

SUBMISSION TO THE PARLIAMENTARY
INQUIRY INTO THE FUNCTIONS OF THE
INDEPENDENT ASSESSOR AND THE
PERFORMANCE OF THOSE FUNCTIONS

Margaret Strelow- former Mayor of Rockhampton Regional Council

PREAMBLE

I submit for the consideration of the Inquiry some details of my personal journey with the Office of the Independent Assessor (OIA).

A tale of two letters and an inconvenient truth.

Just over a year after I came back from the Premier's Trade Mission to India, I received a letter from the Department of Local Government saying that my Register of Interests 'may not' contain hospitality from Adani that needs to be there. The letter required that I check if my register was accurate and either enter the hospitality or to complete a statutory declaration that all was accurate.

I was sure that my Register was correct; my CEO was sure; and he even sought expert legal advice just to be extra sure - and then I completed the required statutory declaration.

Six months later the OIA were created. They immediately wrote and gave me the choice of admitting to misconduct there and then (with immediate referral to the CCT) because I hadn't entered the 'hospitality' or they would investigate. Just under a year later they referred my matter to the CCT.

In their referral, the OIA ██████████ told the CCT that the DLGRMA letter (8th June 2018) had given clear direction that the matter needed to be entered on the ROI and they stated that they (OIA) had given me 'opportunity' to list it. Their 'opportunity' was only to confess to misconduct immediately, and as we shall see, they were hopelessly confused as to what Adani had paid for.

I should state from the outset that the reason why the legal advice was so clear that I didn't need to list the hospitality on my register of interests (ROI) is that the Regulation governing the ROI specifically and overtly excluded 'hospitality received in your official capacity' at the time. (Section 13 Schedule 5, of the Regulation).

In nearly twenty years in Local Government, I had never heard of there being any exceptions.

The bit Adani had 'paid for' was a visit to solar farm as part of the Premier's Trade Mission. I flew in a small company plane with some other mayors and company executives. We had sandwiches for lunch and an airport hotel buffet that night. I had purchased all international airfares myself and paid part of the accommodation and land content in India. Council had paid the remainder of the accommodation and other domestic flights.

All parties, including OIA agree that the solar farm visit was official hospitality. OIA still wanted something listed.

It seemed that the OIA weren't interested to understand the details of the 'hospitality' that I had actually received. And they did not take on board the documents we put before them, itineraries and emails- including a crucial email sent a few months earlier, from the DLGRMA.

The email from the Manager of Governance DLGRMA (26th July 2018) was crystal clear. Councillors do not list official hospitality on their registers of interest (ROI)- under Section 13 and the email specifically says that it doesn't then get listed under Section 17.

This truth was inconvenient to the OIA.

In the end I was found guilty of misconduct for failing to list official hospitality under Section 17, with the written Statement of Reasons from the CCT being all about items which had either never happened or for which Adani had never paid.

I was appalled at the lack of professionalism and the lack of integrity within the OIA itself. It was like a bad nightmare, a mixture of Keystone Cops and Yes Minister.

I am acutely aware of the importance of respecting democratic processes, particularly in difficult times. We need to demand and expect the highest levels of integrity from our elected officials. I had been found guilty of misconduct and so I resigned. That is history. But it is important that the truth be recorded, and I thank you for the opportunity.

CONTEXT

I had visited India on a trade mission with the Premier at the personal invitation of the Premier.

I paid my own international airfares and a good portion of the land content.

(It was my usual practice to pay for a good portion of any overseas travel. I didn't publicise it- in fact probably even RRC Councillors didn't know. It was just something I did quietly to help reduce the overall burden on the budget. In this case I had purchased the international tickets directly. At other times I had requested that an invoice be raised for a certain figure. On my final trip as Mayor – which was to Singapore- I had paid all expenses.)

Council paid the rest of the expenses except for a solar farm inspection on the day we were returning to Australia. We couldn't get a commercial flight to the town near the solar farm, so I went in the Adani company plane with some of other of the other Mayors and Adani executives to go and have a look at their biggest solar farm. We drove up and down row after row of solar panels for hours and had sandwiches for lunch while we watched an audio-visual. We were on the ground at the solar farm for around four and a half hours. There was no sightseeing or other component to the visit.

Then we flew to Chennai airport for a regular 'all you can eat' buffet dinner at an airport hotel together before our flights home. No Adani Board Members were present at this buffet. This was still part of the Trade Mission and was on the final day. We flew home that evening. When I returned home, I recorded the solar farm visit and the Board Dinner from the previous evening on the official hospitality register as I normally would with any official hospitality. The Dinner with the Adani Board on the first day of the Trade Mission was organised by the Premier's Office, but that is not the subject of the complaint. None of the other Mayors have ever listed that Dinner on their ROI.

