

29 April 2016

Townsville Campus
Townsville Qld 4811 Australia
Telephone (07) 4781 4111
International +61 7 4781 4111
www.icu.edu.au

Private & Confidential

Professor Peter Ridd
Professor of Physics
College of Science and Engineering
James Cook University
TOWNSVILLE QLD 4870

Professor Chris Cocklin
BSocSc (Waikato) MA (Guelph)
PhD (McMaster) DipBusSI (Massey)
Senior Deputy-Vice-Chancellor
Telephone (07) 4781 6884
International +61 7 4781 6884
Mobile +61 (0)427 765 470
Email sdvc@icu.edu.au

Dear Professor Ridd,

Formal Censure

I refer to the allegations of misconduct provided to you on 12 April 2016, and your response to the allegations emailed to Director, Human Resources on 14 April 2016.

After careful consideration of all relevant evidence, as well as information provided by you in response to the allegations, I am satisfied that you have breached JCU's Code of Conduct and that 'Misconduct' (as defined by the JCU Enterprise Agreement 2013-2016) has occurred without reasonable excuse.

In particular, it has been found that:

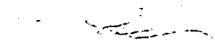
- Your actions breached Principle 1 of the Code of Conduct and its requirements to act in a collegial way and in the academic spirit illustrated by the use of the terms:
 - "...GBRMPA and the ARC Centre of Excellence should check their facts before they spin their story"
 - "My guess is that they will both wiggle and squirm because they actually know that these pictures are likely to be telling a misleading story - and they will smell a trap."
- You breached Principle 1 of the Code of Conduct by going to the media in your professional capacity in a way that was not collegial and did not respect the rights of others or uphold professional standards. This includes using the language above in an external environment.
- You breached Principle 1 of the Code of Conduct by not displaying responsibility in respecting the reputations of other colleagues. Your actions were seen to be directed at individuals, and named their position titles calling into question their professional and/or academic integrity.
- These actions also breached Principle 2 of the Code of Conduct, which did not uphold the integrity and good reputation of the University.

As a result, I am issuing you with a formal censure. Should there be a further breach during your employment at James Cook University, it could lead to further disciplinary action which could amount to serious misconduct.

In future it is an expectation that in maintaining your right to make public comment in a professional, expert or individual capacity in an academic field in which you are recognised, it must be in a collegial manner that upholds the University and individuals respect. If you are unclear about these obligations or require any additional support please seek the advice of your Dean before expressing view in a similar way in future.

You are reminded that JCU has an Employee Assistance Program offering a free and confidential counselling service on 1300 360 364.

Yours sincerely



PROFESSOR CHRIS COCKLIN
SENIOR DEPUTY-VICE-CHANCELLOR
cc. Professor Marcus Lane, Dean, Science and Engineering

24 August 2017

Private & Confidential

Professor Peter Ridd
Professor of Physics
Head of Intelligent Systems, Information and Modelling
College of Science Technology and Engineering
James Cook University
TOWNSVILLE QLD 4811

Townsville Campus
Townsville Qld 4811 Australia
Telephone (07) 4781 4111
International +61 7 4781 4111
www.jcu.edu.au

Nick Rogers
Director
Human Resources
Telephone (07) 4781 5532
International +61 7 4781 5532
Email nick.rogers@jcu.edu.au

Dear Professor Ridd

Re: Allegations of Misconduct

I am writing to you, about an allegation, made against you, which may constitute serious misconduct under the *James Cook University Enterprise Agreement 2013 – 2016* ('the Enterprise Agreement').

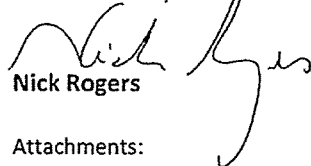
A concern was raised with Professor Sandra Harding, Vice Chancellor who referred the matter to me in my capacity as the Director, Human Resources in accordance with clause 54.3.1 of the Enterprise Agreement. After reviewing the complaint I was satisfied that a *prima facie* case of serious misconduct existed.

I have clearly outlined the nature of these allegations in the attached document. In accordance with subclause 54.3.4, you have 10 working days in which to submit a response to each of the allegations. Please address your response to me, via email nick.rogers@jcu.edu.au by cob on Monday 4 September 2017.

As per clause 54.1.5 the confidentiality for all parties in the management of this process is highly important, and I trust that you will consider your obligations professionally.

As per the Enterprise Agreement, you may have a representative assist you with your response or be present at any time during this process. A representative means "an employee of the University or union representative or delegate, (other than a practising solicitor or barrister), who by virtue of the employee's choice to be represented, acts for and represents the employee, in relation to any matter in this agreement".

Yours sincerely



Nick Rogers

Attachments:
Summary of Allegations
Transcript of Interview
Letter of Censure – April 2016
JCU Code of Conduct
Clause 54 of the James Cook University Enterprise Agreement.

21 August 2017

**Summary of Allegations
of serious misconduct
breach of JCU Code of Conduct**

against

Professor Peter Ridd

DEFINITIONS

Code means the Code of Conduct developed by James Cook University

Enterprise Agreement means the James Cook University Enterprise Agreement 2013-2016

JCU means James Cook University

Misconduct has the meaning recited in the Enterprise Agreement, being "conduct which is not serious misconduct but which is nonetheless conduct which is improper or inconsistent with the staff member's duties or responsibilities".

You means Professor Peter Ridd

The Respondent means Professor Peter Ridd

BACKGROUND

At all material times:

1. You were employed by JCU as a Professor
2. You were bound by:
 - a. the Enterprise Agreement;
 - b. the Code of Conduct;
 - c. all other policies and procedures issued by JCU so far as those policies and procedures applied to your employment by JCU.

SUMMARY OF ALLEGATIONS – check code and check 14.6 of the EA

The following allegations of prima facie misconduct have been made against you.

It is alleged that you stated in an interview with Sky News Live, Sydney on 1 August 2017 which aired at 8.44pm, “... *that scientific organisations like the Australian Institute of Marine Science and the ARC Centre for Coral Reef Studies can no longer be trusted*”. (The transcript of the interview is attached).

It is therefore alleged that you breached:

1. Principle 1 of the Code of Conduct which states, In our conduct, we will:
 - a. have the right to make public comment in a professional, expert or individual capacity, provided that we do not represent our opinions as those of the University unless authorised to do so.
2. Principle 2 of the Code of Conduct which states, we will:
 - a. Behave in a way that upholds the integrity and good reputation of the University;
 - b. act within the limits of our authority.
3. Principle 3 of the Code of Conduct which states, we will:
 - a. Treat fellow staff members, students and members of the public with honesty, respect and courtesy, and have regard for the dignity and needs of others.
4. Clause 14. Intellectual Freedom, particularly 14.6 of the JCU Enterprise Agreement 2013 – 2016, which states:
 - a. Staff members commenting publicly in a professional or expert capacity may identify themselves using their University appointment or qualifications, but must not represent their opinions as those of JCU. The University expects that staff will maintain professional standards when they intentionally associate themselves with its name in public statements and/or forums.

It is further alleged, that in participating in the alleged behaviour (above), you have not abided by the direction given to you by the by the Senior Deputy Vice Chancellor in his Formal Censure letter to you of 29 April 2016, which stated “*In future it is an expectation that in maintaining your right to make public comment in a professional, expert or individual capacity in an academic field in which you are recognised, it must be in a collegial manner that upholds the University and individuals respect.*” (The letter of censure is attached).

It is therefore alleged that you breached:

- 1) Principle 2 of the Code of Conduct in that you did not comply with any lawful and reasonable direction given by someone who has authority to give that direction;
- 2) Principle 2 of the Code of Conduct in that you did act within the limits of your authority.

Statement of Allegations of *prima facie* misconduct – Professor Peter Ridd – 24 August 2017

Transcript of Interview

Interview with Professor Peter Ridd, Geophysicist, James Cook University....

Sky News Live, Sydney, Jones and Co. Alan Jones and Peta Credlin 01 Aug 2017 8:44 PM

Duration: 10 mins 25 secs • ASR AUD 14,575 • National • Australia • Radio & TV Media • ID: X00071278955

Interview with Professor Peter Ridd, Geophysicist, James Cook University.

Jones says Ridd is one of the authors of the IPA's book Climate Change: The Facts 2017, and that Ridd talked about the lack of quality assurance in science. He mentions that Ridd has said they make graphic and compelling images on television to demonstrate the perils of climate change on the Great Barrier Reef, but there is nothing wrong with the coral. Ridd points out that while many corals die, they recover over the next few years. He states that the corals in the Great Barrier Reef also live in New Guinea and Indonesia where it is much hotter, and he notes that they grow faster there. He says people should not be worried about the effects of increasing temperatures on the Great Barrier Reef. Ridd says the basic problem is that scientific organisations like the Australian Institute of Marine Science and the ARC Centre for Coral Reef Studies can no longer be trusted. He states that science is not being quality checked. He points out that bleach generally often helps to stop corals from dying, meaning they should not be thought of as a death sentence.

Audience

53,000 ALL, 23,000 MALE 16+, 24,000 FEMALE 16+

Interviewees

Professor Peter Ridd, Geophysicist, James Cook University

Also broadcast from the following 9 stations

Sky News Live (Melbourne), Sky News Live (Canberra), Sky News Live (Brisbane), Sky News Live (Adelaide), Sky News Live (Perth), Sky News Live (Regional NSW), Sky News Live (Regional Queensland), Sky News Live (Regional Victoria), Sky News Live (Tasmania)

Responsible partner Mitchell Downes
Person acting Mitchell Downes
Reply to Brisbane office
Our reference 23161
Your reference Mr Rogers

7 September 2017

James Cook University
Townsville Campus
Townsville Qld 4811

By email nick.rogers@jcu.com.au

Dear Mr Rogers

Professor Peter Ridd –Response to allegations

We act for Professor Ridd.

This letter is provided as his response pursuant to clause 54.3.4 of the Enterprise Agreement (**EA**), to the allegations of serious misconduct (**Allegations**) set out in your letter to Professor Ridd dated 24 August 2017.

For the reasons that follow, the Allegations are not made out (most not even to the standard of a *prima facie* case) and it follows, subject to the conflict of interest issue set out hereunder, that the only course properly open to you, and consequently the one that you ought to take, is to find, for the purpose of clause 54.3.5 of the EA, that there has been no Serious Misconduct.

Preliminary matters

Nature of alleged misconduct

The EA contemplates and defines two forms of misconduct: "misconduct" and "serious misconduct".

Your 24 August 24 letter refers to "serious misconduct" (second paragraph) and so too the heading of the Summary of Allegations (**SoA**) attached thereto. Yet:

1. only "Misconduct" is defined in the SoA;
2. the footer to the SoA refers to "misconduct";
3. the SoA states that "allegations of prima facie misconduct have been made ..."; and
4. the SoA makes no attempt to explain (let alone, remarkably and fatally, even allege) how the conduct relied on to support the Allegations (page 2, paragraph 2 of the SoA, **Alleged Offending Conduct**) constitutes a "serious breach" of the James Cook University (**JCU**) Code of Conduct (**Code of Conduct**).

Brisbane Office
Level 18
167 Eagle Street
Brisbane Qld 4000

GPO Box 3311
Brisbane Qld 4001

p 07 3007 3777
f 07 3007 3778

Gold Coast Office
Level 2
235 Varsity Parade
Varsity Lakes Qld 4230

PO Box 482
Varsity Lakes Qld 4227

p 07 5562 2959
f 07 5575 7803

info@mahoneys.com.au
www.mahoneys.com.au

ABN 99 349 703 654

You are required to apply principles of procedural fairness and natural justice in considering any allegation of misconduct or serious misconduct against our client: clause 54.1.1 of the EA.

It is a fundamental principle of both procedural fairness that an accused know the case he is required to meet.

We have assumed that by your 24 August 2017 letter you intend to allege that our client has engaged in serious misconduct and this response is provided on that basis.

Further, we are unsure what to make of the note "check code and check 14.6 of the EA" following the heading on page 2 of the SoA. If it is to assist our client, thank you. It would have been preferable however, if you did this checking prior to reaching your conclusion that the Allegations had been made out on a *prima facie* basis (and it is unclear how one could reach that conclusion without checking either or both of those documents) because had you done so, for the reasons set out hereunder, you, applying an impartial mind, almost certainly would have reached a different conclusion.

Conflict of interest

If you do not upon receipt of this response, in effect, dismiss the Allegations under clause 54.3.5 of the EA, the Allegations and your determination in respect of same are to be reported to the Senior Deputy Vice Chancellor (clauses 54.3.5b) and 54.3.6 of the EA) for further determination and recommendation as to penalty, and ultimately to the Vice Chancellor for what purports to be a "final" action. It is unclear whether that action includes a determination in relation to the Allegations or is confined to a determination on penalty (clauses by 54.4 and 54.5).

The Vice Chancellor is a council member (akin to a director) of the Australian Institute of Marine Science (AIMS). The Allegations specifically refer to the AIMS.

The Vice Chancellor is in a position of conflict between her duties and office to the AIMS and to bringing an impartial mind to a decision on the Allegations.

The issue is further complicated because you and the Senior Deputy Vice Chancellor, under the abovementioned mechanism prescribed in the EA all report to the Vice Chancellor. We apprehend that you and the Senior Deputy Vice Chancellor, either directly or indirectly, report to the Vice Chancellor in relation to part or all of your duties in your respective roles. As such, you and the Senior Deputy Vice Chancellor are in, at least, a position of potential conflict between your duties in relation to determining the Allegations, and your personal interests in preserving good relations with your superior.

Our concerns in this regard are heightened by the flimsiness of most of the Allegations and the what appears to be, at the very least, a failure to give any serious consideration to whether the Allegations are made out, even to a *prima facie* level, before purporting to reach that conclusion and the sending of your 24 August 2017 letter to our client. The basis for this statement is set out in detail hereunder where the Allegations are addressed *seriatim*.

The rule against bias is a pillar of natural justice and requires that a decision maker be impartial and free of actual or apparent bias.

It seems, because it is not mentioned in your 14 August 2017 letter or elsewhere, that no attempt has been made to deal with this issue. That, with respect, ought to have occurred before your determination that the Allegations had been made out to a *prima facie* standard and your 24 August letter was sent to our client. We reserve our client's rights in this regard.

The issue must certainly be addressed prior to any referral to the Senior Deputy Vice Chancellor and the Vice Chancellor.

In light of the above, please inform us how you and/or JCU intends to abide by its obligation to afford our client natural justice in the determination of the Allegation.

Despite the above and given that you have already embarked on this process, with a view to bringing this issue to a satisfactory resolution as early as possible and with a minimum of inconvenience for all concerned, if you determine that there has been no serious misconduct pursuant to clause 54.3.5a) of the EA and advise our client accordingly, our client will consider this issue at and end. In that case, our client's concerns about the involvement of the Senior Deputy Vice Chancellor and the Vice Chancellor in this process need not be addressed.

Adequacy of the SoA

There is an overarching problem with the SoA. No analysis or anything that answers to the description of "reasons" (however rudimentary) is provided in the SoA. Rather it is merely alleged that a statement was made by our client and that is followed by a series of conclusions that certain breaches had occurred – almost all of which are obvious *non sequiturs*.

This hampers our client's ability to properly respond to the Allegations because he is left to guess at what the basis for each of the alleged breaches actually is.

Either, the SoA fails to properly elucidate the case our client is required to meet or the SoA is so defective because it cannot rise higher than its source and the Allegations are unsustainable in themselves. If it is the former, our client will have been denied procedural fairness.

