

1 April 2022

The Honourable Tony Fitzgerald AC QQ
Chairperson and Commissioner

The Honourable Alan Wilson QC
Commissioner

Via email: submissions@cccinqury.qld.gov.au

Dear Commissioners

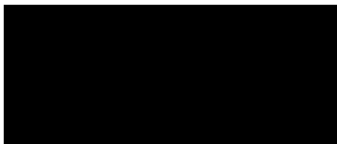
Commission of Inquiry into specific matters relating to the Crime and Corruption Commission

Thank you for the opportunity for the Queensland Human Rights Commission to make a submission to the Commission of Inquiry. This submission responds primarily to terms of reference 3(b) concerning the adequacy and appropriateness of legislation, procedures, practices and process relating to the charging and prosecution of criminal offences for serious crime and corruption in the context of CCC investigations. In relation to this term of reference, I particularly wish to comment on:

- The application of the *Human Rights Act 2019 (HR Act)*
- Strengthening the CCC's criminal justice research function
- Narrowing the scope of corrupt conduct
- The secondment of serving QPS officers and implications for CCC organisational culture

The QHRC's submission is attached.

Yours sincerely



Scott McDougall
Queensland Human Rights Commissioner

STATEWIDE

tollfree
1300 130 670
info@qhrc.qld.gov.au
qhrc.qld.gov.au
fax 07 3193 9979

Brisbane

Level 20
53 Albert Street
Brisbane Q 4000
PO Box 15565
City East Q 4002

Cairns

Ground Floor
10 Grove Street
PO Box 4699
Cairns Q 4870

Townsville

Ground Floor
187-209 Stanley Street
PO Box 1566
Townsville Q 4810

Rockhampton

Level 1
209 Bolsover Street
PO Box 1390
Rockhampton Q 4700



Queensland
Human Rights
Commission

Inquiry into specific matters relating to the Crime and Corruption Commission

Submission to Commission of Inquiry

1 April 2022

Introduction

1. Thank you for the opportunity to make submissions to this Commission of Inquiry.
2. The Queensland Human Rights Commission (QHRC) is a statutory authority established under the Queensland *Anti-Discrimination Act 1991* (**AD Act**).
3. The QHRC has functions under the AD Act and the *Human Rights Act 2019* (**HR Act**) to promote an understanding and public discussion of human rights in Queensland, and to provide information and education about human rights. It includes rights drawn from the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*.
4. The QHRC also deals with complaints of discrimination, vilification and other objectionable conduct under the AD Act, reprisal under the *Public Interest Disclosure Act 2009*, and human rights complaints under the HR Act.
5. This submission is made primarily in response to terms of reference 3(b), and discusses:
 - The application of the HR Act to the Crime and Corruption Commission (**CCC**)
 - Strengthening the CCC's criminal justice research function
 - Narrowing the scope of corrupt conduct
 - The secondment of serving QPS officers and implications for CCC organisational culture.

Application of the *Human Rights Act 2019*

6. Term of reference 3(b)(iii) refers to the extraordinary nature of the CCC's powers and functions under the *Crime and Corruption Act 2001* (**CC Act**). It is relevant to this term of reference to outline how the HR Act may apply to the functions of the CCC.
7. Subject to an override declaration by parliament at the time a bill is passed,¹ section 48(1) HR Act applies to all statutory provisions, whenever enacted. It requires:
 - consistency of interpretation with the statutory provision's intended meaning; and

¹ HR Act s 43.