During the course of the OIA 'investigation', Council even 'repaid' Adani the estimated value of the seat on the plane etc, valued as if it were on a charter plane, trying to satisfy the OIA but that didn't change the course of events.

BACKGROUND

1. The Regulation

Official hospitality did not go on the register of interests.

It was spelt out clearly in the Regulation at the time.

Councils keep a different Register for official hospitality. I had entered the value of the solar farm visit on the Council official hospitality Register when I returned from India.

Local Government Regulation – Schedule 5 Financial and Non-financial particulars for Registers of Interests.

13 Sponsored hospitality benefit

- (2) A person receives a sponsored hospitality benefit if—
 - (a) the person, **other than in an official capacity**—
 - (i) undertakes travel; or
 - (ii) uses accommodation; and...ⁱ

This is why the legal advice and the later email from the Manager of Governance, DLGRMA were so clear.

2. Basic Facts

I paid for the international airfares and part of the accommodation. Council covered other internal flights and the remainder of the accommodation.

Day one (17th March) was a trip to Mundra Port followed by a dinner with the Adani Board. Adani did not pay for the flights on the 17th of March. Adani paid for the Board Dinner

Day two (18th March) was an inspection of a solar farm near Madurai. I was on an Adani company plane for this flight. (There were no commercial flights available).

3. Should the solar farm trip be entered on the Register of Interests?

The referral by the OIA to the CCT stated that the hospitality should have been listed under section 17. And that I should have known that immediately and entered the visit on the ROI within 30 days.

It should be noted that I had clear and consistent legal advice from King and Companyⁱⁱ, and the advice of my CEO and had a very clearly worded email from the Manager of Governance DLGRMA to support that official hospitality does not go on the ROI even under section 17.

4. Did I engage in Misconduct?

The OIA view on listing official hospitality under Section 17 was unusual.

I was acting on the clear advice of my CEO, and clear and unequivocal advice ⁱⁱⁱfrom senior local government lawyers (King and Co) in the first instance, later supported by the Manager of Governance DLGRMA.

I struggle to see how a case for misconduct can be made.
But I appreciate that this is not the matter for this Inquiry.

5. How the OIA conducted their business in my matter.

I need to reinforce that this matter was not about a failure to list hospitality. It was about whether this particular event had to go on a different form to every other item of official hospitality. I had listed the solar farm trip where it would normally go.

The OIA position is that this day trip was something that I should have immediately recognised and treated differently. With close to 20 years in local government I had never heard of an item of official hospitality being entered on the ROI. Official Hospitality simply and specifically did not go on this Register.

I had purchased the international airfares and covered some of the accommodation and most of the incidentals. Council had paid for the rest of the accommodation and for the domestic flights necessary to get me to and from Mundra Port on the first day of the trade mission. It is only the second day (18th March) that should be under consideration.

Under the Regulation that governs the Register of Interests at the time there are two sections that relate in the following discussion.

Section 13 is a specific category for entering Hospitality but specifically excludes hospitality received in your official capacity.

13 Sponsored hospitality benefit

- (2) A person receives a sponsored hospitality benefit if—
 - (a) the person, **other than in an official capacity**—
 - (i) undertakes travel; or
 - (ii) uses accommodation; and...^{iv}

And Section 17 - an 'anything else' category which comes with its own rules.

17 Other financial and non-financial interests

- (1) The particulars required for each other interest of a relevant person are sufficient details of the interest to identify it.
- (2) In this section—
 - interest, of the relevant person, means a financial or non-financial interest—
 - (a) of which the relevant person is aware; and
 - (b) **that raises, appears to raise, or could raise, a conflict between the relevant person's duty under the Act and the holder of the interest.**

The hospitality in question in my matter is the solar farm inspection on the second day of the trade mission. It was a seat in a company plane from Mumbai to the airport at Madurai (closest airport to Kamuthi where the solar farm was) and a seat in a vehicle to drive up and down rows of solar panels for four and a half hours. We had sandwiches and juice for lunch while we watched an audio visual about the building of the solar farm.

At the end of the visit we were flown (I was still in the company plane) to the airport at Chennai (opposite side of the country from Mumbai) for our flights home to Australia. A few of the Mayors had later flights and had booked rooms at an airport hotel. The Adani executive who was overseeing our trip arranged for us to have a table together at an 'all you can eat buffet' at the hotel and then those of us with earlier flights were driven to the terminal. It was simply official business.

Council had already enquired if there was any other way for me to get to the solar farm however there was only one commercial passenger flight a day to Madurai from Mumbai and it wouldn't fit the itinerary.

