhaps review this but what I said, I think—because at that stage when I am talking about this it was difficult to explain, it seemed, that, whilst I had said I had recommended the charges on 24 April 2019, what I had actually done—and it is clear in the procedures we operate under in the CCC with seconded police officers—is I had referred the charges of fraud to a police officer, in this case Detective Sergeant Francis, to exercise his discretion to charge fraud. But the choice of fraud had been debated up hill and down dale between Mr Alsbury and myself, possibly others, as the appropriate charge.

Mr CRANDON: Certainly not the police officers involved. Between you and Mr Alsbury perhaps. May I put it to you that in that regard it was being debated by the two of you on the basis that you needed a fraud charge to get the council sacked, because you could not get Kelsey reinstated. Every way you tried, everything that you did, could not get Kelsey reinstated whilst the council was there. The MinterEllison material confirms that they liked the idea of an administrator being appointed, and the only way to do that is for the council to be sacked. The administrator comes in. Now you have a second bite at the cherry and a second chance of getting Ms Kelsey reappointed as the CEO.

Mr MacSporran: My response to that, firstly, is that it was not necessary to charge fraud as opposed to what was being discussed by the police officers, which was the offence of misconduct in public office. Misconduct in public office and fraud are both offences properly termed 'integrity offences'. Had we charged the eight with misconduct in public office instead of fraud, the same consequences would have flowed, namely, their automatic suspension or dismissal—whatever the—I think it is suspension—stood down.

Mr CRANDON: Suspension is the term, I believe.

Mr MacSporran: Suspension. It did not matter whether it was fraud or misconduct in public office. They were the only two offences being discussed. If you have seen the police officers—

Mr CRANDON: The two of you decided that it would be easier to get a fraud charge over the line, but you did not bother looking at each individual councillor.

Mr MacSporran: I disagree with that. I should also formally not accept and deny any suggestion, which I think you have made to me, that I have set out for improper reasons and motives to charge fraud. The police officers, who I assume have been asked here—and I think they have, from what I have seen in the transcript, and in particular, Detective Sergeant Francis—I would be astounded if he has said that he was directed to charge fraud as opposed to something else, or if his independent discretion as a police officer was ever interfered with by anyone including myself or Mr Alsbury.

Mr CRANDON: To be sure, you could have gone back to the police but there was a deadline looming that we have already spoken about—

Mr MacSporran: Not in my mind. There was no deadline in my mind.

Mr CRANDON: I will come to that shortly. You could have gone back to the police and said, 'I want you to look at each individual councillor and determine whether or not fraud would stick on each individual councillor.' We have heard here today that you did not do that.

Mr MacSporran: We did not have to go through that process. That was instinctively the process that for Mr Alsbury and I was in the mix. We knew what the evidence was—

Mr CRANDON: For each individual councillor?

Mr MacSporran: When I considered the public interest criteria under the director's guidelines, one of them was the degree of culpability of each of the defendants—accused. I acknowledge—

Mr CRANDON: But that was an administrative matter that has now been addressed. You have acknowledged with us that yes it was a shortfall, yes it was an administrative matter, in your view—and I do not believe that 'administrative' is the right word—and you have now since addressed it.

Mr MacSporran: The administrative matter that I think you are referring to, and certainly I was with Mr Sullivan when we spoke earlier, was not of the nature of the one you are putting to me. What it was, I thought clearly expressed, was failing to document the elemental analysis—that is, for me to sit down and write out or some investigator to write out or Mr Alsbury to write out, 'I have considered each element, of which there are four, of the offence of fraud—only one of which was ever in contemplation—and I have considered, moreover, that one element in contention of dishonesty so far as it relates to each individual councillor and the mayor.'

Mr CRANDON: And you call that an administrative matter?

Mr MacSporran: That page of analysis was not in material and is not in the material, that I know of.

Mr CRANDON: And you regard it as an administrative matter that you have since addressed? It will not happen again to the next seven councillors? We will move on.

Mr MacSporran: I cannot guarantee that.

Mr SULLIVAN: Can I have a quick follow-up on that because Mr MacSporran referred to me. To be very clear, I am not just suggesting that there is a lack of that being put down on a page; I am suggesting that that intellectual rigour was not applied. I am inviting submissions to point me to meetings or discussions where that discussion was held. That is what I was asking.

Mr MacSporran: Thank you, Mr Sullivan.

Mr CRANDON: Yesterday you told the committee that you would come back to us with the number of elected councillors who have been charged, found guilty and jailed. I suggested there might have been one.

Mr MacSporran: Pisasale is one that comes immediately to mind. It might have been the one you thought of. That is a work in progress. We are looking at that.

Mr CRANDON: So you are still looking at that one?

Mr MacSporran: I think we are.

Mr CRANDON: You still have that question on notice?

Mr MacSporran: I think so, yes.

Mr CRANDON: Yesterday you told this committee that you knew about 2 and 3 October, on the day the charges were laid and you addressed—

CHAIR: 2 and 3 May.

Mr CRANDON: I am sorry, I have actually written October; I meant May. There are so many dates.

Mr MacSporran: You have my sympathy, Mr Crandon.

Mr CRANDON: You knew about 2 and 3 May, on the day charges were laid and you addressed the press with that in your mind; is that right?

Mr MacSporran: Yes, that was the press conference. My opening remarks have been referred to here already.

Mr CRANDON: You will not have a copy of this, but we can get you a copy of it quite quickly if you would like to think about it over the break. On 14 May 2021 you addressed this committee and advised this committee that you were not aware of matters going to the QIRC and that the QIRC matters had nothing to do with the decision to charge on the 26th. On 14 May this year you gave evidence to this committee that you were not aware that the QIRC matters were coming to a head on 2 and 3 May.

Mr MacSporran: I would need to see the transcript. I thought I said I was generally aware but the timing had nothing to do with the charging.

Mr CRANDON: You did not. You are probably better off not trying to think now what you might have said back then. We will get you the transcript and you will see in the transcript that you made it clear to us that you had no memory, no knowledge whatsoever, of that matter. You told us yesterday the complete opposite of that. I would like you to address that.

Mr MacSporran: Can I just say before we pass off that, when I came here the first time I had started to review all this material for the purpose of coming here. I had not completed the review. I will address that in the question on notice in respect of that point. So it is not as black and white, I do not think, as we are suggesting.

Mr CRANDON: We will see.

Mr MacSporran: Certainly, we will.

Mr CRANDON: When you have those in front you we will address them again. Going to the timing of the emails calling for the administrator to be sacked after 22 days in the role—Ms O'Shea we are referring to now—and your conversation with the administrator asking why Ms Kelsey was not being reappointed or asking for Ms Kelsey to be reappointed—which one was it?

Mr MacSporran: My memory of the conversation was simply an inquiry as to whether the administrator, Ms O'Shea, intended to reinstate Ms Kelsey. That was in the context of my query about what she was going to do as administrator, bearing in mind that was the first time I had spoken to her about the administration—on 17 May. She said she was going to maintain the status quo and, in that context, not reinstate Ms Kelsey. That was the end of the conversation is my memory.