- an interpretation which is compatible with human rights.
8. An act or decision will be ‘compatible with human rights’ if it (s 8 HR Act):
 - (a) Does not limit a human right; or
 - (b) Limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13.
 9. Section 13(1) HR Act provides the overarching test for assessing if a human right may be limited: any such limitation may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. Section 13(2) then provides a list of non-exhaustive factors to be considered:
 - (a) the nature of the human right;
 - (b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom;
 - (c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose;
 - (d) whether there are any less restrictive and reasonably available ways to achieve the purpose;
 - (e) the importance of the purpose of the limitation;
 - (f) the importance of preserving the human right, taking into account the nature and extent of the limitation on the human right;
 - (g) the balance between the matters mentioned in paragraphs (e) and (f).
 10. Further, as a public entity under the HR Act, section 58 requires the CCC to act and make decisions compatibly with human rights, and given proper consideration to human rights when making decisions.²
 11. The factors in s 13(2) ‘generally align’ with the principle of proportionality observed in other jurisdictions.³ A ‘pressing and substantial’ public or social concern is more likely to be capable of justifying a limit placed upon human

² Section 58(1)(a) makes unlawful an act or decision made in a way that is not compatible with human rights. Section 58(1)(b) requires, as a condition of lawfulness, that “proper consideration” be given to a human right relevant to the decision. Both limbs must be satisfied.

³ *Kracke v Mental Health Review Board* (2009) 29 VAR 1 at [133]-[134], *Re Lifestyle Communities Ltd* (No 3) [2009] VCAT 1869 at [322]-[334].

actrights. The more important the right, and the greater the incursion, the more important the purpose will need to be.⁴

12. In so providing, the HR Act recognises that human rights are not absolute; they may be subject to reasonable limits which are justified in a free and democratic society. This may occur in the context of competing rights and interests held by others or countervailing matters of public policy, where these are of significance.
13. Limitation provisions in very similar terms to s 13 are contained in s 7(2) of the *Charter of Human Rights and Responsibilities Act 2006* (VIC) and s 28 of the *Human Rights Act 2004* (ACT). These, in turn, drew upon similar human rights legislation in Canada, New Zealand and the *Constitution of the Republic of South Africa*.
14. Therefore, the HR Act is likely to be relevant to how a court will interpret the CCC's powers and functions under the CC Act, and how those powers and functions are discharged by the CCC. The duty in section 58(1)(a) of the HR Act is to be assessed by:
 - (a) Establishing that a public entity has acted or made a decision;
 - (b) That action or decision limits one or more human rights (a prima facie incompatibility) (see section 8(a)); and
 - (c) Whether the limit upon the human right is only to the extent that is reasonable and demonstrably justifiable (section 8(b) and 13).

Recent Application of the HR Act to the CCC

15. The Queensland Supreme Court recently considered the application of the HR Act to a decision of the presiding officer at a Crime and Corruption Commission hearing.⁵ The presiding officer required a person to answer the question "what is your knowledge of the involvement [names of alleged co-offenders] in the trafficking of dangerous drugs". The applicant and the applicant's partner were charged in relation to several offences. The applicant claimed a reasonable excuse not to answer the question, because the question 'touched' on the charges against the applicant, and may impact on the applicant receiving a fair trial. The presiding officer decided that this did not demonstrate that the applicant had a reasonable excuse not to answer, pursuant to section 194 of the CC Act. The applicant appealed this decision.

⁴ Explanatory Notes, Human Rights Bill 2018, 16-18.

⁵ *SQH v Scott* [2022] QSC 16.

16. The court found that while the applicant's right to fair trial (s 31) and right against self-incrimination (s 32(2)(k)) were engaged by the presiding officer's decision, the limit was justified. This included because of the protections in place under the legislative scheme such as direct use immunity and confidentiality in response of the identity of the witness and any evidence given. A further protective order required limited disclosure of the evidence to prevent it from being given to the prosecution.