Alleged Offending Conduct

The SoA identifies the Alleged Offending Conduct to be as follows:

"It is alleged that you stated in an interview with Sky News Live, Sydney on 1 August 2017 which aired at 8.44pm "that scientific organisations like the Australian Institute of Marine Science and the ARC Centre for Coral Reef Studies can no longer be trusted"."

The Alleged Offending Conduct is the sole matter relied on to make out each of the Allegations.

The words quoted and alleged to constitute the Alleged Offending Conduct never passed our client's lips. The allegation as a direct quote it is false. If a true transcript of the broadcast had been attached to the Allegations (it purports to be but it is no more than an incomplete and imprecise summary of unknown origin), then this most basic of errors would not have occurred.

Accordingly, the Allegations, and each of them, must fail at the first hurdle.

Despite that being sufficient to dispose of the Allegations, we have taken the time to set out hereunder why the Allegations, had the Alleged Offending Conduct been properly particularised, would also fail on the merits.

Allegation 1 – Principle 1 of the Code

We apprehend it is alleged that our client represented his opinions as those of JCU and that he was not authorised to do so.

The Alleged Offending Conduct:

1. does not expressly refer to JCU;
2. is incapable of impliedly identifying JCU;
3. does not expressly state that the opinion stated therein is the view of any third party; and
4. is incapable of impliedly representing that the opinion stated therein is the view of any third party.

In the premises, the issue of authority is of no moment.

The allegation is baseless. It must be dismissed.

Further, if the trouble was taken to listen to the entire interview, you would appreciate that the only mention of JCU was when our client's current occupation was described - something that is expressly authorised by clause 14.6 of the EA.

Allegation 2 – Principle 2 of the Code

Authority

Principal 1 of the Code expressly acknowledges our client's right to make public comment in his expert, professional or individual capacity.

We apprehend that it is alleged that our client represented his opinions as those of JCU and that he was not authorised to do so. This is a restatement of Allegation 1.

For the reasons outlined herein in relation to Allegation 1, our client did not, expressly or impliedly, advance the opinion the subject of the statement comprising the Alleged Offending Conduct as being that of JCU.

This part of Allegation 2 is baseless. It must be dismissed.

Behave in a way that upholds the integrity and good reputation of JCU

The Alleged Offending Conduct:

1. does not expressly refer to JCU; and
2. is incapable of impliedly identifying JCU.

The reference to each of AIMS and ARC Centre for Coral Reef Studies (**ARCCCRS**), is not a reference to JCU. No reasonable person from the likely class of persons to whom the interview was published would understand a reference to either of those entities to be a reference to JCU.

The allegation is baseless. It must be dismissed.

Again, if the trouble was taken to listen to the entire interview, you would appreciate the when read as a whole with the balance of the words spoken by our client during the interview, it is clear that our client is talking about research standards. Specifically, our client was expressing his opinion as to the quality of what is relied upon to say that something has been peer reviewed, adopted generally throughout the scientific community, including but not limited to AIMS and ARCCCRS,

4

and why, in his opinion, that method of purported quality control is not sufficient to ensure that research bearing its certification cannot unquestioningly be relied upon.

Our client's view is supported by, and he referred to, a study published in Lancet.

The need to insist upon appropriate standards in the undertaking of scientific research ought to be uncontroversial.

If it be our client's opinion itself that you contend detrimentally affected the integrity and good reputation of JCU, where that opinion is reasonable (or even, unreasonable), is presented as a personal view, the basis for it explained in a rational and reasoned way (as our client did during the interview) and is supported by a study published in a relevant, reputable journal, that allegation is unsustainable. That is so regardless of whether JCU has a different opinion because of its view of the merits of the argument or because it is convenient to its own political and/or commercial interests.

Allegation 3 – Principle 3 of the Code

No other staff member or student of JCU or a member of the public (the other participants being presenters, engaged in their calling) was a party to the interview.

The Alleged Offending Conduct does not expressly or by implication, identify any other staff member or student of JCU or member of the public.

The SoA does not identify any other staff member or student of JCU or member of the public.

At the time of the Alleged Offending Conduct (and at all times throughout the interview):

1. our client's tone and demeanour was measured and dispassionate; and
2. our client discussed his honestly and genuinely held opinions on scientific matters and the basis for his view.

If the complaint is rooted in the use of the words "can no longer be trusted" by our client, with a suggestion that those words impliedly suggest dishonesty, that is erroneous for (at least) the following reasons. First, properly understood and taken in context, it is plain that our client was referring to reported scientific results, not individuals. Secondly, the word "trust", in the context it was used, speaks to reliability, not dishonesty.

There is no basis to allege that our client was, by reason of the Alleged Offending Conduct or at any time during the interview, dishonest, disrespectful or discourteous.

It is unclear whether the "others" in Principle 3 of the Code is a broader category of persons than the preceding "staff members, student [both, presumably of JCU] and members of the public". We need not resolve that for you now.

There may well be people who hold different views to the view expressed by our client in the Alleged Offending Conduct (and presumably the person who made the complaint against or client is such a person), but regardless of how strongly they hold those views and/or how vehemently they might complain about those who refuse to agree with them, simply expressing a contrary view cannot, objectively (and it must be such a test) offend their dignity or their (legitimate) needs.

Importantly, no colleague, student or member of the public whose dignity or needs it is alleged were slighted or not met by our client engaging in the Alleged Offending Conduct is identified.

Natural justice requires the person to be identified so that our client may properly respond and the SoA is deficient in this regard (**Identity Natural Justice Defect**).

The allegation is baseless. It must be dismissed.

Allegation 4 – Clause 14.6 of EA

For the reasons relied on in relation to Allegation 1 herein, it cannot be said that our client represented his opinions as being those of JCU.

It is unclear whether it is alleged that our client intentionally associated himself with JCU. Again, JCU is not mentioned in the Alleged Offending Conduct.

It is unclear whether it is alleged that our client failed to maintain professional standards in respect of the Alleged Offending Conduct. The only basis for that allegation, given the SoA, is that JCU says holding the opinion stated in the Alleged Offending Conduct is inconsistent with the professional standards expected of our client. If that is so it is a perverse use of a clause in an EA expressly aimed at maintaining "Intellectual Freedom" (as its heading suggests) and is an impermissible attempt by JCU to regulate our client's opinions even when expressed honestly, respectfully and courteously.

The allegation is baseless. It must be dismissed.

Allegation 5 – Failure to abide by a direction

It is alleged that our client has contravened an earlier direction, the substance of the direction being that he must ensure when making public comment that he does so "in a collegial manner that upholds the University and individuals (sic) respect." (**Direction**).

It is unclear what the Direction is intended to mean. We presume it is in substance intended to be a restatement of Principal 3 of the Code – i.e. that our client is required to act honestly, respectfully and courteously. If it is merely that, that part of the direction is superfluous and for the reasons relied on in relation to Allegation 3 herein (vis a vis our client's conduct) and Allegation 2 herein (neither JCU nor any colleagues are identified in the Alleged Offending Conduct) our client has not contravened that part of the direction.

If it be more than that, it would appear to be an attempt to require our client to not express views that differ from those of JCU or the individuals (presumably that work at JCU) as exposing their opinions to criticism might diminish the respect afforded to those opinions and consequently, the institution and people that promulgate them. If this be the interpretation adopted by JCU, it is inconsistent with the rights of freedom of expression, academic freedom, to examine, to criticise and challenge all of which are expressly preserved or conferred by Principal 1 of the Code. For that reason we presume that JCU also adopts the above narrow view of the meaning of the Direction.

Again, no colleague is named in respect of which it is alleged that our client has failed to act collegially with is identified. This allegation also suffers from the Identity Natural Justice Defect.

The allegation is baseless. It must be dismissed.

Conclusion

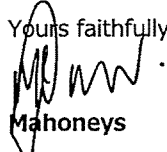
There is no proper basis to make the Allegations, and each of them, against our client.

Now that they have been made, the only proper determination open to you is to find that there has been no serious misconduct (or even misconduct) and notify our client accordingly, pursuant to clause 54.3.5a) of the EA.

If you propose to make any other purported determination, we respectfully request that you give us 48 hours' notice of your intention to do so.

Finally, all of our client's rights are reserved.

Yours faithfully



Mahoneys

Contact Mitchell Downes
Direct phone 07 3007 3715
Email mdownes@mahoneys.com.au

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Strictly private and confidential

19 September 2017

Professor Peter Ridd
Professor of Physics
College of Science and Engineering
James Cook University
Townsville QLD 4811

peter.ridd@jcu.edu.au

Dear Professor Ridd

Re: Allegations of Serious Misconduct

I refer to the letter I provided to you on 24 August 2017 seeking your response to allegations of serious misconduct regarding comments you are alleged to have made during an interview with Sky News Live on 1 August 2017.

I confirm receipt of your response dated 7 September 2017 submitted by your legal representative on your behalf.

The purpose of this letter is to confirm that I am not satisfied that there has been no serious misconduct or that the allegations are unsubstantiated for the purpose of clause 54.3.5(a) of the *James Cook University Enterprise Agreement 2013-2016 (Enterprise Agreement)*.

The University will continue to address these matters in accordance with the Enterprise Agreement and will keep you updated about this.

Ongoing directions

As outlined in my letter of 7 September 2017, these matters are confidential. I confirm that you are directed to keep the details of the allegations, and all matters relating thereto (including, but not limited to, the formal censure you received on 29 April 2016), strictly confidential.

You must not disclose or discuss these matters with the media or in any other public forum, including social media.

You are, however, allowed to discuss these matters with your immediate family, a support person, your union, professional advisor(s), or JCU's Employee Assistance Provider – provided you can assure yourself that they will maintain the same confidentiality as you.

It is very important that you comply with this direction. Failure to observe this direction may result in disciplinary action being taken against you in relation to the breach.

Employee Assistance

I remind you that the University's Employee Assistance Program is available to you if you need additional support and assistance at this time. We encourage you to access the free, professional, independent and confidential counselling support services of Davidson Trahaire Corpsych on: 1300 360 364.

Questions

If you have any questions in relation to this letter, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Nick Rogers". The signature is written in a cursive style with a large, stylized "N" and "R".

Nick Rogers

Responsible partner Ben Seccombe
Person acting Mitchell Downes
Reply to Brisbane office
Our reference 23161
Your reference Mr Rogers

29 September 2017

James Cook University
Townsville Campus
Townsville Qld 4811

By email nick.rogers@jcu.com.au

Dear Mr Rogers

Professor Peter Ridd

As you will recall, we act for Professor Ridd.

We refer to your letter to our client dated 19 September, 2017 (**Your Letter**) that purports to be sent pursuant to clause 54.35(a) of the EA and in response to our letter to you dated 7 September, 2017 (**Our Letter**).

We continue to adopt herein the terms previously defined in Our Letter.

By Your Letter you have informed our client that “[you] are not satisfied that there has been no serious misconduct or that the allegations are unsubstantiated for the purpose of clause 54.35(a) of the” EA (**Your Determination**).

You then go on to state that “[t]he University will continue to address these matters in accordance with the Enterprise Agreement...”, which we presume to mean that you have or will be making a recommendation to the Senior Deputy Vice Chancellor pursuant to clause 54.35(b) of the EA.

Breach of clause 54.3.5 of the EA

Clause 54.3.5 of the EA only provides for two courses, each of which is mandatory (note the use of “will”, rather than “may”) and is contingent upon a particular determination first being made.

The course you have adopted, purportedly pursuant to subclause (b), is only available where you “[consider] that there has been Serious Misconduct”. You have not made that determination, but rather you have made Your Determination.

Having made Your Determination you are not permitted to proceed pursuant to clause 54.35(b) of the EA, as you have purported to do.

In the premises JCU has breached clause 54.3.5 of the EA.

Brisbane Office
Level 18
167 Eagle Street
Brisbane Qld 4000

GPO Box 3311
Brisbane Qld 4001

p 07 3007 3777
f 07 3007 3778

Gold Coast Office
Level 2
235 Varsity Parade
Varsity Lakes Qld 4230

PO Box 482
Varsity Lakes Qld 4227

p 07 5562 2959
f 07 5575 7803

info@mahoneys.com.au
www.mahoneys.com.au

ABN 99 349 703 654

Conflict of interest

In Our Letter we directed your attention to clause 54.1.1 of the EA which expressly requires you to apply principles of procedural fairness and natural justice in considering the Allegations against our client.

In Our Letter we set out our client's concerns that an actual conflict of interest existed in relation to you, the Senior Deputy Vice Chancellor and the Vice Chancellor determining the Allegations (being the persons that the procedure in the EA specifies are to determine the Allegations and the sanction to be imposed).

We asked you to *"inform us how you and/or JCU intends to abide by its obligation to afford our client natural justice in the determination of the Allegation."*

The rule against bias is a pillar of natural justice and requires that a decision maker be impartial and free of actual or apparent bias.

Your Letter ignores this request and the issue of conflict of interest entirely.

Apprehended bias

In Our Letter we set out our client's concerns regarding apprehended bias and the basis for that apprehension, being:

1. the abovementioned conflict of interest;
2. your purported satisfaction "that a prima facie case of serious misconduct [by our client] existed" in respect of the Allegations, when the Allegations are (obviously) baseless and no reasonable person could be so satisfied. We note that you were required by clause 54.3.4 of the EA to be "satisfied that Serious Misconduct may have occurred";
3. the provision of an inadequate SoA (for the reasons stated in Our Letter) and the prosecution of this disciplinary complaint based on it; and
4. the attribution to our client of a quote (which is the Alleged Offending Conduct relied upon) when the words were not stated by our client.

Your Letter ignores these concerns. Specifically, you have not disputed our apprehension that you and the Senior Deputy Vice Chancellor, either directly or indirectly, report to the Vice Chancellor in relation to part or all of your duties in your respective roles.

In addition to the above matters, our client's concerns regarding apprehended bias are added to by the following:

1. your failure to provide any response to the issue of conflict of interest in Your Letter or otherwise;
2. your failure to provide any response to the concern raised by our client in Our Letter in relation to the issue of apprehended bias in Your Letter or otherwise;
3. the making of Your Determination which is a course not permitted by the EA;

4. the making of Your Determination in circumstances where we have explained to you the various problems with the Allegations and each of them and why they are baseless and the Alleged Offending Conduct are incapable of constituting same;
5. your failure to find that there has been no Serious Misconduct or Serious Misconduct has not been substantiated, and effectively to dismiss the complaint, in circumstances (i.e. those outlined in our Letter) where no reasonable person in your position could find otherwise;
6. you gave the First Confidentiality Direction (see below) when there is no proper basis to do so; and
7. you have now given the Second Confidentiality Direction (see below) when there is no proper basis to do so.

With respect, given the above matters there are only two conclusions our client can reach as to why the complaint is continuing to be prosecuted: incompetence or actual bias, neither of which is satisfactory or tolerable to our client.

Our client presently assumes it to be the latter, with the consequence that JCU has been and remains in breach of clause 54.1.1 of the EA.

Confidentiality

By Your Letter you have purported to give our client an "ongoing direction" regarding his keeping "these matters" and "the details of the allegations, and all matters relating thereto (including, but not limited to, the formal censure [our client] received on 29 April 2016), strictly confidential". You go on to state that "[our client] must not disclose or discuss these matters with the media or in any other public forum, including social media." (**Second Confidentiality Direction**)

We understand the purported basis for the said direction to be clause 54.1.5 of the EA. The obligation of confidence created thereby is confined to "all parties involved in the management of... Serious Misconduct processes and is stated to be subject to JCU's obligation...".

