



1 April 2022

The Honourable Tony Fitzgerald AC QC
Chairperson and Commissioner

The Honourable Alan Wilson QC
Commissioner

Commission of Inquiry relating to the Crime and Corruption Commission

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

Dear Commissioners

LGAQ Submission

Thank you for correspondence [REDACTED] [REDACTED] inviting the Local Government Association of Queensland (LGAQ) to make a submission to the Commission of Inquiry established by the Queensland Government by an Order in Council made under the Commissions of Inquiry Act 1950 on 31 January 2022.

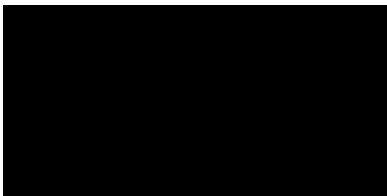
Please find **attached** a copy of the LGAQ's submission, which is made on behalf of our member councils.

I am sure that you would appreciate our unique interest in relation to this issue and the LGAQ's complaint to the Parliamentary Crime and Corruption Committee, which instigated their Inquiry that subsequently recommended the formation of your Commission of Inquiry.

We would be pleased to speak to you about our submission, if required, noting that there has been no mention of the need for any public hearings to date.

If you require any further information, please contact [REDACTED] [REDACTED] in the first instance.

Yours sincerely



Alison Smith
CHIEF EXECUTIVE OFFICER



Every Queensland
community deserves
to be a liveable one

Reforming the Crime and Corruption Commission

Submission to the Commission of Inquiry relating
to the Crime and Corruption Commission

April 2022

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About the Local Government Association of Queensland (LGAQ)

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association established solely to serve councils and their needs. The LGAQ has been advising, supporting, and representing local councils since 1896, enabling them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and providing them with the means to achieve community, professional and political excellence.

Partners in Government Agreement

In August 2019, the LGAQ on behalf of all 77 Queensland Local Governments signed a three-year partners-in-government-agreement¹ with the State of Queensland.

The Agreement details the key principles underlying the relationship between the state and local governments and establishes the foundation for effective negotiation and engagement between both levels of government.

The agreement acknowledges that local government is the closest level of government to the community, affecting the lives of everyday Queenslanders and acknowledging Local Government as a genuine partner in the Australian government system.

The intent of the agreement was to continue the tradition of working in genuine partnership to improve the quality of life for all Queenslanders to enjoy. By identifying the roles and responsibilities of each party, it provides a solid foundation for effective negotiation and engagement between both levels of government.

The LGAQ is committed to working with the Queensland Government and will continue to be a passionate advocate for councils, to serve our joint jurisdiction for the people of Queensland.

¹ https://www.dlgrma.qld.gov.au/_data/assets/pdf_file/0016/45115/partners-in-government-agreement-2019.pdf

Reforming the Crime and Corruption Commission

Executive Summary

The LGAQ welcomes the opportunity to provide feedback to the Commission of Inquiry relating to the Crime and Corruption Commission (the CCC Fitzgerald Inquiry).

On 31 January 2022, we acknowledged the announcement of the CCC Fitzgerald Inquiry, headed by Tony Fitzgerald AC QC, as a critical step in restoring confidence in this important institution.

The establishment of the CCC Fitzgerald Inquiry was a key recommendation of the Parliamentary Crime and Corruption Committee (PCCC) Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters (the PCCC Logan Inquiry).²

In compiling this submission, no input was sought from member councils, given the specific focus of the CCC Fitzgerald Inquiry.

² <https://documents.parliament.qld.gov.au/tp/2021/5721T2051.pdf>

Recommendations /Priorities for Action

The LGAQ has made 5 recommendations which are summarised below:

- **Recommendation 1:** The LGAQ recommends that a new protocol is created to establish the skillset, experience and oversight mechanisms required for seconded police to the CCC, including the consideration of limiting the time period of any secondment. The protocol should establish clear lines of command, a maximum time period allowed for any secondment, detailed position description and any other knowledge of CCC policies and procedures that are necessary to undertake a secondment. It should be an agreement established by the CCC, with the Commissioner of Police. Each secondee should also sign the protocol.
- **Recommendation 2:** The LGAQ recommends that the New South Wales ICAC model of charging and prosecution be adopted, whereby the ODPP recommends whether to charge and when to charge.
- **Recommendation 3:** The LGAQ recommends that section 49 be amended to require, prior to the laying of serious criminal charges, that the CCC first report on its investigation to, and review by, the Office of the Director of Public Prosecutions, prior to such charges being laid. At the very least, the LGAQ recommends section 49 of the *Crime and Corruption Act 2001* should be amended to require an intended CCC decision to lay criminal charges for a "disqualifying offence" (see section 153(6) of the *Local Government Act 2009*) to be first subject to a report to, and review by, the DPP, prior to such charges being laid. This will ensure that, unlike what happened at Logan City Council (and elsewhere), no local government councillor will be charged, in the absence of any evidence, with a disqualifying offence.
- **Recommendation 4:** The LGAQ recommends a legislative review of section 175K of the *Local Government Act 2009* regarding the suspension of a councillor charged with a disqualifying offence with consideration to be given as to whether such a suspension should not occur until the earlier of:
 - a. A councillor advising a court of an intention to plead guilty to the charge; or
 - b. A councillor being committed to stand trial over the charge.
- **Recommendation 5:** The LGAQ recommends that this Inquiry consider the overall structure of the Commission, including whether recommendations from the 1989 Fitzgerald Report regarding the diversity of the Commission have been adequately implemented as was originally suggested.

Introduction

The LGAQ is pleased to provide this submission to the CCC Fitzgerald Inquiry and thanks the Chair and Commissioner for the invitation.

In doing so, we acknowledge the Terms of Reference. The focus of this submission responds to the following key issues:

- the structure of the Crime and Corruption Commission in relation to the use of seconded police officers;
- legislation, procedures, practices and processes relating to the charging and prosecution of criminal offences for serious crime and corruption in the context of Crime and Corruption Commission investigations; and
- section 49 (Reports about complaints dealt with by the commission) of the *Crime and Corruption Act 2001*.

We also note that the CCC Fitzgerald Inquiry is required to make recommendations concerning changes to the *Crime and Corruption Act 2001* and the structure, organisation, operations, practices and procedures of the Crime and Corruption Commission which are necessary to ensure that, in respect of the matters stated above, the Crime and Corruption Commission acts in a way that is independent, efficient, effective, objective, fair, impartial and meets the public interest and the highest standards of integrity and impartiality and protects and promotes human rights including the rights protected under the *Human Rights Act 2019*.

While this submission does not seek to re-prosecute the matters reported on by the PCCC Logan Inquiry, it is instructive to appreciate that the PCCC Logan Inquiry was instigated following a complaint made by the LGAQ on 5 May 2021.³

The LGAQ made three submissions made to the PCCC in relation to the PCCC Logan Inquiry, two of which are publicly available, as indicated below:

1. Initial complaint to the PCCC on 5 May 2021, which led to the establishment of the PCCC Logan Inquiry (available publicly);
2. A supplementary submission to the PCCC on 26 May 2021, which is referred to at pages 51 and 54 of the PCCC Logan Inquiry report (not publicly available); and
3. The LGAQ's submission to the PCCC Logan Inquiry on 22 July 2021 (publicly available).⁴

Queensland needs to have a fearless CCC that is thorough, rigorous and robust. But it must have adequate checks and balances to preserve its own reputation and trust with the public, and to ensure it is not abusing its extensive powers.

Establishing the Fitzgerald CCC Inquiry is the right move to ensure serious failings are corrected and that processes are put in place to ensure that the serious cultural, structural

³ <https://documents.parliament.qld.gov.au/committees/PCCC/2021/InquiryCCCLCC2021/cor-5May2021.pdf>

⁴ <https://documents.parliament.qld.gov.au/com/PCCC-8AD2/ICCLCC-5502/submissions/00000013.pdf>

and significant procedural shortcomings identified by the PCCC Logan Inquiry are resolved and prevented from happening again.

Body

The LGAQ and its member councils support high standards of integrity, transparency and accountability.