Recommendation that HR Act not apply

17. The Supreme Court's decision is relevant to a recommendation made by the Parliamentary Crime and Corruption Committee (PCCC) last year:

The committee recommends that the Crime and Corruption Commission engage with the Department of Justice and Attorney-General if issues regarding application of the *Human Rights Act 2019* arise, to ensure the Crime and Corruption Commission's powers are not inadvertently undermined.⁶

18. The Committee indicated some concern that the CCC 'possess many powers which, although expressly granted by parliament, may potentially conflict with elements of the HRA'. Further that:

This is of serious concern to the committee owing to the potential for the HRA, and legal implications flowing from incompatibility with the HRA, to impede the vital work undertaken by the CCC in protecting the community from major crime and corruption.⁷

19. The PCCC further suggested that the Queensland Government consider amendments to the CC Act to ensure its powers are not 'weakened' by judicial decisions.
20. The QHRC submits that the HR Act does not inadvertently undermine the CCC's powers. As set out in s 13 of the HR Act, a public entity may *only* limit a human right when that limit is both lawful (for example provided in legislation) *and* proportionate. The fact parliament has provided the CCC with powers that may limit human rights does not necessarily mean the agency should be excused from its obligations under the HR Act. Nor should oversight by the courts be viewed as something to be avoided.
21. As demonstrated by the recent Supreme Court decision in *SQH v Scott*, albeit concerning different legislative powers in an entirely different context, the

⁶ Parliamentary Crime and Corruption Committee, Queensland Parliament, *Review of the Crime and Corruption Commission's activities*, Report no 106, 57th Parliament, June 2021.

⁷ *Ibid*, 139.

Human Rights Act is one of the few constraints on the extraordinary powers of the CCC. The Supreme Court nonetheless found that the CCC had acted compatibly with human rights in compelling a person charged with a criminal offence to answer a question.⁸

22. Arguably, the CCC is among the most important entities to be subject to human rights obligations in Queensland. Its powers and functions frequently limit human rights, often in circumstances of limited oversight. The Victorian Supreme Court considered the application of the *Charter of Human Rights and Responsibilities Act 2006* to a similar body more than ten years ago.⁹ The PCCC in Report No 108 observed, in the context of the CCC's interest in Ms Kelsey's Queensland Industrial Relations Commission proceeding:

The committee is acutely aware that the CCC is unlike any other non-party entity that may be in possession of information relevant to industrial or civil proceedings.... Confidence in the CCC and the granting of extraordinary power to the CCC depends on confidence that they exercise that consideration at all times and in all places.¹⁰

23. Further, and more generally regarding the matters before the PCCC:

The CCC – the modern incarnation of important anti-corruption bodies that have evolved over time but stem from the Fitzgerald inquiry – is entrusted with extraordinary powers. These extraordinary powers include the ability to obtain evidence under compulsion and questioning under penalty of imprisonment if witnesses do not answer questions at compulsory hearings. With these extraordinary powers comes enormous responsibility in how, if, or when, those powers should be utilised. This is crucial to ensure the CCC acts in accordance with the law – in particular the statute at the foundation of the CCC. It is a requirement to act on an objective basis, independently, impartially, fairly and in the public interest, at all times and in all matters.

At the heart of this inquiry is the endeavour to ensure on behalf of the people of Queensland that Queensland's preeminent crime and corruption body performs in a way that can rightly maintain public confidence in what is a crucial institution in a modern, open and transparent Queensland system of government.

....

⁸ Section 60 of the CC Act, also considered by the PCCC in Report No 108, was relevant to the proceedings in *SQH v Scott*, to the extent that the CCC informed the applicant that it may, pursuant to s 60(2), share information with other entities (at [51]).

⁹ *Re an Application Under the Major Crimes (Investigative Powers) Act 2004* (2009) 24 VR 415, [2009] VSC 381.

¹⁰ Parliamentary Crime and Corruption Committee, Queensland Parliament, *Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters*, Report no 108, 57th Parliament, December 2021, 75.