Our client is not involved in the "management" of misconduct "processes", and the clause, upon its proper construction only imposes an obligation of confidence on JCU, its employees and agents involved in the management of the misconduct processes – it imposes no such obligation on the person the subject of the complaint (i.e. our client).

Further and in any event, the obligation of confidence is:

1. expressly subject to "the person to whom the confidential information relates, consent[ing] in writing to [its] disclosure"; and
2. expressly does not apply to information in the public domain.

Our client gave the said written consent by email to you on 25 August 2017. Despite that, on 27 August 2017, you purported to direct our client that "[he] should not discuss any aspect of the serious misconduct process whilst it is ongoing – except with an appropriate representative." (**First Confidentiality Direction**).

All of the matters the subject of the First Confidentiality Direction and the Second Confidentiality Direction relate to our client.

Further, the Alleged Offending Conduct arose out of a public broadcast – it is in the public domain.

If you say that there is some other basis that obliges our client to keep the matters confidential, or there is some other basis upon which JCU can legitimately direct our client to keep these matters confidential, we request that you write to us within seven days and set out same.

Should you fail to do so, our client intends to proceed on the basis that he is not obliged to keep the said matters confidential.

Conclusion

There was and is no proper basis to make the Allegations, and each of them, against our client, and you have erred by making a recommendation to the Deputy Vice Chancellor pursuant to clause 54.3.5(b) of the EA. Further, JCU is in breach of clause 54.1.1 of the EA.

As a consequence of the said breaches, JCU has breached section 50 of the *Fair Work Act 2009* (Cth) (**FWA**).

We request that you provide to us within seven days your response to our client's concerns of apprehended bias, actual bias and conflict of interest.

Further, unless within seven days you:

1. correct your error and give our client written notice that that there has been no serious misconduct or that the allegations of serious misconduct are unsubstantiated; or
2. you provide us with some satisfactory reason/s justifying Your Determination and your refusal to give the notice requested at paragraph 1;

you and JCU can proceed confidently on the basis that our client will take such steps as are appropriate to seek the declaratory and injunctive relief necessary to prevent JCU from continuing to breach the EA and the FWA.

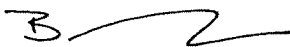
Ordinarily, each party is to bear their own costs of such a proceeding pursuant to section 570 of the FWA. However, if it is necessary to commence such proceedings it will have been as a consequence of JCU's unreasonable conduct, carried on with despite, and with the knowledge of, the matters set out in, Our Letter and this letter.

In those circumstances, we anticipate receiving instructions to seek costs of the said proceedings against JCU and we will bring this correspondence to the attention of the court at the appropriate time.

All of our client's rights are reserved.

Finally, you are respectfully urged to obtain legal advice.

Yours faithfully



Mahoneys

Contact Ben Seccombe
Direct phone 07 3007 3720
Email bseccombe@mahoneys.com.au

Confidential**Email**

Ben Seccombe
Mahoneys
bseccombe@mahoneys.com.au

Copy

Mitchell Downes
Mahoneys
mdownes@mahoneys.com.au

6 October 2017

Dear Mr Seccombe

Your client: Professor Peter Ridd

We act on behalf of James Cook University (JCU).

We refer to your letter to our client dated 7 September 2017. Please direct all further correspondence in relation to this matter to our office.

Our client does not agree that it has breached clause 54.3.5 of the *James Cook University Enterprise Agreement 2013-2016 (EA)*. Clause 54.3.5 relevantly provides:

54.3.5 Regardless of whether the staff member has responded or not responded to the allegations, the Director HRM will review all evidence and:

a) Where the Director HRM considers there has been no Serious Misconduct or Serious Misconduct has been unsubstantiated, the staff member and the complainant(s) will be notified in writing within ten (10) working days .

b) Where the Director HRM considers that there has been Serious Misconduct, the Director HRM will make a recommendation regarding appropriate disciplinary sanction(s) to the Senior Deputy Vice Chancellor and will provide them with all relevant evidence including the staff members written responses.

The Director HRM of JCU is not satisfied that there has been no serious misconduct or that the serious misconduct is unsubstantiated. As such, our client was not required to notify your client under the EA, however, our client chose to do so through its letter dated 19 September 2017 by way of courtesy to your client.

As outlined that letter, our client will continue to address these matters in accordance with the EA.

These matters are currently before the Director HRM and the Senior Deputy Vice Chancellor under the EA.

While we will respond further to the matters raised in your letter, the matters you have raised are not matters that prevent JCU from addressing your client's conduct and JCU's expectations of your client as a JCU employee.

There is no basis for you to apply for declaratory and injunctive relief. Your client remains an employee of JCU, and subject to the EA terms. If you take such action, our client will rely on this letter for the purposes of costs.

Mr Ben Seccombe , Mahoneys

6 October 2017

Confidentiality directions

You have sought clarification regarding the basis on which JCU has given your client confidentiality directions.

Our client is concerned as to the nature and purpose for the clarification.

Notwithstanding this, we confirm that JCU is entitled to give your client confidentiality directions pursuant to clause 54.1.5 of the EA. Separately, JCU is entitled at common law to give your client lawful and reasonable directions, including directions with respect to confidentiality, in its capacity as your client's employer.

The letter provided to your client on 24 August 2017 seeking his response to the allegations refers to clause 54.1.5 of the EA. Clause 54.1.5 relevantly provides:

"54.1.5 The confidentiality of all parties involved in the management of Misconduct and Serious Misconduct processes will be respected and all information gathered and recorded will remain confidential..."

Clause 54.1.5 reflects that "all information gathered and recorded" in relation to serious misconduct processes is confidential to JCU. Such information clearly includes details of the allegations and your client's response. JCU does not consent to the disclosure of such information.

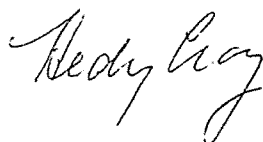
The disciplinary process is confidential and personal to your client.

The letter provided to your client on 19 September 2017 makes it clear that your client is directed to keep details of the allegations, and all matters relating thereto (including but not limited to, the formal censure he received on 29 April 2016), strictly confidential.

We confirm that these directions remain ongoing. Our client would view a breach of these obligations very seriously. If your client fails to comply with these lawful and reasonable directions, this may result in separate disciplinary action being taken against your client.

If you have any questions in relation to this letter, please do not hesitate to contact us.

Yours sincerely



Hedy Cray, Partner
+61 7 3292 7003
hcray@claytonutz.com

Megan Rutherford, Lawyer
+61 7 3292 7037
mrutherford@claytonutz.com

Our ref 13888/18512/80190290

Responsible partner Ben Seccombe
Person acting Mitchell Downes
Reply to Brisbane office
Our reference 23161
Your reference 31888/18512/80190290

13 October 2017

Clayton Utz
Level 28
71 Eagle Street
Brisbane Qld 4000

By email mrutherford@claytonutz.com ; hcray@claytonutz.com

Professor Peter Ridd

1. Thank you for your email dated 6 October 2017 to which we refer.

Brisbane Office
Level 18
167 Eagle Street
Brisbane Qld 4000

Recommendation pursuant to section 54.3.5(b) of EA

GPO Box 3311
Brisbane Qld 4001

2. In our letter dated 29 September, 2017 to your client, JCU, we stated that we understood that your client had made, or would be making, a recommendation to the Senior Deputy Vice Chancellor, pursuant to clause 54.3.5(b) of the EA.
3. That understanding has not been challenged by either you or JCU and in your email under reply, you have informed us that these "matters are currently before the Director HRM and the Senior Deputy Vice Chancellor under the EA".
4. Clause 54.3.5(b) of the EA is the only (permissible) route by which the complaint can make its way from the Director of HRM to the Senior Deputy Vice Chancellor.
5. We continue to proceed on the basis that a recommendation (purportedly) pursuant to clause 54.3.5(b) of the EA has been made.
6. Further, by your email you have confirmed that the Director HRM was "not satisfied that there has been no serious misconduct or that the serious misconduct is unsubstantiated".
7. That is not a finding that the "Director HRM considers that there has been serious misconduct", as required by clause 54.3.5(b) of the EA and a condition precedent to the making of the recommendation to the Senior Deputy Vice Chancellor.
8. You have confirmed that your client has proceeded in breach of clause 54.3.5(b) of the EA.

p 07 3007 3777
f 07 3007 3778

Gold Coast Office
Level 2
235 Varsity Parade
Varsity Lakes Qld 4230

PO Box 482
Varsity Lakes Qld 4227

p 07 5562 2959
f 07 5575 7803

info@mahoneys.com.au
www.mahoneys.com.au

ABN 99 349 703 654

Further breach of the EA

9. Pursuant to clause 54.3.6 of the EA, following the making of the aforementioned recommendation, the Senior Deputy Vice Chancellor is obliged to provide the staff member (i.e. our client) with written notice of his or her determination as to whether there has been any Serious Misconduct and any disciplinary sanction within 10 working days of the receipt of the Director of HRM's recommendation.
10. The recommendation must have been made by 19 September 2017 and accordingly the Senior Deputy Vice Chancellor was required to give our client written notice pursuant to clause 54.3.6 of the EA by 2 October 2017.
11. The required written notice has not been provided. The Senior Deputy Vice Chancellor has not requested an extension to provide the said notice and nor stated a date by which it will be provided.
12. In the circumstances, your client has breached clause 54.3.6 of the EA.

Conflict of interest, actual bias and apprehended bias

13. In our letter to your client of 29 September, 2017, we set out in detail the basis upon which our client contends that each of the Director HRM, Senior Deputy Vice Chancellor and the Vice Chancellor have a conflict of interest in respect of the determination of this allegation of serious misconduct, as well as the basis for our client's apprehension of bias and belief that there is actual bias. Each of those matters constitutes a breach of clause 54.1.1 of the EA.
14. In your email under reply, the only part that comes close to addressing those matters is your statement that "the matters [we] have raised are not matters that prevent JCU from addressing [our] client's conduct". That response is, with respect, evasive and inadequate, and wholly unsatisfactory.
15. You and your client's failure to provide any proper response to these allegations and your client (despite the benefit of obtaining legal advice) continuing to act in breach of clauses 54.3.5(b) and 54.3.6 of the EA, are further basis for our client's concerns about these matters.
16. To date, and despite raising these serious matters directly with your client, and it and your firm having had an opportunity to respond to those matters, your client in effect has ignored them and has not even made a bare denial of the allegations.
17. We are in the process of preparing the relevant application to the Federal Court of Australia in respect of your client's various breaches of the EA. In doing so, we appreciate that the

making of allegations of conflict of interest, apprehended bias and actual bias are serious allegations to make against your client and its senior officers.

18. Before those serious allegations are made, we hereby afford your client a final opportunity to provide a proper response to the matters set out in our letter of 29 September 2017 and herein, in respect of the issues of conflict of interest, actual bias and apprehended bias.

Confidentiality

19. You have stated that your client "is concerned as to the nature and purpose for the clarification" that our client has sought in respect of the directions regarding confidentiality" that your client has given to him.
20. Your client is right to be concerned because our client is currently of the view that your client is seeking to impose obligations of confidence on him pursuant to the EA where none exist, and in doing so, is seeking to silence a more thorough ventilation and consideration of what appears to be your client's improper and unlawful conduct against our client.
21. You have cavilled with us as to our interpretation of clause 54.1.5 of the EA. Upon its proper construction, that clause only imposes an obligation of confidence on your client – that is the effect of the words "subject to JCU's obligations" in the said clause and the reading of the clause as a whole. Your reply ignores that issue.
22. Further, you have ignored that sub-clause 54.1.5(c) of the EA expressly provides for our client to consent in writing to the relevant disclosure.
23. With respect, the matters set out in your said letter do not dissuade us from our current view as to the proper construction of clause 54.1.5 of the EA.
24. You state in your letter that "the disciplinary process is confidential and personal to [our] client" and we agree. Our client is free to waive that confidence, which he has done.
25. You have also asserted that your client is able to direct our client to keep these matters confidential on the basis that it is "entitled at common law to give [our] client lawful and reasonable directions, including directions in respect to confidentiality, in its capacity as [our] client's employer".
26. While we do not dispute that statement as a general statement of legal principal, it is of no application here. That is because, what a "lawful and reasonable" direction is, in the present circumstances, is to be considered in light of the EA that binds the parties.
27. The parties have already agreed (by operation of clause 54.1.5 of the EA), that your client is to preserve our client's confidence in respect of the relevant matters, unless our client

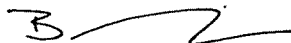
consents in writing to disclosing the information, and, by implication, that our client is not obliged to keep the said matters confidential.

28. Where the EA expressly governs the issue of confidentiality in respect of the management of serious misconduct processes, your client cannot simply avoid its operation by giving a contrary direction.
29. In the circumstances, the direction to our client keep these matters confidential is not a lawful and reasonable direction and our client is not obliged to comply with it.
30. In any event, in practical terms the issue of confidentiality may be moot as the information will soon be part of a proceeding in a court, as contemplated by clause 54.1.5 of the EA.
31. Our client is concerned by your client's continued insistence on our client keeping these matters confidential in circumstances where, for the reasons set out herein and in our letter of 29 September 2017, there is no lawful basis for it to do so.

Conclusion

32. Our client intends to commence the aforementioned proceedings on Tuesday 17 October 2017 unless prior to that time your client:
 - (a) remedies its breaches of the EA by withdrawing the recommendation of the Director HRM to the Senior Deputy Vice Chancellor wrongly made pursuant to clause 54.3.5(b) of the EA; and
 - (b) giving notice to our client that the Director HRM considers that there has been no serious misconduct or serious misconduct has been unsubstantiated pursuant to clause 54.3.5(a) of the EA; and
 - (c) confirms that our client is not obliged to keep this process and all information gathered and recorded in respect of it confidential, pursuant to clause 54.1.5 of the EA; and
 - (d) confirms that its purported common law direction to our client to keep these matters confidential is either withdrawn or invalid.
33. Finally, would you kindly advise whether you hold instructions to accept service on behalf of your client in respect of the proceeding mentioned herein.

Yours faithfully



Mahoneys

Contact Ben Seccombe
Direct phone 07 3007 3720
Email bseccombe@mahoneys.com.au

Confidential

Email
Ben Seccombe
Mahoneys
bseccombe@mahoneys.com.au

Copy
Mitchell Downes
Mahoneys
mdownes@mahoneys.com.au

17 October 2017

Dear Mr Seccombe

Your client: Professor Peter Ridd

We refer to your letter dated 13 October 2017.

We also refer to:

- (a) letter from the Director of Human Resources (**Director HRM**) to your client dated 24 August 2017 detailing the allegations the University required his response to (**Allegations Letter**);
- (b) your client's response of 7 September 2017 submitted through your office (**Response**);
- (c) letter from the Director HRM to your client dated 19 September 2017 advising that he is not satisfied that there is no serious misconduct or that the allegations are unsubstantiated;
- (d) your correspondence dated 29 September 2017; and
- (e) our correspondence dated 6 October 2017.

Alleged breach of the *James Cook University Enterprise Agreement 2013-2016* (EA)

Our client does not accept that there has been any breach, as alleged of the EA.

Your client has no basis to assert same.