Mr CRANDON: Have you read her witness statements to the—

Mr MacSporran: I have read her transcript, yes.

Mr CRANDON: You have read the transcripts?

Mr MacSporran: Yes, I have.

Mr CRANDON: Are they as you—

Mr MacSporran: Just bear with me; I will just turn it up while we are talking about it. Page 42 on day 6 is Ms O'Shea's reference to the conversation. Top of the page on page 42 she gives her account of the conversation. Part of that accords with my memory. I do not have the detailed memory of the number of things she says were discussed, but I am not saying they were not discussed. My memory is it was simply, 'What is your proposal as administrator now you are there and will that involve reinstatement of Ms Kelsey?' They are the things I remember. She simply said, 'No, status quo and therefore not reinstating.' Significantly, what she says about two-thirds of the way down about the nature of the call exactly corresponds with my memory.

Mr CRANDON: Which is asking whether or not she was going to reinstate Ms Kelsey.

Mr MacSporran: No. What I was saying about the nature of the call is this passage. She says—

It was a collegiate call. I did not feel at all threatened or bullied by Mr MacSporran in that phone call. I did not feel any compelling argument, any insistence from him once I had made my comments and undertook to note his comment. We ended the conversation, I thought, on friendly terms. I did not feel in any way concerned in terms of his nature through the call.

Mr CRANDON: I am pleased to hear that. I am pleased that there were not any threats.

Mr MacSporran: That reflects the general discussion I had with her.

Mr CRANDON: I am pleased to hear that, and she has confirmed that. On the other hand, though, 24 days after her appointment we had, based on hearsay and opinion, a seconded police officer writing an email and sending it up the line calling for her to be sacked—calling for the CCC to approach the minister to have her removed.

Mr MacSporran: It went up the line and was stopped dead in its tracks by Mr Caughlin firstly, endorsed by Mr Alsbury.

Mr CRANDON: Thankfully.

Mr MacSporran: That is why it did not ever get near me. They were not game to give it to me and what I might have done with it.

Mr CRANDON: Absolutely, thankfully. It was based on opinion and suggestions from the four that we have heard about—not evidence, just their opinion. We had three police officers, all well skilled, highly intelligent individuals, sending a clear message up the line to sack the administrator. The reason I am bringing that to the fore is those two things, although they were independent of one another, and because of this hallway conversation that goes on quite a bit in the CCC that is never documented, I wonder whether Mr Alsbury brought that to your attention and it was as a result of that that you made the phone call to Ms O'Shea to ask her about whether or not she was going to reinstate.

Mr MacSporran: No. No, Mr Crandon—did not happen.

Mr CRANDON: Those two things were completely independent of one another?

Mr MacSporran: What two things are they?

Mr CRANDON: The idea that 'let's get rid of the administrator because she's not doing what we expected her to do', and that is to reappoint Ms Kelsey which, by the way, was referenced and you were aware of through the MinterEllison emails where they liked the idea of the administrator being appointed. It did not happen the way it was expected? It did not happen the way it was hoped?

Mr MacSporran: I think again, with respect, you are conflating issues. The simple answer to what I think your question is—did Mr Alsbury tell me about him stopping what appeared to be an internal investigation respect or proposal?—is, no, he did not.

Mr CRANDON: So one did not prompt the other? You knew nothing about that?

Mr MacSporran: No. My call was on 17 May.

Mr CRANDON: I was not here earlier. Have we established that as an absolute fact?

CHAIR: I think Ms O'Shea said it was the 29th.

Mr MacSporran: Ms O'Shea thinks the call was on the 29th, and she has given evidence about why she thinks that. My phone records—the phone I use—my work phone records have been checked. We have disclosed the phone records. Those records reveal those calls which I have talked about.

Mr CRANDON: Your people then would have been aware of that phone call with Ms O'Shea?

Mr MacSporran: When you say my 'people'?

Mr CRANDON: Mr Alsbury.

Mr MacSporran: I do not think so, no.

Mr CRANDON: You did not disclose the conversation with anyone?

Mr MacSporran: Well, I do not think so. It was just a general first call.

Mr CRANDON: An important one. You were asking about reinstatement of Ms Kelsey.

Mr MacSporran: I was talking very generally, Mr Crandon, to the administrator, who had made contact with my office through her EA, I think, on 2 May. The administrator rang me on 17 May—as the first time we had contact.

Mr CRANDON: Some two weeks later the police officers have come to the conclusion that Ms Kelsey is not going to be reinstated. Somehow they found that out—has not been from yourself?

Mr MacSporran: If I have looked at the material correctly, that came through MinterEllison to us about—given that the people had been charged on 26 April, there was a stay application, I think, in early May to stay the QIRC proceedings pending the outcome of the criminal proceedings because of possible prejudice. There was correspondence I have seen for this purpose, not at the time, where they wanted the QP9s, which are the documents the police officer draws up when people are charged. It gives a summary of the facts. They wanted those disclosed in the QIRC proceedings so they could argue the stay, because the people wanting the stay were going to say the issues in the criminal case and the QIRC case are identical, which turned out not to be the case. The stay was not granted, but that was the argument. They wanted our QP9s, which were provided under a dissemination, I think.

Mr CRANDON: Chair, I would like to come back after the break when we get a copy of that page 9 of the 14 May material to the chair, to Mr MacSporran. I would like to come back and explore that a little further, if I could. Other than that—

CHAIR: It looks like you have a couple of others there. I have a few questions as well. No doubt counsel assisting will have some wrapping up questions as well. Given the time is 25 past 12, we might break for a period and then come back and resume members' questions and any other matters to be dealt with by counsel assisting. We will break and resume at 1.30 pm.

Proceedings suspended from 12.24 pm to 1.30 pm.

CHAIR: We will reconvene our hearing now. Before the break we were with Mr Crandon, so we will go back to Mr Crandon for some further questions.

Mr CRANDON: Mr MacSporran, do you have page 9 of that document?

Mr MacSporran: Yes, I have, thanks.

Mr CRANDON: I will just clarify where I am going with this. First of all, what conclusion have you come to on what your evidence was on 14 May?

Mr MacSporran: Well, I think the context is that, when I assessed the matter on 24 April to give approval for the police officer to charge, I knew that the QIRC was coming to a conclusion without knowing the detail. My focus was on when might the QIRC finally be determined—that is, the decision handed down—and I advised the group about that. When I spoke on 14 May at the public meeting, I had a similar understanding of the stage it had reached and so forth.

In preparation for this inquiry, I was able to look at a lot of other documents which filled in gaps in my knowledge such that my knowledge when I came here on 17 August was greater. Now, if there is any other documentation where I have gained information of a greater clarity, I would be happy to do the search and produce some submissions to the inquiry in due course.

Mr CRANDON: Mr MacSporran, the indication that you gave us yesterday was that at the time—as in 24, 26 April—you knew about 2 and 3 May. That is the evidence you gave us yesterday.