On our return home to Australia, Adani provided an estimate of the cost of all items (the flight, the seat in a four-wheel-drive, the sandwiches and the buffet dinner on the 18th March as well as the Board dinner that had taken place the previous evening 17th March). The flight was costed as if it had been at commercial or charter rates. I entered that figure in Council's register of official hospitality.

One of the Mayors chose instead to enter it on her Register of Interests- minus the cost of the Board Dinner which I assume she entered on her hospitality register. The other Mayors entered both the Board Dinner and the solar farm visit the same way I had -on our Council Hospitality registers.

As I have already stated, the Register of Interests has a category for Hospitality but with a clear **exclusion on hospitality received in an official capacity.**

Chronology

The Department

My matter really began with a letter from the Department of Local Government (this was well prior to the creation of the OIA).

I quote from the letter from [REDACTED] 6 June 2018 (attached).

I am writing to advise you that the Department of Local Government, Racing and Multicultural Affairs (the Department) has been made aware that Councillor Margaret Strelow, Mayor, Rockhampton Regional Council may have failed to make full disclosures on her register of interests (ROI).

*In accordance with section 296 (1) of the Local Government Regulation (the Regulation), I am notifying you that, having considered the material available, it is suspected that Councillor Strelow's ROI **may not** contain particulars that should be in her register under section 17 of schedule 5, specifically:*

- *hospitality received from Adani during the trade mission to India in March 2017.*

Section 296 (2) of the Regulation requires you to immediately inform Councillor Strelow of these concerns. Once informed Councillor Strelow must comply with subsections (3) and/or (4), as relevant.

I would appreciate your advice when Councillor Strelow has complied with the Regulation....^v

NOTE: This is the letter was later misquoted by the OIA with the words 'did not' in place of 'may not'.

The DLGMA letter gave me the option to either list the hospitality on the Register of Interests or to complete a Statutory Declaration that my Register was correct. It referred me to Section 296 (3) and (4). Current as at 2 December 2016

Section 296 (3) and (4) read as follows.

(3) The informed person must, within 30 days of being informed, establish whether the register of interests should be amended to make it a true record of fact.

(4) If the informed person establishes that the register of interests does not need to be amended, the person must—

- (a) complete a statutory declaration stating that the particulars in the register of interests are a true record of fact; and**
- (b) give the statutory declaration to—**
 - (i) if the informed person is the chief executive officer—the mayor; or**
 - (ii) otherwise—the chief executive officer.**

At this stage the CEO sought legal advice^{vi}. The advice from King and Company was absolutely crystal clear that the solar farm inspection did not need to be listed on the Register of Interests. We later released this advice to the OIA.

The matter of integrity and being upfront on this was at all times a high priority for me. On the 26th May 2018, before the letter from DLGRMA had been written, I had specifically asked the CEO to provide written advice on any conflict that may have been created^{vii}. His considered advice came after he consulted with three other senior officers withing the RRC including our inhouse Integrity Officer.^{viii}

I repeat I had already entered the hospitality on the register of official hospitality. I signed a Statutory Declaration in full compliance with the Regulation Section 296 (4). I also wrote to the Department giving details of the day and explaining that the solar farm visit was simply official business.

And then there was this email received from [REDACTED] (Manager Governance – DLGRMA) 26 July 2018.

Hi [REDACTED]

As discussed, I have made some enquiries on the issues you raised and can provide the following advice,

Where the Mayor or a Councillor attends an event as part of their role with Council, that attendance and any hospitality received is not required to be recorded in the Mayor or Councillor's Register of Interest under item 17 of Schedule 5 of the Local Government Regulation 2012.

Where an invitation to an event comes to the Mayor or a Councillor through their Council office or email etc, the Mayor or Councillor is expected to attend as part of their role with Council.^{ix}

This email was written by a very senior DLGRMA officer as intentional and considered advice.

In summary,

- The solar farm visit was official hospitality. (this has not been disputed at any stage)
- The Regulation very clearly excluded official hospitality being listed on the ROI under Section 13,
- I had strong and definitive legal advice from King and Company who are expert Local Government Lawyers to say that the solar farm visit was not required to be listed,
- and an email from the DLGRMA Manager of Governance giving advice in clear and concise language that official hospitality does not get listed under 17 of Schedule 5,

I thought that was the end of the matter.

The Office of the Independent Assessor Part One

Immediately the OIA were created the CCC lodged another complaint about me directly to the OIA.

The OIA response was to send a letter that effectively required me to plead guilty to misconduct because I had failed to list the 'hospitality'.

This letter simply made no sense to me.

The letter that was sent by the OIA referred to events that had taken place on the first day of the trade mission, specifically mentioning the visit to Mundra Port. It gave me two options : either list the hospitality (ie admit misconduct) and I would be referred straight to the CCT, or otherwise there would be an investigation. This letter is missing from the OIA summary of events.