It is patently clear that your correspondence is written for the purposes of attempting to interfere with a disciplinary matter, under the EA.

Our client does not agree with the interpretation you have proposed with the EA.

Your client is the subject of allegations of serious misconduct. Your client has responded to those allegations and our client has advised, through the Director HRM, that your client's Response does not satisfy our client, that there was no serious misconduct, or that serious misconduct was unsubstantiated. While not required to do so, our client by way of courtesy confirmed its position under clause 54.3.5(a) of the EA in its letter of 19 September 2017.

It is a matter for the Director HRM, to "*review all evidence*" as required by clause 54.3.5 of the EA and to address his recommendations with the Senior Deputy Vice Chancellor (**SDVC**) under the EA. There is no time frame for the Director HRM to address his recommendations with the SDVC under clause 54.3.5(b) of the EA.

Our client disputes that the Allegations Letter is inadequate. The Allegations Letter:

- (a) identifies the alleged conduct;

Mr Ben Seccombe, Mahoneys

17 October 2017

- (b) identifies and provides a copy of the evidence relied upon by the University; and
- (c) identifies your client's:
 - (i) employment obligations that the University is concerned your client has breached, including provisions in the Code of Conduct and EA;
 - (ii) prior censure regarding publications made by your client in breach of the Code of Conduct and directions provided to your client by way of a formal censure in 2016.

However, after considering the Response and reviewing all evidence relevant to the Response under the EA, the Director HRM has become aware of further allegations of serious misconduct, which will be necessary to put to your client, for his response.

Your client will have 10 working days under the EA to respond to further allegations of serious misconduct.

As a result there will be no recommendation from the Director HRM under clause 54.3.5 until your client has responded to these further allegations and concerns as these matters relate to allegations of similar conduct and/or a pattern of insubordination and denigration of the University, its officers and stakeholders after the delivery of the Allegations Letter.

No decision has been made by the University, or will be made in relation to the Response by the SDVC at this time.

Having regard to the further concerns of the University, it is appropriate to provide your client with an opportunity to respond to these matters, before the Director HRM finalises his recommendations under clause 54.3.5.

Alleged Conflict of Interest

Further, there is no basis for you to assert that there is any breach of clause 54.1.1 on the basis of conflict of interest, of the entire of the University officers under the EA, with responsibility to address disciplinary matters.

You have not set out any proper or considered basis to support your assertion that the Director HRM, the SDVC and the Vice Chancellor all have a conflict of interest that prevents the matter from proceeding under the EA, or that excuses or condones the concerns the University has expressed regarding your client's conduct such that it should not proceed under the EA.

You have merely asserted that the Vice Chancellor by reason of holding a position of council member of the Australian Institute of Marine Science (AIMS), has a direct conflict, and the Director HRM and SDVC, by reason of the supervisory responsibilities of the Vice Chancellor, are also subject to a direct or potential conflict.

There is no proper basis for you to assert any conflict by reason of the Allegations Letter, consideration of your client's Response, or our client's letter of 19 September 2017.

The University has raised allegations of serious misconduct against your client in relation to his publication of comments against AIMS.

Your client is acutely aware, having collaborated on behalf of the University with AIMS in his employment, that the University has a joint venture with AIMS.

Mr Ben Seccombe, Mahoneys

17 October 2017

The Vice Chancellor is a council member of AIMS, not due to any personal relationship, but by reason of the *Australian Institute of Marine Science Act 1972 (Cth)* and the joint venture between AIMS and the University. The Act requires the University to have a member on its council.

The Allegations Letter sets out the University's concern that your client has engaged in a breach of the Code of Conduct by reason of his comments against AIMS. These matters impact not only AIMS but also the University, and our client's expectations of your client's conduct under its Code of Conduct.

The University's disciplinary processes under the EA, are matters that the officers of the University are competent and capable of addressing, in the interests of the University.

The Vice Chancellor holding a statutory appointment on behalf of the University, does not interfere with the Vice Chancellor's decision making as an employee of the University on matters relating to the University's interests.

While these matters are not before the Vice Chancellor, as previously outlined under the EA, the role of other officers of the University are not impugned by reason of the statutory relationship with AIMS, nor the supervision of the Vice Chancellor of the officers.

These are University matters and the Allegations Letter relates to your client's conduct as a University employee in breach of the University's Conduct of Conduct.

As a result, the allegation of bias, apprehended bias, or inability of the officers of the University to address your client's conduct as a disciplinary matter under the EA is rejected.

There is no proper basis for your assertions and a failure on your behalf to articulate any such basis, other than again to interfere and intimidate the University in relation to its processes.

Confidentiality

Our client vigorously disputes your assertion that our client is "*seeking to silence a more thorough ventilation and consideration of what appears to be [our client's] improper and unlawful conduct against [your client]*".

Our client repeats its concerns that your correspondence, and your client's conduct is deliberately attempting to interfere with a disciplinary matter under the EA.

Our letter of 6 October 2017 makes it clear that:

- (a) clause 54.1.5 of the EA requires disciplinary processes to be kept confidential; and
- (b) our client has given your client lawful and reasonable directions to maintain confidentiality, which it is entitled to do pursuant to both the EA and, separately, at common law in its capacity as your client's employer.

Confidentiality regarding disciplinary processes is necessary to maintain the integrity of a disciplinary process. While your client and your office is attempting to address publication of matters, by reason of your client's consent, information regarding the disciplinary process is also confidential *to the University* (and personal to the relationship between the University and its employee, your client).

The EA makes it clear that the confidentiality of "*all parties involved*" will be respected. The suggestion that publication of these matters with consent may be used for media publication or broader dissemination by reason of your client saying so, is not consistent with the EA, nor the directions given to your client by the Director HRM and the Dean.

Mr Ben Seccombe, Mahoneys

17 October 2017

The Director HRM has previously made it clear to your client, including in his email of 27 August 2017, that any purported consent by your client to disclosing information relating to the disciplinary process does not impact upon his obligations to maintain confidentiality and directions from the Director HRM to do so.

Next steps

You have threatened Federal Court proceedings, without allowing the Director HRM to undertake his responsibilities under the EA and without any proper basis.

As outlined above, your correspondence appears intended to intimidate and interfere with the University's consideration of your client's Response to the Allegations Letter.

There is no basis for injunctive proceedings threatened against the University.

The University has made clear that no decision has been made, and no recommendation has been made to the SDVC, until such time as your client responds to further allegations of serious misconduct of a similar conduct and/or a pattern of insubordination and denigration of the University, its officers and stakeholders after the delivery of the Allegations Letter.

If your client initiates any proceeding, pending our client writing further to your client and hearing his response, our client will rely on this letter for the purposes of costs.

We confirm that we have instructions to accept service on behalf of our client.

If you wish to discuss these matters, you can contact us to do so. However, as outlined above, our client will shortly provide your client with a letter addressing the next steps in relation to its concerns and timeframe under the EA to respond.

Yours sincerely



Hedy Cray, Partner
+61 7 3292 7003
hcray@claytonutz.com

Megan Rutherford, Lawyer
+61 7 3292 7037
mrutherford@claytonutz.com

Our ref 13888/18512/80190290

STRICTLY PRIVATE AND CONFIDENTIAL

23 October 2017

By hand

Professor Peter Ridd
Professor of Physics
Head of Intelligent Systems, Information and Modelling
College of Science, Technology and Engineering
James Cook University

Dear Professor Ridd

Allegations of serious misconduct - further response required

I refer our meeting today with Professor Marcus Lane, Dean in relation to this letter.

I also refer to:

- (a) my letter dated 24 August 2017 detailing the allegations the University required your response to (**Allegations Letter**);
- (b) your response dated 7 September 2017 submitted through your solicitor (**Response**);
- (c) my letter dated 19 September 2017 advising that he is not satisfied that there is no serious misconduct or that the allegations are unsubstantiated;
- (d) your solicitor's correspondence dated 29 September 2017;
- (e) the University's response through its solicitors dated 6 October 2017;
- (f) your solicitor's correspondence dated 13 October 2017; and
- (g) the University's response through its solicitors dated 17 October 2017.

Thank you for your Response.

The University has considered your Response and has made further enquiries based on matters raised in your Response.

After the University provided you with the Allegations Letter, you advised me on 1 September 2017 that you had disclosed to the Townsville Bulletin on 31 August 2017 matters relating to a previous disciplinary process that resulted in you receiving a formal censure on 26 April 2016 (**Censure**).

After reviewing your Response and these further enquiries, the University has become aware of additional concerns regarding your conduct.

The purpose of this letter is to provide you with a further opportunity to respond to these matters before the University makes a decision in relation to whether you have engaged in serious misconduct.

You will be provided with a full opportunity to respond as set out in this letter including in relation to the University's concerns regarding the connection of this conduct to your employment with the University and your obligations to act in the interests of the University.

No decision has been made in relation to your ongoing employment, and no decision will be made until the process outlined in the *James Cook University Enterprise Agreement 2013-2016* (Enterprise Agreement) is complete.

Background - your employment

You commenced employment with the University on 1 January 1995, and are currently employed in the position of Professor of Physics, within the College of Science, Technology and Engineering based at the University's campus in Townsville.

As an employee of the University, you along with all employees, are required to comply with the University's policies and procedures, including the Code of Conduct.

The Code of Conduct relevantly provides that staff members will:

- (a) *"value academic freedom, and enquire, examine, criticise and challenge in the collegial and academic spirit of the search for knowledge, understanding and truth";*
- (b) *"have the right to freedom of expression, provided that our speech is lawful and respects the rights of others";*
- (c) *"have the right to make public comment in a professional, expert or individual capacity, provided that we do not represent our opinions as those of the University unless authorised to do so";*
- (d) *"treat fellow staff members, students and members of the public with honesty, respect and courtesy, and have regard for the dignity and needs of others";*
- (e) *"comply with any lawful and reasonable direction given by someone who has authority to give that direction";*
- (f) *"encourage collaboration across boundaries";*
- (g) *"behave in a way that upholds the integrity and good reputation of the University";*
- (h) *"act within the limits of our authority".*

A copy of the Code of Conduct was provided to you along with the Allegations Letter.

The Enterprise Agreement addresses academic freedom and qualifications on this principle. Clause 14.6 of the Enterprise Agreement relevantly provides:

*"Staff members commenting publicly in a professional or expert capacity may identify themselves using their University appointment or qualifications, but must not represent their opinions as those of JCU. The University expects that staff will **maintain professional standards** when they intentionally associate themselves with its name in public statements and/or forums." (emphasis added)*

Academic freedom under the Enterprise Agreement is expressed to be in accordance with the Code of Conduct. As set out above, the Code of Conduct provides that academic freedom is subject to criticism and challenges being communicated in the collegial and academic spirit of the search for knowledge, understanding and the truth. The Code of Conduct requires staff members to behave in

a way that upholds the integrity and good reputation of the University and treat fellow staff members, students and members of the public with honesty, respect and courtesy.

Background - AIMS and ARC Centre

As you will be aware, the Australian Institute of Marine Science (AIMS) and ARC Centre of Excellence for Coral Reef Studies (ARC Centre) are key stakeholders of the University.

AIMS is the Commonwealth government's tropical marine research agency. AIMS@JCU is a joint venture between the University and AIMS that is promoted and managed by the University. AIMS@JCU increases research training opportunities for students of the University, provides reciprocal benefits to staff regarding access to resources and knowledge, enables the parties to undertake activities collectively which could not have been undertaken individually and has resulted in the installation of significant research infrastructure at the University. You have previously collaborated with AIMS on research projects.

The ARC Centre is a partnership of the University, AIMS, the Australian National University, the Great Barrier Reef Marine Park Authority, the University of Queensland and the University of Western Australia, that is funded by the Australian Research Council. The ARC Centre is headquartered at the University and provides significant research opportunities for students, graduates and staff members of the University.

As you know, your University colleague, Professor Terry Hughes, is the director of the ARC Centre.

Further information and particulars regarding allegations set out in Allegations Letter

The Allegations Letter alleges that during an interview with Sky News Live that aired at 8.44pm on 1 August 2017 (Interview) you stated:

"that scientific organisations like the Australian Institute of Marine Science and the ARC Centre for Coral Reef Studies can no longer be trusted".

The Allegations Letter attaches a summary of the Interview obtained from a news summary service that contains the alleged comment.

In the Response you deny that this is a direct quote. As a result of your denial, the University has reviewed a recording of the Interview and confirmed that you made the following comments:

- (a) *"The basic problem is that we can no longer trust the scientific organisations like the Australian Institute of Marine Science, even things like the ARC Centre of Excellence for Coral Reef Studies - a lot of this is stuff is coming out, the science is coming out not properly checked, tested or replicated and this is a great shame because we really need to be able to trust our scientific institutions and the fact is I do not think we can any more."* (from 4 minutes 26 seconds into the interview); and
- (b) *"I think that most of the scientists who are pushing out this stuff they genuinely believe ah that there are problems with the reef, I just don't think they're very objective about the science they do, I think they're emotionally attached to their subject and you know you can't blame them, the reef is a beautiful thing"* (from 7 minutes and 8 seconds into the interview).

You appear to have a copy of the recording, from the University's review of these matters. If you require another copy, please let me know and I will provide you with a USB.

You are introduced by one of the interviewers, Alan Jones, as *"the Professor of Physics at James Cook University"*.

As a result, the University does not accept the assertion in your Response that the alleged conduct is "incapable of impliedly identifying JCU" and has concerns regarding the frankness of this aspect of your Response.

In particular, the University has concerns that during the Interview you:

- (a) commented to the effect that we "can no longer trust" scientific research published by AIMS and the ARC Centre; and
- (b) you made comments imply, insinuate and suggest that scientists who work for AIMS and the ARC Centre are "emotionally attached" to the reef and their scientific research is "not objective".

The University is not satisfied that the principles of academic freedom excuse or justify your comments.

The University has concerns that your comments give rise to breaches of the Code of Conduct and/or are inconsistent with the best interests of the University as your employer as they:

- (a) are not in the collegial and academic spirit of the search for knowledge, understanding and truth;
- (b) denigrate AIMS and the ARC Centre and are not respectful and courteous;
- (c) have the potential to damage the reputation of AIMS and the University's relationship with its stakeholder;
- (d) due to close association between AIMS and the University, have the potential to damage the reputation of the University.

The University is not satisfied that these comments were necessary to support your explanation about what it means when an article is said to be peer reviewed.

Your obligations as a University employee to comply with the Code of Conduct, is clearly connected to your employment and the University considers, having regard to your prior Censure and your subsequent conduct, that these matters impact on the trust and confidence that it can have in you to respect the University, your colleagues and not engage in conduct that brings you, the University and its stakeholders into disrepute.

The University is not satisfied that, due to a minor grammatical error in the Censure, the University's expectations regarding appropriate standards of communications were unclear to you. By nature of your senior position, if you are unclear of the University's expectations in this regard, it is incumbent on you to seek clarification from the University. The Censure letter expressly states "if you are unclear about these obligations or require any additional support please seek the advice of your Dean before expressing view in a similar way in the future."

However, by reason of the further concerns outlined below, it was clear that you were aware of the seriousness of your conduct.

Additional allegations requiring your response

Concerns that you have further denigrated AIMS

Notwithstanding the prior Censure and Allegations Letter, the University has become aware that you have continued to denigrate AIMS, including in an email that you sent to [REDACTED] at 8.10am on 19 September 2017, that made the following comment in relation to AIMS:

There are many other scientists, who are much more damaging and costly, but will eventually get awards and Knighthoods for their corruption.