Mr MacSporran: Well, I can check that, but I think in reality that is on the basis of what I have seen prior to coming here yesterday. In fact prior to coming here on the first occasion, on the 17th, I had seen a lot of documents in preparation for coming here for the inquiry that I had not seen before. That is before the 17th. Before I came here again yesterday, I have seen a lot more documentation in the bundle that Mr Horton had provided for my assessment. So my state of knowledge about these events has increased over time, and it is still increasing.

Mr CRANDON: You are saying you reconstructed it in your memory.

Mr MacSporran: No. I am saying that what I knew as at 26 April and 14 May that we know about was not the same as I have known as at 17 August, 3 September and today—whatever today's date is.

Mr CRANDON: Let me walk you through some of the evidence that we have received so far. We are aware from the evidence that all of the police officers involved in this matter knew about 2 May looming. We know that Mr Alsbury knew at the time about 2 May looming—hence the reason for the urgency in the matter. Everybody was of the single mind that they were going to try and get this sorted by 2 May. Indeed, the last comment, if I recall it correctly, from DS Francis was 'Yup urgent'.

CHAIR: 'Time critical'.

Mr CRANDON: 'Yup time critical'. So everybody knew 2 May was a key date—Alsbury; I believe Hutchings off the top of my head now; certainly the police officers, they discussed it. Someone asked the question, someone else gave the answer, and it was critical timing. I asked you a specific question on 14 May and I asked you specifically yesterday about your knowledge, and you told me that at the time you knew 2 May was looming—you knew about 2 May—and that is not what you told this committee on 14 May this year.

Mr MacSporran: Well, Mr Crandon, I have given my response, thank you.

Mr CRANDON: Mr MacSporran, you had Mr Alsbury and others with you on 14 May. You received this document that confirmed the details.

Mr MacSporran: What is that document?

Mr CRANDON: The document I am referring to is the 14 May *Hansard* from those hearings. You have had an opportunity since 14 May to correct the record on this, and you have done nothing to correct the record. Where I am going with this, Mr MacSporran, is this. We have seen in evidence over time. We have seen Rob Hutchings taking notes, referencing you deciding what to tell us because you do not know 'what Nicholls and Crandon's agenda is'. So you are running a set of questions by one another, meeting in the hallway, whatever it might be, to work out what it is you are going to tell this oversight committee, the PCCC, about certain matters. Specifically, Hutchings talks about you not knowing 'what Nicholls and Crandon's agenda is'.

There was the matter where you met with Kelsey, and your EA wanting something from you so she could put something in a report to this committee, the PCCC, that was uncontroversial. We now have a document where I asked you very specific questions and they were at length. The last question I asked you on the matter was—

So you did or did not know about the action on 2 and 3 May?

Your response was—

No, I did not know about that.

I had questioned you on it prior to that, and that is the indication that you had given. You made it an absolute, and then you took that away. Mr Alsbury was sitting next to you during those hearings, and he did not bring it to your attention after leaving: 'Alan, you might have got that wrong.' Remember Brisbane

that other meeting we had where I was asking you a particular question and you indicated to me, or you refused to answer one way or the other on a particular matter, and then it was pointed out to you that in fact it was in the documents that you had already provided to us? I asked you that in the public meeting and then we pursued it again in the private meeting, but you refused to answer.

You are making a decision prior to coming to our committee. It is proven time and time again that you are going to give us certain information and you are going to limit that information because you do not know what somebody's agenda is. We are the oversight committee for the CCC, and you choose to do that. In this case you told us a blatant untruth. You knew about this matter. Everybody in the CCC who is involved in this knew about this matter, and you told us you did not because you did not want us to go down that road. That is what I put to you.

Mr MacSporran: Well, I have answered that, Mr Crandon, thank you.

Mr CRANDON: That is it from me, Chair.

CHAIR: Thanks, Mr Crandon. Mr MacSporran, can I ask about what input you had in relation to changes to the Local Government Act in 2018 which created the situation where a charge for fraud or certain other offences would lead to councillors being suspended?

Mr MacSporran: I do not remember the detail of that. I am happy to take that on notice and provide some written responses to you.

CHAIR: Okay. You cannot recall whether there was any discussion at all about it, because it was around the time that things had been happening at Ipswich and Belcarra had been on foot as well?

Mr MacSporran: The only thing I do recall is a discussion about the nature of offences that would possibly make up those that were later characterised as integrity offences and the care that would need to be taken that they would be serious enough to justify the action being taken—the consequences—but broad enough to allow action to be taken, if that makes sense. It is not an easy task to configure which offences you include and which you do not include but, other than that, I do not have a specific recollection of how that developed. There may be documentation which I can provide the committee in due course if we have a chance to look for it.

CHAIR: Are you aware of whether this came about as a result of your instigation or the CCC's instigation or not?

Mr MacSporran: No, it did not, from my memory of it. I get the legislation confused between the legislation that required the standdown after charging and the dissolution of Ipswich.

CHAIR: I am talking about the change to the Local Government Act so that if a councillor was charged with particular offences they would be automatically suspended.

Mr MacSporran: Again, I just need to reflect on that and search the documents to see what information, if any, I can provide about that.

CHAIR: Please do so if you can.

Mr MacSporran: Thank you.

CHAIR: On the second day of this inquiry I asked you a question about contact you may have had with Minister Hinchliffe before charges were laid against the Logan councillors—or afterwards in fact—in relation to the future of that council. You said that you would have to take that on notice. Have you been able to search your records or your memory and are you able to answer whether you had any contact with the minister around that time?

Mr MacSporran: From memory since I was here last time and doing a review of the documentation, I have discovered that after the charges were laid, which was 26 April, Mr Alsbury and I went to see the minister on the afternoon of the 26th to give him a briefing about the charges and the nature of them, as a courtesy.

CHAIR: At that meeting, was it discussed that these charges would bring about, in effect, the dissolution of the council?

Mr MacSporran: I cannot recall, but that would have been obvious because of the—

CHAIR: Operation of the law.

Mr MacSporran: Exactly, yes.

CHAIR: Did you give him notice that you were going to lay those charges?

Mr MacSporran: I do not think so, no. In fact, that was the reason I went as a courtesy, to talk to him about the fact we had done it.

CHAIR: Just going back to August 2018—counsel assisting referred to these documents earlier today—advice was created within the CCC about what offences would lead to suspension and then quorum requirements in local government as well. As I recall, there was mention made that this advice was being prepared or was prepared as a result of discussions between yourself and Mr Hutchings, if I recall correctly—and I see counsel assisting nodding, so that must be correct. Can I ask again—and I think you covered this this morning—why was that advice being sought?

Mr MacSporran: I think I said this morning—my memory has not enabled me to take it any further—the only thing I can link it to is—because it came from Mr Docwra—it may have had something to do with the Ipswich matter, but that may not be right because the email from Mr Docwra talked about simply the integrity offences and so forth. I do not remember the conversation with Mr Hutchings, but the terms of it, as put to me by counsel assisting, are what they are. I cannot really elaborate further upon that discussion. I do not know what Mr Hutchings said. I have read the transcript. I cannot recall what he said there. At the end of the day, I do not have an independent recollection of that particular discussion in 2018.