It is the committee's view that the matters exposed by this inquiry and the findings and recommendations of the committee, should see a more reflective, responsive and accountable CCC into the future. Queenslanders deserve such an outcome.¹¹

24. The objects of the HR Act include 'to help build a culture in the Queensland public sector that respects and promotes human rights'.¹² This is achieved primarily by 'requiring public entities to act and make decisions in a way compatible with human rights'.¹³
25. The QHRC suggests such an outcome is only possible if all public entities, particularly those with extraordinary powers such as the CCC, are held to the same obligations. The QHRC welcomes the CCC's commitment to respect and protect human rights in compliance with the HR Act, including recently reviewing its policies and procedures for compatibility.¹⁴ The QHRC suggests this is an example of the HR Act driving improvements to policy and practice.
26. The following discussion is informed by the QHRC's suggestions on how human rights standards can be further integrated into the CCC's work, thereby achieving many of the outcomes sought by the recommendations of the PCCC Report No 108.

Broad scope of CCC's powers

27. Recommendation 2 of the PCCC's Report No 108 was that:

The committee recommends that the Queensland Government review the broad scope of both the present section 60 and former sections 60 and 62 of the *Crime and Corruption Act 2001* to ensure an appropriate balance is reached between the Crime and Corruption Commission being able to utilise information in pursuance of its functions and the rights of other parties to not be detrimentally impacted by the dissemination of that information, in particular that obtained by use of the Crime and Corruption Commission's extraordinary powers.

28. As noted above, legislative provisions must be interpreted compatibly with human rights. The QHRC is not aware if a court has applied s 48 of the HR Act to present s 60 or former sections 60 and 62 of the CC Act. *SQH v Scott* was primarily concerned with the interpretation of s 194 of the CC Act.

¹¹ Ibid, 140.

¹² HR Act Section 3(b).

¹³ HR Act Section 4(b).

¹⁴ Crime and Corruption Commission (Queensland), *2019-20 Annual Report* (Report, 24 September 2020) 20, 61.

Nonetheless, the QHRC suggests the following passage from the PCCC's Report No 108 demonstrates how s 48 may be important to the interpretation of s 60:

The QLS queried whether section 60 authorised dissemination to a court or commission in proceedings that are not for the prosecution of an offence:

Section 60(2) is not exhaustive and "entity" is not defined in the Act, though we note in Schedule 1 of the Acts Interpretation Act 1954 the term can include "a person and an unincorporated body." The Explanatory Notes state that the provision allows the commission, where appropriate, to give information and evidence to other law enforcement agencies if it has evidence of an offence against a law of the State, the Commonwealth or another state. The commission may also give information to a unit of public administration with a proper interest in receiving the information. The explanatory material does not speak to giving information specifically to a court or commission or in respect of a legal matter that is not the prosecution of an offence.

Despite the breadth of its language, the committee questions whether section 60 should be more properly aimed at a court or similar tribunal in the capacity as a unit of public administration, that is, an entity in the public sector, and using public funds and with public sector employees, rather than in the capacity of a body hearing and making determinations in legal proceedings before it. Indeed, this would seem a more appropriate approach to take when taking into account the broad obligation of the CCC under section 57 of the CC Act, but that section in itself is also very broad and open to interpretation. To take a wider view opens the door to the CCC acting in a way that would unfairly impact parties to other proceedings, regardless of whether those actions relate back to a function of the CCC – and that is completely inappropriate for a body possessed of such wide-ranging powers. The dissemination provisions are subject only to the proviso that the CCC considers its actions 'appropriate', which, to state the obvious, does not provide any clear boundaries on the use of information held by the CCC.¹⁵

29. In the context of the HR Act, the PCCC's reference to the impact on other parties could include unreasonable limitations on these parties' right to fair trial (s 31), privacy (s 25) and specific rights in criminal proceedings (s 32). While these rights would likely be considered in applying s 48 of the HR Act to s 60, the QHRC supports amending s 60 to remove any ambiguity as to how it should be applied in the most human rights compatible way.

¹⁵ Parliamentary Crime and Corruption Committee, Queensland Parliament, *Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters*, Report no 108, 57th Parliament, December 2021, 89.