Excerpt from letter.

On 17 December 2018, the office of the independent assessor (OIA) received from the Crime and Corruption Commission a referral of a complaint about your conduct as a Councillor of the Rockhampton Regional Council.

It is alleged you:

Failed to update your register of interest in an appropriate time frame, specifically in regard to a trade mission to India in March 2017 which included a tour of Adani facilities at Mundra followed by a dinner with the Adani board in Mumbai.

Having considered the information provided I reasonably suspect the complaint, if proven, involves suspected misconduct on the basis that pursuant to section 170 1B (2) of the Local Government Act 2009 (Act) you are required to inform the chief executive officer, in the approved form, of the particulars of the interest, or the change of the interest within 30 days after it had arisen.

I have decided to investigate the matter and this investigation has been assigned to senior investigator Peter Hills.

This matter may now proceed in one of two ways:

- ***It may be that having been advised of the above allegation you believe that the allegation is correct and that you wish to have this matter dealt with by the Councillor Conduct Tribunal (CCT) as soon as possible.***

....

To proceed with this option your cooperation must be genuine.

Alternatively

- *To it may be that you dispute the above allegation. In this case the OIA will fully investigate this matter to determine the appropriate course of action to finalise this matter...^{xxi}*

I clearly did not believe I had engaged in misconduct.

Given the clear advice from all parties, including the email from Manager of Governance of the DLGRMA, and that I had completed the required Statutory Declaration already, it seemed that perhaps the OIA were questioning expenses that were incurred on the 17th March.

Tim Fynes-Clinton wrote a detailed letter to the OIA explaining that the only expense paid for by Adani on the first day of the trade mission (the 17th March, the day we visited Mundra Port) was the Board dinner late that evening.

This dinner had been arranged by Premier's Department and it was clearly official hospitality. He explained that we believed that the events of the second day of the trade mission (the solar farm visit) had already been dealt with under the old Legislation after the 6th June 2018 letter from the DLGRMA.

He made it clear that we understood that that the OIA letter was only referring to the first day of the trade mission itinerary which had been almost entirely funded by Council. We made it clear that Adani had not paid for the day's activities.

Excerpt from the letter by King and Company on 19 March 2019^{xii}

Allegation

The allegation is that Councillor Strelow failed to update her register of interests in regard to a trade mission to India in March 2017 which included a tour of adani facilities at Mundra followed by a dinner with the Adani board in Mumbai. Specifically, we understand that the complaint concerns a failure to record particulars in relation to the dinner hosted by the Adani board on 17th of March 2017.

For clarity, our clients understanding is that this allegation does not relate to any activities that occurred on 18th of March 2017. In this regard, a previous complaint (under the legislative regime that existed prior to 3rd December 2018), our client failing to update her register of interests in relation to activities that occurred on 18th of March 2017, was determined to be lacking in substance.

The letter went on to make it clear in paragraph 7 that

'whilst that particular dinner was paid for by adani, we are instructed that no other costs in relation to the events of 17th of March 2017 were paid for by adani. All other costs for that day were paid for by the Rockhampton regional council or by our client personally.

It should be noted that none of the mayors have ever entered the Board Dinner on their Registers of Interest.

We attached copies of the Premier's Department official itinerary for absolute clarity.

We didn't get a response back, so once again I thought that that was the end of the matter.

Office of the Independent Assessor Part Two

On the 7 May 2019 a letter from the Office of the Independent Assessor advised that the register of interest does not contain particulars that should be included.

After a referral of the matter from the Crime and Corruption Commission, it has been assessed that hospitality received from Adani during the trade mission should be added to the register under item 17 schedule 5 as it is an interest that could be perceived to affect Mayor Strelow's duty to act in the public interest under the Local Government Act 2009 when considering Council decisions that relate to Adani.

I write pursuant to section 296 of the Local Government Regulation 2012, to advise that I suspect on reasonable grounds that the register of interests of Mayor Strelow does not contain particulars that should be in the register namely:

- *Hospitality received from Adani during the trade mission to India in March 2017.*

I request that you take action pursuant to Section 296 (2) and ensure Mayor Strelow complies with section 296 (3) or (4) to ensure that the register of interests in question is a true record of fact.

The OIA had formed a view. That view was in direct conflict with the written views of the Manager of Governance, DLGRMA, and with arguably Queensland's most experienced Local Government Lawyers.