CHAIR: Can you recall whether it was intended to try and set the ground for the council to be dismissed?

Mr MacSporran: I cannot. It would seem to me not because it is happening back in August 2018. As I said to Mr Horton earlier, the timing does not seem to fit to me, from here now, but I might be wrong about that.

CHAIR: Just to be clear, you cannot recall that it was not about setting the ground to dismiss the council?

Mr MacSporran: I simply cannot recall the nature of the discussion that is referred to in that email.

CHAIR: It was just after the meeting with Ms Kelsey in which she said she was in dire straits. Another question: you had Ms Kelsey's closing submissions for 2 May at the Queensland Industrial Relations Commission. That was given to us in evidence on 14 May at the public hearing of this committee. I am sorry: it was given to us in the sense that you said you had considered Ms Kelsey's submissions to the QIRC. To Mr Crandon's point of argument, if you are reading the closing submissions for one party in the QIRC, surely you would have, in your own mind, had a knowledge of when those submissions were going to be spoken to. There would have been some reference on the document, I assume, to the hearing date. You told us on 14 May that you had seen those submissions. At that point in time, that still did not trigger in your own mind that you knew about 2 May?

Mr MacSporran: No, because from my memory the material that had come to me did, as it reflects on the cover sheet, include the closing submissions of Ms Kelsey. They were relevant to the consideration of the issue. They were voluminous. Mr Alsbury, if I recall now, in his memo to me or his summary on the cover sheet—one of the two—had extracted a summary of the relevant part which referred to the triviality and otherwise of the reasons given in the Logan 7 affidavits in the QIRC. If I did look through the closing submissions—and I do not remember specifically, because they were I think about an inch or so thick from memory; they were huge, as you would expect for the nature of that litigation—nothing jumped out at me as reflecting a date about when that was going to be done. I know now, because of what I have looked at through here and elsewhere, what that date was, but I do not think I knew at the time.

CHAIR: Just on those submissions—they were Ms Kelsey's submissions only, I believe, that were given before 2 May—in evidence to the committee last week the Director of Public Prosecutions indicated in general terms that it would have been probative for any prosecutor to consider not only those submissions but also the submissions of the other parties to those proceedings, especially to consider the credit of witnesses and any other matters of fact that would bear upon the criminal charges laid. In light of that evidence—and I assume you have seen it in general terms in *Hansard*—do you consider now that you should have reviewed those proceedings from the QIRC and kept a track of them—not just Kelsey's side but all the other sides as well?

Mr MacSporran: I do not think so, ultimately, because, as I said before, the QIRC material, particularly the affidavits and what they said about the affidavits, I thought made the Crown case stronger.

CHAIR: Mr Heaton actually reflected on that as well, which I think you would have seen in *Hansard*.

Mr MacSporran: Mr Heaton, as I said this morning, said in his memo to his prosecutor, Mr Green, on 6 April 2021 as to why he was withdrawing the charges—in the body of that memo he says that the reasons given in the QIRC proceedings by the Logan 7 did, as we had suggested, help narrow the focus of what their true reasons were for the termination of Ms Kelsey. That, to me, could be used for a jury to conclude that there was dishonesty—but that was a matter for a jury, in my view.

CHAIR: We also had some discussion yesterday and this morning, too, about the public interest consideration in going into the laying of charges against those seven councillors—and also the mayor, I acknowledge—relating to the dismissal of Ms Kelsey. You indicated in evidence, as I understand it, that you did not think that the fact that a democratically elected council would be dissolved as a result of these charges bore upon the public interest in that matter. Is that correct in broad terms?

Mr MacSporran: No. I think what I said was it was a fact but a fact that had very little—very little, if any—impact because it was an operation—it happened by way of operation of law which this parliament had endorsed and it could never outweigh the seriousness of the offending, in my view, and the very real need to send a strong deterrent message about the risks of local government corruption that we had uncovered as part of the Operation Front investigation.

CHAIR: I believe part of the evidence pack in relation to those charges was—and correct me if I am wrong on this—evidence provided by the other four or five councillors—

Mr MacSporran: That is so.

CHAIR:—amongst other matters, and it is a matter of record that those councillors—sorry, those other four people were then appointed to the advisory council for Logan City Council?

Mr MacSporran: That is so.

CHAIR: Before the charges were laid, were those four individuals on a promise to be put on that advisory council if an administrator was appointed?

Mr MacSporran: If they were, it had nothing to do with me. I do not know what arrangements, if any, had been made with them.

CHAIR: They were formally appointed by the government; I understand that.

Mr MacSporran: Yes.

CHAIR: Yes. So there was no discussion with you or anyone, to your knowledge, in the CCC with those individuals about the role they would play after any investigation?

Mr MacSporran: Not to my knowledge. The minister had written to the CCC on 1 May proposing that they would be appointed and seeking our views. I took it to be the context of whether an appointment of those four as part of the IMC would be appropriate in the sense of whether we knew anything adverse to them from our investigation into the Logan 7, effectively. I wrote back on the same day—1 May, from memory—to say that we had no objection or we supported or whatever the terms were. That was on 1 May. The administrator was appointed on 2 May and the IMC was appointed, from memory, on 14 June.

CHAIR: Okay; thank you for that. Just in relation to the public interest matter again—and I acknowledge that it is an operation of law which made the dissolution of the council occur—the documents show there was very little, if any, written consideration of that impact on the laying of your charges. As I recall, there is one or two lines throughout the various documents relating to the reputation of councillors and their ability to obtain employment in local government in the future but nothing written down about the fact that the council would be dissolved. That is a clear public interest consideration, I think, given the gravity of the effect it has as an operation of law. Do you not think that because the laying of charges has that effect as an operation of law it is incumbent on you as the decision-maker to consider it?

Mr MacSporran: It was—

CHAIR: Nobody else could.

Mr MacSporran: Well, the police officer could because he is laying the charges, not me. All I am doing is deciding to give him the opportunity to do so, but it is a factor, as I explained this morning, but one that could never, for the reasons I have given, outweigh as a public interest consideration the other more important compelling reasons. That was my assessment and I think it was Mr Alsbury's assessment. I might be wrong about that, but certainly that is how we assessed it.

CHAIR: Do you think it would have been prudent to obtain external advice—

Mr MacSporran: Not at all.

CHAIR:—about the laying of charges?

Mr MacSporran: Not at all.

CHAIR: No? Why not?

Mr MacSporran: Because we were very comfortable with our decision, and so was the DPP and so is retired Judge O'Brien.

CHAIR: I would like to ask about the DPP, because the DPP in his evidence on Friday referred to the fact that, as I understand it, you had had a number of discussions with him in the past since he has stepped into the role—

Mr MacSporran: That is so, yes.