A copy of this email is **attached**.

In light the conduct outlined above, your prior conduct for which you received a Censure and the conduct outlined in the Allegations Letter as further particularised in this letter, the University has concerns that you have engaged in a pattern of conduct in which you denigrate stakeholders and make comments that are not collegial in nature.

Concerns regarding repeated denigration of the University, insubordination and interference with the disciplinary process

The University has become aware that you have repeatedly denigrated the University to its students and external parties, including by undermining and denigrating the University, by suggesting that the University has commenced disciplinary proceedings against you (in relation to both the current disciplinary proceedings and prior Censure) because you have expressed a view that is different to the view held by the University.

This assertion is grossly inconsistent with the Allegations Letter and Censure and your repeated communication in this manner impacts upon the trust and confidence that the University can have that you will:

- (a) uphold the integrity of the disciplinary process; and
- (b) communicate in a way that upholds the integrity and good reputation of the University.

In particular:

- (a) On 1 September 2017, the Townsville Bulletin published an article titled 'Reef science critic rejects JCU claims' that contains the following quotes from you:

"The crucial thing is I spoke about the insufficient quality of the science of the Great Barrier Reef."

"My views are very unwelcome and if it wasn't for those views I'm certain I wouldn't have been censured by the university."

"I spoke to journalists about it and I ended up on a trumped-up collegiality charge."

- (b) On 23 August 2017 at 3.06pm, you sent an email to [REDACTED] providing:

In any case I am not sure I have any influence on the outcome. I will find out more details tomorrow, and in fact technically I will then be no longer able to comment on it to anybody until it is resolved pone (sic) way or another. I think it will most likely end up badly for me.

- (c) On 28 August 2017 at 9.04am, you sent an email to various external recipients providing:

As usual, I have offended some powerful organisations who don't like being challenged, and rather than debate the case, they just resort to threats and complaints.

- (d) On 31 August 2017 at 9.00am you sent an email to jonicol18@bigpond.com that provides:

yes we seem to be in a spot of bother again. It is all pretty pathetic and I wish these people would debate me rather than just complain. They are after all having a massive effect on NQ industries through all the new regulations on farming and mining. They need to explain themselves. Anyway more details later when I am allowed to talk about it.

- (e) On 1 September 2017 at 10.17am you sent an email to student [REDACTED] advising:

I greatly appreciate your concern. I have been in a lot of hot-water for many years on these matters and it may be approaching the end game now – it is hard to tell for sure. It is a long story and I am not allowed to discuss the latest problem. Needless to say I have certainly offended some sensitive but powerful and ruthless egos.

- (f) In your subsequent email of 12.28pm on 1 September 2017 you advise [REDACTED] that she may forward your email to anybody she likes;

- (g) On 1 September 2017 at 3.28pm you sent an email to student [REDACTED] indicating that the University, along with other universities, are "Orwellian in nature" and "pretends to value free debate, but in fact it crushes it whenever the "wrong" ideas are spoken";

- (h) On 5 September 2017 at 8.50am, you sent an email to numerous external recipients advising:

Yes it is what they are saying to everybody except they sometimes in the media they add that I have been censured before for un-collegial behaviour (i.e I said something tough but true and my colleagues took offence - they are fragile flowers). Any way I look forward to revealing the full horror of my offence in a couple of weeks.

A copy of these emails are attached.

Failure to comply with directions regarding confidentiality, a failure to show respect for the integrity of the disciplinary process in relation to confidentiality, engaging in conduct that attempts to undermine the disciplinary process and denigrates the University

You are required to keep disciplinary processes confidential pursuant to clause 54.1.5 of the Enterprise Agreement.

In relation to the prior disciplinary process resulting in the Censure, the allegations letter provided to you on 12 April 2016 reminded you of your obligations with respect to maintaining confidentiality under the Enterprise Agreement.

In relation to the current disciplinary process:

- (a) During your meeting with Professor Marcus Lane (Dean) and Zora Kosteliz, Human Resources (Ms Kosteliz) on 24 August 2017:
- (i) the Dean advised you that the matter is highly confidential and directed you to maintain confidentiality;
 - (ii) you advised that upon receiving the Dean's call you had shared with a "large number" of people that there was "a cloud over [you]". You indicated that you did not consider that you were obliged to maintain confidentiality because you had not received anything in writing;

- (iii) you made it clear that you will make this a very public dispute, including commenting to the effect that:
 - A. *"it is in my best interests that this will go public"*;
 - B. *"You should look at me as a poisonous fruit" and "[the University] could eat me...but it will hurt; I will make sure it hurt"*;
 - C. *"you should let Chris know that I will fight this in a very public way"*;
 - (iv) however, you said words to the effect of *"I will 100% abide by the request not to talk about the serious misconduct but it's too late about the issue."*
- (b) On 25 August 2017, at 9.08 am you sent an email to Ms Kosteliz:
- (i) asking whether you are allowed to disclose the existence of the serious misconduct allegation if you do not disclose details of the allegations; and
 - (ii) providing: *"I wish to state that I consent to the university, if they choose, disclosing information and records relating to this matter. Given that I have given consent above, in fairness I request and require that the university reciprocate this consent."*
- (c) On 25 August 2017, at 10.50 am you sent a further email to Ms Kosteliz followed up on your earlier email and saying: *"I would be grateful if I could have a quick reply one way or another if at all possible."*
- (d) Ms Kosteliz responded to you to advise that she had escalated your query, and one of her supervisors would come back to you.
- (e) On 27 August 2017, I responded to your email:
- (i) reinforcing the lawful and reasonable direction that you should not discuss any aspect of the serious misconduct process, except with an appropriate representative; and
 - (ii) confirming that the University does not consent to the disclosure of information relating to the disciplinary process.

On 26 August 2017, the Australian published the article attached.

In light of your comments to the Dean that you will make this a *"very public dispute"*, the University is concerned that you pressed Ms Kosteliz for a response, for the purposes of engaging with the Australian.

While you are directly quoted in the article that you *"could not discuss whether a formal investigation was under way"*, the article publishes matters the subject of the current disciplinary process, undermining the integrity and confidentiality of the process.

Despite the University reinforcing your obligation to maintain confidentiality in relation to the disciplinary process on numerous occasions as outlined above, you advised me in an email dated 1 September 2017 that you had disclosed to the Townsville Bulletin on 31 August 2017 matters relating to the prior disciplinary process you were subject to resulting in a formal censure.

The University has made further enquiries as a result of your disclosure and has become aware that:

- (a) On 1 September 2017, the Townsville Bulletin published an article titled 'Reef science critic rejects JCU claims' that contains quotes from yourself, including in relation to the prior disciplinary process and Censure;
- (b) On 23 August 2017 at 8.36am you sent an email to student [REDACTED] disclosing the current disciplinary proceedings and prior Censure:

This week I have been informed that I have an another academic misconduct charge against me (some other scientists are a bit upset with me). This is a bugger because it will mean that I will be tied up fighting this. Given that I have already been censured once after one of these charges was upheld, there is a chance that I will shortly have quite a bit more free time ☺.
- (c) On 24 August 2017 at 10.31 and 10.32pm you sent emails to Cheryl.ridd@bigpond.com attaching a copy of the Allegations Letter and Censure respectively;
- (d) On 25 August 2017 at 3.09pm you forwarded Cheryl.ridd@bigpond.com a chain of emails between you and Professor Chris Cocklin, Senior Deputy Vice Chancellor, (SDVC) regarding your Censure;
- (e) On at least 6 occasions you communicated in a manner that confirmed a disciplinary process had been commenced against you and/or encouraged discussion of this matter both within JCU and the broader public, including:
 - (i) in an email to Piers.larcombe@gmail.com sent at 7.21am on 22 August 2017;
 - (ii) in an email to numerous external recipients at 9.04am on 28 August 2017 soliciting recipients to send a letter of support for you, to the Vice Chancellor;
 - (iii) in an email to donaitkin@grapevine.com.au at 11.13am on 28 August 2017 where you encouraged Mr Aitkin to send a letter of support to the Vice Chancellor;
 - (iv) in emails to student [REDACTED] at 10.17am and 12.28pm on 1 September 2017;
 - (v) in an email to student [REDACTED] at 3.28pm on 1 September 2017; and
 - (vi) in an email to numerous recipients at 8.50am on 5 September 2017.

A copies of the relevant emails are attached.

The University is concerned that you have published and solicited to persons external to the University, encouraging them to interfere with the disciplinary process, by engaging with the Vice Chancellor.

The University is further concerned that you have sought to undermine and interfere with the disciplinary process. While you were clearly provided directions in the Allegation Letter to respond to the Director HRM consistent with the Enterprise Agreement, you have sought in your communications with Professor White, Head, Physical Sciences, and the Dean, to interfere with the process including:

- (a) your email to Professor White of 7 September 2017 that provides:

My legal people have sent JCU a response to the allegations which I think leaves the JCU case pretty well crippled (please see attachment if you want a laugh). I hope that JCU will see that this is going nowhere good for JCU and give up. However I suspect there will be some hurt prides which might make that hard to do. You may already be working behind the scenes but this might be a good time to pass up the chain of command that if we could work together we could make something really good come of this. I reckon I could shake money out of the tree for a Centre for Policy-Science Quality Assurance. In the end we could triple the money that the CoE brings in. I would at least like to speak about this idea to Marcus and the management group if he is amenable to the idea.

If however JCU continues down its present path, there is no doubt that we can all tear each other apart, in court and in the media. That does not seem to be a sensible way to carry on.

- (b) your email to Professor White and the Dean of 29 September 2017 that provides:

FYI: the letter of response from my lawyer people. They are itching to get to court as JCU is in a very bad position procedurally, legally, and morally.

It would seem from the EBA that the SDVC will have to make a decision by Thursday at latest. They will possibly instruct me to remain silent even if I am cleared of serious misconduct. I have no intention of complying and it looks like they have absolutely no basis in the EBA to force my silence. Not that I care. I'd rather be fired for talking to the media than be muzzled.

The only honourable and productive way out for JCU is for JCU to

- (a) accept they made a small mistake in not checking the allegations before setting out on this path (I don't need an apology or anything like that),*
- (b) make a public statement endorsing my work on improving the quality assurance processes for science in general, and the GBR in particular.*
- (c) support my proposal to establish a Centre for Policy science Quality Assurance here at JCU. I don't even need any cash for it – just recognition and a space on the web page.*

I would sing their praise if they would do this and this whole sorry affair would be forgotten, and JCU would get a lot of brownie-points for its commitment to quality science.

Can you please send these three suggestions/conditions up the chain? You never know - sanity might prevail.

A copy of these emails are attached.

In light of the above, the University has serious concerns that you have deliberately failed to comply with your obligations with respect to confidentiality and have deliberately communicated in a manner sought to perpetuate attention and public scrutiny and, in doing so, have undermined the integrity of the disciplinary process.

This impacts upon the trust and confidence that the University can have that you intend to comply with its lawful and reasonable directions moving forward.

Concerns that you have further denigrated Professor Hughes

You received the Censure in relation to your denigration of Professor Hughes and the ARC Centre.

The University has become aware that you have continued to denigrate Professor Hughes, including in an email that you sent to [REDACTED] at 1.53pm on 30 August 2017 where you made the following comment in relation to Professor Hughes being the keynote speaker at the 2018 Australian Meteorological and Oceanographic Society conference:

You wonder why he is there. It is not like he has any clue about the weather. He will give the normal doom science about the GBR.

A copy of this email is **attached**.

In light of the above, the University has concerns that you have failed to treat Professor Hughes with respect and courtesy in breach of the Code of Conduct. Given that you have previously received a Censure in relation to your denigration of Professor Hughes, and you have again engaged in conduct denigrating Professor Hughes, the University has concerns in relation to the trust and confidence that it can have that you intend to meet its expectations regarding professional standards of communication as reflected in the Code of Conduct.

Other matters raised in your Response

In your Response you note that the Allegations Letter contains references to allegations of "misconduct" as well as "serious misconduct". During your meeting on 24 August 2017 with the Dean and Ms Kosteliz, the Dean made it clear to you that the allegations were of serious misconduct. I confirmed by email dated 1 September 2017 that the allegations were of serious misconduct and your Response makes it clear that you provided your response on the basis that the allegations are of serious misconduct.

The University does not accept that a conflict of interest or apprehended bias.

The University has raised allegations of serious misconduct against you in relation to his publication of comments against AIMS. You are acutely aware, having collaborated on behalf of the University with AIMS in his employment, that the University has a joint venture with AIMS.

The Vice Chancellor is a council member of AIMS, not due to any personal relationship, but by reason of the Australian Institute of Marine Science Act 1972 (Cth) and the joint venture between AIMS and the University. The Act requires the University to have a member on its council.

The Allegations Letter sets out the University's concern that you engaged in a breach of the Code of Conduct by reason of your comments against AIMS. These matters impact not only AIMS but also the University, and the University's expectations of your conduct under the Code of Conduct.

Our legal representatives have addressed this matter directly with your legal representatives.

Further response required

The University has serious concerns that the allegations set out in the Allegations Letter as further particularised above, and your additional conduct outlined in this letter, both separately and cumulatively amount to serious misconduct.

In light of the further information and particulars regarding the allegations set out in the Allegations Letter, the University would like to provide you an opportunity to provide any further response that you may have in relation to these allegations.

As a result of the additional conduct outlined above, the University has serious concerns that you have engaged in a pattern of conduct deliberately breaching confidentiality and denigrating the University, its employees and stakeholders and that you have shown little or no regard for your obligations to comply with the Code of Conduct, including to behave in a way that upholds the integrity and good reputation of the University.

Your denigration of AIMS, the ARC Centre and Professor Hughes is the same kind of conduct for which you have previously received the Censure. Your communications with the SDVC after he issued you with the Censure indicate that you have no respect for the Censure and do not intend to comply with it. This includes:

- (a) your email to the SDVC of 3 May 2016 in which you state:

thanks for the formal censure letter, and thinly veiled threat of dismissal, regarding my comments about the obviously misleading photographs published by the COE Coral Reef Studies. I will frame it and hang it on the wall beside my other teaching and academic awards.

But seriously - do you think that you may have just shot the messenger about the use of a couple of naughty words? How much confidence do you really have in any of the scare stories that are promulgated by Terry and others, and have you contemplated the damage to the local region that is being caused? In the last fortnight we have Terry wanting to close down the coal industry and telling potential tourists that the reef is bugged, and we have AIMS scientists calling for agricultural land to be taken out of production. And when I simply ask for some decent quality assurance and checking, I am threatened with legal action and potentially dismissal.

It only confirms that I must be doing something right.

- (b) your email to the SDVC of 5 June 2016 pressing for the Censure to be "annulled...for the reputation of JCU", demonstrating a lack of understanding regarding the seriousness of your conduct and the nature of the University's concerns. Your email provides:

I note on the front page of the Australian that the Head of GBRMPA, Russ Reichelt, has said that Terry Hughes has misled the public with his comments on bleaching.

Not a good look - but it is a wonder that it has not happened before.

You will remember that I was formally censured and threatened with dismissal for saying Prof Hughes misled the public by claiming that a reef near Bowen has no coral even though we provided photographic evidence that this was not so.

In the light of Russell Reichelt's comments, I formally request my censure be annulled, not for my sake, but for the reputation of JCU.