Queensland councils have a responsibility to comply with appropriate standards relating to applicable governance arrangements to ensure the system of local government is accountable, democratic, efficient, sustainable and transparent. This includes electoral arrangements, financial accountability and reporting, integrity and ethical standards, and oversight by independent bodies including the Queensland Audit Office, Integrity Commissioner, Ombudsman, the Office of the Independent Assessor and the Crime and Corruption Commission.

The local government sector in Queensland both understands and supports the need for a body such as the CCC to provide oversight and to identify, investigate and stamp out instances of corruption. Indeed, it is pivotal to maintaining confidence in both levels of government in Queensland.

There needs to be a high-level of confidence in Queensland's integrity agencies for those who wish to make a complaint, for those who stand accused of a complaint, and for the general public whose taxes fund these agencies as a vital check and balance on our democracy.

It is therefore essential that the CCC's conduct in undertaking its crucial duties is beyond reproach and in line with its requirement under section 57 of the *Crime and Corruption Act 2007* to act independently, impartially and fairly at all times.

This submission is made on behalf of Queensland's local councils. In response to correspondence that was received with an invitation to make a submission, it will specifically address the following:

- 1. The structure of the Crime and Corruption Commission in relation to the use of seconded police officers**

In relation to the use of seconded police officers, it is instructive to refer back to the 1989 Fitzgerald Report (page 311):

"The Official Misconduct Division will be served by police seconded to it for appropriate finite periods and on guidelines to be established by the Criminal Justice Committee. Police serving with the Official Misconduct Division will be relieved of any obligation to obey, provide information to or account to any other police officer save police posted to the Official Misconduct Division. All secondments to serve in the Official Misconduct Division should be for a relatively short time of two to three years, and non-renewable save when necessary to complete particular investigations where continuity is essential."

Further, page 374 of the 1989 Fitzgerald Report refers to the proposed composition of the Official Misconduct Division of the CJC, which preceded the CCC:

“The Division be staffed by police seconded to it for appropriate finite periods on guidelines to be established by the CJC, and a wide variety of skilled civilian staff and consultants.”

As outlined on pages 163 and 164 of the PCCC Logan Inquiry report, the question not only relates to the role of seconded police officers, but also the process in which they are seconded, the oversight of that secondment and whether the integrity body has the power to charge and prosecute.⁵

Interstate comparisons are worth considering and comparing for this analysis. As the PCCC Logan Inquiry report noted:

“In Queensland the CCC Chairperson has the power to make a recommendation about whether it is appropriate to proceed to a charge. A police officer seconded to the CCC then makes a decision independently about whether or not to charge. The ODPP then facilitates the prosecution as the prosecuting authority and the ODPP may request assistance from the CCC throughout the prosecution.”

The regular and ongoing examples of failed prosecutions commenced by the CCC in Queensland would suggest that changes are needed. Since early 2018 the CCC has, via seconded police officers, instigated the following failed prosecutions against Queensland councillors: -

Name of Charged Councillor	Council	Charge and date charged	Reason for failure
Cherie Dalley	Logan City	Fraud – section 408C of the <i>Criminal Code</i> 26 April 2019	Discontinued, during committal, at the request of the DPP
Trevina Schwarz	Logan City	Fraud – section 408C of the <i>Criminal Code</i> 26 April 2019	Discontinued, during committal, at the request of the DPP
Laurence Smith	Logan City	Fraud – section 408C of the <i>Criminal Code</i> 26 April 2019	Discontinued, during committal, at the request of the DPP
Phillip Pidgeon	Logan City	Fraud – section 408C of the <i>Criminal Code</i> 26 April 2019	Discontinued, during committal, at the request of the DPP
Stephen Swenson	Logan City	Fraud – section 408C of the <i>Criminal Code</i> 26 April 2019	Discontinued, during committal, at the request of the DPP
Russell Lutton	Logan City	Fraud – section 408C of the <i>Criminal Code</i> 26 April 2019	Discontinued, during committal, at the request of the DPP

