



City of Gold Coast

Office of the Mayor

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Our Ref: MS2#A76006123

Commission of Inquiry relating to the Crime and Corruption Commission
GPO Box 149
BRISBANE QLD 4001
Via Email: submissions@cccinqury.qld.gov.au

Dear Sir/Madam

Submission Regarding Matters Relating to the Crime and Corruption Commission

I refer to the call for submissions with respect to the matters set out in the Terms of Reference published by the Governor in Council on 31 January 2022.

My submission largely relates to my personal experience and the Council of the City of Gold Coast's experience under the so called "Operation Yabber" Investigation into allegations relating to the Gold Coast City Council and the related report published on 24 January 2020. In my view, Operation Yabber was an ill-conceived investigation into a Council that was functioning lawfully, ethically, competently and honestly in the best interests of the ratepayers of the Gold Coast.

Steps should be taken to ensure the appropriate due diligence is undertaken in future before launching into a major investigation at enormous financial and reputational cost.

I acknowledge the right of individuals to make complaints, and the need for the Crime and Corruption Commission (CCC), to respond to complaints. It is my firm view however, that the complaints the CCC received about the City of Gold Coast Council came from people who were opposed to lawful and transparent decisions Council had made or people with a personal or political grievance against myself or Council.

The Logan City Council debacle also seemingly had its genesis in a [REDACTED]

[REDACTED]

I believe it is vitally important that this Commission of Inquiry considers the Operation Yabber Investigation in the context of the overall Inquiry into the CCC so recommendations can be put forward that will avoid, to the fullest extent possible, a repeat of the serious failings of recent years that have impacted so significantly on the lives and reputations of persons wrongly charged.

The origin of this Inquiry was *Report No 108, 57th Parliament – Inquiry into the Crime and Corruption Commission’s Investigation of Former Councillors of Logan City Council; and related matters*, and the findings and consequences of those matters are significant and widely understood. The failings of the CCC in recent years, however go far beyond those matters alone with other democratically elected Mayors and Councillors as well as local government staff made to suffer unjustly across the State.

These matters must be considered in the broad context of a CCC which has palpably and publicly failed in full view of the Queensland public, whose faith in this institution is paramount to its ongoing mandate to carry out its duties without fear or favour for the good of the State. The very significant powers given to the CCC under the provisions of the *Crime and Corruption Act 2001* (CC Act) must not be used to pursue agendas against organisations or industries as would appear to be the case in the CCC’s pursuit of local government over the last five years.

I propose the following matters be given your most serious consideration to restore the public’s faith and to ensure the failings of recent years are not repeated in the future.

A. The Structure of the CCC in relation to the use of seconded police officers

In my view the CCC’s extensive use of seconded police officers to both investigate alleged corruption and lay charges against those investigated provides insufficient separation of powers and at the very least a perceived lack of impartiality. Should it be determined that it is efficacious for the CCC to continue to second police officers under Section 255 of the CC Act it should be legislated that the police officer who ultimately lays charges cannot be the same officer who conducted the investigation.

B. Legislation, Procedures, Practices and Processes Relating to the Charging and Prosecution of Criminal Offences for Serious Crime and Corruption in the Context of CCC Investigations

Section 33(1)(b) of the CC Act requires that complaints about, or information or matters involving, corruption be dealt with in an “appropriate way” having regard to the principles set out in Section 34 of the CC Act including, relevantly, cooperation, capacity building, devolution and public interest.

Whilst I note that the scope of this Inquiry specifically excludes the re-hearing of previous CCC investigations, and I am not advocating that Operation Yabber be “re-heard”, I believe it is vital for the Commission of Inquiry to at least broadly understand the nature of Operation Yabber, including how it was commenced, conducted and finalised, in order to arrive at the best recommendations for reform.

Operation Yabber was a 12-month plus investigation that would undoubtedly have cost the ratepayers of the Gold Coast and the taxpayers of Queensland a large seven figure sum. Its commencement was foreshadowed several months before the actual investigation began after [REDACTED] held a media conference announcing that the CCC would be investigating the City of Gold Coast Council.



A report was finally issued in January 2020, only two months before Local Government elections, clearing the Council of any corruption meaning that for the best part of two years the Council was under a shadow which seriously damaged public confidence, ultimately for no reason.

The investigation itself included the issue of multiple notices upon Council for documents, [REDACTED] and invasive telephone intercepts over a significant period.

The elements of cooperation, devolution and public interest as set out in Section 34 of the CC Act were not adhered to as the CCC seemingly set out on a crusade to justify their heavy-handed intervention.

I believe it is important for this Inquiry to understand those costs and impacts and to reinforce the key elements of Part 3, Division 1 of the CC Act with clear guidance and provisions to ensure that such an extensive and costly investigation cannot be commenced without first identifying a proper and reasonable suspicion of corruption. Further, the provisions of Section 216A of the CC Act must be enforced as a deterrent against those who make complaints recklessly, vexatiously, not in good faith etc.

The Commission of Inquiry should review who the complainants were against the City of Gold Coast and identify what their personal or political interests were in lodging the complaints that ultimately proved to be completely baseless. This Inquiry should ensure that appropriate safeguards and deterrents are in place in the future to prevent reckless, malicious or vexatious complaints and to prevent the CCC from giving them credence without first determining their veracity.

Finally, where charges are laid, the requirement for the Local Government Minister to immediately stand elected Councillors down for so called disqualifying offences under Section 175K of the *Local Government Act 2009* should be amended to ensure procedural fairness for those Councillors whose careers and reputations can be ruined because of the overreach of an over-zealous CCC.

C. Section 49 of the *Crime and Corruption Act 2009*

Once again, the CCC investigation (Operation Yabber) into the Council of the City of Gold Coast provides a salutary lesson. Although no corruption was found, the CCC chose to release a report identifying some extraneous findings of limited consequence and effect. A cynic might argue that the report was released to justify the huge expense of an investigation that found so little of value.

The CCC should not be able to release such a report publicly where no corruption is identified. Such an action makes a mockery of the cooperation and public interest principles of Section 24 of the CC Act for no public benefit.

Yours sincerely

[REDACTED]

**TOM TATE
MAYOR**



City of Gold Coast