CHAIR:—about various public interest or other considerations going to possible charges of people and high-profile people, possibly scandalous if they were charged. Did you get this sort of external informal advice from the DPP at the time or did you just go ahead on your own volition and lay the charges?

Mr MacSporran: Sorry, but we are talking about Front now, the Logan 7?

CHAIR: Yes.

Mr MacSporran: Yes. No, we went ahead on the basis of the assessment we had made because we were comfortable enough to not believe that if we charged the DPP would likely discontinue. We were very confident that it was a case for a jury and we remained of that view, frankly. We accept the opinion of the DPP, Mr Heaton. It is his role—independent role. I have said publicly we do not agree with it, but it is his call.

CHAIR: Understood.

Mr MacSporran: We have discussed with him in the past about matters I will not go into where we have had—concerns is not the right word, but we have thought that it was an appropriate case to discuss with him whether charges should be laid and, because he is going to be the prosecutor, left it to him to make that call which we are then comfortable with. This was not one of those cases, for the reasons I have said.

CHAIR: I did not ask Mr Heaton this, but in any of those cases or scenarios where you did have discussions with him about matters which, in his words, could be scandalous if they were charged, did any of those scenarios involve circumstances where people who were charged would immediately lose their jobs and the local government or other authority be automatically dissolved?

Mr MacSporran: Well, losing their jobs possibly. I should not say too much about it because it is capable of identifying people and that would not be fair to anyone, including us.

CHAIR: No, I understand—I am not asking you to—but—

Mr MacSporran: No.

CHAIR:—as a matter of operation of law it should be a fairly—

Mr MacSporran: No, not operation of law, no.

CHAIR: No. So in some cases you have sought informal advice, even where, by operation of law, people would not lose their job, but you did not do that in the Logan City Council matter?

Mr MacSporran: No, Mr Krause, because each case, as the DPP guidelines pretty clearly show, has to be considered on its merits, and that is what we do. The Front case—the Logan 7 case—we considered ourselves on its merits and were comfortable to give it to a police officer to make the independent assessment, which he did.

CHAIR: Can I take you back to—and this is a note I made this morning—the document at 293 of volume 1 where it is said by Dan Williams or there is a note in relation to a conversation with Dan Williams about how the appointment of an administrator is the only practical solution now?

Mr MacSporran: This is the Hutchings conversation with me of the previous day or after that, I think?

CHAIR: I think that might be the case.

Mr MacSporran: Yes. It was one I was shown this morning I think, yes.

Ms PUGH: What page, Chair, sorry?

CHAIR: Page 293 of volume 1. We are just getting it ourselves, Mr MacSporran. Where it is referred to the appointment of an administrator as the only practical solution now, what do you think that was being referred to?

Mr MacSporran: I have no idea, and I said I have exhausted my memory having been shown this and having seen this before, I am sure, in preparation for this hearing. I do not know what that is a reference to.

CHAIR: I was just checking to see if anything else had come to your memory.

Mr MacSporran: Not currently.

CHAIR: Okay. Mr MacSporran, you know how an administrator is appointed to a local government?

Mr MacSporran: Well, I know it occurs. It certainly occurred in Logan when the council was dissolved and I assume there are some provisions in the Local Government Act to facilitate that.

CHAIR: Show cause notice, act of parliament—

Mr MacSporran: I have seen reference to that. I think it was a show cause notice in respect of Ipswich and I think it was done in Fraser Coast. An attempt was made in Fraser Coast, from memory—now that you mention it, show cause proceedings, yes.

CHAIR: So forgive me if we have covered this ground before, but we had just better make sure that we have it all on the record: why was the CCC even contemplating in discussion the appointment of an administrator at this point in time?

Mr MacSporran: As I keep saying, as at 8 August 2018 it does not make sense to me.

CHAIR: Who in the organisation might be able to shed more light on that?

Mr MacSporran: Well, Mr Hutchings was involved. Dan Williams was involved from Ms Kelsey's side. I have—for the reasons I have said already, I cannot take that any further. If my memory is refreshed by something else after this inquiry adjourns, we will certainly—

CHAIR: Please.

Mr MacSporran:—make every effort to inform the committee of anything that arises out of that.

CHAIR: Please do.

Mr MacSporran: There may be—

CHAIR: There could be an innocent explanation.

Mr MacSporran: Well, we certainly hope so, because we need to get whatever we can to you about that. I cannot help you just yet, but there may be an explanation—or further explanation, if you like.

CHAIR: This morning as well you said you had—I made a note; it was at 10.09 this morning—indicated some grave doubts, I believe your words were, about the prospects of Ms Kelsey's proceedings in the Queensland Industrial Relations Commission. Do you remember saying that?

Mr MacSporran: I do not, frankly, if I used those words, but I am not saying I did not. It just does not spring to mind.

CHAIR: I cannot take you to where you have specifically said otherwise, but my recollection of—did you want to consult with your lawyer for a second?

Mr Dunning: Sorry, Mr Krause. I missed your question. I think I was being asked about the question.

CHAIR: If you want to consult with Mr Dunning, that is okay, Mr MacSporran.

Mr MacSporran: Just so I have it, Mr Krause, your recollection of what I had said was that I had some grave concerns—

CHAIR: Grave doubts.

Mr MacSporran: Grave doubts about Ms Kelsey's prospects of success in the commission proceedings?

CHAIR: Yes.

Mr MacSporran: Yes, I still do not recall it, but I am happy to—

CHAIR: I made a note so I think the general gist of what I have told you is what you said, but in previous evidence at other public hearings I am also quite certain that you have expressed to us quite a positive view of Ms Kelsey's QIRC proceedings.

Mr MacSporran: Yes, that is so.

CHAIR: And she was actually going to go very well.

Mr MacSporran: I thought so, yes. I think she thought so, too.

CHAIR: I want to ask when your view changed.

Mr MacSporran: When I read the QIRC decision on the 14th or so of April when it was published, or the suppression order for its publication was lifted. That is when I read the decision first.

CHAIR: Your grave doubts about it only emerged after she was ultimately unsuccessful in that decision?

Mr MacSporran: I just do not recall the context in which I made that comment today.

CHAIR: Maybe we can take you back to it.

Mr MacSporran: Yes, but I had, as I told the committee and others, and I think it is the case the investigators thought, as she did, that she had gone very well in the QIRC proceedings and when she did not it was a surprise, certainly to me, I can assure you.

CHAIR: You also mentioned this morning in passing that you would be assisting Ms Kelsey in a way that provided the CCC was 'as independent'—again I made a note here—'as we could be'. My question for you, Mr MacSporran, is: given everything that has gone on, in the correspondence, in the position you have taken to assist Ms Kelsey as much as you possibly can, to try and get documents out the door—I am not going to go into what the purpose of that was—do you not acknowledge that with all that in mind there is a limit to how independent you can actually be because you had taken a particular mindset to this scenario involving Ms Kelsey? You have almost subconsciously expressed that: 'as independent as we could be'.