⁵ <https://documents.parliament.qld.gov.au/tp/2021/5721T2051.pdf>

Luke Smith	Logan City	Fraud – section 408C of the <i>Criminal Code</i> 26 April 2019	Discontinued, during committal, at the request of the DPP
Jennifer Breene	Logan City	Fraud – section 408C of the <i>Criminal Code</i> 26 April 2019	Discontinued, during committal, at the request of the DPP
Alan Sutherland	Moreton Bay Regional	Misconduct in relation to public office – 92A of the <i>Criminal Code</i> 18 December 2019	Discontinued, during committal, at the request of the DPP
Adrian Raedel	Moreton Bay Regional	Official corruption – section 87 of the <i>Criminal Code</i> 27 June 2019	Discontinued, during committal, at the request of the DPP
Andrew Antonioli	Ipswich City	Fraud – section 408C of the <i>Criminal Code</i> 2 May 2018	Convicted in Magistrates Court at first instance, but convictions set aside by District Court on appeal (and further appeal to Court of Appeal by Commissioner of Police dismissed)

The practice of the CCC in Queensland is not replicated in NSW.

The NSW method whereby the ODPP provides advice about whether to charge and what to charge would provide an earlier intervention in the prosecution process that should improve the prosecution process. Given that the CCC is not a prosecuting authority in Queensland, involving the ODPP at an earlier stage in the prosecution process should ensure that matters are only pursued if there is a reasonable prospect of success of criminal conviction.

As the CCC's 2020/21 Annual Report also indicates, the two main functions of the CCC are fighting major crime and exposing serious and systemic corruption.⁶

With reference to the use of seconded police officers as part of their activities, page 11 of the CCC's 2020/21 Annual Report notes that:

“Queensland Police Service officers seconded to our agency retain their police powers. These officers may charge an individual with one or more offences based on sufficient evidence, reasonable prospects of a successful prosecution, and if such action is considered to be in the public interest. Where charges are laid, the prosecution will be conducted by a Queensland Police Service prosecutor or the Office of the Director of

⁶ <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/CCC-Annual-Report-2020-21.pdf>

Public Prosecutions, depending on the jurisdiction in which proceedings are commenced and the seriousness of the alleged offences.”

In understanding the role of seconded police officers to the CCC and the structure of the CCC, it is worth noting the CCC’s role in police disciplinary matters. The CCC’s website outlines that role as:

“The CCC deals with the most serious allegations against police, such as assault/excessive use of force, abuse of the trust placed in them, or failure to perform their duty to the standard expected of them.

Depending on the type of behaviour you describe, their actions may be considered “corrupt conduct” and/or “police misconduct”.

Police misconduct is any conduct by a police officer that:

- *is disgraceful, improper or unbecoming a police officer, or shows unfitness to be or continue as a police officer, or*
- *does not meet the standard the community reasonably expects of a police officer.”⁷*

Given the multi-faceted and sometimes contradictory role of the CCC, in overseeing complaints of official police misconduct, while also utilising the resources of seconded police as investigators – in both the major crime and corruption functions – there needs to be a distinct and deliberate separation in the executive functioning and operations of the CCC. The role of police officers within the CCC is purposely outlined on page 311 of the 1989 Fitzgerald Report:

“The Official Misconduct Division will be served by police seconded to it for appropriate finite periods and on guidelines to be established by the Criminal Justice Committee. Police serving with the Official Misconduct Division will be relieved of any obligation to obey, provide information to or account to any other police officer save police posted to the Official Misconduct Division. All secondments to serve in the Official Misconduct Division should be for a relatively short time of two to three years, and non-renewable save when necessary to complete particular investigations where continuity is essential.”⁸

It should also be considered that seconded police have the specialist skills and experience required to satisfactorily undertake the work required by the CCC. To achieve this and bearing in mind the recommendations in the 1989 Fitzgerald Report as outlined above, the LGAQ recommends that a new protocol is created to establish the skillset, experience and oversight mechanisms required for seconded police to the CCC, including the consideration of limiting the time period of any secondment.

The protocol should establish clear lines of command, a maximum time period allowed for any secondment, detailed position description and any other knowledge of CCC policies and procedures that are necessary to undertake a secondment. It should be an agreement established by the CCC, with the Commissioner of Police. Each secondee should also sign the protocol.