In response Evan Pardon – CEO asked whether the OIA was specifically referring to the Board dinner.^{xiii}

The response from the OIA was to quote directly from my entry in my Register of Official Hospitality for activities on the 18th March.^{xiv}

In this letter the OIA acknowledge that the hospitality was indeed received in my official capacity and so does not fit under Section 13 Hospitality, but the letter clarified the OIA opinion that whatever happened on the 18th March 2017 should be entered under section 17 as an interest '**(b) that raises, appears to raise, or could raise, a conflict between the relevant person's duty under the Act and the holder of the interest**'.

I completed a Statutory Declaration that my register was correct, confident that I had had good advice in the first instance.

To enter the hospitality on the register of interests at this point would still have meant an admission of misconduct and being sent the CCT. And it remains my genuine belief that the solar farm visit (which took place on the 18th March and was the only part of the trade mission paid for by adani) was simply official business. And I simply could not accept that a reasonable person, apprised of all facts, would perceive that the solar farm visit was different to any other official hospitality and thus may have affected my duty to act in the public interest.

The Referral

When on 29 August 2019 I received the letter from Kathleen Florian advising me that she was considering making an application to the Councillor Conduct Tribunal and provided me with an official notice and opportunity to respond.

The referral listed my years of experience (*which they miscalculated by 8 years*) and made the point that my 'failure' had 'resulted in a diversion of resources' by making them 'fully investigate'.

The draft Statement of Facts which was attached to Ms Florian's letter once again specifically referred to the activities from the first day (which had not been paid for by Adani) however they were now incorrectly listed as having taken place on the 18th March ^{xv}

The Draft Statement of Facts confirmed my suspicion that the OIA had no idea at all about the hospitality. They were making a judgement that it was somehow different to any other official hospitality without considering the hospitality and the circumstances surrounding it.

In paragraph number 12 she says

'On 17 December 2018 the OIA received a complaint from the crime and corruption commission.

The complaint alleged that Councillor Strelow had failed to update her register of interest in appropriate time frame with details of a hospitality received on 18th of March 2017 during a trade mission to India. The hospitality in the amount of \$1169.93 included flights to Mundra, a tour of Adani facilities followed by dinner with the Adani board in Mumbai.'

Paragraph 14 states

'On 18 March 2017, as part of the trade mission, seven remaining Mayors, including Councillor Strelow, flew to Mundra and had a dinner with the Adani Board in Mumbai. The six Mayors, except Councillor Strelow, recorded the hospitality in their registers of interests.'

- These items listed in Ms Florian's Draft Statement of Fact are all items from the 17th March. Adani had not paid for these airfares at any stage.
- The letter of the 7th May from the OIA had been very specific in its statement that they were interested in the activities of the 18th March.
- On the 18th March I was seated on an adani owned plane when we went to visit their solar farm. That flight was to Madurai.
- *At this point I must point out that only one Mayor recorded any hospitality at all in the registers of interest in the first instance. It simply didn't occur to the rest of us that this was any different to normal official hospitality at the time. It was only after follow up that the other Mayors ended up entering the solar farm visit on their ROI. None of them listed under Section 17.*

Paragraph 17 of the draft 'statement of facts' then paraphrases and misquotes King and Company's letter of 19th March 2019. Where King and company's letter clearly refers to events of the 17th of March, the Draft Statement of Facts substitutes the 18th March so as to try to make things 'fit'.

Paragraph 20 (b) refers again to the events of the 17th March 2017 but claims they took place on the date which is the subject of the complaint, 18th March 2017.

In paragraph 20 line (f) the correspondence then misquoted the Department of Local Government's letter of eighth of June 2018. This is in my opinion the most damaging and insidious mistruth in the document.

Where the original DLGRMA letter reads as follows...

I am writing to advise you that the Department of Local Government, Racing and Multicultural Affairs (the Department) has been made aware that Councillor Margaret Strelow, Mayor, Rockhampton Regional Council may have failed to make full disclosures on her register of interests (ROI).

In accordance with section 296 (1) of the Local Government Regulation (the Regulation), I am notifying you that, having considered the material available, it is suspected that Councillor Strelow's ROI **may not contain particulars** that should be in her register under section 17 of schedule 5, specifically:

- ***hospitality received from Adani during the trade mission to India in March 2017.***

Section 296 (2) of the Regulation requires you to immediately inform Councillor Strelow of these concerns. Once informed Councillor Strelow must comply with subsections (3) and/or (4), as relevant.

I would appreciate your advice when Councillor Strelow has complied with the Regulation....^{xvi}

This letter was misquoted in Paragraph 20 (e) of the OIA 'statement of facts' as saying that my register of interest '**did not** **contain particulars** that should be listed'...

This spurious purported "Statement of Facts", which was never agreed, was relied upon by the CCT in making its determination.

This misquoting of the earlier DLGRMA correspondence was repeated by the CCT even though they had the original document in front of them. They simply took the OIA at its word.

