



ECONOMICS AND GOVERNANCE COMMITTEE

Members present:

Mr LP Power MP (Chair)
Ms NA Boyd MP
Mr ST O'Connor MP
Mr DG Purdie MP
Ms KE Richards MP
Mr RA Stevens MP

Staff present:

Ms T Struber (Acting Committee Secretary)
Ms M Salisbury (Assistant Committee Secretary)

PUBLIC HEARING—INQUIRY INTO THE DRAFT LOCAL GOVERNMENT (DISSOLUTION OF IPSWICH CITY COUNCIL) BILL 2018

TRANSCRIPT OF PROCEEDINGS

MONDAY, 30 JULY 2018

Brisbane

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The committee met at 1.02 pm.

CHAIR: Good afternoon. I declare open the Economics and Governance Committee's public hearing of the committee's inquiry into the draft Local Government (Dissolution of Ipswich City Council) Bill 2018. I would like to acknowledge the traditional owners of the land on which we meet. My name is Linus Power. I am the member for Logan and chair of the committee. With me here this afternoon are Ray Stevens, the member for Mermaid Beach; Sam O'Connor, the member for Bonney; Dan Purdie, the member for Ninderry; Nikki Boyd, the member for Pine Rivers; and Kim Richards, the member for Redlands.

On 17 July 2018 in accordance with section 92(1)(d) of the Parliament of Queensland Act 2001 this committee resolved to conduct an inquiry into the draft Local Government (Dissolution of Ipswich City Council) Bill 2018. The purpose of this hearing is to hear evidence from stakeholders to assist the committee in its inquiry. The hearing is a proceeding of the Queensland parliament and is subject to the standing rules and orders of the parliament. Any person may be excluded from the hearing at my discretion or by order of the whole committee. It is being recorded and broadcast live on the parliament's website.

Media may be present and will be subject to my direction. Media rules are available from committee staff if required. All those present should note that it is possible you might be filmed or photographed during the proceedings. I ask everyone to ensure that their mobile phones are either off or switched to silent so as not to disturb the committee. Only the committee members and invited witnesses on the program may participate in the hearing. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence.

The inquiry being undertaken by the committee has come about as a response to matters uncovered, many of which resulted in criminal charges which are now pending before the courts. The Legislative Assembly and this committee recognise that matters awaiting or under adjudication in all courts exercising a criminal jurisdiction should not be referred to from the moment a charge is made against a person until the matter is resolved before the court. All witnesses and all members of the committee are therefore reminded not to refer to matters before the criminal courts in their evidence. The rule does not generally apply to civil actions before the court. On that basis, as we are leading towards these issues during people's evidence, I might give people a reminder.

HALLAM, Mr Greg AM, Chief Executive Officer, Local Government Association of Queensland

CHAIR: Good afternoon, Greg. I invite you to make a short opening statement after which committee members may have some questions for you.

Mr Hallam: The LGAQ is grateful for the opportunity to make a submission on the draft Local Government (Dissolution of Ipswich City Council) Bill 2018. The government's intention to dissolve the Ipswich City Council and provide for the appointment of an interim administrator is understandable given the unique circumstances created by the number of charges laid against Ipswich city councillors, council contractors and former council employees. However, as a matter of principle, the LGAQ cannot support this draft bill because it denies those who are the subject of charges natural justice. No-one who has been charged has had the benefit of their day in court to deal with the claims against them. No court hearing has been completed.

I offer up for tabling the policy statement of the Local Government Association of Queensland 2016. That is the expression of all councils in Queensland. At the start of each term of local government—in this case 2016—we produce a policy statement that goes to the annual conference. Our 77 members vote on that statement and it is their policy that no council should be dissolved until corruption has been proven in a court of law or by public inquiry. I offer those for tabling. I think there is enough for everyone.

We also say that the draft bill is unfair towards those democratically elected councillors who lose their jobs despite having had no claims of wrongdoing levelled against them. In that regard we are asking the committee, if it is the government's intention to pass this bill, to recommend the

following amendments to the draft bill to restore some sense of fairness for those councillors not facing any charges: firstly, an amendment to the draft bill which stipulates the making of a separation payment for the 10 councillors who are not subject to any charges, and we say that should be consistent with the severance arrangements for members of this parliament; secondly, the removal from the draft bill of the provisions in clause 7 which prevent these 10 councillors from nominating as a candidate for any by-elections that may be held in other local government areas between now and the 2020 quadrennial elections. That is, in essence, my submission in chief.

CHAIR: Does the deputy chair have any questions?

Mr STEVENS: Mr Hallam, as we both go back in local government for quite a number of years, you would remember clearly the then local government minister, Mr Terry Mackenroth, dismissing six councils in three different areas shortly after the 1994 elections and obviously running elections shortly after that. Still, the power to dismiss for better, in his intent, was the minister's prerogative. This time the minister is using it for what he sees as for worse. In other words, the administrator is being appointed because of the perceived actions, as you correctly say, of the council, the mayor of the council and, without going into any detail, the mayor who was elected after that. That then has taken the whole council out with it. Can you explain to me any other method that you see, given the current circumstances of the legal action going on, that would bring back confidence immediately to the people of Ipswich in their local council?

Mr Hallam: In short, no. As I said in my opening remit, I understand fully the circumstances under which the government has made these decisions—the breadth and depth of charges that have been laid against elected members, council officers and, indeed, contractors to the council. It is rare for a council to be sacked in Queensland. You rightly refer to some dismissals. In reality, they were the precursor for amalgamations; they occurred in the mid-1990s and then subsequently in 2008. The last council to be dismissed for other reasons was the Johnstone shire. That was 11 years ago. Indeed, before that it was the Gold Coast City Council some 30-odd years ago in relation to planning matters, as I recall.

It is a unique set of circumstances that we find ourselves in. There are options under the act for the government to put in financial controllers and other types of people. It does not, I believe, deal in reality with the issues at hand at Ipswich. As I said, we regret what has happened but we understand what has happened. As I said, as a matter of principle we believe in the natural justice processes and due process to follow.

Had there been a conviction, had there been an inquiry and a finding against these people—none of them have been adversely named individually—we would not be adopting the position we are now. In accordance with our rules, the policy position adopted by all councils is that, at a point in time, if the Ipswich City Council is found guilty we would support its dismissal.

Mr STEVENS: Given the scenario that you are painting for Ipswich City Council as a whole in terms of giving natural justice, which I think is the basis for your reasoning, if that natural justice were to take however many months—and I am not familiar with how many months or maybe years that we go through a court process, an appeal process or whatever process; it may well take us to the 2020 quadrennial elections—do you in your honest opinion regarding local government, as a local government expert as I would call you, think that is fair on the residents of Ipswich?

Mr Hallam: I fully understand the level of angst and concern in the Ipswich City Council. It is not blind to us. Ultimately, you believe in natural justice or you do not, and we fall on the side of natural justice. In our legal framework people are entitled to the presumption, but I fully understand the consequences and I have said a number of times today that we understand the reasoning why the government has made this decision.

Ms RICHARDS: Thank you for your presentation. If you could bear with me for a bit, this is a tiny bit lengthy, but it needs to be to frame it. In 2012 the then local government minister, David Crisafulli, made changes within the Local Government Act around directive powers of the mayors. There was a ministerial release in September 2012 titled 'Mayors unite to push for Local Government Act changes'. It states—

The current Local Government Act is choking Queensland's Councils, according to Local Government Minister David Crisafulli, and at least five Queensland mayors agree with him.

"I've spoken with most of the 73 Councils throughout the state, and they want change," Mr Crisafulli said.

"The Mayors and councillors are united on this, regardless of political leanings, the size of their Council, or their location.

"Whether it's a far western Council that's forced to spend more money to achieve less, or the Ipswich City Council that has to waste resources on pointless record keeping, Councils want the same thing: less regulation."

I take you back to the LGAQ's briefing note of 2012. It was a briefing note to the then newly appointed government titled 'Re-Empowering Queensland local government'. I would really like to get your reflections and comments on that. That briefing note talks about autonomy and the burden of red tape and regulation. With that being, I would imagine, one of the inputs and feed-ins to the legislative change, I would really like your rear-view reflection on those.

Mr Hallam: Do I believe this was the cause of alleged corruption? No. In history, mayors have had considerable powers. Indeed, in the system Mr Stevens would have worked under prior to the 1993 Local Government Act, the chairman was the executive officer and the shire clerk was an administrative role. In history, indeed, from 1939 through to 1993 the executive powers were held by the chairman, and that is a matter of fact.

We believe it is always a question of balance. We support the ability of the mayor to direct staff on the basis that it is consistent with the policies of the council. In other words, the parliament reigns supreme. The mayor should not be able to direct an officer in a manner that is inconsistent with the adopted policies of council or the budget of council. In a very large council it is really important that the mayor be able to determine priorities for the day and the month and the week. At the end of the day, they are elected by the community at large. They are not elected by their peers around a table. They are elected with an expectation that they will be able to deliver on the commitments they have made. We do not believe that it is an issue. What we do say is that it could be further refined. As was the case prior to Mr Crisafulli's amendments, we are open to all those corrections being recorded and published.

Ms RICHARDS: We have just come from the public hearing with the councillors of the Ipswich City Council. Councillor Tully was scathing of this particular piece of legislation. There was no record keeping of directives between the mayor and their CEO—no documentation, no transparency and a lack of accountability of process. Do you think the current legislation is a problem for local governments in Queensland?

Mr Hallam: We support amendments to the legislation to record those directions and make them public. We think that is important. To strip the mayor's powers to direct staff, consistent with the existing budget and policies of the council, would be a retrograde step.

CHAIR: Leave is granted to table the LGAQ's 2016 policy document.

Mr PURDIE: I pick up where Mr Stevens left off. You were talking about natural justice and the reasons the LGAQ does not support this legislation. Does the LGAQ have any alternative proposals for dealing with this?

Mr Hallam: No. We believe that the laws are strong enough. In May of this year we agreed to amendments to the Local Government Act to give the government further powers than they currently had. Those powers were that they could dismiss a council if it was in the public interest. We believe, based on the external legal advice from counsel, that they were sufficient powers.

The LGAQ has twice in the last 11 years agreed to further powers being granted to the state. The first was with respect to Johnstone shire and then again now. We have not dragged the chain. We have been prepared to agree to additional powers. We accept that this bill is about one council and one council alone. As much as we, on a question of principle, oppose it we welcome the fact that it is not applying to any other council.

CHAIR: You say that you supported the previous amendments, where the minister reasonably believes it is otherwise in the public interest that every councillor be suspended or dismissed.

Mr Hallam: Correct.

CHAIR: That in itself does not necessarily fit with page 11 at 2.2.3.1. It states there only where an appropriately constituted public inquiry finds that the local government as a whole acted illegally or is condoning illegal actions of its officers. It seems there is a different level of test in policy to the one that was immediately supported or the difficult situation—

Mr Hallam: There is a simple answer. We are not a legislative authority. We can only deal with the matters that are put before us. I am not playing the world's best hand here at the poker table. When the government came to us with a proposal to dismiss councils that lose the support of the community—and that was floated in the public—we were fundamentally opposed to that. It is the art of possible, as you would well appreciate. That was the position we were prepared to negotiate.

As a matter of principle, our position does not change. We are bound by the decisions of our peers. This document is the expression of 77 councils when they first formed in this term. When the government of the day, whichever government it is, puts a policy before us we have to deal with what is on the table.