⁷ <https://www.ccc.qld.gov.au/corruption/police-oversight/complaints-against-police-officers>

⁸ <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/The-Fitzgerald-Inquiry-Report-1989.pdf>

2. Legislation, procedures, practices and processes relating to the charging and prosecution of criminal offences for serious crime and corruption in the context of Crime and Corruption Commission investigations

Having regard to the ultimate outcome of the prosecution of the serious criminal charges against the former councillors of the Logan City Council, Moreton Bay Regional Council and Ipswich City Council, it is the LGAQ's submission that the current processes and guidelines identified in the CCC's interaction with the Director of Public Prosecutions (DPP), of which the LGAQ has no direct knowledge, are inappropriate.

As noted at paragraph 55 of the LGAQ's letter of complaint to the PCCC dated 5 May 2021, at the time of dismissing the criminal charges against the Logan City councillors (as a consequence of the DPP's offering no further evidence in relation to same), the Magistrate stated words to the effect that based on what he heard in evidence during the committal hearing [in late 2020], the DPP's decision to withdraw the charges was the proper decision.

Further, and as noted at paragraph 56 of the LGAQ's letter of complaint dated 5 May 2021, it is the LGAQ's submission that a proper prior review by the DPP of the evidence which the CCC had gathered, would have resulted in the charges never having been laid in the first place.

The failure of the charges against the former councillors of the Logan City and Moreton Bay Regional Councils to proceed beyond the committal stage, due to what appears to be in each of those cases a distinct lack of evidence, is of itself evidence that neither the CCC nor police officers seconded to it, are capable of making the correct decision when comes to the laying of serious criminal charges. This is, accordingly, a practice that must be discontinued.

3. Section 49 (Reports about complaints dealt with by the commission) of the *Crime and Corruption Act 2001*

Report No 57 of the PCCC, dated June 2016, constitutes the outcome of a review of the CCC by the PCCC as at the date of that report⁹. At the time of that report, section 49 provided that if the CCC investigates a corruption matter, it may report on the investigation to the office of the ODPP for the purposes of any prosecution proceedings. At pages 33 and 34 of Report No 57, there is a discussion about the operation of, and recommendation for amendment to, section 49.

This recommendation became recommendation 5 of that report, and section 49 was subsequently amended, to remove the option for the CCC to report to the ODPP, prior to the commencement of a criminal prosecution in relation to corrupt conduct. This amendment took effect on 9 November 2018.

In his evidence to PCCC Logan Inquiry, the current Director of the ODPP, Mr Heaton, expressed in candid terms his view of the CCC's decision to charge eight Logan City councillors with fraud. Mr Heaton's evidence (as set out at page 126 of the PCCC Logan Inquiry report) was: -

I always struggled with this being a 408C offence. I have had discussions with lawyers within my office about it and at least one officer can see how you can make it a 408C offence, but that as I understand it is more a 'how can I' rather than 'whether I should' consideration. As far as I can see, this was a section 40 PID Act offence of retaliation,

⁹ <https://documents.parliament.qld.gov.au/tp/2016/5516T1027.pdf>

and even then on the evidence I think there would be insufficient evidence to prove that offence. But at least that goes to the heart of what was done—what was alleged to have been done—that this was a retaliation for the public interest disclosure. A jury can understand that. Dishonestly causing a detriment—that is a bit more convoluted.

It is, accordingly, the LGAQ's submission that section 49(2) needs to be amended to require, prior to the laying of serious criminal charges, the CCC to report on its investigation to the Office of the Director of Public Prosecutions, in which report there must be detailed all relevant information, required by subsection (4) of section 49, known to the CCC that supports: -

- a. The laying of the charges; and
- b. A defence that may be available to any person liable to be charged.

To be clear, and in response to this term of reference, it is the LGAQ's submission that section 49 is not appropriate and sufficient and should be amended to prevent what happened to the former councillors of Logan City Council and Moreton Bay Regional Council from ever occurring again.

Noting some of the previous reasons for recommended change to section 49 stated by the then Acting ODPP in 2016, as recorded at pages 33 and 34 of Report No 57 of the PCCC referenced above, if it becomes operationally inappropriate for the ODPP to conduct a section 49(2) review, the LGAQ would accept that review being undertaken by a senior independent legal advisor.

