

**BY EMAIL**

The Honourable Tony Fitzgerald AC QC  
Chairperson and Commissioner  
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**BY EMAIL**

The Honourable Alan Wilson QC  
Commissioner  
[submissions@cccinqury.qld.gov.au](mailto:submissions@cccinqury.qld.gov.au)

1 April 2022

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Principal  
Paul Tully

Dear Chairperson and Commissioner

**RE: COMMISSION OF INQUIRY INTO SPECIFIC MATTERS RELATING TO THE  
CRIME AND CORRUPTION COMMISSION**

We act on behalf of Ms Cherie Dalley, Ms Trevina Schwarz, Mr Russell Lutton, Mr Phil Pidgeon, Mr Stephen Swenson, Mr Laurence Smith and Ms Jennifer Breene who were all former councillors of the Logan City Council (the **Former Councillors**).

The Former Councillors welcome the opportunity to make submissions to the Commission of Inquiry (**COI**) and supports the work of the COI.

**SUBMISSIONS ON BEHALF OF THE FORMER LOGAN CITY COUNCILLORS**

**1. INTRODUCTION**



The Former Councillors adopt the PCCC Submissions, so far as they are relevant to the COI, noting the previous submissions were comprehensive and focused on matters relevant to the COI, in that they:

- (a) outline the inadequate structure of the CCC in relation to the secondment of police officers to the CCC;
- (b) provide recommendations for legislative amendment relating to the processes and procedures to the charging and prosecution of criminal offences for serious crime and corruption in the context of CCC Investigations; and
- (c) provide recommendations for legislative amendment in respect of s 49 of the *Crime and Corruption Act 2001* (Qld) (the **CC Act**).

Notwithstanding this, to focus on the COI Terms of Reference, we provide the below submission, consolidating our views, in so far as they emphasise the need for legislative reform.

The Former Councillors strongly advocate for amendments to the *CC Act* to avoid recurrence of such events.

The Former Councillors are grateful for the opportunity to make submissions to the COI at this juncture and are willing to be available to provide further information or evidence as required by the Commission.

The Former Councillors in addition, may at their own volition, be making personal submissions to the COI.

## **2. POLICE OFFICERS SECONDED TO THE CCC**

You will note the background is set out in the PCCC Submissions and further evidence from the Report No. 108, 57th Parliament Parliamentary Crime and Corruption Committee December 2021 Report (**PCCC Report**) in respect of Finding 8, which found that the Chairperson, Mr Alan MacSporran QC had approved the charging of the Former Councillors.<sup>1</sup>

In light of these matters, the Former Councillors submit that there ought to be legislative amendment concerning the following:

- (a) The inclusion of an express limitation upon the charging powers of any police officers seconded to the CCC, unless the matter has been approved by a secondary body such as the DPP<sup>2</sup>. This is to ensure that investigative processes including the evidence has been scrutinised and properly assessed;
- (b) For completeness, provisions ensuring the CCC remains an independent body investigating corruption and all charging authority should rest with the DPP or Queensland Police Service.
- (c) The inclusion of further training for seconded police officers as part of their orientation when seconded to the CCC to ensure that they fully understand the objectives and scope of the powers of the CCC.

## **3. LEGISLATION, PROCEDURES, PRACTICES AND PROCESSES RELATING TO THE CHARGING AND PROSECUTION OF CRIMINAL OFFENCES**

In reference to the PCCC Submissions the Former Councillors support legislative reform in respect of the following:

- (a) The Former Councillors strongly urge the Commission to implement checks and balances with respect to the complaints and investigation process, to

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<sup>1</sup> PCCC Report, page 99.

<sup>2</sup> PCCC Submission, paragraph 181.

ensure evidence is scrutinised and appropriately assessed, at the early stages of the investigation and throughout.