CHAIR: This particular one would almost make it impossible for any local government to be dismissed. If the policy were reflected in legislation you would have to see the local government as a whole acting illegally? There is no burden of proof to establish—

Mr Hallam: Let us have a theoretical Council A. Council A has a number of elected members and appointed officials subject to charge. The CCC or another entity such as a royal commission determines that as a whole they have acted inappropriately and corruptly. In that circumstance we would support the dismissal—or if indeed a duly constituted court had found the charges against those people. It is a question of process.

We are arguing the same argument as the Law Society, in effect. It is about natural justice and due process. I say for the fifth time: we understand the circumstances the government is in. We are not blind to those. We understand the concerns of the Ipswich people. You either do or do not believe in natural justice. My political masters—the 77 elected councils; their elected members—have decided that is our position.

CHAIR: It is reasonable that we would ask how that works practically, though?

Mr Hallam: That is true. It is the legislature's job to come up with the legislation. We can only react to it. We cannot draft our own.

Ms BOYD: I just wanted to inquire about what consultation and feedback the LGAQ has received from its members in the 77 councils regarding this bill.

Mr Hallam: We have spoken to the LGAQ policy executive. The body that governs the LGAQ is doubly elected: they are elected by the community in the first instance and they are elected by their peers. Thirteen mayors and three councillors sit around the LGAQ policy executive. They have been fully consulted on our position. We have consulted obviously in that time. Bear in mind that we have only had the bill for a matter of weeks.

I have been travelling the state constantly having discussions with councils. The Council of Mayors South East Queensland have met and adopted the same position as us. The position has not changed amongst local government. They still hold the view that they are duly elected and until a court or an inquiry finds that they are corrupt then they are entitled to hold that office.

Mr O'CONNOR: Did the government consult you on this bill before it was released?

Mr Hallam: I think we probably had half a day's notice, from memory. Do not quote me. It is of that ilk. It was not any more than that. I think the bill was in the public domain the next day.

CHAIR: We got some feedback from councillors that they felt that there would be greater support from the state government to look at the governance issues. That seems contradictory to the LGAQ's position that there be less intervention from the state government and less red tape. Are the two views contradictory and going forward should we have more oversight of local government?

Mr Hallam: It is a very good question. The difficulty is simply this. With the size of the local government sector in Queensland—\$12½ billion in expenditure, \$150 billion in assets, 40,000 employees—you would have to have a thousand people in the department of local government to oversight every action of a council. The history of these acts around the country is that there be a general confidence power to local government and a framework that makes local governments accountable to the community, to the Auditor-General, to the relevant crime and corruption authority and to a range of other stakeholders.

The difficulty from where I sit is that the pendulum swings both ways. We have to find a balance between good, proper governance and the ability for our councils to do the job. These are very large businesses. We are often criticised for being overly bureaucratic or having too much red tape. Depending on the government of the day, the view changes. The media's view changes.

I think we can have some further amendments. We have put forward to the government, some many months ago now—back in April—a Beyond Belcarra 10-point plan. We have offered up recommendations beyond the 31 Belcarra recommendations to improve the system. We are not about trying to hold a position that is no longer appropriate. If you pass legislation you have to be able to enforce it. We have 77 councils from the Torres Strait to the Gold Coast. I think it is really important that people bear in mind that it is 2,600 kilometres from Brisbane to Burketown and it is 1,600 kilometres from Brisbane to Birdsville. It is a very large task.

Back in 1896, when the first really modern local government act came into being, the reality of this parliament or the departments or bureaucracy trying to oversight every decision of council was nigh impossible. It is finding a balance between having appropriate levels of control and autonomy.

We say that the best disinfectant is disclosure. The more disclosures and the more openness and transparency, the better the system. We have been great supporters of those throughout the life of this government and previous governments.

Mr PURDIE: On 20 July we had the department come and give the committee a briefing. One of the questions then was the cost of the administrator should the council be dissolved. They were not able to answer that. They did confirm that the cost was going to be borne by the Ipswich ratepayers. You suggested that the councillors get a separation or termination payment. Have you put any thought into who should foot the bill for that?

Mr Hallam: The ratepayers.

CHAIR: Thank you Mr Hallam. We appreciate your time.

KESTEVEN, Ms Joanna, Secretary, Queensland Local Government Reform Alliance

MONSOUR, Mr Joseph, Queensland Local Government Reform Alliance

SMITH, Mr Greg, Queensland Local Government Reform Alliance

CHAIR: I welcome representatives from the Queensland Local Government Reform Alliance. I invite you to make a short opening statement, after which committee members may have some questions for.

Ms Kesteven: I would like to thank the committee for inviting the QLGRA to speak. It is good that a ratepayers and residents group has been invited to have input, endorsing that part of the Queensland Law Society submission that the LGAQ should not be the only party consulted. We are a volunteer, nonpartisan organisation run on the smell of an oily rag. We started in response to the council mergers of 2007, but we are now overwhelmed by the numerous issues of local governance throughout Queensland. I will outline QLGRA's position on draft the bill. Greg will discuss the difficulty the community has in scrutinising its local government and Joseph will speak on the need to review all legislation associated with local government.

Regarding the draft bill for the dissolution of the Ipswich City Council, we fully support the dissolution of the Ipswich City Council. Although it will deny some of the councillors some aspects of natural justice, none of the councillors in our view should be allowed to run until 2024. To our knowledge, not one of the councillors had the wherewithal to prevent the behaviour that has beset the current situation.

The Queensland Local Government Reform Alliance wants the state government to get on with dissolving the council, with doing it properly and legally and with doing it as quickly as possible. We have witnessed the huge personal cost of this process to many Ipswich residents and ratepayers. One question the QLGRA asks is: how will the state government prevent these problems from reoccurring in the future? I will hand over to Greg, who is the president of OSCAR, the Organisation Sunshine Coast Association of Residents.

Mr Smith: The problems in the Ipswich City Council are extreme, but we believe, putting the corruption aspects aside, they are symptomatic of issues throughout Queensland. I can provide plenty of examples in local government areas that I am involved with that do not involve and do not even suggest corruption but do suggest the point that Ms Richards and Greg Hallam were making—

CHAIR: Do make it relevant to the bill that we are inquiring into.

Mr Smith: Yes. Inasmuch as Mr Hallam made a point following a question about balance, the pendulum has swung too far the other way. There is too much latitude. I will not give examples beyond saying that we believe this legislation would send a strong message to all councils in Queensland, and to councillors specifically, that better oversight of their councils is vital if they are to avoid similar action.

We hope this legislation will only ever be required once, but we do not believe proof of corruption is a necessary prerequisite for dismissal—just the failure to adequately follow due process, make mayors and CEOs accountable for their actions, and provide proper management oversight. We think they are reasonable roles for councillors. The councillors in Ipswich City Council, even the ones who are not guilty of corruption—there is no suggestion of that—have probably failed in their obligations. If you look at the guiding principles at the beginning of the Local Government Act, there is no question that the things that have occurred in Ipswich are not consistent with those principles, and all of those councillors have overseen the situation that we have got to.

The only way to show the public that the government is serious about local government reform is the message that this legislation would send to councillors across the state. Mr Hallam talked about natural justice. A number of submissions talked about natural justice—

CHAIR: Mr Smith, we ask that your opening be limited to five minutes. A lot of this is contained in your submission. It might be more useful to move into questions.

Mr Smith: That was our hope too.

Ms Kesteven: Joseph did have some points to make, so if he could be free to make those?

CHAIR: It might mean that we do not get further than your presentation, but that is fine.

Mr Monsour: On behalf of the QLGRA, our organisation asks this question: why did it take the arrest by the AFP of Mr Pisasale with \$50,000 in his bag to create the domino—

CHAIR: Mr Monsour, I do not know if you heard my introduction but you cannot speak about evidence that is before the courts. This is very serious before the parliament and we cannot venture into this. We might wind this up there if that is the tenor of what you are going—

Mr Monsour: That is the only point I am making in regard to that. I am sorry; I misunderstood that. I think this situation looks more like crisis management than good oversight, and it supports the view of our members that there are structural issues that stem from the Local Government Act and its implementation. First, in 2007 the state government adopted a regional model for most councils. Ipswich council—a merged council well before this—was promoted in 2007 as a successful regional council. It turns out that there was something buried below the surface. Perversely, it is proving to be a model of regional failure. I refer the committee to our submission to the inquiry into local government sustainability.

Second, the regional model combined with the use of the code of conduct further promotes the corporatisation of councils and the increased executive decision-making. Third, the problems of local government are further exacerbated, among other things, by two other legislative events—the Joh era decision to have direct election of mayors and the recent changes that enable the mayor and the CEO to prepare the budget. Why have councillors when the mayor has so much power? I am getting close to the end.

CHAIR: I do ask you to address the bill that we are inquiring into. It is interesting to have oversight over local government in general, but try to keep it relevant to the bill before us.

Mr Monsour: I think this was an issue that was discussed earlier. I am just following on from that. Operation Belcarra showed the difficulty in monitoring donations and the legislative limits in investigating and prosecuting misrepresentations.

Finally, recent governments of both political persuasions have relied too much on the advice of the LGAQ. Many of the supporting roles that were once performed by the department of local government in a nonpartisan manner are now performed by the LGAQ. Its role diminishes the public interest test. The Ipswich council legislation should be the start of a serious government review of all legislation pertaining to council governance and the success of the regional model. This is now urgent. We welcome questions.

Mr STEVENS: Ms Kesteven, the alliance has stated that none of the current councillors, regardless of guilt or innocence, should be able to stand for the 2020 quadrennial election. Given the fact that we hope—and we are sure—that the administrator's work will be finished by then, if a councillor had no knowledge of any wrongdoings—they may have been a first-term councillor—and if councillors before the courts are proven innocent of any charges, how can you justify them not being allowed to stand for the 2020 election?

Ms Kesteven: We saw recently the sacking of Chris Loft for issues that were far less serious. Many of our constituents consider that a far less serious issue. We are deeply concerned about the issues of incumbency in Ipswich. Paul Tully has been in for 39 years. Many of the other councillors have been in for as many years. The only exception I think is Mr Martin; is that right? These people have a presence in the town that is overwhelming for any citizens group to oppose. This is just speaking as a ratepayer. Let us say I as a ratepayer wanted to stand for election in Ipswich. To be mayor, Paul Pisasale spent \$200,000. How can a normal ratepayer and citizen possibly come close to addressing what those people have got in their incumbency already from their local government positions and from their knowledge of how they have done things in the past?

My question to you is: how are you going to stop the continuation of this behaviour? 2024 might be an ambit claim, but we want to make the point that your job as the state government is to settle down now and address the issues in your councils. I have looked up each of your electorates and each of you has major problems with your councils. Linus Power, Logan; Ray Stevens, Gold Coast—

CHAIR: With respect, we have the practice of referring to people by their correct titles.

Ms Kesteven: Yes, but do you understand that if you let these people stand again it is like they have done nothing wrong? Who knows how many times they turned a blind eye or whether they did or they didn't? They have incumbency and that gives people power.

Mr STEVENS: To correct the record, the member for Mermaid Beach, Ray Stevens, has no problem with his Gold Coast City Council.

CHAIR: I thank the member for Mermaid Beach for that interaction, but let us put questions to people.

Mr PURDIE: The reform alliance obviously supports this bill. I know that you were here when we heard from Mr Hallam only a few minutes ago saying that the LGAQ did not support the bill because it believes the government currently has the power at its disposal to dissolve the council. Have you investigated that? Is there any reason you are supporting this bill but you do not support the powers that are already available to the government to take action?

Mr Smith: We assume that the government made the judgement that this was the most efficient, effective way of doing it and they made a political assessment. We are not privileged to that. Therefore, we support what the government is proposing and we support this legislation, as dramatic as it is, because we think it will achieve an outcome that will ultimately be a good one.