Narrowing the scope of corrupt conduct

30. In its June 2021 Review of the Crime and Corruption Commission's activities (Report No 106), the PCCC received submissions regarding the definition of 'corrupt conduct' in s 15 of the CC Act. The PCCC noted that this definition had been the subject of several amendments, most recently removing the 'benefit or detriment' requirement.¹⁶ The Queensland Law Society (QLS) raised concerns that the definition of corrupt conduct is 'extremely broad':

The QLS noted that the CCC's mandate is to combat and reduce the incidence of major crime and corruption in the public sector; however, in its view, the definition of corrupt conduct allows the CCC 'to investigate almost any grievance involving a public official'. The QLS was of the view that there should be no further broadening of the CCC's powers in the absence of a strong evidentiary basis.¹⁷

31. The CCC powers in relation to corrupt conduct, as defined, have the potential to limit human rights, particularly the right to privacy and reputation (s 25) in the HR Act.
32. The application of s 48 of the HR Act may result in a more human rights compatible interpretation of s 15 of the CC Act. Further, s 58 of the HR Act serves as an important obligation for the CCC to discharge in fulfilling its functions. Nonetheless, the QHRC suggests legislative amendments should be considered to s 15 to narrow the scope of corrupt conduct to ensure any limitation on rights is reasonable and proportionate. In applying the factors set out in s 13 of the HR Act to s 15, there is a question as to the purpose of the broad definition of corrupt conduct, and how such a broad definition achieves this purpose.

Strengthening the CCC's criminal justice research function

33. The PCCC Report No 108 considered the CCC's organisational culture in some detail. It referred also to the body being 'the modern incarnation of important anti-corruption bodies that have evolved over time but stem from the

¹⁶ Parliamentary Crime and Corruption Committee, Queensland Parliament, *Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters*, Report no 108, 57th Parliament, December 2021, 68.

¹⁷ *Ibid.*

Fitzgerald inquiry'¹⁸. In that context, it is relevant to note that Commissioner Fitzgerald's 1989 report recommended that a function of the recommended new Criminal Justice Commission should include a Research and Co-ordination Division. The Report stated:

The administration of criminal justice involves dealing with deep and peculiar problems which are not addressed by ad hoc fragmented responses to issues by individual agencies.

There is need for continual review of the suitability of criminal law, the exercise of investigative powers, and the effective use of resources. Research is required into the changing nature and incidence of crime, the roles and methods of various agencies and how their efforts are best co-ordinated.¹⁹

34. The proposed functions of this Division included:

- defining emerging trends in criminal activity;
- providing information to the Parliament, judicial, law enforcement and prosecution agencies in relation to criminal justice matters;
- coordination with other Government departments; and
- reviewing the effectiveness of programmes and methods and researching and recommending law reform.

35. Section 52 of the CC Act sets out the CCCs existing research functions:

(1) The commission has the following functions—

(a) to undertake research to support the proper performance of its functions;

(b) to undertake research into the incidence and prevention of criminal activity;

(c) to undertake research into any other matter relating to the administration of criminal justice or relating to corruption **referred to the commission by the Minister**;

(d) to undertake research into any other matter relevant to any of its functions.

(2) Without limiting *subsection (1) (a)*, the commission may undertake research into—

¹⁸ Parliamentary Crime and Corruption Committee, Queensland Parliament, *Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters*, Report no 108, 57th Parliament, December 2021, 140.

¹⁹ G E Fitzgerald QC, *Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct* (Report, 1989), 316.