- (c) the following comment that you made in the online comments section of the article titled 'Great Barrier Reef: scientists 'exaggerated' coral bleaching' published by Graham Lloyd in the Australian on 4 June 2016 which "grossly misrepresent[s]" the basis on which you were issued the Censure, as outlined in my email to you of 6 June 2016:

I find it interesting that The Head of GBRMPA has said that Prof Terry Hughes organisation was "misleading" the public.

I recently made a similar comment of Prof Hughes organisation (COE Coral Reef Studies at JCU) about a related issue - they stated that there was no coral on a particular reef and I furnished photographic evidence that this was incorrect. I stated that the information from Hughes organisation was "misleading" among other

things including that there is clearly a need for some better quality assurance of the science.

For my sins, I was hit with an academic misconduct charge from JCU, found guilty, and duly threatened with dismissal if I transgressed again. I am still bewildered by what happened.

And this is only the tip of the iceberg as far as exaggeration of threats to the GBR is concerned.

*Prof Peter Ridd
Marine Geophysics Laboratory
James Cook University*

A copy of these emails are attached.

By reason of your communications, open disregard for confidentiality, open denigration of the disciplinary process, and your prior disciplinary history, the University has serious concerns about the trust and confidence that it can have in your employment moving forward.

This includes the trust and confidence that the University can have that you value and respect your employment relationship and will act in the best interests of the University and comply with your employment obligations, including directions from the University and the Code of Conduct moving forward.

Your response should specifically address such concerns.

You are requested to provide a response in writing to these matters within 10 working days of the date of this letter (i.e. by 5.00pm on 6 November 2017). Please direct your written response via email to me and ensure that it is marked "*private & confidential*".

As outlined above, no decision has been made in relation to these matters, and no decision will be made, until you have had an opportunity to provide your further response and the University has had an opportunity to consider your response in accordance with the Enterprise Agreement.

In light of the serious nature of the allegations outlined above and the ongoing use of the University's email system to engage in conduct which denigrates and undermines the University, the University has considered whether it is appropriate to suspend your employment under clause 54.6 of the Enterprise Agreement pending the outcome of the disciplinary process.

However, the University will continue to monitor your use of communication devices under the control of the University in accordance with section 4 of the University's Information Communication Technology Acceptable Use Policy (ICT Policy).

If the University becomes aware that you have engaged contrary to the directions and expectations on you, and/or that you have continued to denigrate the University, its employees or stakeholders, or disclosed matters relating to your current or prior disciplinary processes in breach of the confidentiality direction given to you, the University may need to revisit its decision regarding suspension.

Ongoing directions

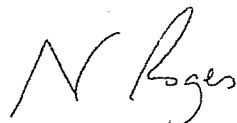
I remind you that the confidentiality directions outlined in my letters dated 19 September 2017 and 24 August 2017 remain in place.

As you are legally represented, we will ask the University's legal representatives to send a copy of this letter to your legal representative.

Also, the Employee Assistance Program is available to you if you need additional support and assistance at this time. We encourage you to access the free, professional, independent and confidential counselling support services of *Davidson Trahaire Corpsych* on telephone 1300 360 364.

If you have any questions about this letter, please do not hesitate to contact me.

Yours sincerely



Nick Rogers

Enc

Attachments to letter:

1. Email you sent [REDACTED] on 19 September 2017
2. Article titled 'Reef science critic rejects JCU claims' published in the Townsville Bulletin on 1 September 2017
3. Email you sent to [REDACTED] on 23 August 2017
4. Email you sent to various external recipients at 9.04am on 28 August 2017
5. Email you sent jonicol18@bigpond.com on 31 August 2017
6. Email chain containing emails you sent to Sanna Persson on 1 September 2017
7. Email you sent to [REDACTED] on 1 September 2017
8. Email you sent to various external recipients at 8.50am on 5 September 2017
9. Email you sent Ms Kosteliz at 9.08am on 25 August 2017
10. Email you sent Ms Kosteliz at 10.50am on 25 August 2017
11. Email Ms Kosteliz sent you at 11.30am on 25 August 2017
12. Email I sent you on 27 August 2017
13. Article titled 'Fears uni may sack marine scientist over comments on reef health' published in the Australian on 26 August 2017
14. Email you sent me on 1 September 2017 re Townsville Bulletin
15. Email you sent [REDACTED] on 23 August 2017
16. Email chain containing the email you sent to Cheryl.ridd@bigpond.com at 10.31pm on 24 August 2017
17. Email chain containing the email you sent to Cheryl.ridd@bigpond.com at 10.32pm on 24 August 2017
18. Email you sent Piers.larcombe@gmail.com sent on 22 August 2017
19. Email you sent donaitkin@grapevine.com.au on 28 August 2017
20. Email chain containing the email you sent Professor White on 7 September 2017
21. Email you sent Professor White and the Dean on 29 September 2017
22. Email you sent [REDACTED] on 30 August 2017
23. Email you sent Cheryl.ridd@bigpond.com on 25 August 2017 forwarding email chain including:
 - (a) your email to the SDVC of 3 May 2016
 - (b) your email to the SDVC of 5 June 2016
 - (c) the SDVC's email to you of 6 June 2016
24. The University's Information Communication Technology Acceptable Use Policy

1

From: Ridd, Peter
Sent: Tuesday, 19 September 2017 8:10 AM
To: [REDACTED]
Subject: RE: fyi AIMS

Follow Up Flag: Follow up
Flag Status: Flagged

Yes there was a problem of oversight. However Alongi in my view was one of their best scientists who obviously had a character flaw. There are many other scientists, who are much more damaging and costly, but will eventually get awards and Knighthoods for their corruption.

P

From: [REDACTED]
Sent: Tuesday, 19 September 2017 5:06 AM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Subject: fyi AIMS

(Sydney) Daily Telegraph 18 Sept. (yesterday), P13. Energy policy tirade, but Alongi gets sprayed. A question ... how come he was able to run up 1/2M in claims? But I guess that is AIMS.

I'll carry the copy in my luggage,
[REDACTED]

2

Reef science critic rejects JCU claims, 2017 WLNR 26908060

NewsRoom

9/1/17 Townsville Bull. (Austl.) 2
2017 WLNR 26908060

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September 1, 2017

Section: News

Reef science critic rejects JCU claims

VICTORIA NUGENT victoria.nugent@news.com.au

A SCIENTIST known for publicly criticising leading reef science bodies has hit back at James Cook University's explanation of why he was disciplined last year, calling it a "trumped-up" charge.

Geophysicist Peter Ridd last year was disciplined by the university after an incident where he questioned photographs being used by the Great Barrier Reef Marine Park Authority to show coral reef decline. A JCU spokesman denied Professor Ridd had been disciplined for questioning his colleagues' research last year.

"Peter Ridd was censured in 2016 for breaches of the code of conduct, specifically breaching its requirement to act in a collegial way, and for behaviour that was found to be disrespectful to his colleagues," he said.

"He was not censured for questioning the scientific content of other university academics' research." But Prof Ridd said he "fundamentally disagrees" with that reasoning. "The crucial thing is I spoke about the insufficient quality of the science of the Great Barrier Reef," he said.

"My views are very unwelcome and if it wasn't for those views I'm certain I wouldn't have been censured by the university.

"This science is materially damaging to all the major industries in North Queensland – the sugar industry, the mining industry and the cattle industry." Prof Ridd said after seeing photos being used by GBRMPA of reefs near Bowen, his team went to investigate and found a healthy reef.

"I spoke to journalists about it and I ended up on a trumped-up collegiality charge," he said.

"JCU is a very important institution in North Queensland and it's extremely important we get the science right ... part of that is scientific debate.

"Misconduct charges send shivers through everyone who's daring to put an opposing view to the conventional." The Townsville Bulletin understands Prof Ridd is under review again at the university for "serious misconduct" after a high-profile tour to promote a sceptical book on climate change, but neither party would comment on whether an investigation was under way.

In recent weeks, Prof Ridd has given a number of interviews to promote the new book, *Climate Change: The Facts 2017*, which includes 22 essays by a range of authors.

"While we cannot comment on the specific matter, media reports that a JCU scientist has been, or will be, disciplined for questioning the scientific content of other university academics' research are incorrect," a JCU spokesman said.

"James Cook University values intellectual freedom and academics are free to discuss matters of science within their areas of expertise, as per the code of conduct." Any action that has been taken, or may be taken, by the university under the JCU code of conduct would not relate to questioning the scientific content of another academic's research."

— Index References —

Company: JAMES COOK UNIVERSITY

News Subject: (Education (1ED85); Higher Education (1HI55); Weather & Climate (1WE93))

Industry: (Climate Change (1CL10); Earth Science (1EA85); Environmental (1EN24); Meteorology (1ME62); Oceanography (1OC88); Political Science (1PO69); Science (1SC89); Science & Engineering (1SC33); Social Science (1SO92))

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Other Indexing: (Peter Ridd)

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Word Count: 459

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NewsRoom

3

[Redacted]

From: Ridd, Peter
Sent: Wednesday, 23 August 2017 3:06 PM
To: [Redacted]
Subject: RE: maybe not stirring the pot for a moment

Follow Up Flag: Follow up
Flag Status: Flagged

Hi [Redacted]

I see what you mean. If I am kicked out of JCU it will reflect badly on Wikiletters.

But maybe it will work the other way around - Wikileaks is an outcast organisation and it is famous because of it. There is a saying in English "all publicity is good publicity, even bad publicity". I am not sure I go along with that but there is an element of truth in it. Zero publicity is the real enemy.

In any case I am not sure I have any influence on the outcome. I will find out more details tomorrow, and in fact technically I will then be no longer able to comment on it to anybody until it is resolved one way or another. I think it will most likely end up badly for me.

Perhaps, we then need to get my name off everything on wikiletters.

P

From: [Redacted] [mailto:\[Redacted\]](mailto:[Redacted])
Sent: Wednesday, 23 August 2017 1:53 PM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Subject: maybe not stirring the pot for a moment

Hi Peter,

I wonder if maybe you could avoid stirring the pot for a little bit (just for a few weeks or ~3 months ish).

1 - We might need to avoid your strike 3 at JCU, because the CRC will try to tag Wikiletters in the media as a "red team" engine. I have no doubt they will try to do that. They will try to do whatever they can to relate WL as a sceptical way against Climate Change researchers. However, we do know that that is not true. Therefore, we need to be extremely cautious and strategic to keep pushing this engine.

2 - I really believe pretty soon we might have the support from the Wikipedia community to sort the database remarks. The researchers might be a bit reluctant at the beginning to sort this database. However, once Wikipedians have sorted most of this database, then researchers would then realise that WL provides an unique marking opportunity for their own work.

3 - I am surrounding people that are relatively close to Researchgate's CEO, and Wikipedia's CEO, because we might get Wikipedia to initially approach us, and then Researchgate come asap.

Do you think JCU will be okay after your second strike, and they may ask you to avoid a third one?

Cheers,

[Redacted]

4

From: Ridd, Peter
Sent: Monday, 28 August 2017 9:04 AM
To:
Cc:



Subject: RE: The Australian, August 26, 2017
Attachments: Ridd-GreatBarrierReef final.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Thanks everybody,

Actually if anything a letter to my VC would be the most useful. This is the same old thing although I have been told by JCU not to talk to anybody about it. I am interpreting this instruction to mean that I cannot talk about the details as it is in the public domain that there has been a complaint. As usual, I have offended some powerful organisations who don't like being challenged, and rather than debate the case, they just resort to threats and complaints. Just like the good old QSA etc.

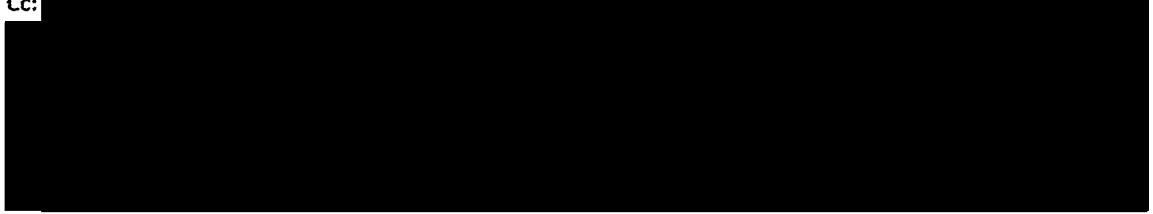
All I am arguing is that before we spend a few billion saving the reef, we should check the science that underpins our decisions. Presently we only use peer review which is little more than a quick read by 2 unknown people. They never get the data to check for other interpretations, and experiments are almost never repeated by other workers. There is no guarantee that the review is even genuinely antagonistic. In other areas of science where checks are done, they regularly find that 50% of the original findings are wrong. The attached book chapter explains some of this.

My VC's address is
vc@jcu.edu.au

thanks

Peter

From: [Redacted]
Sent: Monday, 28 August 2017 6:06 AM
To: [Redacted]
Cc: [Redacted]



[REDACTED]

Subject: Re: The Australian, August 26, 2017

Hi [REDACTED] - all I can think of is writing letters to the Editor of The Australian,
Although there are MANY on-line comments supporting Peter, there aren't any in the actual paper.
That is probably because there is so much going on: same sex marriage, statues e.t.c.!!!

[REDACTED]

On 27 Aug 2017, at 10:43 pm, [REDACTED] wrote:

Thanks [REDACTED]

This is the first I heard of this!

Is there anything we can do to help Peter?

Kind regards,
[REDACTED]

From: [REDACTED]
Sent: Sunday, 27 August 2017 9:13 PM
To: [REDACTED]

[REDACTED]

Fears uni may sack marine scientist over comments on reef health

James Cook University marine scientist Peter Ridd. Picture: Cameron Laird
The Australian
12:00AM August 26, 2017

GRAHAM LLOYD Environment Editor Sydney

Outspoken marine scientist Peter Ridd has landed in hot water with James Cook University following a high-profile book tour in which he questioned the quality of Great Barrier Reef science.

Professor Ridd is understood to be under investigation for “serious misconduct” and colleagues fear he could be sacked. In a statement, JCU said “at this stage, the university cannot comment”.

Professor Ridd said he could not discuss whether a formal investigation was under way.

He was censured by JCU last June for “failing to act in a collegial way and in the academic spirit of the institution”. His crime was to encourage the media to question two leading reef institutions, the Australian Institute of Marine Science and Great Barrier Reef Marine Park Authority, on whether they knew that photos they had published and claimed to show the long-term collapse of reef health could be misleading and wrong.

Professor Ridd was disciplined for breaching Principle 1 of JCU's code of conduct by "not displaying responsibility in respecting the reputations of other colleagues". He was told that if he did it again, he might be found guilty of serious misconduct.

No details are available of the investigation, which is understood to have started earlier this week.

Professor Ridd has given a series of high-profile media interviews over the past several weeks, including to Sky News's Alan Jones and Peta Credlin, to promote a new Institute of Public Affairs book on climate change. He wrote the opening chapter, in which he argued there was perhaps no ecosystem on Earth better able to cope with rising temperatures than the Great Barrier Reef.

"Irrespective of one's views about the role of carbon dioxide in warming the climate, it is remarkable that the Great Barrier Reef has become the ecosystem, more than almost all others, that is used to illustrate and claim environmental disaster from the modest warming we have seen over the course of the last century," he wrote.

Professor Ridd has argued passionately for a better system of quality assurance to check scientific findings on which big public spending is based. "The fundamental problem is that we can no longer rely on 'the science' or, for that matter, our major scientific institutions," he said.