At the very least, from the LGAQ's perspective, section 49(2) should be amended to require an intended CCC decision to lay criminal charges for a "disqualifying offence" (see section 153(6) of the *Local Government Act 2009*) to be first subject to a report to, and review by, the DPP (or senior independent legal advisor), prior to such charges being laid.

4. Other terms of reference: the consequences arising from the laying of criminal charges as a result of a CCC investigation, including the provisions under section 175K of the Local Government Act 2009 for a person to be automatically suspended as a councillor when the person is charged with a 'disqualifying offence'.

Section 175K of the *Local Government Act 2009* enabling the automatic suspension of a councillor charged with a disqualifying offence was introduced by the State Government in May 2018. This provision allowed for those councillors suspended to continue receiving an income to ensure they were not unfairly financially impacted should they not be found guilty.

The explanatory notes regarding this amendment stated that the amendment did not breach Fundamental Legislative Principles (FLP) such as natural justice as it "effectively provides the councillor with natural justice in relation to the councillor's continuing position as a councillor following the suspension. The suspension itself is not a consequence which goes towards whether the councillor is guilty of the offence".

The explanatory notes further state: "The potential FLP is further mitigated by providing that the councillor is entitled to be paid remuneration as a councillor during the period of suspension, other than an amount payable for performing a particular responsibility."

The LGAQ's policy executive and membership were supportive of the provision at the time of its introduction as an amendment to the *Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill* during consideration in detail.

However, it has become clear following the matters involving the former Logan City and Moreton Bay Regional councillors that this provision is problematic in practice.

On 26 April 2019, the former Logan councillors were charged with the crime of fraud, as prescribed by section 408C of the *Criminal Code 1899*. As noted at paragraph 1q of the LGAQ's letter of complaint dated 5 May 2021, the charge included a circumstance of aggravation, namely, that the detriment to Ms Kelsey was of a value of at least \$100,000. As a consequence, the charge fell within the definition of "serious integrity offence" as defined by section 153(4), and schedule 1, part 1, of the *Local Government Act 2009*, meaning that each of the councillors charged was, by virtue of section 175K of the *Local Government Act 2009*, automatically suspended from office.

Nine councillors were suspended as a result of the enlivenment of section 175K (the eight councillors charged with fraud identified earlier in this submission and Stacey McIntosh (first charged by police with fraud in relation to her previous employment on 15 December 2016)), leaving just four remaining councillors on the Logan City Council. As the council no longer had a quorum, the Local Government Minister used his powers under the Act to dismiss the council and appoint an administrator.

Those councillors suspended then ceased to be paid as their employment was terminated as a result of the dismissal of the council.

The committal hearing in relation to the fraud charges did not commence until 30 November 2020. This was 19 months after the former councillors were first charged. The committal hearing concluded, with dismissal of the charges, on 14 April 2021. This was more than 23 months (i.e. 12 days short of 2 years) after the councillors were first charged.

The remaining four councillors were also adversely impacted. This was mitigated in some way via their appointment to a management committee to support the Administrator appointed to run the council.

The Logan matter demonstrates the unintended consequences that can arise from the application of section 175K of the *Local Government Act 2009*, namely the denial of natural justice as the suspensions lead to the dismissal of the council and the termination of the employment of the councillors before they were able to have their day in court.

It is the LGAQ's recommendation that a legislative review be conducted of section 175K of the *Local Government Act* regarding the suspension of a councillor charged with a disqualifying offence, with consideration to be given as to whether such a suspension should not occur until the earlier of:

- a. A councillor advising a court of an intention to plead guilty to the charge; or
- b. A councillor being committed to stand trial over the charge.