Mr MacSporran: Mr Krause, I simply return to what I have been saying, I think consistently, here. I do not want to repeat it again. You know what it is. I believe we did what we could do consistently with our powers, our jurisdiction and our obligation to protect a PID in circumstances where we decided not to become involved directly in injunctive relief proceedings whilst trying to maintain the integrity and viability of an important corruption investigation.

CHAIR: Okay. I just want to ask you a question, and it relates to one of the more general terms of reference in this inquiry, in relation to the CCC's conduct in the charging of people arising from their investigations. The question relates to and sort of goes to what the member for Coomera has already asked you about: how many councillors or former councillors have been charged out of the Ipswich City Council investigation, excluding the mayors?

Mr MacSporran: None come to mind excluding the mayors, but there were two mayors; you are right. But I am having that checked, as I mentioned to Mr Crandon, to make sure that our recollection at this stage is accurate.

CHAIR: To your knowledge, were any of the others under investigation?

Mr MacSporran: Mayors?

CHAIR: No, councillors at Ipswich.

Mr SULLIVAN: Chair, are you sure you want to put that on the public record: private investigations of the CCC?

CHAIR: I will take that point of order, Deputy Chair, thank you.

Mr MacSporran: I think Mr Sullivan's point is well made, with respect, because the investigation at Ipswich went for some considerable time. The public report, Windage report, sort of sets out what we found in our investigations.

CHAIR: Happy to let that one lie. How many councillors were sacked out of that Ipswich investigation?

Mr MacSporran: I do not know the number, but the entire council.

CHAIR: Indeed.

Mr MacSporran: By act of parliament in August 2018.

CHAIR: Council was dissolved. Understood. I was there. You recommended, as I understand it, and I can dig up the media report if you require me to do so, that Minister Hinchliffe dissolve the Ipswich City Council in 2018; do you accept that?

Mr MacSporran: No. I gave evidence at the committee hearing on 30 July 2018 in support of the bill that Minister Hinchliffe had introduced into parliament and I was quoted in the foreword to the Economics and Governance Committee report, which was published in August 2018, to recommend the dissolution of the council.

CHAIR: But prior to that though—

Mr MacSporran: Yes, if I can just finish by saying it was said to be the case that I had given advice to the minister to sack Ipswich council.

CHAIR: Yes, it was said.

Mr MacSporran: I actually issued a press release correcting that impression and said that was not the case, that Minister Hinchliffe had contacted me after having made the decision to do so and sought my advice as to whether—what I would say about it and I said I supported it. I was never told about the method by which he would achieve it in terms of removing an appeal, or not providing for any appeal rights and so forth, and all of those issues I gave evidence about on 30 July here at Parliament House to the Economics and Governance Committee.

CHAIR: I understand. But nobody, as I understand it, apart from the mayors—none of those councillors were ever charged, but you were still supportive of that approach?

Mr MacSporran: Mr Krause, I think again Mr Sullivan's point is well made. If you read the Windage report, public report that was produced by us, de-identified, for obvious reasons given that there were people charged, including the mayor—the then mayor—and others, the public report was published with redactions about identifying people involved and the tale that was set out in the public report about the conduct of lots of people at Ipswich in the running of that council led to—

CHAIR: Understood. There are some officers that have been convicted.

Mr MacSporran: But questions of governance, transparency and integrity. Bear in mind there was a newspaper report which reflected a particular councillor, senior councillor, saying things like, about Pisasale, 'No Tales past Gales'.

CHAIR: I recall.

Mr MacSporran: That is quoted in the report, public report, that came out before the Economics and Governance Committee report recommending the dissolution of the entire council for the reasons that were articulated in that report.

CHAIR: Thank you for raising that, because it actually goes to another question about the laying of charges and the process behind that, because all of those councillors were sacked, no charges laid, and we accept that. But my question to you is: if no charges were laid as a result of your investigation, should they not have been able to go to their juror—that is, the voters—and have their case put to the electorate? And in the case of the person you have just referred to, he did that and was re-elected. So how can you be supportive of a process where there are no charges laid and yet there is the dismissal of an entire council?

Mr MacSporran: That is the decision—that is parliamentary democracy in all its aspects.

CHAIR: You were going to say all its glory.

Mr MacSporran: Well, I did not want to go that far—did not want to have that on *Hansard*, thank you.

CHAIR: I just want to put it to you that in Logan you had made up your mind that the council needed to go, just like you had in Ipswich.

Mr MacSporran: Well, I reject that absolutely, for reasons I have articulated before.

CHAIR: Really. Except in the case of Logan you did not need to go to the minister because you could charge them with fraud and do the same thing.

Mr MacSporran: I take that as a comment but I reject the implication from the comment.

CHAIR: You threw the biggest bomb you could find at the Queensland Industrial Relations Commission, didn't you?

Mr MacSporran: Can I please—

CHAIR: In a metaphorical sense.

Mr MacSporran: Can I please clarify what you mean by throwing the biggest bomb?

CHAIR: Charge the councillors with fraud six days before the final submissions were going to be made. There could not be a much clearer message from the CCC to the Queensland Industrial Relations Commission, could there?

Mr MacSporran: I am not quite sure what you are suggesting, but if it is suggesting impropriety I reject it absolutely.

CHAIR: So the seven councillors at Logan and, might I add, the uncharged councillors at Ipswich are collateral damage in achieving your role and purpose—the purpose, in the case of Logan, was to get Ms Kelsey reinstated?

Mr MacSporran: Again, I will take that as a direct implication of impropriety on my part and I reject it absolutely.

CHAIR: Finally, Mr MacSporran, do you understand how much damage to people's lives, livelihoods and reputations some of these issues cause?

Mr MacSporran: Mr Krause, without blowing my own trumpet again, because it is not my practice, being a vastly experienced criminal lawyer, and not just as a prosecutor, I have defended many clients, some high profile and some not. I have been down to the cells with clients and been with their families after the guilty verdict when they were taken away. I have taken them down to the cells, talked to them about their position, their appeal rights, the future and then had to go and tell their families. I know exactly the sorts of impacts that are visited upon people who are convicted of criminal offences or even those who are not convicted but put through the stress and agony of the process. If the charges should be laid because the evidence is sufficient, the prospects are there and the public interest determines it, those consequences are taken into account on penalty, as the director's guidelines indicate they should be.

CHAIR: Are there any other questions from committee members?

Mr CRANDON: Following on from some of the questions there, Mr MacSporran, you said in answer to the chair's questions regarding submissions from Kelsey to the QIRC that you extracted the triviality of the submissions because they were huge.

Mr MacSporran: No, I am sorry. What I said was that Mr Alsbury had extracted, as I remember it, some parts of the submissions which referred to the triviality of the reasons given in the affidavits by the Logan 7 for the termination of Ms Kelsey in February 2018.

Mr CRANDON: I thought I wrote it down as you said it, but that is fine. That is the point that I was getting to. You have just mentioned that you are a vastly experienced lawyer. As a skilled prosecutor—

Mr MacSporran: And defence counsel.