We are not as sophisticated as some of the other people who will present to you, and I suspect this is the first time we have all been here, but we are representing the community. We would argue that there is some natural justice due to them and perhaps that outweighs the concern about natural justice due to these councillors. Mr Hallam said it—and I have read most of the submissions, and even those groups that do not support this legislation acknowledge the problem that is there.

Ms RICHARDS: Thank you for your presentation. We have heard from Ipswich city councillors this morning in their public briefing to us, and it was suggested by one of the councillors that there were alternatives to this legislation that could be considered. I would be interested to hear your views. Would it be a satisfactory outcome if the council were not to be dissolved through this legislation but supervisors were put in there to have oversight?

Mr Monsour: The previous discussion also went through this. There could be a lot of time frames in getting to the next election. In the interests of the ratepayers—and I think the ratepayers' interest is paramount—and due to the gravity of the issues that have been raised, I think there should be immediate action. Local governance in Ipswich should be immediately addressed.

We have not considered an alternative approach. There is always the issue of the culture of the council itself. The culture of the council, having been inculcated with various ways of dealing with things over a long period of time, would capture anybody who came in on a supervisory basis. That would be a serious concern of ours.

CHAIR: This morning we heard from the councillors, especially the four councillors who are new since 2016. They felt that they provided a strong public service being connected to local issues, getting feedback, fixing small problems and that that would be lacking if this was put in place. The administrator would possibly come from outside of Ipswich but almost certainly would not be in as close contact to the local areas that they represent. Do you have any feedback on that as a critique of this action?

Mr Monsour: The administrator is only a temporary circumstance. There is no acceptance that there are not good people in Ipswich to become Ipswich councillors. There is no reason it should be restricted to the current group. I do not think there is a shortage of people who would create a positive council in Ipswich but you have to make a break, and temporary administration is the only way to make a break.

Mr O'CONNOR: In your submission you talk about not wanting a minister or the executive to wield too much power, but you support the bill. I want you to expand on that.

Ms Kesteven: Basically we are saying that we like the idea that a bill has to pass through parliament to dissolve any council in the future. We are not legal people. We are hoping you will get the legalities of this legislation right so that it will pass through government legally. We hope it serves as a model for other dissolution circumstances, but in each case that dissolution bill has to go before parliament. It cannot just be a ministerial power.

CHAIR: That concludes your contribution. I appreciate you coming forward—

Mr Monsour: I apologise for my earlier insurrection. We are greenhorns, as you have probably realised. I suppose I misunderstood what I had written there.

CHAIR: It is certainly a complex issue to not talk about one of the key issues involved in this, but we do have to respect the courts and the process of the parliament.

DUFFY, Mr Gary, Private capacity

CHAIR: I welcome Gary Duffy. I invite you to make a short opening statement, after which committee members may have some questions. I remind all participants—and I know it is an easy trap to fall into—that the rules about not speaking about issues before the criminal court are very strict within the parliament and something we all try to follow. Mr Duffy, would you like to make an opening statement?

Mr Duffy: Yes. Thank you, honourable members, and thank you for the opportunity to present to you on behalf of the residents of Ipswich who have been victims of the current and previous council. I am a motor mechanic by trade and I thank the committee for the invitation to appear. Today we are here to find a reasonable direction to progress out of a dark past—decades of maladministration in Ipswich. The reason this bill should be passed will be the truth, and we know that the truth walks very slowly when you live in Ipswich. What I am presenting to you today is without prejudice, without hatred and without vindictiveness. Currently there are charges, against 15 people, of 79 offences against residents and ratepayers of Ipswich.

CHAIR: Be careful, Mr Duffy.

Mr Duffy: I would like to congratulate the minister for standing up for the ratepayers and residents of Ipswich. The bill is silent in several areas and I will address that in my reasoning for this. Public officials are held to a higher standard than ordinary citizens for a reason. They have significant responsibility. They are lawmakers. They are decision-makers representing the people in their region. They are charged with the responsibility to look after the interests of the whole community, not their own vested interests. When or if it becomes evident that they have failed to live up to the standard required of them as public officials due to wrongdoing, misconduct, corrupt conduct or criminal activity, it becomes obvious that they no longer have the public's trust and should stand down or be dismissed.

I refer to clause 7 of the draft bill and to the disqualification of the councillors. The councillors are not employees; they are elected to represent the people. They are not garbos. They are not receptionists. They are elected to represent people by good governance. They are covered by a different act as elected officials. There is no unfair dismissal; they come under a different act. Councillors say that they have the support of the public and they are not charged with any offences, but we need not look at the direct involvement of a single resident but at the overarching helicopter view of the governance of Ipswich to which the bill relates. The bill does not relate to a single councillor; it relates to dismissing the whole council as an entity. The overarching view is that the council failed the principles of section 4 and section 8 of the Local Government Act in that it was not transparent, not accountable and did not practise good governance, and this is what the bill addresses.

Here in the parliament last week Mr MacSporran QC hit on exactly those particular items which the bill addresses, that the Ipswich council had 'an improper use of power and influence for personal benefit'; 'a lack of oversight and accountability for expenditure and public resources'; 'inappropriate relationships between council and the private sector, in particular property developers and contractors'; 'an inability or unwillingness of council officers to stand up to inappropriate instructions or behaviour of former Mayor Pisasale'—I would expand on that to say that it was to other councillors as well who employ ex-councillors as their office staff in their divisional offices.

CHAIR: Mr Duffy, again, be careful about those issues that may connect to events before the court.

Mr Duffy: Sorry?

CHAIR: Be careful that you are not making reference to people who may appear before the court in relation to a criminal matter.

Mr Duffy: This sort of behaviour can be traced back to 1992. I have here some documents. With leave of the committee, I would like to table these documents and papers to the committee. This is from the Parliamentary Library. They are articles from the *Courier-Mail*.

CHAIR: We will need to take some time to carefully, Mr Duffy—

Mr Duffy: I understand that.

CHAIR: If any of the *Courier-Mail* articles make reference to any of the issues involved then they may still—

Mr Duffy: These do not relate to current issues. I just want to point out that the matters have been going on for a long time. These documents here are search documents which show directors of the company directly involved with the councillors in the council. These go back to 1991 where the

council set up companies that involved people from development companies and other companies. That will give you a time line of how long this has been going on for. None of this relates to the current matters before the CCC, which I am quite aware of. I am also quite aware that I am in litigation. I am being sued by the former mayor and the former CEO, so I am aware of those matters.

In 1993 a company was set up called Ipswich Events Corporation. The company secured all the entertainment contracts for the Ipswich City Council—

CHAIR: Mr Duffy, are you absolutely confident that these matters are not connected with the criminal charges that some are facing or will not be tendered as further evidence? If these issues are brought forward, you are in contempt of the parliament, so be very, very careful.

Mr Duffy: I will take your advice on board and I will skip past that part. I do encourage you to take this on board and have a look at the documents and see what they relate to, and we can go from there.

We will go to the bill. The bill is silent on the appointment. It says that the appointment of the administrator ends at the 2020 quadrennial election. The bill is silent on any provision for an extension of time. When the Geelong council was sacked, the administrator was in for 4½ years. If it takes longer for the administrator to clean up, there is no extension of time permitted in the bill. The bill stipulates 2020. I would like to see that continue.

CHAIR: Mr Duffy, we asked that your opening statement be five minutes. You have gone past five minutes. We might see whether there are any questions.

Mr Duffy: Yes, I will take questions.

CHAIR: Is there anything else that you wish to sum up very briefly?

Mr Duffy: Clause 5 of the bill and subclauses (7) and (8) refer to section 205(3) of the Local Government Act where the minister may make an appointment of a committee of persons to assist the administrator. I draw to the panel's attention that the bill should provide for the inclusion of a planning review panel to work with the administrator, similar to the Toronto Planning Review Panel. This would be a unique way for the residents to become engaged in the city planning process and properly assist the administrator. Such a panel would provide the community with representation during the administration process and provide residents with representation during the planning process whilst assisting the administrator to obtain best practice.

CHAIR: Are there any questions? Thank you very much, Mr Duffy, for your contribution here today. We appreciate your feedback.

Mr Duffy: Thank you very much.

ANSTEY, Mr Matt, Private capacity

CHAIR: Welcome. I invite you to make a short opening statement, after which the committee members may have some questions for you.

Mr Anstey: I come before you today simply as a resident. I do not have any great in-depth view or opinion about the law that has been put before us. As someone who put forward a submission, I was asked to come and speak, so I do so as a resident.

I came to Ipswich about 5½ years ago, after moving from the Gold Coast. On the Gold Coast at the time there was within the council definitely different councillors who had different views and a fairly separated council in some ways. I moved to Ipswich and people seemed to be in love with their council which I was absolutely shocked at and thought they were joking at the beginning. As I got to know the local residents and know the people, there was a genuine love and acceptance for the council that they had. I understood that the working arrangement for the councillors was that in public they stood united and behind closed doors they had great debates and decisions. I believe that the people of Ipswich do genuinely love their councillors.

I just wanted to share some of my experiences with some of the councillors whom I have got to know over the past few years as a community group leader, as a pastor of a local church. Kerry Silver, who is my local councillor, was a member of the Riverview community group before she was a councillor. She has always been willing to help our community group. Her kids went to the local primary school and she never misses a P&C meeting there. That says to me that she is totally engaged in the community that she is elected into.

David Morrison has shown himself to be a strong community leader in the Springfield electorate for many years. He was a local teacher before moving into council. Last year, when a new mayor was being voted on, a majority of candidates said they would like him as their deputy because of his character. When you are speaking about sacking councillors, you are essentially saying that their characters are in question—and I have not yet met anyone who would question David's character.

David Martin I knew before he was a councillor, as a referee at the touch football competition in Ipswich. He found out that I was a pastor in a church and that we have lots of involvement in kids programs, so he had the students from the youth detention centre where he was working as a woodwork teacher come over to create some small picnic tables that they then donated to our church which we use every week. He was able to see a need in the community and connect to it. He left that job about a year ago to become a councillor so that he could use more of his time to serve the community. I have also had interactions with Dave as he and his wife run the Operation Christmas Child campaign each year in the Ipswich region, getting schools, community groups and churches to pack boxes for children overseas who would otherwise not get a Christmas gift. These are the things Dave was doing before he became a councillor and it speaks to his good character.

My first interaction with Paul Tully was him awkwardly riding a camel as a wise man at the Shiloh Christmas carols. He was not afraid to have a laugh at himself and to be involved in the great community event which is what we in Ipswich love about our councillors. They are one of us. They are approachable. They listen to their people. Paul was also a great help to us last year when we were looking at how to best use our church land. Paul was incredibly helpful with his time and ideas.

I do not know what the claims are that have been brought before you. That is your decision on how to deal with that through the council. I do believe that they are not perfect, as none of us are, but when I read a report that came from the Ipswich City Council referring to some of the issues that they had there it says to me that they are moving forward in trying to come up with a council that is more transparent and willing to change to the needs of its community. I do believe that we need to have accountability within our councils, as we need in all sectors of our community and government. However, I would question how elected councillors who have no evidence of their personal involvement in the issues that council is facing should be removed from their positions of office. I fear that their role in representing the community will be seriously lacking if their positions are removed.

CHAIR: I call the member for Mermaid Beach.

Mr STEVENS: Mermaid Beach is on the Gold Coast, Mr Anstey, where you moved from to Ipswich.

Mr Anstey: Yes.