- (b) There are no provisions governing the relationship between the CCC and a person who has made a complaint about corrupt conduct. The Former Councillors recommend reform to ensure that the CCC remains impartial and unprejudiced throughout the course of the investigation. Clear directions marking out the boundaries are warranted in circumstances where senior executives within the CCC have previously failed to act, and be seen to act, independently of the interests of such a person.<sup>3</sup>
- (c) The effect of a person being charged with an integrity offence (or indeed a serious integrity offence as was the case concerning the Former Councillors) is that they are immediately suspended from office. This means that their constituents are disenfranchised from the democratic process. The extent of executive interference in democratic processes such as the election of councillors for local governments, should be kept to the minimum necessarily required. In circumstances where the CCC has demonstrated such grave misjudgement as occurred in the current case, the power should be expressly removed from it.<sup>4</sup>
- (d) The Former Councillors submit that change is required, to ensure that tighter limitations are imposed to regulate the extensive coercive powers the *CC Act* gives officers throughout the investigation process.
- (e) It is submitted that legislative amendment is required to carve out that in no circumstances is it part of the CCC's statutory functions to assist litigations in collateral civil proceedings and to ensure impartiality.<sup>5</sup>
- (f) Whilst the DPP's concerns about receiving coerced materials is understandable, this concern would be better addressed by greater regulation of the evidence that goes to the DPP – limited as it should be to admissible evidence in respect of the particular charges favoured in respect of particular persons – rather than by removing this important check on the exercise of power.<sup>6</sup> Noting these concerns, the Former Councillors submit that an independent team or subgroup could be formed that would be limited to charging, and leave the CCC's functions to that of investigating corrupt conduct and preparing a report outlining the evidence to support a charge.
- (g) The Former Councillors submit that s 60 of the *CC Act* does not, sufficiently clearly disturb the limitation implied into the *CC Act* that compelled evidence should be treated confidentially, and only used, and disclosed, as permitted by the scope of the power set by the purposes of the CCC's investigative functions under the *CC Act*.<sup>7</sup> More guidance is required in this respect, to ensure that safeguards are imposed to prevent the dissemination of

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<sup>3</sup> PCCC Submission, paragraph 184 (a).

<sup>4</sup> *Ibid*, paragraph 182.

<sup>5</sup> *Ibid*, paragraph 179.

<sup>6</sup> *Ibid*, paragraph 183.

<sup>7</sup> *Ibid*, paragraph 158.

confidential material under coercive powers, for the purposes of supporting an applicant in civil litigation.

- (h) Finally, the Former Councillors respectfully submit that greater regulation by way of clear guidelines are called for with respect to the following aspects of the CCC's investigative conduct:
- (i) decisions to investigate corrupt conduct (to ensure the line between criminal offending and civil wrongs is not blurred); and
  - (ii) to clarify the processes by which decisions to issue charges for offences arising out of corruption investigations will be made.<sup>8</sup>

#### **4. REPORTS ABOUT COMPLAINTS DEALT WITH BY THE COMMISSION**

As to the background to this matter, we refer you to the PCCC Submissions and section 9.4 of the PCCC Report, in connection to Recommendation 6.

The Former Councillors submit reform in the following terms:

- (a) More clarity ought to be provided in respect of which prosecuting authority can receive the corruption investigation report prepared by the CCC.
- (b) That s 49(5) of the *CC Act* is removed and legislative amendment is undertaken to allow the DPP to review the report prepared by the CCC and decide whether prosecution proceedings should be commenced.
- (c) Lastly, as to s 49(2) of the *CC Act* the Former Councillors submit that rather than this section stating that the Commission "may" report on any of the listed bodies as appropriate, legislative amendment is required to stipulate that the CCC "must" present it to the relevant body, to ensure checks and balances are in place prior to making the decision to charge.

#### **5. CONCLUDING STATEMENT**

The Former Councillors welcome the findings of the COI and the work they have resolved to undertake.

The Former Councillors submit that the legislative amendments outlined in this submission are considered and implemented, to ensure no other person is subjected to the grave consequences they were, as a result of the short comings that lay dormant in the *CC Act*.

The Former Councillors are hopeful that the statutory functions and role of the CCC can be restored to minimise damage to others in the future, and ensure that extraordinarily intrusive and potentially oppressive powers are used appropriately.

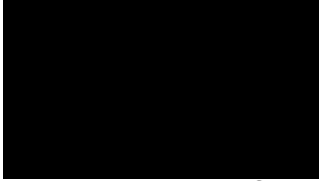
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<sup>8</sup> Ibid, paragraphs 184 (c)-(d).

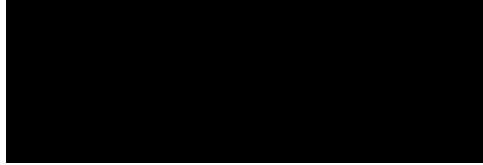
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Should the Commission require anything further to facilitate the COI, the Former Councillors are content for McInnes Wilson Lawyers to be contacted.

Yours Faithfully,



**Paul Tully**  
Principal



**Caitlin Connole**  
Principal