- (a) police service methods of operations; and
 - (b) police powers and the use of police powers; and
 - (c) law enforcement by police; and
 - (d) the continuous improvement of the police service.
36. The QHRC is unsure to what extent the CCC has applied its resources toward these functions in recent years, but suggests research into the administration of the criminal justice system should be prioritised and not be subject to a referral by the Minister. The importance of such work is underscored by recent recommendations arising from reviews of the criminal justice system, such as the recommendation of the Queensland Productivity Commission in its *Inquiry into imprisonment and recidivism*. The QPC recommended that the government introduce a 'justice impact test' to make more informed policy decisions. This assessment would particularly examine the impacts on Indigenous communities in remote and regional areas.²⁰ That recommendation was informed by concerns about the overrepresentation of Aboriginal and Torres Strait Islander peoples in the criminal justice system.²¹
37. Already, a department developing legislation must arguably consider such analysis to discharge their obligation under the HR Act to give proper consideration to human rights. Ensuring government policy is evidence-based is also likely to support human rights compatible outcomes and assist in developing higher quality human rights statements of compatibility for the parliament.²²

The Secondment of serving QPS officers and implications for CCC culture

38. The PCCC's Report No. 108 noted that Counsel Assisting suggested that there was a degree of 'group think' or 'pack' culture amongst the police officers connected with Operation Front and suggested that:

The refreshment of members of such Operations by more regular rotations into and out of the CCC from the Police Service will serve to minimise this.

²⁰ Queensland Productivity Commission, *Inquiry into imprisonment and recidivism: final report* (August 2019), xviii.

²¹ In its response to the Inquiry, the government suggested it would consider this proposal as part of a new whole of system decision-making architecture for Queensland's criminal justice system.

²² As required under s 38 of the HR Act.

By limiting the duration and repetition of secondments by police officers to the CCC, such 'group think' might be avoided, the propriety of the investigative and charging roles maintained, and the occasion for their confusion or abuse reduced.²³

39. Counsel Assisting proposed the committee consider whether a limit should be placed on the duration and repetition of secondments by police officers to the CCC.²⁴ This is reflected in Terms of Reference 3(b)(ii) regarding the use and role of seconded police officers.
40. The CCC advised the PCCC that its current arrangement with the QPS 'has resulted in the shortest average secondment tenure in the history of the organisation: 2.56 years'. Further, that the relevant policy agreed between the CCC and QPS facilitates transition of non-specialist police after 3 to 5 years at the CCC back to the QPS. The CCC noted that specialist police (surveillance and witness protection officers) can have a tenure at the CCC for up to 8 years.²⁵ The CCC submitted that these rotations are much more limited than previous policies which applied prior to 2015 in which 62 officers seconded to the CCC were returned to the QPS after an average tenure of 9.13 years, and up to 20 years for some officers. The CCC further stated:

A further reduction in the tenure of seconded police at the Commission risks compromising operational effectiveness and efficiency. Many criminal and corruption investigations conducted by the Commission are long and complex. The replacement during an investigation of the investigating police officers because of a limit on the officer's tenure might impede the success of the investigation.²⁶

41. The PCCC determined that this was a matter relevant to the culture of the CCC, and that these submissions supported the committee's recommendation to enact cultural change at the CCC. Those recommendations included that:

Recommendation 4

The committee recommends that the Crime and Corruption Commission engage in reform of culture (including seeking external advice) to assist in creating a best practice organisational culture that aligns with the purpose, functions and goals of the Crime and Corruption Commission under the *Crime and Corruption Act 2001*, and to enhance public confidence in the organisation

²³ Parliamentary Crime and Corruption Committee, Queensland Parliament, *Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters*, Report no 108, 57th Parliament, December 2021, 143 (Counsel Assisting).

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

Recommendation 5

The committee recommends the Department of Justice and Attorney-General consider issues regarding the tenure of senior officers, and take into account the Crime and Corruption Commission's (CCC) adoption of the committee's position in relation to single, non-renewable appointments for the CCC Chairperson, Deputy Chairperson and Ordinary Commissioners, in conjunction with its consideration of relevant recommendations of the committee's Report No. 106, arising from the five year review, tabled on 30 June 2021

Recommendation 6

The committee recommends the Queensland Government instigate a review of the CCC's structure in regards to its investigatory and charging functions, and the role of seconded police officers at the CCC, as a Commission of Inquiry or similar, to be headed by senior counsel of sufficient standing to consider this structural basis of the CCC that has its roots in the Fitzgerald Inquiry.