The misquoted letter was a determining factor in the CCT decision. Their point being that I had been plainly told.

Refer paragraphs 12, 60, and 105 and 114 (c) and 122 in attached full Reasons for Decision Document.^{xvii}

Paragraph 12 from CCT Statement of Reasons

ON 8 June 2018 the DLGRMA sent correspondence to the CEO of the RRC advising that the Register of Interests, specifically Schedule 5 section 17, of the Respondent, did not contain particulars of the benefit provided by Adani to the Respondent during

the Trade Mission to India (hospitality interest). The CEO was required to take action to remedy this error.

Paragraph 60 of the CCT Statement of Reasons

Says that the letter from DLGRMA had clarified that the item needed to be listed

Paragraph 105 of the CCT Statement of Reasons

Did not include in my ROI even when prompted by DLGRMA and OIA

Paragraph 114 (c) of the CCT Statement of Reasons

The applicant was requested on two occasions to update her register of interests

Paragraph 122 of the CCT Statement of Reasons

Although Councillor Strelow obtained legal advice at an early stage of the proceedings, and despite a contrary interpretation view being provided to the Councillor by the Independent Assessor and the Legal and Complaints Manager of the DLGRMA the Councillor did not update the ROI.

It should be noted that the statement of facts used by the CCT creates an impression that I could have avoided being referred for misconduct by simply entering the item in my register of interest. This is not a truthful representation of their correspondence to me.

As I've set out the OIA were in a constant state of confusion about dates and places.

And please understand me – I was not being contrary for the sake of it.

I believe that it is impossible to present the solar farm visit on the 18th March as the kind of hospitality that might then 'raise or appear to raise a conflict-of-interest between my duty under the act to make decisions in the public interest and my personal interest in having received the hospitality' as alleged by the OIA.

It was just a long hot day driving up and down looking at solar panels.

In the context where I had paid for the bulk of the costs of the international visit myself including the international airfares and some of the accommodation and where Council had met all other expenses bar the solar farm inspection – I cannot see how any ordinary and reasonable person 'apprised of all of the facts' as required under legal interpretation could have come to a conclusion that the solar farm inspection had created a hold over me and needed to be listed as a conflict of interest.

It may (?) be easier to make the argument for the 17th March where we went to Mundra port and then flew back to Mumbai to have dinner with the Board.

Certainly the CCT focuses in on the OIA version of events: an imaginary flight back to Mumbai and an imaginary Board Dinner on the 18th March paid for by Adani as the 'hospitality' that was the subject of the complaint.

Paragraphs

8. Following the conclusion of the Trade Mission discussions with the Premier and Adani the Respondent along with six other Mayors at the invitation of Adani, flew to Mumbai to have dinner with the Adani Board. These airfares and other transport and the dinner were paid for by Adani. The six Mayors that the attended with the Respondent recorded the hospitality benefit provided by Adani in their Register of Interest.

9. The Respondent declined to record the interest in her ROI.^{xviii}

Please forgive me if I labour the point – but I must repeat the above Paragraph highlighting the mistruths.

8. Following the conclusion of the Trade Mission discussions (Actually the Board Dinner on the 17th March It was THE key part of the Trade Mission) with the Premier and Adani the Respondent along with six other Mayors at the invitation of Adani, flew to Mumbai to have dinner with the Adani Board. (The only Board Dinner that I attended was organised directly between Adani and Premier's Department to the best of my knowledge, certainly not directly with the Mayors. The Board dinner on the 17th was organised for us by Premier's Department and the events on the ground were micromanaged by Trade personnel on the ground at Mumbai. The Premier was still with us and in fact the Board Dinner was the absolute core of the discussions with Adani. The Dinner was preceded by business meeting with the Board in an adjoining room. This meeting was the pointy end of the trip.) These airfares and other transport and the dinner were paid for by Adani. (These fares were never paid for by Adani. The Dinner was paid by Adani, nothing else on the day) The six Mayors that the attended with the Respondent recorded the hospitality benefit provided by Adani in their Register of Interest. (None of the Mayors have ever recorded the Board Dinner on the 17th March in their ROI. There was no Board Dinner on the 18th March, the subject date for the complaint. Adani never flew us to Mumbai)

The CCT Decision Notice references the OIA's 'statement of facts' as its source.

I explained to the OIA many times – Adani did not pay for the expenses on the day of the Board Dinner. Not at any stage. Other than the Dinner itself.

It should be noted that in the very last letter from the OIA (20/09/2019) just prior to the referral to CCT - to add insult to injury – Ms Florian acknowledged that there had been 'factual inaccuracies' without confessing that they had been on the part of OIA and finished her letter by saying

Factual Inaccuracies

For the purpose of this letter and for further clarity we advise that the reference to hospitality relates to the hospitality received on 18th of March 2017 as follows'

And then she begins her list with '

- i. *Flight to Mumbai;*

Adani had never paid for a flight to Mumbai and there was no flight to Mumbai on the 18th March.