Mr STEVENS: I will not go into questioning as to the reasons why. In terms of your submission here today, is your submission more about your pastoral care attitude or caring nature for the individual councillors who may be affected and who may be quite innocent in all of these matters or is it really a reflection on the efficacy of the Ipswich City Council, given the charges that are before the courts?

Mr Anstey: As I mentioned, I have not looked into the charges that are before the courts. That is not my area and I have not had a lot of time to spend looking at that. My view is definitely around both heart for the councillors who I do know and their character and also looking at the fairness of them being sacked. However, if they have not been involved in the things that the council is being implicated in, I do not believe it to be a fair way to be able to sack them. My concern also is that the local residents and community groups will not be represented throughout the time that the administrator is in charge.

Mr PURDIE: Thanks for coming in. I appreciate it. You are obviously a passionate local ratepayer at Ipswich. Thanks for taking the time to come in. The chairman of the CCC recommended at the conclusion of their investigation that the systemic issues within the Ipswich City Council, he does not think, can be reformed and he supports the dissolving of that council. I appreciate that you have given us some anecdotes about these people. Do you have any other suggestions as to how those systemic issues could be resolved without sacking all the councillors?

Mr Anstey: Sure. I believe there is absolute public pressure and obviously gut pressure from the government to see reform and change. I would imagine that there would be will within the councillors to see that change as well. If there were an administrator forced upon them to work alongside them to see this happen, I would imagine that the public pressure would be forcing them to make the changes that are desired. If the CCC has found cause for concern against any of the councillors, then I agree that they should be stepped down from their positions. If they have not been found to be part of any illegal activities, I cannot see how it would be fair to be sacking them from their positions.

Mr PURDIE: Thank you.

CHAIR: I had a question but the member for Ninderry took some of the focus that I wanted to take. Many of us here are focused on what is best going forward in terms of governance and who has the best process to do that. While I think none of us personally are reflecting upon any of the councillors and recognise their good work, the challenge that we have is how to best go forward with that reform.

Mr Anstey: Of course.

CHAIR: To that end, we appreciate you coming forward to endorse their good work, but it probably does not address some of the key issues that we are basing this decision on. Do you have any feedback to give to that? It is a very similar question to what the member for Ninderry asked.

Mr Anstey: I am saying that the quality of the character of the councillors who I know and have been interacting with would also be similar to the quality of, no doubt, your characters and the people who you would like to speak on your behalf if ever this were the case with your positions. I believe that there is no doubt that the CCC has found things that have been wrong in the council. I do not think that tarring them all with the same brush is the way forward in seeing all of that experience and good work in the council being wiped. I think there could be other ways that would show stronger leadership.

Getting rid of elected leaders says that they are all equal in the way the CCC has found issues. If that is the case, then that is fair enough. Where there have not been implications of certain councillors, I think they should be able to remain in their positions.

Mr O'CONNOR: Do you think it is possible that these councillors could not have known about the serious failures of governance picked up by the CCC?

Mr Anstey: Again, I would say that I do not know what the claims or the charges are. I do not know what the individuals do in their day to have awareness of that or not. I cannot speak to that.

CHAIR: Thank you very much for your attendance, your feedback and your support of the local councillors and their good work.

BRODNICK, Ms Kate, Senior Policy Solicitor, Queensland Law Society

DUNN, Mr Matt, General Manager, Policy, Public Affairs and Governance, Queensland Law Society

TAYLOR, Mr Ken, President, Queensland Law Society

CHAIR: Good afternoon. I invite you to make a short opening statement, after which committee members may have some questions for you.

Mr Taylor: Thank you for inviting the Queensland Law Society to appear at the public hearing on the draft Local Government (Dissolution of Ipswich City Council) Bill 2018. As the committee would be aware from our written submission, the Law Society is an independent apolitical representative body, the peak professional body for the state's legal practitioners, over 13,000 of whom we represent, educate and support. In carrying out its central ethos of advocating for good law and good lawyers, the society proffers views that are truly representative of its member practitioners.

It is on this basis that we have made a submission to this inquiry and appear here today to raise our significant concerns about this draft bill. Our primary concerns are these. Clause 4 of the draft bill provides for the dissolution of the Ipswich City Council and ends the term of councillors. It circumvents the proper established remedial processes under the Local Government Act—processes that were reviewed as recently as this year when this committee looked into, and the parliament passed, the local government electoral Belcarra legislation. That is the easiest way to describe it.

This clause will abrogate the following fundamental rights: the right to the presumption of innocence, the right to natural justice and procedural fairness, and the right to seek a review of or appeal a decision that a person is aggrieved by. These rights are crucial in any process but particularly in these circumstances where the council and councillors have not been found guilty of any criminal offence or to have breached any other law that would render them unable to continue in their role.

There is no adequate justification for introducing and passing legislation that excludes these rights and causes injury to the democratic process when the ability to achieve the desired policy intent—that is, to remove councillors and dissolve a council—is already provided for in sections 122 and 123 of the Local Government Act that outline a proper process. It is our strong submission that the bill should not be introduced to parliament. I am happy to answer any questions.

Mr STEVENS: I understand from the Law Society's perspective the importance of natural justice in dealing with matters relating to individuals as opposed to the entity of the Ipswich City Council as a whole. Do you believe honestly that the integrity of the council and the ratepayers of Ipswich haemorrhaging over the next maybe one or two years to the next quadrennial election is outweighed by the natural justice that should be afforded to several members of the council? Can you also tell me why that should continue when there may be still further members of that council to be charged?

Mr Taylor: At the outset, I can say that it is the Law Society's view that those fundamental rights that were referred to before, including the presumption of innocence, are the absolute foundation and core principles that should be available to all Queenslanders for any process that is to be followed. If there is a fault with this process now, I think you would have to look at why the process was introduced—and only recently introduced. This was put in place, as I understand it, to deal with errant councils and this is what has happened now. In the view of the government, if it is the case that it is an errant council, then they follow the process that has been put in place. If there is a problem with this process, it needs to be reviewed but still allow all Queenslanders access to those fundamental rights. 'All Queenslanders' includes the councillors on the Ipswich council as well. The proposed legislation also puts in place the fact that there will be no elected council to replace this council until 2020. On that basis, it also denies the Ipswich electorate any democratically elected representative there.

CHAIR: Mr Taylor, that was the case in the previous iteration and the iteration before that of sections 122 and 123—that there be appointed an administrator for some period of time, usually up until the next election. That was the existing law.

Ms Brodnick: Yes, that was the existing process under the Local Government Act.

CHAIR: Thank you. It says here that in subsection (d)—

The Minister reasonably believes it is otherwise in the public interest that every councillor be suspended or dismissed.

That makes no reference to the guilt or innocence of individual councillors involved in the council when dismissing them.

Mr Taylor: No, not within the power of the minister. You have to let that process continue along, then issue the notice under 120.

CHAIR: It seems to me that the Law Society's position is that all councillors need to be found guilty and, presumably, appeals exhausted if there is to be a full extension of the principles of natural justice.

Mr Taylor: That is what happens under that process.

CHAIR: That is not what happens under section 123 as it exists?

Mr Taylor: They have to issue the notice under 120, which then gives them the right to reply under that section.

CHAIR: That is not a system where they are found guilty of corruption before a court.

Mr Taylor: No, no, it does not have to be corruption. They have to be found guilty in a court. They are not even subject to any ministerial investigative process that made an adverse finding. That is not even the case under the proposed legislation. They are not even allowed that opportunity.

CHAIR: That is not the case under the existing one, where it is the minister's reasonable belief. That is the test.

Mr Taylor: To initiate the process, yes, but from there there is the right for review and appeal which, as I understand, is being exercised now.

CHAIR: Your belief is that this process, which may take a long time to resolve, is the best outcome for Queenslanders under the Local Government Act?

Mr Taylor: If there are changes to the process that can be made to make it quicker, then by all means I suspect that that would be something that we would support, provided it does not abrogate those basic rights.

Mr O'CONNOR: Can you expand on your statement about it being against the fundamental legislative principles that have been in place since Fitzgerald? You talked about the Judicial Review Act and how it is broader than provisions in other acts. Would you be able to expand on your statement about Fitzgerald and also provide some examples where other acts have excluded the provisions of the JRA?

Mr Taylor: Certainly. I will answer the first part of the question. The Fitzgerald report, we say, is about process and independence, whereas we do not believe that this bill is about that. For the history of the Judicial Review Act, I might ask Kate to answer.

Ms Brodnick: Our reference to the Fitzgerald inquiry and the then subsequent Judicial Review Act was that it was identified in the Fitzgerald inquiry report that if there were deficiencies in the state and how administrative review was conducted then the act came into place. In similar legislation—for example, the offensive advertising legislation that was put in place a couple of years ago to deal with Wicked campervans, in the tattoo parlours act and in similar legislation; we can get you a list if you like—judicial review had been excluded, subject to jurisdictional error. In the operative sections of this bill, any appeal, any action that an aggrieved person can take, is removed. In that sense, this bill abrogates all rights, not just those in the Judicial Review Act.

Ms RICHARDS: Thank you for your presentation. Are you familiar with the legislation from the Victorian government for the dismissal of the Geelong city council last year?

Ms Brodnick: From media reports, yes.

Ms RICHARDS: I was hoping to get some commentary on what you thought the differences were in the approach to natural justice, given that is an Australian principle in law—the comparison between this legislation and the Geelong city council dismissal legislation.

Ms Brodnick: I do not think we are able to compare processes for you, because it is not something that I have looked into. If you would like me to take that question on notice, I will have a look and come back to you. In terms of how and why a council was dissolved, that is not our main contention. Our main contention is that in this bill the council is being dissolved in a way that does not allow for a proper process. If you like, we can come back to you on that.

CHAIR: We might place that question on notice. Some strong words have been said about previous standards of government. In this case we have the tension between how a government acts to eradicate poor governance and the possibility of corruption within a constituent and legislative form

of government and the principles that you have outlined. Is it not reasonable enough that good governance to prevent corruption and failure of governance might have to take action where the alternative would be to drag out processes until a new election is held?

Mr Taylor: Not unless an alternative process is made available such that at least somebody can be heard—have charges levelled against them and have those charges heard and have a right to reply. That seems to be what is missing at the moment from the proposed legislation.

We are not questioning the action by the government to want to take action against that particular council. What we are questioning is the process by which that is proposed to be adopted when there are already processes in place, which were put in place by the government just recently. Other changes to that policy may be welcomed and welcomed to be reviewed.

CHAIR: Have you put forward any suggested changes that could actually bring that to a conclusion in a method that would be compatible with the Queensland Law Society?

Mr Taylor: I have not turned my mind to the exact changes to the process which may be needed other than it is a common theme—

CHAIR: Any that we could imagine, subject to appeal, subject to delays, subject to manoeuvring, that might take that process through beyond 2020?

Mr Taylor: Certainly with no hearings at all available it takes away that basic right of a presumption of innocence.

CHAIR: I was not necessarily asking about that. I was saying any that we could imagine that perhaps takes that process through and defeats the entire purposes of trying to bring in an administrator to put in processes to overcome the inadequacies of governance and those issues. If it is to be put forward that it takes it beyond 2020 through legal processes, does that not defeat the entire purpose of why the government would seek to act?

Mr Taylor: If the intent is to remove that council before that time line, then by definition it would, but whether or not following the processes under section 123 and section 120 which are in place now would drag that out then, because once the notices have been held up I understand the council is then dissolved.

CHAIR: Mr Dunn?