42. This Commission of Inquiry is a response to recommendation 6.
43. These recommendations are supported by the United Nations *Handbook on police accountability, oversight and integrity*. That handbook notes that:
- Key elements of an effective police accountability system include legislation (in line with international human rights law) specifying the functions and powers of the police
 - Enhancing police accountability and integrity is primarily meant to establish, restore or enhance public trust and (re-)build the legitimacy that is a prerequisite for effective policing. This may be achieved through establishing a system of civilian oversight. Accepting external, civilian scrutiny is a hallmark of a democratic police force.
 - Internal and external police accountability mechanisms both have strengths and weaknesses. A weakness of external systems is that 'they are less likely to succeed in unravelling systematic police misconduct without the support of the police management. They often lack the necessary investigative skills, especially when having to operate within the context of insular police culture'.
 - An advantage of external mechanisms is that they should not be affected by 'police esprit de corps'.
 - Making police staff members of an external agency should generally be avoided.²⁷

²⁷ United Nations Office on Drugs and Crime, *Handbook on police accountability, oversight and integrity* (Criminal Justice Handbook Series, 2011), iv-v.

44. The QHRC agrees that these issues are relevant to the culture of the CCC and welcome the PCCC's recommendations. The breadth of the CCC's functions beyond police oversight demonstrates the need for the CCC to employ experienced law enforcement and investigation staff. The QHRC further appreciates the challenges set out in the CCC's response on this issue. Nonetheless, we suggest further consideration be given to seconding officers from outside Queensland, whether that is from interstate or overseas police forces.
45. That may address the concerns of the Counsel Assisting, without undermining the CCC's investigations.
46. Last year, the QHRC raised concerns about the CCC's Investigation Arista report,²⁸ which examined recruitment practices in the Queensland Police Service (QPS) between December 2015 and 2018, particularly the recruitment of female officers.²⁹ The Report did not consider how the equal opportunity measures exemption in s 105 of the *Anti-Discrimination Act 1991* (AD Act) may apply to the QPS Strategy to Enhance Female Recruiting in circumstances where the strategy's aim, to accelerate equality between men and women in the QPS, was demonstrably consistent with the objectives of the AD Act. In evidence to the PCCC, the Commissioner Parliamentary Crime and Corruption Commission, queried whether the issue warranted the level of resources devoted to Investigation Arista:

In terms of the Arista report and the issue of whether it was anti-discrimination, again, I am a bit uncomfortable about all these issues, particularly because I am not across all the information that was held. My first feeling was that I was a little surprised the CCC undertook an investigation into that issue when there are so many other significant issues that I thought could perhaps have their attention turned to. I do not know the full details. I would not have viewed it as major crime or major corruption if I had also been mindful of the anti-discrimination provisions that do allow you to discriminate on occasions. It may well be that the CCC considered all of those issues, but I am not across them.³⁰

²⁸ Queensland Human Rights Commission, Correspondence to the Parliamentary Crime and Corruption Committee, 20 July 2021 <<https://documents.parliament.qld.gov.au/com/PCCC-8AD2/generic/cor-20July2021.pdf>>.

²⁹ Crime and Corruption Commission (Queensland), *Investigation Arista: A report concerning an investigation into the Queensland Police Service's 50/50 gender equity recruitment strategy* (Report, May 2021).

³⁰ Evidence to Parliamentary Crime and Corruption Committee, Queensland Parliament, Brisbane, 28 May 2021, 4 (Karen Carmody).

47. This evidence seems to confirm the circumstances of the Investigation Arista report are relevant to the PCCC's recommendations regarding the culture of the CCC.

Conclusion

48. Thank you for the opportunity to make a submission to the Commission of Inquiry. The QHRC would be happy to further assist the Commission of Inquiry as required.