It will come as no surprise that the CCT Decision document is loaded with inaccuracies and misquotes.

A few of these are the creation of the CCT.

For instance they misquoted the date of the Council meeting that authorised my travel so that it becomes a retrospective approval. (The date was incorrectly shown as the 17th March when the minutes but written submissions clearly show that it was the 7th March) and in another place they added the word 'not' into a sentence that is purportedly a quote from my submission. The addition of the word 'not' reverses the meaning of the sentence.

The OIA had been at best clumsy and obtuse, and CCT had chosen to use a source document (Statement of Facts) presented to it by the OIA even though the CCT acknowledged that I disputed the 'facts' in the document. There is more that I could say about the deficiencies in the CCT Decision Notice, but most of the errors can be laid at the feet of the OIA.

The timing of releasing the decision notice from the CCT – which was just over four months from when they actually made the decision was poor. The decision was made on 2nd July but not conveyed to me until just over a week after the state election in late October. I am aware that the timing may have been influenced^{xix} by the oversight of the CCC.

It was sent to my email inbox on the afternoon of Monday, 9 November with a requirement that I stand and apologise at the next Council meeting which was scheduled for 9am the next morning. I did not.

Please allow me to make some general statements about the OIA and about the Legislation and Regulations that govern it.

- I am incredibly concerned for democracy generally that we have a piece of legislation that allows an entity to require a forced confession.

We should never have a piece of legislation that requires someone to say something that they do not believe to be true.

Our community is cynical enough about their elected members – we don't need to be adding to that cynicism by what amounts to government enforced lying.

It's a different matter if someone has acknowledged they did the wrong thing – and an apology may well be in an agreed part of the process.

I don't know if I would have paid a fine, stayed in office and appealed the Decision from Office. I may have.

But I was not going to stand up and say something that I knew was not true.

- I am also concerned for the other penalty - which was that I undertake retraining at my own expense.

Undertones of Siberia! Once again it's not the money- it's the uneasy feeling that something is just not right. I am not sure how the OIA (who recommended the 'punishment' intended it to play out.

- Natural justice – the OIA were aware that they had the basic of facts wrong but still kept going with their mission. Surely any fair process would require that they 'stop the clock' and sort themselves out?

- When is a complaint finished?

The old legislation -and even the new- provides for the Councillor to consider a complaint and then either enter the matter complained about or complete a Statutory Declaration. Councillors need to know when that process is finished.

Can the same thing be raised over and over until you eventually list something no matter what the merits of the case? It may be different if we were discussing something physical and obvious, like undeclared assets. But that is not what this case was about. It was about an opinion. The OIA said that it took a very broad view. As I have shown, I had the opinion of my CEO, and of Senior Local Government Lawyers and of the DLGRMA itself that the matter did not need to be listed.

- Who can determine that an item should be listed under Section 17?

In my view it was open to CCT to determine that the item should have been listed under Section 17 – but I do not believe that it was open to them to determine that I had engaged in misconduct based on the genuine facts of the matter. But of course they relied on the OIA document.

And we need to be clear about who can determine that something which is subjective should go on your register. Especially given the OIA are happy to use this Section to charge Councillors with misconduct.

I would argue that only CCT or perhaps the Department under the old legislation? But certainly not the OIA. They can form a view, but not be the determining party.

- The investigation.

I'm also disappointed at what apparently passed for an investigation on the part of the OIA. We tried our best to convey the nature of the solar farm visit. But I was never asked. I had photos and material to show that this was not a day for leisure.

I would've expected the OIA to undertake a more thorough investigation than what appears to have been a simple gathering of proofs that I had undertaken training. They wrote to both Council and the Department to get copies of training and of my ROI.

That appears to be the sum total of the investigation.

And they used the fact that they had to investigate as an aggravating factor when presenting their version of events to the CCT.

There needed to be some recognition that that section 17 the anything else category is subjective.

It was treated as if the need to list the solar farm inspection was an objective unarguable position. In fact the statement generated by the OIA after I resigned created this impression.

Six of the seven mayors who visited the solar farm did not believe that it needed to be put on our registers of interest until prompted by the Department, and most of those mayors were well experienced.

I still believe that the OIA never came to grips with the exact nature of the hospitality.

- Section 17 and the OIA's 'broad view'.

As OIA proved – I have undertaken considerable training by the Department in the completion of registers of interest.

I also have five university qualifications of one kind or another (a Diploma, a Graduate Diploma, two Degrees and a Masters) and nearly 20 years' experience with an unblemished record in local government.