Mr Dunn: There is no guarantee that the legal process is going to drag out until 2020. For example, tomorrow the hearing on the initial show-cause matter is scheduled to be heard in the Supreme Court. It has been less than a month since that process was initiated. I am not quite sure why we would assume that, if the minister made a decision to dissolve the council tomorrow under the Local Government Act provisions, the appeals process would run through to 2020 therefore the entire purpose of that would be stymied.

I guess the other question to ask in that space is: what was the point of introducing the Belcarra amendments, which were introduced in a bit of a rush, if they are not to be used and we are to deal in a single instance with particular councils outside of that framework? I think there are a couple of questions in that space.

To reflect, Mr Chair, on what you said about corruption, from the Fitzgerald report we have the CJC, our now CCC, which is our corruption-busting entity, and I do not think there is any suggestion that the CCC is not capable of dealing with the issues that are available in the Ipswich City Council and therefore this process needs to be taken out of its investigation and prosecution process.

Mr STEVENS: Just to clarify, the society's position is basically that you do not have a problem with the government's capacities, abilities or intention in relation to what this bill does for the Ipswich City Council; however, you are unhappy with the process. I take it that you would like to see fresh elections held straightaway, as per the current act. Can you explain to me how it would work in practical reality if that happened and we followed that process and there may be ongoing investigations into other council members that do bring about further charges after those fresh elections are held? Does that make the whole process look absolutely worthless in the scenario you are pointing to?

Mr Taylor: I do not think that renders it worthless at all. In the current process the legislation contemplates, as you say and rightly point out, the election is to be held as soon as practicable. That gives the constituents in Ipswich the right to have democratically elected representatives. It is difficult to say or to predict what other investigations might turn up, and the same might be held for any council one could say as well. I do not think that argues against the reasons they should not have elected representatives as opposed to an administrator for a long period of time.

Mr STEVENS: Don't you think the government of the day—we will just take sides out of the matter—would look pretty ridiculous if they had gone through a process, as the mother of local government, to right issues for the Ipswich residents and then further investigations come at a later date that reinforce the same thing is happening or has happened and they would have to go through the whole process again? The Law Society is saying that is a good way for a government to act?

Mr Taylor: What happens if the charges are brought in May 2020? If the election is, I understand, in March 2020 then it will be in the same position again. It would not remove that possibility of not having a crystal ball to see what will happen. To stand back and not allow an election to proceed on the basis that something might happen I do not think is enough to deny the people of Ipswich or any area their right to a democratically elected representative.

CHAIR: Mr Taylor, I put it to you that it seems like the Law Society is delving into a policy judgement. Mr Dunn has suggested that the minister not utilise section 123 in any circumstance or this new legislation and instead that the CCC is sufficient to deal with corruption issues. That is what seems to be indicated.

Mr Dunn: No, Mr Chair, prosecuting instances of corruption. I am not suggesting the CCC should have the power to sack a council but simply investigate instances of corruption and deal with instances of corruption. The CCC cannot dissolve a council. I am not suggesting that they should.

CHAIR: You seemed to be implying that executive government not make a judgement to use section 123. That is what I took from your statement.

Mr Dunn: No, sorry.

Mr Taylor: No, we are saying that that is the process which should be followed. If the government of the day makes a decision it wants to act in that manner, then that is a decision for the government of the day. We are not criticising the decision. Our problem is with the process which is being adopted. We are saying that there is a process put in place and you should follow that process.

CHAIR: Building on what the member for Mermaid Beach said, that there not be the judgement of the government of the day about putting in an administrator for a time in order to put proper processes in place but instead immediately go to elections—

Mr Taylor: As soon as practicable.

CHAIR: It seems to me policy decisions rather than legal principle decisions.

Ms Brodnick: That is what the legislation provides: 'as soon as practicable'.

Ms RICHARDS: How does that address the root cause of why we sit here today, which is a city council that has, by its own admission today by councillors, said that there are systemic governance issues within that council? How does going to election resolve it?

CHAIR: That is why I made the critique about it being effectively a policy decision that QLS is involving itself in.

Ms RICHARDS: We could go to election tomorrow. How does that solve the systemic governance issues that are clearly identified within council, by their own admission and by the investigation of the CCC?

Mr Taylor: That is a matter for the government to deal with.

Ms RICHARDS: Through legislation.

Mr Taylor: Yes. Our comment on this is that there is a process that is there that needs to be followed. The problem with this current proposed legislation is that it gets to an end but by getting to that end it cuts across so many of the basic rights that people should have. That is our position.

Mr Dunn: To take up the member's point, in this legislation, instead of dissolving the council, could they not have looked at perhaps giving the minister the discretion to dissolve the council and appoint an administrator for a period of time into the Local Government Act as one of the mechanisms under the machinery provisions of that act, instead of necessarily running straight to an election? If as you say the fundamental problem is not going to be solved by going to fresh elections then could you not do that under the act?

CHAIR: That is one of the parts of the legislation

Ms RICHARDS: That is one of the parts of the legislation.

Mr Taylor: But the legislation does not allow the minister to make a decision about dissolving the council. The parliament makes the decision to dissolve the council. That is very different. If the minister had the power under the Local Government Act to decide to dissolve the city council and to

appoint an administrator for a period of time, you are in a different situation to the one where the parliament makes that decision to dissolve the council, because if the parliament makes that decision it cannot be reviewed by the courts. No-one can ask any questions. It is just an exercise of parliamentary power, not an exercise of executive power.

CHAIR: The QLS's position is that the execution of executive power is preferable to the policy of the parliament?

Mr Taylor: The exercise of executive power allows for review. The exercise of parliamentary power does not allow for review unless the parliament's legislation is unconstitutional or not founded within the powers of the Queensland Constitution—it is outside of the scope of the power of parliament. It is a different mechanism altogether.

Mr STEVENS: Yes.

CHAIR: It is.

Mr STEVENS: There will be less legal fees, I am sure.

CHAIR: I thank you very much for your attendance. We appreciate your submission and your attendance here today.

DOCWRA, Mr Mark, Deputy Director, Legal, Crime and Corruption Commission

MacSPORRAN, Mr Alan, Chairperson, Crime and Corruption Commission

CHAIR: I invite you to make a short opening statement after which committee members may have some questions for you.

Mr MacSporran: I do not intend to repeat the Crime and Corruption Commission's submission, which has been received and published by the committee on its web page. I also do not intend to comment on any prosecutions arising from the current CCC investigations, for obvious reasons.

CHAIR: I did not think I needed to give you that guidance.

Mr MacSporran: The CCC submission is directed at the policy objectives of the bill and the reasons for them. The decision to remove the council and the legal process for this to occur are matters for the government and the parliament, not the CCC. The current CCC investigation has identified significant and extremely concerning governance failures and cultural issues within the council. These would not occur within an environment where transparency, accountability and good governance were paramount. Many councillors were not directly involved and may not have been aware of them, but that is rather the point when considering the policy objectives and reasons for the bill.

Under the Constitution of Queensland, local governments are charged with the good rule and local government of their area. Under the Local Government Act, Ipswich City Council is the elected body responsible for the good rule and government of Ipswich City. Section 12(3)(d) of that act reinforces this by providing that all councillors are responsible for being accountable to the community for the local government's performance. Ultimately, the minister, the government and the parliament representing the people of Queensland are responsible for holding local governments accountable for the exercise of this responsibility outside the four-year fixed-term election cycle.

I have indicated that the CCC would release a public report to discuss the issues the CCC has uncovered throughout the investigation. The report is not yet finalised. The CCC is required to give procedural fairness to persons who might be adversely affected by that report, and that will be done in the next couple of weeks. However, because of the CCC's overriding responsibility to promote public confidence, I have briefly outlined the following governance and cultural issues that have been uncovered during the course of the investigation—bear in mind that the investigation has been ongoing since about October 2016: an improper use of power and influence for personal benefit; a lack of oversight and accountability for expenditure and public resources; inappropriate relationships between council and the private sector, in particular property developers and contractors; use of mechanisms that allowed avoidance of scrutiny of actions and decision-making; an inability or unwillingness of council officers to stand up to inappropriate instructions or behaviour of the former mayor; failure to report suspicions of corruption, including by successive chief executive officers; instructions to council officers to breach policy and procedures and falsify records; and abusive attitudes towards council officers.

You may recall that following the resignation of Paul Pisasale the *Courier-Mail* reported that Councillor Paul Tully, then deputy mayor, acknowledged a decade-long code of silence was entrenched within council where suspicious councillor behaviour would go unchallenged in order to publicly present a unified front and enable councillors to go—

CHAIR: Mr MacSporran, I know you are quoting the paper there, but—

Mr STEVENS: On the sub judice issue, we cannot comment on matters currently before the court—

CHAIR: In relation to that commentary about the decade-long practice of a councillor, there is a small possibility that informs something about the way a criminal case might proceed. If one of the members was saying it, I might ask them to be careful on that front, so I just—

Mr MacSporran: I understand, Mr Chair. What I am talking about is the current councillors and the admission, if you like, by this individual, as reported in the *Courier-Mail*—and it is one of a number of reports in like vein—that there was a culture of silence and cover-up rather than confronting the issues and challenging the behaviour. That goes to the heart of the failure of governance, transparency and accountability and, furthermore, the undermining of public confidence which this bill seeks to address. That is the only point I seek to make about that. I am going to tender for your information—and you can look at it at your leisure—the report itself. It is just a *Courier-Mail* extract. You can do with that as you wish. It has what I would say are some significant admissions by a current councillor in particular of the culture which is sought to be addressed by this bill.

CHAIR: We might get a copy to have a look at that if we could.

Mr MacSporran: Certainly. It is just a *Courier-Mail* article.

Mr STEVENS: There is nothing else in there?

Mr MacSporran: No. It is on the public record, if you like.

CHAIR: I will just have a quick read, but if you can continue.

Mr MacSporran: Contrary to assertions made by some, the bill does not alter the presumption of innocence; it does not interfere with the independence or institutional integrity of the judiciary and does not impermissibly interfere with the judicial process. The bill appears to be a proper exercise of the Queensland parliament's power to make laws for the peace, welfare and good governance of the state.

Concerns have been raised about the bill's clause 7(2)(b) and its proposed disqualification of Ipswich councillors from contesting local government elections other than Ipswich until after the March 2020 elections. I am not aware of the policy behind that clause or whether it is a drafting error or whatever, but it would seem to be over and above what might be required. I think in one of the submissions you have from someone—and I cannot remember who—on the website they make the point that if they were, in fact, dismissed as a councillor from Ipswich, decided to make a clean breast of it, moved out of the area and went to live in another local council area and then proposed to put something back into that community by running for office in 2020, they would be prevented from doing so as the bill currently reads in that clause. That is a matter you might need to think about in terms of the effect of that.

CHAIR: We heard similar this morning from councillors.

Mr O'CONNOR: I think that was Paul Tully's submission.

Mr MacSporran: Certainly. Just in closing, on that point about this bill not interfering with the presumption of innocence—or altering it—or the judicial integrity or interfering with the independence and institutional integrity of the judiciary, could I refer you to a High Court case which is recent. I have copies of this to hand up and you can read this at your leisure. It is the case of *Duncan v New South Wales*, reported in 2015 volume 255 Commonwealth Law Reports, page 388. If you remember, ICAC in New South Wales had a public inquiry into the granting of certain coalmining licences. ICAC conducted a public hearing and then a public report which it tendered to government. The public report by ICAC actually had this to say. I quote from the judgement at page 400 at about line 18. It states—

On the basis of the findings—

this is the ICAC report—

it had made in the Operation Acacia report and the Operation Jasper report, ICAC expressed the view in the December report that the granting of the Doyles Creek, Glendon Brook and Mt Penny exploration licences "was so tainted by corruption that [they] should be expunged or cancelled and any pending applications regarding them should be refused". ICAC recommended that the New South Wales Government consider enacting legislation to achieve that expunging, noting that "[s]uch legislation would have the benefit of reducing risks arising from challenges in the courts to any ministerial decision to cancel or not renew current [licences]".