The LGAQ's request for this amendment of section 175K of the *Local Government Act 2009* is based on: -

- a. Its view that the CCC has demonstrated, via its conduct in relation to the charging of the former Logan City and Moreton Bay Regional councillors, that it is not competent to properly conduct itself in matters relating to the investigation of alleged corrupt conduct of councillors; and
 - b. The inevitable delays in the Queensland criminal justice system that occur between when a person is charged with a serious criminal offence (such as a "disqualifying offence", as defined by the *Local Government Act 2009*) and the time the person is committed to stand trial for that offence.
 - c. The suspension of the Logan Councillors under s175K set off a chain of events that led to the denial of natural justice of those suspended and unfairly impacted four other sitting councillors, demonstrating the unforeseen consequences that can occur through the use of this provision.
- 5. Other terms of reference: In making recommendations the Commission should consider any recommended legislative, structural, procedural or organisational changes to promote the ability of the CCC to carry out its statutory functions in a way that is efficient, effective, objective, fair and impartial and meets the public interest in ensuring Queensland has an independent crime and corruption body that meets the highest standards of integrity and impartiality and the need to protect and promote human rights, including the rights protected under the Human Rights Act 2019**

When the Fitzgerald Report was tabled in 1989¹⁰ (the 1989 Fitzgerald Report), it highlighted on page 310 that the composition of the community appointees to the then Criminal Justice Commission should be:-

"(a) A practising lawyer with demonstrated interest in civil liberties, to be drawn from a panel of four; two to be nominated by each of the Bar Association of Queensland and the Queensland Law Society. The appointment need not be of a specialist in criminal law. Nor need the appointee be a member of the Queensland Council of Civil Liberties.

(b) Three persons of proven ability in community affairs, one of whom must have proven senior managerial experience in a large organization"

Prior to the resignation of former CCC Chairperson Mr MacSporran QC, the CCC had four Barristers, whose experience does not extend to managing large organisations. Community affairs experience does not necessarily need to be drawn from a Barrister cohort either.

It is noted that as of 30 January 2022, the CCC consisted of an Acting Chairperson, Deputy Chairperson and an ordinary commissioner.¹¹

¹⁰ <https://www.ccc.qld.gov.au/sites/default/files/Docs/Publications/CCC/The-Fitzgerald-Inquiry-Report-1989.pdf>

¹¹ <https://www.ccc.qld.gov.au/about-us/our-leadership/commissioners>

This Inquiry could establish whether the CCC's current makeup embodies the critical diversity that the 1989 Fitzgerald Report recommended, or not. It is the submission of the LGAQ that it does not.

Conclusion

Overall, the LGAQ on behalf of our members councils across Queensland thank the State Government for establishing this Commission of Inquiry, which was a key recommendation of the PCCC Logan Inquiry.

The LGAQ supports a strong and independent anti-corruption agency as a vital check and balance on democracy in Queensland.

We believe that implementing the five recommendations set out in this submission will restore confidence in the CCC and address some of the key failures outlined in the PCCC Logan Inquiry.

In preparing this submission, we have engaged specialist legal advice and discussed these issues with other key stakeholders with professional expertise on these matters.

Contact Details



Appendix

LGAQ Policy Statement

The LGAQ Policy Statement¹² is a definitive statement of the collective voice of local government in Queensland. The relevant policy positions of local government in the context of governance arrangements are as follows:

1.6.1 Governance Arrangements

To ensure the system of local government is accountable, democratic, efficient, sustainable and transparent, local governments have a responsibility to comply with appropriate standards relating to applicable governance arrangements. This includes boundaries, electoral arrangements, financial accountability and reporting, integrity and ethical standards, and oversight by independent bodies including the Queensland Audit Office, Integrity Commissioner, Ombudsman, Remuneration and Discipline Tribunal, and the Crime and Corruption Commission.

LGAQ Advocacy Action Plan

The LGAQ is committed to member driven advocacy and working with members to build stronger local government and more resilient local communities.

The Local Government Association of Queensland's 2021 Advocacy Action Plan (AAP)¹³ is a roadmap designed to highlight the top policy positions and funding priorities councils believe are critical to ensuring Queensland flourishes and our communities thrive.

Relevant Advocacy Action items to this submission are:

***AAP 117** - Monitor, review and support the implementation of all integrity reforms to ensure they lead to increased transparency and accountability in practice, are proportional to the issues to be addressed and maintain local government as a high-functioning, responsive and flexible system of government that reflects the diversity of council operations and communities of interest.*

¹² <https://www.lgaq.asn.au/downloads/file/183/2019-lgaq-policy-statement>

¹³ <https://www.lgaq.asn.au/downloads/file/383/advocacy-action-plan-2021>