It didn't occur to me that the hospitality in question should have gone on a register of interest.

For councillors to be able to do the right thing – it needs to be clear.

For something in the subjective section 17 category then the department or the CCT need to be willing to explore the matter with the Councillor – not adopt a rigid position.

There needs to be far more respect for the integrity of the vast majority of local government Councillors.

I suspect that whatever [REDACTED] did was already illegal before the OIA was created.

No one is suggesting that Local Government should to be a free for all but the OIA have created an environment where Councillors are unable to predict how any action will be interpreted by them. And any kind of resistance to the OIA's view of life is fraught and expensive!

Post script

Sorry, but I really must comment on the submission made by the OIA to this Inquiry and in particular comments in relation to my matter. I have attached all relevant documents to allow the Committee to check the veracity of my statements.

Rockhampton former Mayor

The OIA can brief the committee in-camera on further details that are not part of the public record.

1. On 19 January 2018, the Local Government Department received a complaint. (Actually, my understanding is that this matter arose from an external review, (CCC?), not a public complaint. See Document 11) It alleged that a councillor failed to update their publicly available register of interests to record hospitality received from Adani Enterprises on 18 March 2017, during a trade mission to India.
2. On 8 June 2018, the Department wrote to the Council's CEO requesting that the councillor update their register of interests to include the hospitality from Adani. This is a naughty misrepresentation of the letter. See the attached original letter and my submission on this point. (See Document 2)
3. The councillor declined the request as they did not believe, based on legal advice, that they needed to record Adani hospitality on their register of interests. See my discussion about Section 13 vs 17 and of particular note the email 26th July 2018 received from DLGRMA Manager of Governance that gives clear advice that official hospitality does not go on the ROI. This has been overlooked in this summary of events by the OIA. (See Document 5)
4. On 5 July 2018, the councillor provided a statutory declaration that their publicly available register of interests was true and correct and did not need to be amended.
5. The matter was transferred from the Department and the CCC to the OIA on 17 December 2018, (i.e., two weeks after the OIA commenced).#
6. On 7 May 2019, the OIA wrote to the Council's CEO explaining why it was considered that the hospitality should be on the councillor's register of interests and providing the councillor with a second opportunity to update their register of interests. #This summary completely omits the first letter sent to me by the OIA (7th January 2019 attached). This first letter made it clear that my only option was to admit misconduct immediately and be referred to the CCT or the OIA would investigate. (See Document 4)
7. On 5 June 2019, the councillor provided a statutory declaration that their publicly available register of interests was a true record of fact but did not include the Adani hospitality.
8. Under section 171B of the Act (that applied at the time) a failure to provide or update a register of interest was an offence.
9. However, the OIA assessed it as alleged misconduct only (an alleged breach of trust).
10. On 22 November 2019, the IA referred the matter to the independent Councillor Conduct Tribunal to decide whether the councillor had engaged in misconduct.
11. On 2 July 2020, the Tribunal found that the councillor had failed to correct their publicly available register of interests. The councillor was ordered to make a public apology, update their register of interests within 21 days and undertake training at their own expense.
12. The councillor is reviewing the Tribunal's decision to QCAT.

- ⁱ Local Government Regulation current as at 2 December 2016 Schedule 5 Section 13
- ⁱⁱ As above
- ⁱⁱⁱ King and Company to Evan Pardon 3 July 2018 (Document 1) attached.
- ^{iv} Local Government Regulation current as at 2 December 2016 Schedule 5 Section 13
- ^v DLGRMA 8th June 2018 correspondence from [REDACTED] to Evan Pardon (Document 2)
- ^{vi} King and Company 3 July 2018 as above
- ^{vii} Email between Strelow and Pardon 25th May 2018. (Document 3)
- ^{viii} As above
- ^{ix} Email to [REDACTED] from [REDACTED] ll Manager, Governance DLGRMA dated 26th July 2018(Document 5)

- ^{xi} Correspondence from OIA 7th January 2019 (Document 4)
- ^{xii} King and Company 19th March 2019 (Document 6)
- ^{xiii} Evan Pardon to Kathleen Florian 9 May 2019 (Document 7)
- ^{xiv} OIA to Evan Pardon 15 May 2019 (Document 8)
- ^{xv} Notice and Opportunity to Respond 29th August 2019 (Document 9)
- ^{xvi} DLGRMA 8th June 2018 correspondence from Elizabeth Kenny to Evan Pardon already quoted.
- ^{xvii} Councillor Conduct Tribunal Decision and Reasons F19/9552 (Document 10)
- ^{xviii} Ibid. paragraphs 8 and 9.
- ^{xix} Matters Assessed report. 21 September 2018 (Document 11)