Mr CRANDON:—wouldn't one also extract the opposing party's views on the same subject to see what was said by them?

Mr MacSporran: I did not think it needed to be done that way. That was my judgement call for the reasons I think I have expressed earlier.

Mr CRANDON: With all of your experience—

Mr MacSporran: That is so.

Mr CRANDON:—you did not believe it was worth having a look at both sides of the equation—not just the MinterEllison version on behalf of Ms Kelsey but also the versions put together by other skilled lawyers to see what their argument was going to be? You did not see that, with all of your experience?

Mr MacSporran: Yes, what that came down to—it was not dissimilar to my discussions with Mr Heaton. We argued about the—sorry, I should not say 'argued'; we discussed. It was a very fruitful discussion. When I was trying to convince him—that is, the DPP—to continue the case to a jury, I was saying, 'Look, this is a matter for a jury.' As to how you assess the reasons given and whether they were the true reasons or not, he would argue one way, I would argue the other way, Mr Alsbury would have input, Mr Green would have input. I said to Mr Heaton during the course of that discussion, 'The very fact that we are having this discussion, toing and froing about what the reasons were and how you would assess them, is exactly why this case is a matter for the jury and not for lawyers taking fine points of distinction, as lawyers do, about what a jury might think about evidence that is properly placed before them.'

Mr CRANDON: But you relied on the submission and you said the words before 'extracted the triviality'. You relied on the submission of one side of the argument. You relied on the Kelsey submission and you ignored the rest of it. You have just given us an example whereby you would look at challenging putting forward the different arguments, the debate if you like, on these. Yet you chose not to do that in the case of the QIRC material that was part of, I think, the 2 May submission. Similar to not looking at the charges for the seven individually and how they would stand up individually—and you have indicated to us that that was an administrative oversight that you have now addressed—is this another administrative oversight? Would you now say that you would, in hindsight, look at both sides of the argument before you made a decision?

Mr MacSporran: No, I would not.

Mr CRANDON: So you do not regard that one as an administrative oversight?

Mr MacSporran: I do not know whether I am agreeing with how you have characterised that, but I would say that I do not accept the proposition that anything I did in terms of assessing this case and letting it go to a police officer was in any way misguided, inappropriate, wrong or any other. I am totally comfortable with the decision-making process I engaged in. The only thing I am conceding and have conceded earlier is that there was not an elemental analysis of the dishonesty involved in a fraud charge and that was because we all understood, especially Mr Alsbury and I, what that involved.

Mr CRANDON: Nobody else—

Mr MacSporran: I would be repeating myself, frankly. I do not want to be taking up the committee's time doing that, but I need to put my point in answer to your question, as I am trying to do.

Mr CRANDON: Yet the courts do not agree. The Director of Public Prosecutions do not agree. Indeed, the magistrate said words to the effect—and it was quoted here by the Director of Public Prosecutions the other day; he read it out specifically—basically that that was the right decision to make after nine days of hearings. Nobody else disagreed.

Mr MacSporran: Retired Judge O'Brien disagrees with what the DPP—

Mr CRANDON: Probably he just got one side of the argument again, did he?

Mr MacSporran: No, he did not. If you look at what he got to make that opinion—which I think you have; it has been disclosed to you—you will find that he was very comprehensively briefed and gave an opinion that was highly relevant to these proceedings, I would have thought.

Mr CRANDON: That is a nice change, if that is what occurred. I take you to the email on page 293, which we talked about a short while ago, from Rob Hutchings to yourself and dated 8 August 2018. Immediately prior to that in the papers that you have in front of you, dated 7 August, is the letter to Minister Hinchliffe. It is a two-pager. All of these things are at pages 291 and 292. You have a two-pager there. You have outlined a lot of points. There are several paragraphs over two pages. It states—

Given the circumstances of this matter, and the broader public interest considerations, I have decided to take the unusual step of requesting that the Government give consideration to funding Ms Kelsey's...

The day after that, Rob Hutchings writes to you and just to you, no-one else. First of all, do you have a clear memory of the letter that you wrote to Minister Hinchliffe?

Mr MacSporran: I have a reasonable recollection. I have refreshed my memory on the terms of it and Mr Hutchings's file note of the discussion that we had the day before, from memory, 6 August. The contents of this are consistent with what he and I discussed the previous day, from memory.

Mr CRANDON: There was a draft of this letter prior to page 291-292—

Mr MacSporran: I am sorry, I do not mean to talk over you. I do not think I had seen the draft until I reviewed this material here for the hearing.

Mr CRANDON: So somebody else knocked the draft together for you. Would that have been Mr Hutchings?

Mr MacSporran: I assume so because he and I had the discussion, he has noted it and then the letter has come to me. So presumably he has had a draft and then it has come to me for—

Mr CRANDON: And that is your writing on the draft?

Mr MacSporran: No, this is legible; it is not my writing.

Mr CRANDON: The bottom of 289 and then 290 in the side?

Mr MacSporran: No, it is definitely not my writing.

Mr CRANDON: Not your writing. Anyway, there are some comments there. The draft was there. You think somebody else may have knocked that together and then it was put onto a letterhead for you to sign, and then a day later Mr Hutchings—sorry, just coming back to that letter, who would have put that together, would you think, that draft letter?

Mr MacSporran: I would have thought, although I do not know, it would be Mr Hutchings.

Mr CRANDON: So the conversation is going on. You have those notes from 6 August, then you have the draft letter and then you have the dated letter, 7 August, and then you have the email from Hutchings on 8 August, and yet it is directed to you—it is specifically between you and he—and you are telling this committee that you have no memory—

Al, I let Dan know what we spoke about this afternoon, and he was very appreciative of the efforts you have made. He will keep Sharon informed. He was especially interested in the prospect of the appointment of an administrator as he sees it as the only practical solution now.

And your evidence to this committee is that you have no memory and no idea what that meant?

Mr MacSporran: The last part of that email that refers to him being especially—whatever the terms are—I am sorry, I just need to refresh my memory.

Mr CRANDON: He was 'especially interested'—it is page 293.

Mr MacSporran: Yes. That sentence does not ring a bell with me. The previous sentence, I am assuming, I think probably accurately, refers to the efforts I have made to write the letter of the previous day, 7 August.

Mr CRANDON: Yes, and the first part of the first sentence—

Al, I let Dan know what we spoke about this afternoon.

Mr MacSporran: I do not know—unless it was this—it could not have been the letter. It was the day before. I just do not know 'what we spoke about this afternoon', referring to the 8th—I know we had spoken about the letter of the 7th on the 6th and I imagine the reference to 'he', being Dan Williams of MinterEllison, 'was very appreciative of efforts you have made'—that would be a reference to the letter I had written on her behalf seeking funding and whatever else the letter says.

Mr CRANDON: And also the prospect of the appointment of an administrator. It is one paragraph. It is two sentences in one paragraph, Mr MacSporran.

Mr MacSporran: I understand that, Mr Crandon.

Mr CRANDON: It is the same conversation that you were having. 'What we spoke about this afternoon'—it is the same conversation. You spoke about an administrator.