It is a not dissimilar situation to where investigations had revealed potential corruption, ICAC had published a report saying that and recommending that there be legislative intervention, deliberately designed to circumvent any attempt to challenge what would otherwise be an exercise by the minister of his discretion to cancel or not renew the licence. In that sense, it is very similar to what is happening here. It is done, and the court went on to say about that process—I should add that the second reading speeches by both the minister for roads and ports and the Premier said—

However, the action proposed in this bill does not stand or fall based on the findings or recommendations of the Independent Commission Against Corruption. Having regard to the information that has been exposed to public scrutiny, the Parliament itself can and should form its own view as to whether these licences should be cancelled.

It says based on all considerations, and not limiting it to any finding made by ICAC in that case or the McGrathNicol reports which have been tabled in parliament or the report that we are going to tender or the systemic issues you have heard about this morning apparently in evidence from the councillors themselves. All of those factors are relevant to whether you need to and can—and, if so, how—restore public confidence in the local government for the community of Ipswich. In those extraordinary circumstances, this sort of legislation flagged in the bill is not at all outside the appropriate exercise of legislative power as endorsed by the High Court in *Duncan's* case. That is really all I wanted to say by way of opening statement.

CHAIR: Thank you very much, Mr MacSporran. It was very thorough.

Mr STEVENS: In Ainsworth—that is, the Ainsworth poker machine group—v the CJC the High Court held that the CJC in compiling its report on poker machines in Queensland had not afforded the appellant procedural fairness. Mr MacSporran, are you confident that in respect of this matter the CCC, and you as the chair of the CCC, in providing advice to government about the councils has complied completely with procedural fairness?

Mr MacSporran: If you are talking about providing advice to government and in saying that meaning providing information to the government about the ongoing nature of our investigation and the issues that have been uncovered in it, yes. More particularly, the report that I foreshadowed we are going to release publicly in a couple of weeks will have afforded the parties who are named—and it is unlikely they will be named in the report but, given it is such a small pool of people we are talking about, we would consider it would not be too hard to work out who is referred to in the report or the sort of conduct attaching to various people—the opportunity to comment on the report before we table it in parliament.

Mr STEVENS: Just so it is clear, you gave the government no advice in relation to procedures that should be followed to resolve the matter at Ipswich at this point?

Mr MacSporran: Not at all. I issued a public statement I think following the minister's radio interview the week before last, from memory—it might have even been last week—which mentioned that I had given advice to dismiss the council and so forth. I was advised by the minister before he announced it that he was going to take that course and how. He told me he was doing that so that I could indicate whether that was an interference in any way or would likely jeopardise our ongoing investigations. I indicated that it would not. The process by which he intended to achieve that was a matter for the government, but I was supportive of the ultimate outcome for the reasons I have articulated in our submission: the governance failures and the failure of transparency and accountability that we had identified as part of our investigation. I certainly did not and would not advise the government about that course and how to achieve it. That is a matter for the government and for the government to have its own legal advice.

Ms RICHARDS: We heard this morning from Councillor Tully, who was quite scathing about the changes made in 2012 to the legislation around a mayor's ability to direct. In a ministerial statement released back in September 2012 Mr Crisafulli was noted as saying—

"The Mayors and councillors are united on this, regardless of political leanings, the size of their Council, or their location.

"Whether it's a far western Council that's forced to spend more money to achieve less, or the Ipswich City Council that has to waste resources on pointless record keeping, Councils want the same thing: less regulation."

I wonder if you could provide your commentary on that particular change to the legislation in 2012 and the impact that might have had in terms of where we sit today with Ipswich City Council.

Mr MacSporran: The sad reality is that less regulation in this space, and very much right across the public sector, simply does not work. It is not something that can be left to the individuals involved to regulate and make an effort to get it right, to be transparent and accountable. There are too many personal interests that come into play. There are too many pressures on people in those positions. Even if someone has the best will in the world, they need to be monitored and continually monitored. That is why my agency exists. I think history has shown us that, since Fitzgerald recommended the setting up of the agency, it has proved to be a necessary public sector safeguard.

Mr STEVENS: You nearly said—

Mr MacSporran: Nearly, but I did not. The fact remains that you need to keep an eye on things, you need to continually monitor things and you need to continually call out bad behaviour and have it corrected. It is often too late to leave it to the parties to monitor it themselves. You see it everywhere. It is the same in private industry, frankly. There are quality assurance schemes which are elaborate and have huge checklists which are all ticked in the right places. However, if you scratch below the surface, you find almost always a lack of transparency and governance. I am very much in favour of more, not less, regulation unfortunately. It just comes with the territory. It is too important to leave to its own devices.

Ms RICHARDS: The other thing Councillor Tully had mentioned was that the directives were not documented, were not recorded. Should something untoward have been going on, how would you ever possibly be able to trace or track things that are not going so well?

Mr MacSporran: That is one of the problems. You do need to document everything. It needs to be auditable. You need to be able to point to what you have done transparently, where you have declared a conflict of interest, how you have managed it and documented that process. It is the best
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defence you have against false and malicious complaints. It is self-preservation. If people have it in their head that it is their best defence they might understand it better than it being an extra bit of paperwork.

Mr PURDIE: You talked about your support of this legislation to dissolve the council to renew public confidence in Ipswich. You also talked about how concerned you were in relation to your report about offering people procedural fairness. Is there any reason you support this legislation but do not support the legislation that was already available to the government to dissolve the council as per sections 120 and 123 of the Local Government Act, which I understand did have principles of natural justice? I understand you are a former barrister. You obviously would have some opinions on natural justice and decisions that are taken to preclude people from having natural justice under this bill?

Mr MacSporran: I do not decry the powers, some recently enacted, under those sections of the act. However, I do accept, as I think everyone does, that this is a rather extraordinary situation that we find ourselves in. As the ICAC case of Duncan in the High Court indicates, there are cases where extraordinary measures like these are entirely warranted. After all, it is not as though there is some arbitrary action taken to dismiss this council. This is a matter for parliament. The parliament, ultimately, is responsible for the good government of that community, overseeing that council, which is itself responsible for good government and transparency in that council. If there is a failure in public confidence, whether you accept the allegations against these people or not is not the point. There is a clear failure of public confidence. That is what is sought to be addressed here. If this measure is the only way that can be done swiftly and to protect the people of Ipswich, that is why I support it. Again, the precedent from the highest court in our land is Duncan's case. It is not dissimilar at all: no compensation was awarded, the licences were cancelled and life moved on.

Mr STEVENS: On that last statement, in Duncan's case the government enacted that ICAC regulation in terms of rescinding those approvals and that was not challenged and there were no damages due or issued out of that matter?

Mr MacSporran: That is so, Mr Deputy Chair. There was a challenge to the High Court. That is what that case is about. The legislation achieved the cancellation of those licences without a right of review or appeal. It was an act of parliament.

Mr STEVENS: No damages?

Mr MacSporran: No damages. They argued for compensation. There was a claim for compensation and that was refused. Effectively, it was a blanket endorsement. As long as—as in this case—the laws come within the purview of the ability of the state government to make laws for the law, good order and peace of the state, as long as that condition is met, as it was there, and we would say is here, there is no prohibition on that legislation being enacted. The proper place for the debate to decide the pros and cons of the legislation is in the parliament. That is what the parliament is for.

Mr STEVENS: It was found not against fundamental legislative principles to retrospectively do that?

Mr MacSporran: Not at all. As I say, I have copies of the case, which I encourage you all to look at, because it is recent, it is the highest court in the land and it is not a dissimilar factual scenario. Bearing in mind that they did that, the legislation was enacted without regard to any particular finding by ICAC or any other piece of evidence itself. It was a global picture of a loss of public confidence in the system awarding licences by, in that case, the minister, who was found by ICAC to be corrupt.

Ms BOYD: Some of this may actually have been captured in your immediate commentary. I noted you were in the room when the Queensland Law Society was talking about their preference in terms of a way forward in the situation such as we find ourselves in with the Ipswich City Council at the moment. Can you make some commentary around what you heard and your view and the Crime and Corruption Commission's view on the information that they put to the committee?

Mr MacSporran: I can understand immediately where the Law Society's submission is placed. It is not a surprise. It is a traditional view of the world and the view that you should not remove basic rights and basic positions without a chance to defend yourself and, in the case of people charged, give them their day in court and see what the court decides and so forth. All of that is well and good. It does not address the fundamental question of the public interest in the government of the Ipswich City Council and the community of Ipswich being governed by that council. That is a far more serious issue to be considered.

In circumstances as extreme as these, as Duncan's case indicates, the process can be as serious as an enactment by parliament to achieve the result, without a right of review and on the recommendation of the anti-corruption agency that specifically recommended the legislation as a way of avoiding any further challenges of the minister's discretionary power. If Minister Hinchliffe was to
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exercise his power under section 123 to dissolve the council, they would have a right of review. Those rights would play out through the courts in the ordinary course. The ICAC situation was similar. If the minister exercised that power to cancel licences, they would be subject to review. The legislation was designed and recommended to be enacted to get around that process, because it was the only way to quickly and efficiently restore public confidence, in that case, in the whole method of issuing licences and, here, the whole basis for operating a local government council area.

CHAIR: It is difficult, as parliamentarians, to know at what point it is urgent and important and imperative to restore public confidence and whether we are, as the Law Society perhaps alluded to, overstepping that mark and not allowing natural justice. How do we balance those two competing forces?

Mr MacSporran: I think, at the end of the day, our submission is that there has been a fundamental failure in public confidence. For whatever reason, they were in newspaper reports for years. They have been ramping up in the last almost two years, because of our investigation and the charges that have been laid. There have been statements made more recently. Further revelations were occasioned by the McGrathNicol reports into the separate entities operated by Ipswich city councillors. All of those things have created an atmosphere where there has been a failure of confidence in the ability of that council and those remaining there to properly govern that local government area.

The urgency is that there are a large number of employees, staff of the council, who are trying to do their work in an atmosphere where they are continually subjected to these sorts of reports in the media about how this council operates. It is not fair to them. It is not fair to the community members of Ipswich, the ratepayers, to have that ongoing speculation. The longer it goes on and unless it is brought to a head very quickly, it would fester for a considerable further period. We all know how long these things take to go through the courts. The current criminal charges will not be finalised, I would think, before the end of next year at the earliest. This will drag on and on through the criminal courts. That is unhealthy. It undermines confidence in this system, so you need to do something which is rather extraordinary. I accept that this is extraordinary, but it is necessary, in my considered view, for the reasons that I have articulated in the submission and I have expanded upon in the oral submissions today.

Mr O'CONNOR: Do you have a view on whether the current councillors should be able to stand at the next election in 2020?

Mr MacSporran: Am I correct in my reading of the bill that it allows them to stand in 2020?

CHAIR: Correct.

Mr MacSporran: That is just part of the democratic process, frankly. They will stand or fall on their reputations and their support or otherwise. If they are dismissed, it might depend on what is uncovered in the period between now and March 2020, about their conduct and systemic issues or otherwise in that council over a long period.