5

From: Ridd, Peter
Sent: Thursday, 31 August 2017 9:00 AM
To: John Nicol
Subject: RE: JCU in the news again!

Follow Up Flag: Follow up
Flag Status: Flagged

Hi John

yes we seem to be in a spot of bother again. It is all pretty pathetic and I wish these people would debate me rather than just complain. They are after all having a massive effect on NQ industries through all the new regulations on farming and mining. They need to explain themselves. Anyway more details later when I am allowed to talk about it.

The good news is that I have quite a bit of support both inside and outside JCU and I give myself a reasonable chance of success. In any event the whole issue of the quality assurance processes of this "science" will come to the forefront and that will be a good thing.

The family are all well here and say hello to Nancy for me.

Peter

From: John Nicol [<mailto:jonicol18@bigpond.com>]
Sent: Thursday, 31 August 2017 12:08 AM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Subject: JCU in the news again!

Hi Peter,

I have been following very closely the various commentaries in regard to James Cook's latest efforts to bring as much bad publicity upon itself as it can manage. I believe that its reluctance to put its pet research group under a very serious review in order to understand just what is going on, is a complete dereliction of duty. I wrote a longish comment under Graham Lloyd's article in the Australian but it seems to have been "moderated" – to use a polite word – which surprised me a little for The Australian, although I had come in pretty strongly and they may have felt it might stimulate litigation by the University against the paper. I have tried to get onto Lloyd to find out if it was at least passed on to him but can't find his email address for some odd reason. I must get it from Jennifer M as I think she will have it.

Needless to say I am concerned, but honestly believe that the University will surely be cautious enough not to continue with their suggested threats – they are behaving a bit like Kim Jong Un.

I am sure you would understand that I would be prepared and happy to do anything I can in support for you personally and in what you are trying to achieve in terms of pushing for the requirement of integrity in research. This little matter of being honest appears to have totally evaded all the attempts by JCU, and dare I say many universities in recent times, to place it under their microscopes. That someone such as yourself can be of such unrecognised assistance to them and their arrogant administrators in demonstrating how this may be done in an exemplary fashion, yet be totally ignored – well not quite totally! – is a clear measure of their incompetence.

I focus [redacted] on the VC, Sandra Harding, since the buck really stops with her. I wrote to her on behalf of Bob Carter a couple years ago and the response I received from her was very poorly argued and presented as was that from the Chancellor whom I also had honoured with a brief letter. In both cases the paucity of their arguments and

style of presentation was surprisingly inappropriate for people in their positions and Sandra Harding's stood out in that regard.

To conclude I would say that Nancy and I sincerely hope that this little blip on your horizon will not be too distracting over the next week or so while you await the inevitable Committee to be collected together. I guess it all staggers painfully through the Academic Board and then to Council, the outcomes from which will be a bit unpredictable but will surely quash any further silly pronouncements.

Love and best wishes to Cheryl, [REDACTED] as well as to your good self,

Nancy and John

[REDACTED]

Email: jonicol18@bigpond.com

6

From: Ridd, Peter
Sent: Friday, 1 September 2017 12:28 PM
To: [REDACTED]
Subject: RE: BS

Follow Up Flag: Follow up
Flag Status: Flagged

Thanks [REDACTED] Yes send that to anybody you like.

P

From: [REDACTED]
Sent: Friday, 1 September 2017 12:24 PM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Subject: Re: BS

Hi Peter,

I can assure you, no one that I have been talking to believes that you are taking any bribes from anyone. We all think you are one of the (if not THE) best lecturer we have had at JCU.

We are angered because 1) we are always told to always think critically, but when a professor does it, all hell brakes loose. 2) DO think critically, just not about the data surrounding the reef... and 3) we have already lost Kevin Parnell whom we also admired and now (maybe) you. Meanwhile, a [REDACTED] that has sexually harassed a girl in lecture (with ca 500 witnesses) is still employed.

Additionally, I know at least two more staff at JCU that has the same view as you on the quality of peer reviewed papers. We are even taught to read and critic these papers in some classes.

May I forward this email to the other students I have been talking with?

Kind regards,

[REDACTED]

From: Ridd, Peter <peter.ridd@jcu.edu.au>
Sent: Friday, 1 September 2017 10:17:45 AM
To: [REDACTED]
Subject: RE: BS

Dear [REDACTED]

I greatly appreciate your concern. I have been in a lot of hot-water for many years on these matters and it may be approaching the end game now – it is hard to tell for sure. It is a long story and I am not allowed to discuss the latest problem. Needless to say I have certainly offended some sensitive but powerful and ruthless egos.

You must not believe all you read about me on the web – I am sure you would know that anyway. I am not taking bribes from the coal industry to do their bidding as is often suggested. I simply think that a large proportion of the

work that supposedly shows massive damage to the GBR is wrong, and that there is a systemic quality assurance problem with science in general. The latter is hardly a controversial point considering all the revelations in *Science* and *Nature* in recent years about the "replication crisis".

I must say that the views of my students concern me more than the views of many of the Marine Biology academics on this matter, so if you are wondering about my scientific position I'd be happy to chat further to any of you. I attach a brief statement which I have cobbled together which may be of interest. I have also got plenty of papers and reports about all of this, but you will doubtless be too overwhelmed by assignments at the moment to have any time to read them

Kind regards

Peter

From: [REDACTED]
Sent: Thursday, 31 August 2017 10:36 AM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Subject: BS

Hi Peter,

Hope this isn't too personal, but there are more than a few of us seriously upset about this.

<http://www.theaustralian.com.au/higher-education/fears-uni-may-sack-marine-scientist-over-comments-on-reef-health/news-story/5d70061c8df6015abfcb07552de461df>

Are they really going to fire you for this? It's absolutely, outrageously ridiculous! Is there anyone we can email/talk to, protesting this?

Kind regards,
[REDACTED]

7

From: Ridd, Peter
Sent: Friday, 1 September 2017 3:28 PM
To: [REDACTED]
Subject: RE: One upset student
Attachments: Ridd-GreatBarrierReef final.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: catch up on work / read papers

Hi [REDACTED]
Your sentiment is greatly appreciated.

I should say that despite what is happening now, JCU is not worse than other universities – in fact I always say that it is a bit special because I have lasted much longer than I would have done if I was at UQ. In my view our whole university system pretends to value free debate, but in fact it crushes it whenever the “wrong” ideas are spoken. They are truly an Orwellian in nature.

Attached is the reference. It is more of an article for an intelligent lay reader than a scientific paper, but I would be interested in your response, negative or positive. It puts an alternative interpretation to the bleaching events. I have a far longer document that looks at many papers that I think are problematic and a further paper which is well and truly stuck in the review process which talks about the general QA problem. It is devilishly hard to get some of this stuff published. It took almost 4 years to get my calcification correction paper published and only after rejection from 3 Journals.

I'll be around on Monday and would be happy to chat.

Kind regards

P

Professor Peter Ridd (Physics)
Marine Geophysics Laboratory
College of Science and Engineering
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

From: [REDACTED]
Sent: Friday, 1 September 2017 2:10 PM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Subject: One upset student

Hi Peter,

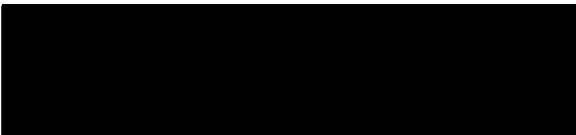
I heard of the news from [REDACTED] the other day. Read the recent article, a thread and emails Sanna has sent and received from you, your statement, and a couple of abstracts of your papers (I couldn't find a paper “The extraordinary resilience of Great Barrier Reef Corals, and Problems with Policy science” 2017 though).

I am extremely upset about how JCU treats some of the good lecturers / scientists that have voices! Why can't a scientist throw a question and doubt? Isn't questioning all part of being scientific and answering those questions what science does? This isn't the first time the uni has disappointed me and other students. We need more scientists like you, not stuck ups or ones that do and write what they are told to! One of the world's best research institutions supposed-to-be doesn't look like it's proving its name unfortunately. Very sad.

I hope they don't fire you for being honest and not bias. Or does the uni deserve you really? I do hope you stay on and continue on what is right and to be speculated. I have always doubted how the world thinks GBR is going to die. I think a lot of researches done only see what they like to see (then reanalyses on bias data sets later on get discovered like your coral calcification paper did).

Do you know when you will get to know the outcome of uni's decision? Are you at uni on Monday morning? If so, can I come say hi? Hope you are doing well otherwise. You have a lot of students' and looks like a lot of citizens' back.

Kind regards,

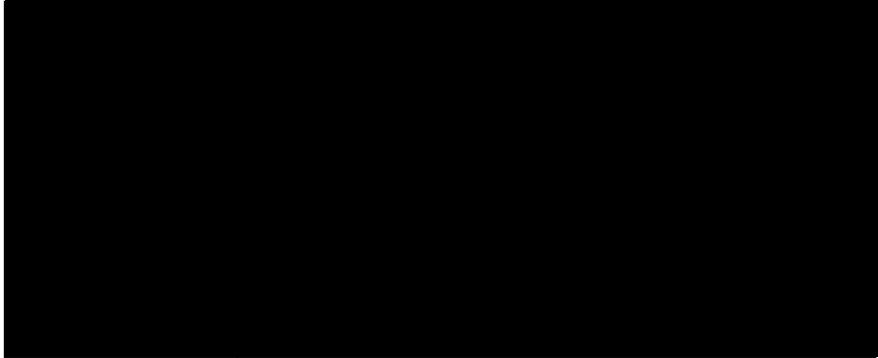


James Cook University, Townsville, QLD 4811



8

From: Ridd, Peter
Sent: Tuesday, 5 September 2017 8:50 AM
To:
Cc:



Subject: RE: Responses from JCU

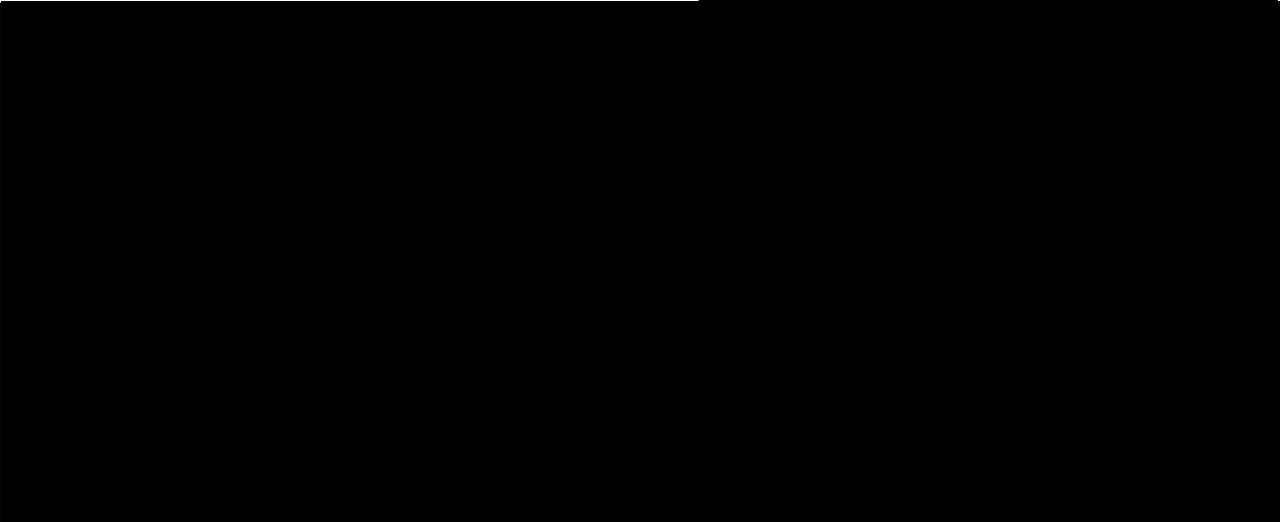
Follow Up Flag: Follow up
Flag Status: Flagged

Categories: catch up on work / read papers

Yes it is what they are saying to everybody except they sometimes in the media they add that I have been censured before for un-collegial behaviour (i.e I said something tough but true and my colleagues took offence - they are fragile flowers). Any way I look forward to revealing the full horror of my offence in a couple of weeks.

P

From: [Redacted]
Sent: Monday, 4 September 2017 9:28 PM
To: [Redacted]



Subject: RE: Responses from JCU

I got my response (exactly the same as the ones below) about 5 seconds after I sent my email...It seems at least that they've been forced to develop a template response to any emails with the words "Peter Ridd" / "disciplined" / "The Australian" /etc.

Brian

From: [REDACTED]
Sent: Monday, 4 September 2017 7:50 PM
To: [REDACTED]

[REDACTED]

Subject: Responses from JCU

Hi all

[REDACTED] has asked me to pass this on - interesting I'd say -not much variety there from JCU ·
[REDACTED]

"Dear Mr [REDACTED]

Thank you for your email to Professor Harding on this matter.

While JCU cannot comment on specific staff matters for privacy reasons, media reports that a JCU scientist has been, or will be, disciplined for questioning the scientific content of other academics' research are incorrect.

James Cook University values intellectual freedom and academics are free to discuss matters of science within their areas of expertise, as per the University's Code of Conduct. Any action that has been taken, or may be taken, by the University against any staff member under the Code of Conduct would not relate to questioning the scientific content of another researcher's work.

Kind regards,"

2) To [REDACTED]

"Dear Ms [REDACTED]

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Kind regards"

3) To [REDACTED]

"Dear [REDACTED],

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While JCU cannot comment on specific staff matters for privacy reasons, media reports that a JCU scientist has been, or will be, disciplined for questioning the scientific content of other academics' research are incorrect.

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Kind regards,"

9

From: Ridd, Peter
Sent: Friday, 25 August 2017 9:08 AM
To: Kosteliz, Zora
Cc: White, Ronald
Subject: Misconduct

Dear Zora,

I have the following requests regarding your letter of 24 August 2017 alleging serious misconduct.

- (1) In order for me to respond, could you please clarify how the allegation relates to the principles in the code of conduct. In what way did I not "act within the limits of your (my) authority", and in what way did I not comply with a reasonable direction? Are you saying that I am not allowed to talk about science quality assurance or is it something else. Am I not allowed to say that due to insufficient QA procedures, the results of many organisations are questionable and therefore untrustworthy? I need more details to be able to respond as the allegations are not clear to me.
- (2) The transcript that you supplied is not a full transcript of the TV interview - it is just an excerpt from a media processing organisation. Could you please supply me with a full transcript as the context of the comment is very important. I have no way of seeing that program as I do not subscribe to Sky News so it makes it difficult for me to respond to the allegations.
- (3) I seek clarification about the confidentiality direction.
 - (a) Am I allowed to disclose the existence of the serious misconduct allegation, without disclosing any of the details.
 - (b) I wish to state that I consent to the university, if they choose, disclosing information and records relating to this matter. Given that I have given consent above, in fairness I request and require that the university reciprocate this consent. At present, with the exception of my "representative", I do not seem to be allowed to talk to anybody about these allegations, or even the existence of the allegations - not even to my wife.

Yours sincerely

Peter

Professor Peter Ridd (Physics)
Marine Geophysics Laboratory
College of Science and Engineering
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

10

From: Ridd, Peter
Sent: Friday, 25 August 2017 10:50 AM
To: Kosteliz, Zora
Cc: White, Ronald
Subject: RE: Misconduct

Dear Zora,

I tried to call you on the phone but got your answering machine which suggests that I send to you an email.