Mr MacSporran: Well, Mr Crandon, I have been at pains to explain my memory and what I can tell you about it. I have exhausted that. As I said, if we, in the preparation of making what we anticipate will be our submissions to the inquiry and the committee, come across other material that we can advance to explain in any further way that email and what it may have related to and the circumstances, we will be very happy to do so. If we cannot, we will probably also have to say we cannot.

Mr CRANDON: Thank you, Chair.

CHAIR: Any other questions from members of the committee? Very good. Mr Horton?

Dr HORTON: Just briefly to take up two points, please, Chair, while my voice lasts. The first is, Mr MacSporran, I am aware that, not included the bundle, there are some file notes which explain the circumstances in which the letter had come into existence to the minister, and I will make sure that Mr Crandon and the committee have access to those.

Mr MacSporran: That is the letter of 7 August?

Dr HORTON: Yes, which explain I think fully the circumstances in which that had come into existence.

Mr MacSporran: Thank you.

Dr HORTON: Two yellow-coloured file notes, from memory, I think dated perhaps 10 August, but I could be wrong. The second is that you mentioned that Mr Heaton's memo of 6 April, which you will find in volume 2 at page 403, had referred to the QIRC evidence as narrowing the focus.

Mr MacSporran: Yes. It was on a credibility point, if I remember.

Dr HORTON: That was what I was going to ask you about. Is your reference to this to take some comfort from the fact that Mr Heaton thought the QIRC evidence tended to favour the maintenance of the charges?

Mr MacSporran: You would have to ask Mr Heaton what he intended by that, but what I have taken from it is that he was acknowledging that the QIRC affidavit and oral evidence about the reasons given did tend to focus on the question of what the reasons really were, which is the whole point we have been discussing in our conference together after he had written that memo.

Dr HORTON: I think the point you are talking about may be at paragraph 27 of the memo at page 408 and the words, about halfway into that paragraph, 'would narrow the range of possible valid reasons'.

Mr MacSporran: Yes.

Dr HORTON: I just want you to read that sentence because it is a slightly different construction, I want to suggest, to read the whole thing. It begins—

Whilst I accept that the evidence from the QIRC, if admissible, would narrow the range of possible valid reasons, in my view, it is, in any event, no answer in a circumstantial case to simply attempt to demonstrate that each particular valid reason is not, objectively, rational in the circumstances of this case ...

et cetera.

Brisbane

Mr MacSporran: I see what he says and I do not agree with that. He is actually talking about a circumstantial case but illustrating exactly what you should not do in a circumstantial case.

Dr HORTON: I do not want to take up with you a debate about other matters; I just want—

Mr MacSporran: No, you are asking me, with respect, what I took from Mr Heaton's paragraph 27 of his memo.

Dr HORTON: No, no, no, no. No, sorry, please do not tell me what I am asking you. What I am asking you is: you mentioned that, as far as I understood, you took some comfort from Mr Heaton having said that the QIRC evidence narrowed the focus.

Mr MacSporran: I did.

Dr HORTON: What I am suggesting to you is: when one reads the sentence to which you seem to be making reference, it is no comfort of the kind that you would take from it.

Mr MacSporran: I disagree.

Dr HORTON: Thank you. For completeness on that, Mr MacSporran, over the page, 409, paragraph 30—

It is said that the contents of the *WhatsApp* group chat is particularly illuminating. However, care needs to be exercised to avoid placing too much weight on that evidence.

Do you accept that?

Mr MacSporran: Yes, that is what juries do. Juries assess that evidence and make their own determination.

Dr HORTON: Just talking about Mr Heaton for a minute. Then he goes on and says—

Whilst hostility is clearly apparent—

See that?

Mr MacSporran: Yes.

Dr HORTON: Then he weighs up other factors. I am really suggesting this: while he does use the words 'would narrow the range of possible valid reasons', Mr Heaton gives, whether they be right or wrong for a moment, a whole lot of other reasons why one needs to be more analytical about that question beyond merely narrowing the range of possible valid reasons.

Mr MacSporran: That is what Mr Heaton says, yes.

Dr HORTON: Chair, they are my questions of this witness.

CHAIR: Thank you for your time with the committee today and yesterday, Mr MacSporran. You may be stood down. Mr Horton, are there any matters that you wish to alert us to? I know that I have an email for tabling here.

Dr HORTON: Yes, please. One is an email that we did not table on the way which is from Mr McMillan to Mr Dunning and others about the topic for Ms Makeeta McIntyre which you have.

CHAIR: I have a copy of that here.

Dr HORTON: Thank you.

CHAIR: I will table that for the inquiry's records—tabled but not published at this point.

Dr HORTON: I table volume 3, which I think has been provided to witnesses, at least the later ones, in which some supplementary documents were included.

CHAIR: Volume 3?

Dr HORTON: It is.

CHAIR: Could you pass that to the member for Macalister, please, and we will consider that volume tabled but not for publication at this point. No other matters?

Dr HORTON: No other matters.

CHAIR: Very good. This brings us to the conclusion of this day for the inquiry. For the record, the committee has authorised me to inform you all that the general process going forward from this point will be as follows. In relation to evidence gathered at the inquiry, counsel assisting the inquiry will provide the committee with submissions and then we will, in turn, be providing those submissions to parties adversely affected by them. Those parties will be invited to make written submissions in reply to the committee in relation to those submissions from counsel assisting.

At a later date after that, the committee will then convene a public hearing at which counsel assisting will address the committee in relation to those submissions. Then, as with the written submissions, parties adversely affected by any of those submissions will be invited to also address
Brisbane

the committee in relation to those matters. The time for that to be scheduled is yet to be determined and also the precise format for that hearing, but that is the general outline going forward. As more dates are decided and procedure assessed and fixed by the committee, we will be sure to inform everybody, including the CCC, their counsel and members of the public as well. Counsel assisting is on his feet again.

Dr HORTON: There was one matter. That is, apart from DI Preston, the CCC witnesses were stood down rather than excused. Might that remain the position, just in case there is a need to recall witnesses—we do not presently foreshadow that in terms of counsel assisting's position—in which case, those witnesses could be advised in due course whether they have been excused? I just wanted to explain that that might not be something we ask for today, for that reason.

CHAIR: Thank you for reminding me, Mr Horton. Most witnesses have been stood down at this point in time. We anticipate probably not recalling any of them, but we will formally advise people in due course about that process.

Mr CRANDON: Chair, are there any matters that have been taken on notice?

CHAIR: Yes, thank you for reminding me. For any matters that have been taken on notice, if we could have a response to that in writing within seven days, that would be preferable. That is generally the level of time that we provide during public meetings.

Mr MacSporran: We think that should be achievable, thank you, Mr Krause.

CHAIR: Thank you. There are no other matters now. Thank you, Hansard. Thank you to everybody from the CCC, the parliamentary commissioner, Mr Kunde and counsel assisting. We will adjourn these hearings for today.

The committee adjourned at 2.32 pm.