Frankly, once the administrator is in there, and bearing in mind it is now less than two years—it is not very long to have the administrator try to sort out this mess and to put in place some governance framework and try to change the culture—it is fair enough I think to allow them to nominate. As I said before, in respect of clause 7(2)(b), I think it is, it would seem a little unusual to have the prohibition on them being able to stand elsewhere at that period. That might need to be looked at. Then the democratic process will decide their fate. If they want to stand again they should be allowed to, and perhaps not just there but elsewhere if they have relocated or are minded to try somewhere else.

I just add that the whole tenor of this is not designed to punish them at all. A far higher outcome is achieved here, which is to restore public confidence. Sometimes people, in the course of pursuing those ideals, are subject to some serious outcomes. That is not the purpose of this; it is quite incidental to it.

CHAIR: Could you expand on that? I did not know how to phrase this question. Many have reflected that it felt that there was an implied guilt upon any particular individual. Mr Anstey felt that it tarnished their reputation. Of course, that is not the intent of the legislation. Could you reflect on that?

Mr MacSporran: I agree entirely. It is an unfortunate collateral aspect to all of this that some people—I am not suggesting the majority, but some people—would see it as tainting these individuals. You cannot prevent that. That is probably a natural reaction to this sort of outcome. At the end of the day, it is not about that. It is not about even proving that the people who have been charged criminally are guilty of those offences. It is not about that.

Whether you accept that it might be true or not, the fact is that, for whatever reason, there has been a collapse of public confidence in that council and those councillors. That is what is being addressed here. It is not about them individually being guilty of misconduct or otherwise. It is about systemic failures collectively of good governance, and a lack of transparency and accountability across-the-board. They stand or fall, as they must, under the Local Government Act and the Constitution of Queensland as the body, the entity, collectively responsible for the good governance of that community. There has been a failure of that. There has been a failure of public confidence in their ability to do it for a whole host of reasons, not the least of which is the sort of matters that we are talking about—McGrathNicol, our report coming and so on. You do not have to latch on to any one of those items individually; you have to look at it globally and decide whether it is in the public interest to address that more holistically and restore public confidence.

CHAIR: Thank you for bringing that up. I was not sure how to phrase that question because, obviously, you are in an investigation, but once you brought it up I did not mind if you further expanded on it.

Mr PURDIE: I want to clarify what you are saying. You were talking about the collapse of public confidence. You said that restoring public confidence outweighed natural justice. How do you gauge public confidence? Obviously, the CCC and people who will read the report that is coming out in a couple of weeks might attest to that. I have not seen the *Courier-Mail* articles that you tendered, but I remember seeing a headline a while ago that said that if an Ipswich City Council election was held tomorrow then Pisasale and the council would get back in on a landslide. How do you gauge this massive loss of public confidence and decide that it is enough to override natural justice?

Mr MacSporran: It is hard to quantify; I accept that, member for Ninderry. It is a good question. At the end of the day, I think that is a judgement call. I think you as parliamentarians will make your own call about that. You will read the media and say, 'Well, there are polls that say they would be elected tomorrow if there was an election and others who say they want them dismissed and they should be penalised further somehow.' There are varying views. You should read that article I tendered, which is just one article that followed the charging of the previous mayor, Mr Pisasale. Councillor Tully came out and made those comments that effectively said, 'Look, he was so popular that there was a culture of silence not challenging him because we did not want to ruffle feathers. He would always say that unity is what the public want to hear and that they don't want to hear squabbles so don't be complaining in public, but behind closed doors it was a very different scenario.'

Mr STEVENS: Point of order. Again, Mr MacSporran, I fear we might be treading very closely to matters—

CHAIR: Mr MacSporran, you may know better on this, but certainly if one of the members of the committee or another witness were putting that forward, even though it certainly is on the public record—

Mr STEVENS: Your opinion is higher than mine, but we want to make certain—

Mr MacSporran: Again, I say that I am not at all talking about the guilt or innocence of Councillor Pisasale.

CHAIR: And your knowledge of that would be better. My knowledge is not there and I am the one in the chair and I have the responsibility to respond to the point of order.

Mr MacSporran: If anyone read that article they would have serious concerns and a lack, I suggest, of public confidence in that council, because of that acknowledgement. You have had, I understand—I did not see the live streaming or you might not even have been live streaming when you sat in Ipswich—

CHAIR: We were not live streaming on that occasion. The video will be put up at some point, but we had to tape it and then transfer it.

Mr MacSporran: As I understand it from what was said earlier on during Mr Taylor's evidence, there were admissions or statements about a lack of governance and so forth in that council. That is consistent with what Councillor Tully has said in that article, if he is quoted correctly.

Mr O'CONNOR: From what I heard this morning, I asked every councillor, basically, if they had any examples of a lack of governance. I think they only raised one specific instance to do with the hockey centre. None of them had any idea about any of it, or they claim that they had none.

Mr MacSporran: I think the hockey centre matter is dealt with pretty extensively in one of the submissions. I think it has been removed from the website for further redaction but, if you mention the hockey centre, that is certainly dealt with in that submission, which may enlighten the facts about that. I accept that you cannot go out with a tape measure and measure public confidence. It is a

judgement call. In our judgement there has been a failure of public confidence. You as the parliamentarians debating this shortly will need to decide whether that is the case and whether this measure is necessary as a balancing exercise and that it outweighs the need to afford individuals in particular natural justice.

Mr STEVENS: Mr MacSporran, in terms of your earlier response in relation to behavioural matters, could you advise the committee whether, in your opinion, the current Local Government Act or individual behaviour resulted in the current issues that we have with the Ipswich City Council?

Mr MacSporran: I think it is fair to say that it is a combination of both. I think there is a fair case to be made for an overhaul of the Local Government Act to tighten things up and to provide a better framework. Ultimately, no matter what sort of framework you have, it is individual behaviour in the first instance that seeks to exploit what they perceive to be loopholes, or a lack of sufficient framework to deter the behaviour. It cannot happen without the individuals being prepared to engage in the misconduct. I think what you need is a robust piece of legislation to make it harder, but you need to educate, assist and monitor those working in the area to make sure that the culture is healthy and that the reporting of misconduct is at a premium.

Mr STEVENS: Thank you.

CHAIR: Following on from that good question by the member for Mermaid Beach, this morning we heard some councillors point out that if any misconduct was brought up, red flags were raised or reports of governance were raised they would have acted on them but they were not so they did not. Therefore, they felt that that was sufficient. Do we need better mechanisms in order to ensure that councillors are responsible for the entirety of the goodwill and governance of their council as well as mechanisms that bring forward more of those issues perhaps in local government legislation?

Mr MacSporran: Yes. The reality is that that is all about culture. People need to not only feel able to report misconduct but also understand that, if they do they will be supported rather than denigrated. Our report that is coming will indicate that there has been a problem there, as it is in many places. It is a difficult thing to get through to people who are perhaps lowly employees that when they see something that they think is not right they have a duty and moral obligation to report it. If they do, the leadership of that organisation has a duty to support them, to take it seriously and to properly investigate the claims they make, as opposed to ridiculing them, harassing them, abusing them and, on occasions, acting in a way that amounts to reprisal.

It is a very difficult area—the Public Interest Disclosure Act, whether people are PIDs; the old term ‘whistleblowers’. It is problematic area, especially in regional areas where everyone knows everyone. In small communities it is a particular problem. That is a matter of culture, it is a matter of education and support. We have our corruption prevention program that seeks to address those things and encourage cultures that value reporting and treat people who report misconduct with the appropriate respect and support.

Ms RICHARDS: Again, it comes back to the councillors’ presentations to us this morning. On every instance the culture is that the legislation made that an allowable transaction between the mayor and the CEO—those directives—and not within their control and, therefore, it is not their issue or responsibility to be in control of reporting.

CHAIR: I think that may have overstated the way they said it.

Mr MacSporran: That is the effect of it. I understand the point, member for Redlands. That shows, in my view, a culture of avoidance. You avoid your responsibility by relying upon the strict letter, if it were that. I am not agreeing that it was that, but if they thought it was that then it is passing the buck. It is failing to question behaviour that to any reasonable person would have had alarm bells ringing. It is as simple as that. You could say, ‘I don’t really have a duty to report that. I don’t think it is right, but I am supported by no obligation in law to report it. I can sit back and say nothing.’ That is an unhealthy culture, in my view. I do not accept that was the case there. I think it was beyond that. If that is the stance you take, I think that is an abrogation of at least your moral responsibility, if not your legal responsibility.

Mr STEVENS: You mentioned that your investigation started somewhere in October 2016. It has also been publicly announced that there were complaints made to the CCC about the Ipswich City Council for years before that and they were not acted upon. Can you elaborate on why they were not acted on? I am responding to your suggestion that there should be further checks and balances put in. People have complained, yet you have not investigated.

Mr MacSporran: Yes. I should say that, by and large, those complaints came externally from the council, not from within as such. Be that as it may, it is one thing to allege corrupt conduct—that is pretty easy to do; as you know, it is routinely done and it comes to us—but proving it, or reaching Brisbane

our threshold, which is a reasonable suspicion of corrupt conduct—and in respect of elected officials such as councillors that requires a reasonable suspicion if there has been the commission of a criminal offence—frankly, is not easy. All of those other matters did not go anywhere because it simply was not possible to prove anything. That changed under the current investigation for a whole lot of reasons that I will not go into, but there was a difference in what happened.

Mr STEVENS: Capacity.

Mr MacSporran: Yes.

CHAIR: On that note, if a councillor says, 'We have oversight bodies like you and they have special powers and they have police for investigation and if they cannot find anything, why is it for me to put my head above the parapet and make unfounded allegations, at least in the criminal sense, to the government, which has investigated these things?', is that a reasonable point?

Mr MacSporran: Not really, with respect.

CHAIR: I am putting the statement. I think it should be put robustly and firmly if you have a different view of it.

Mr MacSporran: No. Certainly, I accept that. It is not a fair point, because it is true to say that we have extraordinary powers but we just cannot on a whim exercise those extraordinary powers. We could not, for instance, call a councillor into a coercive hearing and just put to them, 'It has been suggested you are corrupt. What do you say about that? Bear in mind, if you do not tell us the truth, you will be charged with perjury or something.' We cannot do that. We have to have a reasonable basis to exercise our extraordinary powers. We take that extremely seriously, as we should, because they are extraordinary powers.

Before we apply for a telephone interception capability, a surveillance device warrant, before we call someone into a hearing, we have to have a very strong prima facie case that there has been corruption that needs to be investigated. We rely upon people internally to report things and provide evidence of it. That gets us started. Then we can exercise those powers if there is a reasonable suspicion. If it is just a bald allegation without support because someone has a feeling that there is something going on, that is not enough. That is why corruption is so hard to uncover and investigate successfully. You almost need someone on the inside who can show you where the bodies are buried. Otherwise, you do not get off the ground, even with our extraordinary powers, as mentioned.

CHAIR: Thank you very much.

Mr O'CONNOR: Following on that corruption risk and the governance and cultural issues that you have been looking into, does that include the use of private email like we have seen alleged about a Gmail account?

Mr MacSporran: Yes, exactly. That is a significant corruption risk for all the reasons that we have publicly stated in respect of the other investigation that you are aware of. It is just a lack of transparency. If you have people using a private email account to conduct, in this case, council business, what does that immediately tell you? Why are they using a private email account for council business when they have a dedicated business account with the council? That immediately raises suspicions.

It might be an innocent mixing of their email accounts or it might just be convenience—it could be whole host of reasons—but it is a very bad look and gives rise to a perception that there is corruption going on. To quote my other investigation, that has been bubbling along for 12 months because no-one will accept that someone in a senior government position would be using a private email account to correspond with lobby groups, for instance, without an ulterior corrupt motive.

Ms RICHARDS: We are beyond that even. There is opportunity for directives to be given without documentation, full stop.

Mr MacSporran: There is, exactly. It is just a lack of transparency. If you do not know about the account, you cannot recover it and you cannot look at it. It is all designed to avoid scrutiny.

CHAIR: I am aware that we are quite well over time—

Mr O'CONNOR: Are you able to comment on the instance that I was referring to with Paul Tully and his email account?

Mr MacSporran: Yes, I have just seen reference to it.

CHAIR: Sam, I counsel you—

Mr MacSporran: Just generally speaking, for the reasons that we all know and I have said publicly in respect of the other investigation, it is just a huge corruption risk. It should not be done. If you want to use a private email account for convenience purposes—for instance, if you happen to

have remote access from home or you are travelling—you should send your private emails to your official emails where they can be saved and recorded. That is not ideal, either in cases of loss in the transition or translation, but at least it has you attempting to meet the transparency requirements. To use quite separately and deliberately a private email account is a huge corruption risk. It gives rise to a significant perception that you are up to no good. It undermines public confidence in your ability to transparently and accountability conduct yourself on behalf of the local government community.

CHAIR: We thank you, Mr MacSporran. I first seek leave to table the two documents that Mr MacSporran has asked us to table. Is leave granted? Leave is granted. Thank you very much, Mr MacSporran, for your evidence here today. I really appreciate you being a witness. We now will take a break and the hearing will resume at 3.25 pm. We went slightly over time, but we really appreciate you being here today. Thank you very much.

Mr MacSporran: Thank you.

Proceedings suspended from 3.12 pm to 3.27 pm.

BLAGOEV, Ms Bronwyn, Executive Director, Strategy and Governance, Department of Local Government, Racing and Multicultural Affairs

HAWTHORNE, Ms Josie, Director, Legislation Services, Department of Local Government, Racing and Multicultural Affairs

CHAIR: Good afternoon. I invite you to make a short opening statement responding to the issues that have been raised in submissions or during the course of the public hearings, after which committee members may have some questions for you.

Ms Blagoev: Thank you, Chair. I wish to thank the committee for its time today in considering the bill. I also wish to thank all of those parties who have made a submission to the bill. Whilst I appreciate that the department was not required to provide a written response to the submissions, I wish to reiterate to everyone who made a submission that they have all been carefully considered and to thank everyone for their time.

I note that a large number of the submissions address the issue of whether the bill itself should be introduced. As indicated previously, the introduction of the bill itself is a matter of policy for the government based on the serious concerns raised regarding the Ipswich City Council and the government's desire to provide the community with certainty. Accordingly, as this is a policy matter for the government, the department is unable to comment further in that respect.

However, the department notes the number of concerns raised by submitters around natural justice. The department acknowledges that the bill does not provide affected councillors with the opportunity to be heard other than through the committee process. Although it cannot be denied that legislation that proposes the dismissal of Ipswich City Council will, if passed, have an immediate and significant effect on councillors, the councillors themselves are not entitled under law to be afforded procedural fairness by the parliament before legislation is passed. Similarly, there is no requirement for compensation to be provided to councillors.

The department also acknowledges the swiftness of the drafting of the bill, which was raised in a number of submissions. However, the time frame reflects the government's policy view that the decisive nature of the bill will support business confidence in Ipswich and is a step towards restoring community confidence in Ipswich City Council in a timely manner. To this end, the committee should also be thanked for its prompt consideration of the bill.

I wish to address a number of the matters raised this morning, in particular in terms of the boundaries of the Ipswich City Council. Under the Local Government Act, it is the Local Government Change Commission that makes recommendations regarding the boundaries of a local government area. As of today, the department is not aware of any matter that is currently before the change commission around Ipswich City Council boundaries. However, should a division within the Ipswich City Council local government area be out of quota, the change commission may recommend a change ahead of the 2020 local government elections.

In terms of the issues around a councillor running in a future election, it is the government's policy intention that the current Ipswich city councillors can run as a candidate in the 2020 local government election in any local government area, not just in Ipswich City Council. We are satisfied that the drafting of section 7(2) of the bill achieves this policy intent.

This morning there was also some commentary around training provided by the department to the Ipswich city councillors. In terms of training that was provided by the department to Ipswich city councillors, I can confirm that councillor induction training was attended on 23 November 2017 by councillors Silver, Morrison, Martin, Bromage, Wendt, Stoneman, Ireland and Antonioli. The department provides further training to councillors upon request of a council. The department has no records of any request from Ipswich City Council for further training.

I also wish to confirm that on 30 May 2018 the minister received a letter from the acting mayor, Wayne Wendt, in relation to a proposal that would allow the councillors to remain in place while an advisory panel was appointed to effectively run the council. All councillors would immediately cease their decision-making roles for a period of between three and six months. No council meetings would be held during this period under the proposal. Councillors would continue to undertake the normal day-to-day ward responsibilities of a councillor; however, they would not make any strategic or financial decisions without a prior discussion and a recommendation from an appointed adviser. The proposal also suggested that the council CEO would be delegated certain powers of the council during this time and that the minister appoint a panel of advisers to oversee the strategic and policy direction of the council during this period. Whilst this was put to the minister, the minister did not agree to the alternative proposal; hence, we are here discussing the bill today.

This morning there was also a lot of conversation around the availability of the minister and ensuring that members of the public had someone to talk to—a point of contact. The issue of community engagement will be specifically considered as part of the transition period should the bill be passed. It will be something that, no doubt, the administrator will consider in consultation with the council CEO.

The department acknowledges that it is really important for residents to continue to have a voice. To that end, our intention would be that the ward offices would remain open and would remain staffed. How members of the public can speak to the administrator or get views through to the administrator will then be a matter for the administrator once appointed. They would, no doubt, work that through with council and any other council staff who have a specialty around community engagement. I wish to reiterate that it is something that the department is cognisant of.

This morning Councillor Tully also gave a view that he thought council meetings under an administrator would be one to two minutes long, I think he said. Whilst, ultimately, the format of a meeting will be a matter for the administrator and, no doubt, the administrator will work closely with the council CEO to that end, the department foresees that meetings will still go ahead as formal meetings under the local government legislation. We would foresee that, as occurs now, council staff members would provide presentations on particular matters, be it planning or otherwise. Members of the public would still attend the meeting either to present to the administrator or to watch proceedings. We would expect a situation where the administrator would fully explain their reasons for a decision, thus ensuring transparency, and that those reasons would still be minuted as council minutes.

Finally, should the bill be passed, the department is working hard to ensure that the appointment of the administrator occurs as quickly and as seamlessly as possible, in a way that allows the council to get on with business as usual. I am happy to take any questions from the committee.

Mr STEVENS: Ms Blagoev, as raised by no lesser a guru on integrity and public perception than the chair of the CCC, why have you included in this legislation the fact that councillors cannot stand in another area? I understand that it is very unlikely until the next quadrennial elections anyway, but there might be, for instance, in the Scenic Rim a position that comes up. Why would a councillor, if this legislation is passed and enacted, be precluded from standing in, say, the Scenic Rim?

Ms Blagoev: Yes, and you are correct. Between now and 2020 we could have a number of council by-elections. You are right: a councillor could pick up and move to another part of the state, take up residence and seek to run in that by-election. I appreciate that that may be unlikely, but it could still occur. The decisions around allowing a councillor to run both at the 2020 local government elections and the by-elections were policy decisions of the government.

Mr STEVENS: Right. Policy decisions. Okay.

Ms Blagoev: I note that the CCC chairman made a comment that he felt that allowing the councillors to run at the 2020 election was a fair compromise, or a fair outcome.

Mr STEVENS: Just for clarification on that, I thought the CCC said that they were prevented from running.

CHAIR: No.

Mr O'CONNOR: At the 2020—

Mr STEVENS: No, not at the 2020.

Ms Blagoev: They are prevented—

Mr STEVENS: No, for by-elections.

Ms Blagoev: Correct.

Mr STEVENS: They are prevented.

CHAIR: Yes.

Ms Blagoev: Correct.

Mr STEVENS: What is the reasoning behind that? That is what I want.

CHAIR: A policy decision of the government.

Ms Blagoev: That is what I have said. It is a matter of policy.

Mr STEVENS: Just a policy. Okay. Thank you.

CHAIR: Some councillors had concerns about—I think they had lesser concerns about running in by-elections—the language in clause 7(2)(b). ‘After the period’ makes it clear that the period in that situation refers to the period leading up to the 2020 elections. You did not use the same language. You do not have any concerns about that?

Ms Blagoev: I do not. After this morning, I went back and had a look at section 7(2) specifically. That being said, because it has been brought up by a number of people today, we are happy to take this feedback back to Parliamentary Counsel and have it reconsidered by the drafter.

Ms RICHARDS: Thank you for responding to lots of those queries from this morning. One that was raised was in terms of the period of time that the administrator would be involved. Does that cease at the 2020 election?

Ms Blagoev: The intention under the bill is that the administrator’s term will terminate at the 2020 local government election and that the 2020 local government will occur in line with everyone else’s local government election. After that point we will see a brand-new council installed.

CHAIR: We heard about giving councillors experience and knowledge about governance issues. Is there any consideration, specifically in the Ipswich situation, when new councillors are elected in 2020 to have some guidance from the administrator or another person to facilitate that so that they have better practices? I think this whole process will serve as an important change in the governance of the Ipswich City Council. Is there any consideration of that process post 2020?

Ms Blagoev: Yes. I think that is an excellent question. What I foresee would occur is that, whilst the department does induction training after each election, there may be things that come out, should an administrator be appointed, in terms of learnings for councillors that I think the department would incorporate into that training and then we would follow that up with a program of training, if required. Again, I think we will see our capacity-building program really pick up on anything that comes in from that period where the administrator is appointed.

CHAIR: One of the concerns was about—as you would express it—a voice or accessibility. As we know, local councillors are on the ground and can listen to minor issues. You spoke about the ward offices giving guidance to them so that, although we might be addressing major governance issues, we do not miss out on the smaller issues that are important to people in their local council wards.

Ms Blagoev: Yes. The small issues are really important at a local government election.

CHAIR: Very much so.

Ms Blagoev: They are really important. There are a couple of tools that the administrator will have under the current Local Government Act. They could appoint an interim management committee, which could have advisers as well. There is also the option for the administrator to speak to the minister about the appointment of an advisory committee. From memory, in Johnstone shire council an advisory committee was appointed—it consisted of members of the public—to provide advice to the administrator. Ultimately, that is a matter for the minister. He may seek to take some advice in due course, once the administrator is appointed, in terms of what they are hearing or seeing on the ground as to the usefulness of that sort of committee. I reiterate that something we are very conscious of is not losing the little issues. We will be very committed to finding a solution with the council that works.

CHAIR: You are right: at a local level, local issues are very important to people and part of the process of good local governance. Are there any further questions? You must have been very comprehensive in your initial address. I think you have addressed some of the concerns we had and also some of the concerns submitters have had. I thank you very much.

That concludes this hearing. I thank you and all of the other witnesses who have participated this afternoon. I thank the Hansard reporters. I also give a special thank you to the team who at short notice travelled out to Ipswich to set up the sound recording, Hansard and the cameras. A transcript of these proceedings will be available on the committee’s parliamentary web page in due course. Responses to any questions that have been taken on notice are required by 5 pm on Wednesday, 2 August so that we can include them in our deliberations. With that, I declare the public hearing for committee’s inquiry into the draft Local Government (Dissolution of Ipswich City Council) Bill 2018 closed.

The committee adjourned at 3.42 pm.