With regards to my previous email, for the last point I would be grateful if I could have a quick reply one way or another if at all possible, i.e.

(3) I seek clarification about the confidentiality direction.

(a) Am I allowed to disclose the existence of the serious misconduct allegation, without disclosing any of the details.

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Peter

Professor Peter Ridd (Physics)
Marine Geophysics Laboratory

College of Science and Engineering
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

From: Ridd, Peter
Sent: Friday, 25 August 2017 9:08 AM
To: Kosteliz, Zora <zora.kosteliz@jcu.edu.au>
Cc: White, Ronald <ronald.white@jcu.edu.au>
Subject: Misconduct

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Peter

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James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

11



From: Kosteliz, Zora
Sent: Friday, 25 August 2017 11:30 AM
To: Ridd, Peter
Subject: Re: Misconduct

Hi Peter,
I have raised your questions for further clarification and you will be responded to by seniors.

Kind regards,
Zora.

Sent from my iPhone

On 25 Aug 2017, at 10:50 AM, Ridd, Peter <peter.ridd@jcu.edu.au> wrote:

Dear Zora,

I tried to call you on the phone but got your answering machine which suggests that I send to you an email.

With regards to my previous email, for the last point I would be grateful if I could have a quick reply one way or another if at all possible, i.e.

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Peter

Professor Peter Ridd (Physics)
Marine Geophysics Laboratory
College of Science and Engineering
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0747814978

From: Ridd, Peter
Sent: Friday, 25 August 2017 9:08 AM
To: Kosteliz, Zora <zora.kosteliz@jcu.edu.au>
Cc: White, Ronald <ronald.white@jcu.edu.au>
Subject: Misconduct

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Yours sincerely

Peter

Professor Peter Ridd (Physics)
Marine Geophysics Laboratory
College of Science and Engineering
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

12

From: Director JCU HRM
Sent: Sunday, 27 August 2017 12:40 PM
To: Ridd, Peter
Subject: FW: Misconduct

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Dear Professor Ridd

My colleague Zora Kosteliz has passed me your questions below. My responses are alongside your questions

Regards

Nick

Nick Rogers

BA(Hons), MSc, FAHRI
Director, Human Resources

Division of Services and Resources
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA

T 07 4781 5532 | T (INT'L) +61 7 4781 5532
E directorhrm@jcu.edu.au | W jcu.edu.au
Location: Building 001; Room 127 JCU CRICOS Provider Code: 00117J



From: "Ridd, Peter" <peter.ridd@jcu.edu.au>
Date: 25 August 2017 at 9:08:16 AM AEST
To: "Kosteliz, Zora" <zora.kosteliz@jcu.edu.au>
Cc: "White, Ronald" <ronald.white@jcu.edu.au>
Subject: Misconduct

Dear Zora,

I have the following requests regarding your letter of 24 August 2017 alleging serious misconduct.

- (1) In order for me to respond, could you please clarify how the allegation relates to the principles in the code of conduct. In what way did I not "act within the limits of your (my) authority", and in what way did I not comply with a reasonable direction? Are you saying that I am not allowed to talk about science quality assurance or is it something else. Am I not allowed to say that due to insufficient QA procedures, the results of many organisations are questionable and therefore untrustworthy? I need more details to be able to respond as the allegations are not clear to me. The reasonable direction was given in Professor Cocklin's censure letter to you on 29 April 2016. That makes clear where you have previously breached the Code of Conduct in similar circumstances. It also explained the following

In future it is an expectation that in maintaining your right to make public comment in a professional, expert or individual capacity in an academic field in which you are recognised, it must be in a collegial manner that upholds the University and individuals respect. If you are unclear about these obligations or require any additional support please seek the advice of your Dean before expressing view in a similar way in future.

(2) The transcript that you supplied is not a full transcript of the TV interview - it is just an excerpt from a media processing organisation. Could you please supply me with a full transcript as the context of the comment is very important. I have no way of seeing that program as I do not subscribe to Sky News so it makes it difficult for me to respond to the allegations. I do not have a written full transcript. However the allegations put to you relate to specific comments about particular bodies – not the whole interview.

(3) I seek clarification about the confidentiality direction.

(a) Am I allowed to disclose the existence of the serious misconduct allegation, without disclosing any of the details. You should not discuss any aspect of the serious misconduct process whilst it is ongoing – except with an appropriate representative.

(b) I wish to state that I consent to the university, if they choose, disclosing information and records relating to this matter. Given that I have given consent above, in fairness I request and require that the university reciprocate this consent. At present, with the exception of my "representative", I do not seem to be allowed to talk to anybody about these allegations, or even the existence of the allegations - not even to my wife. Whilst you are participating in this part of the process where you have the opportunity to respond to allegations the University would normally maintain confidentiality irrespective of any "consent". The directions to you are as in (a) above and you are expected to maintain your confidentiality obligations to the University.

Yours sincerely

Peter

Professor Peter Ridd (Physics)
Marine Geophysics Laboratory
College of Science and Engineering
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

13

NewsRoom

8/26/17 Australian (Newspaper) 9
2017 WLNR 26198925

Australian
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August 26, 2017

Section: TheNation

Fears uni may sack marine scientist over comments on reef health

Graham Lloyd, Environment Editor; Exclusive

Outspoken marine scientist Peter Ridd has landed in hot water with James Cook University following a high-profile book tour in which he questioned the quality of Great Barrier Reef science.

Professor Ridd is understood to be under investigation for "serious misconduct" and colleagues fear he could be sacked. In a statement, JCU said "at this stage, the university cannot comment".

Professor Ridd said he could not discuss whether a formal investigation was under way.

He was censured by JCU last June for "failing to act in a collegial way and in the academic spirit of the institution".

His crime was to encourage the media to question two leading reef institutions, the Australian Institute of Marine Science and Great Barrier Reef Marine Park Authority, on whether they knew that photos they had published and claimed to show the long-term collapse of reef health could be misleading and wrong.

Professor Ridd was disciplined for breaching Principle 1 of JCU's code of conduct by "not displaying responsibility in respecting the reputations of other colleagues". He was told that if he did it again, he might be found guilty of serious misconduct.

No details are available of the investigation, which is understood to have started earlier this week.

Professor Ridd has given a series of high-profile media interviews over the past several weeks, including to Sky News's Alan Jones and Peta Credlin, to promote a new Institute of Public Affairs book on climate change. He wrote the opening chapter, in which he argued there was perhaps no ecosystem on Earth better able to cope with rising temperatures than the Great Barrier Reef.

"Irrespective of one's views about the role of carbon dioxide in warming the climate, it is remarkable that the Great Barrier Reef has become the ecosystem, more than almost all others, that is used to illustrate and claim environmental disaster from the modest warming we have seen over the course of the last century," he wrote. Professor Ridd has argued passionately for a better system of quality assurance to check scientific findings on which big public spending is based. "The fundamental problem is that we can no longer rely on 'the science' or, for that matter, our major scientific institutions," he said.

14

From: Ridd, Peter
Sent: Friday, 1 September 2017 12:06 PM
To: Director JCU HRM
Cc: Kosteliz, Zora
Subject: RE: Misconduct

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Nick,

Thank you for that clarification. It helps a lot.

I would like to make a comment about confidentiality. I have refrained from communicating about the present serious misconduct case but because it was in the public domain, before I was handed my letter on 24 August, that I was in some sort of hot water. I made that point in my interview with Zora and Marcus and it should be minuted.

I thus ask for a copy of the minutes of the meeting on 24th August to make sure that it accurately reflects this fact.

In addition, I was told by a journalist from the Townsville bulletin yesterday that JCU had reminded them that I had already been the subject of a misconduct charge, and censured, in 2016. I have thus defended my reputation about that matter to the Townsville Bulletin. I continue to make the usual comments about the lack of QA in much of science in general, not just GBR science, in addition to the comments on the inadequacy of peer review.

Kind regards.

Peter

Professor Peter Ridd (Physics)
Marine Geophysics Laboratory
College of Science and Engineering
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

From: Director JCU HRM
Sent: Friday, 1 September 2017 11:04 AM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Cc: Kosteliz, Zora <zora.kosteliz@jcu.edu.au>
Subject: RE: Misconduct

Dear Peter

Thank you for your email.

I can confirm that your 10 working days should expire on 7 September so you have until close of play that day to provide your response.

As for the allegations I would point to the following information as confirmation that we are considering serious misconduct:

- In the meeting with Professor Lane and Zora Kosteliz when you were first made aware of the allegations they were referred to as serious misconduct
- In your email correspondence below you have acknowledged in more than one place that you understood this to be serious misconduct (this was as soon as the day after my letter of 24 August)
- The first sentence of my letter of 24 August makes clear it is serious misconduct, as does the second paragraph of the same letter, as are the EA references in that letter to clauses 54.3.1 and 54.3.4
- Professor Cocklin's censure letter to you made clear that further breaches could amount to serious misconduct

For the avoidance of doubt, the allegation relating to the interview and transcript amounts to a repeat of a similar offence following a formal censure, and that in addition you have failed to follow a reasonable instruction in Professor Cocklin's censure letter in terms of meeting future expectations. As such the allegations amount to serious misconduct.

I trust this clarifies the position to enable you to respond to the allegations and their seriousness accordingly. I would also remind you of your confidentiality obligations already explained to you.

Regards

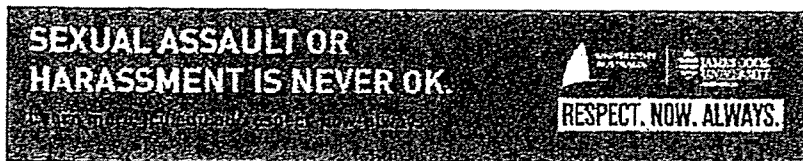
Nick

Nick Rogers

BA(Hons), MSc, FAHRI
Director, Human Resources

Division of Services and Resources
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA

T 07 4781 5532 | T (INT'L) +61 7 4781 5532
E directorhrm@jcu.edu.au | W jcu.edu.au
Location: Building 001; Room 127 JCU CRICOS Provider Code: 00117J



From: Ridd, Peter
Sent: Friday, September 1, 2017 8:42 AM
To: Director JCU HRM <directorhrm@jcu.edu.au>
Cc: Kosteliz, Zora <zora.kosteliz@jcu.edu.au>
Subject: RE: Misconduct

Dear Nick,

I would be grateful if you could clarify two other matters of which I have been made aware.

15

From: Ridd, Peter
Sent: Wednesday, 23 August 2017 8:36 AM
To: [REDACTED]
Subject: FW: Grant Agreement CT-20 for JCU [SEC=UNCLASSIFIED]

Hi [REDACTED]
See comment below. Looks fine but we must jump through a couple of hoops.

BTW, I am in a spot of bother again with my activity calling for improved quality assurance for the science that claims that the GBR is buggered. This week I have been informed that I have another academic misconduct charge against me (some other scientists are a bit upset with me). This is a bugger because it will mean that I will be tied up fighting this. Given that I have already been censured once after one of these charges was upheld, there is a chance that I will shortly have quite a bit more free time ☺.

P
Professor Peter Ridd (Physics)
Marine Geophysics Laboratory
College of Science and Engineering
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

From: [REDACTED]
Sent: Tuesday, 22 August 2017 5:19 PM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Cc: [REDACTED]
Subject: FW: Grant Agreement CT-20 for JCU [SEC=UNCLASSIFIED]

Dear Peter

We have received advice from our Grants Policy team and varying the expenditure items should not be a problem. We will need to write up a Letter of Variation, but that is quite straight forward.

We will require some details from you. Could you please send me an email with the details of the amounts that are involved – savings from the post-doc fellow position, and amount requested to purchase additional equipment.

Please also state the equipment you wish to purchase and how this will improve the outputs of the project. Include how this variation is of value to the project/will benefit the project. Also what are the timeframes for you? We will need to have this approved by Management so an indication of your timeframes for acquiring this equipment will help us to manage the process on this end.

I see you have provided information in your previous email but for approval purposes and to have all the information on record, please provide as much detail as you can.

Please feel free to call me if you have any questions.

Kind regards,

16

From: Ridd, Peter
Sent: Friday, 25 August 2017 12:47 PM
To: Peter Ridd
Subject: Misconduct
Attachments: 24082017151214-0001.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

From: Ridd, Peter
Sent: Thursday, 24 August 2017 10:31 PM
To: cheryl.ridd@bigpond.com
Subject: Fw: PRN-D014-102 Scanner

From: peter.ridd@jcu.edu.au <peter.ridd@jcu.edu.au>
Sent: Thursday, 24 August 2017 3:12 PM
To: Ridd, Peter
Subject: PRN-D014-102 Scanner

Sent by: phpvr [peter.ridd@jcu.edu.au]
Number of Images: 4
Attachment File Type: PDF

Device Name: PRN-D014-102-P1
Device Location:

24 August 2017

Private & Confidential

Professor Peter Ridd
Professor of Physics
Head of Intelligent Systems, Information and Modelling
College of Science Technology and Engineering
James Cook University
TOWNSVILLE QLD 4811

Townsville Campus
Townsville Qld 4811 Australia
Telephone (07) 4781 4111
International +61 7 4781 4111
www.jcu.edu.au

Nick Rogers
Director
Human Resources
Telephone (07) 4781 5532
International +61 7 4781 5532
Email nick.rogers@jcu.edu.au

Dear Professor Ridd

Re: Allegations of Misconduct

I am writing to you, about an allegation, made against you, which may constitute serious misconduct under the *James Cook University Enterprise Agreement 2013 – 2016* ('the Enterprise Agreement').

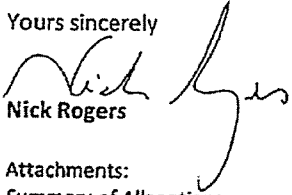
A concern was raised with Professor Sandra Harding, Vice Chancellor who referred the matter to me in my capacity as the Director, Human Resources in accordance with clause 54.3.1 of the Enterprise Agreement. After reviewing the complaint I was satisfied that a *prima facie* case of serious misconduct existed.

I have clearly outlined the nature of these allegations in the attached document. In accordance with subclause 54.3.4, you have 10 working days in which to submit a response to each of the allegations. Please address your response to me, via email nick.rogers@jcu.edu.au by **COB on Monday 4 September 2017**.

As per clause 54.1.5 the confidentiality for all parties in the management of this process is highly important, and I trust that you will consider your obligations professionally.

As per the Enterprise Agreement, you may have a representative assist you with your response or be present at any time during this process. A representative means "an employee of the University or union representative or delegate, (other than a practising solicitor or barrister), who by virtue of the employee's choice to be represented, acts for and represents the employee, in relation to any matter in this agreement".

Yours sincerely



Nick Rogers

Attachments:

Summary of Allegations

Transcript of Interview

Letter of Censure – April 2016

JCU Code of Conduct

Clause 54 of the James Cook University Enterprise Agreement.

21 August 2017

Summary of Allegations
of serious misconduct
breach of JCU Code of Conduct

against

Professor Peter Ridd

DEFINITIONS

Code means the Code of Conduct developed by James Cook University

Enterprise Agreement means the James Cook University Enterprise Agreement 2013-2016

JCU means James Cook University

Misconduct has the meaning recited in the Enterprise Agreement, being "conduct which is not serious misconduct but which is nonetheless conduct which is improper or inconsistent with the staff member's duties or responsibilities".

You means Professor Peter Ridd

The Respondent means Professor Peter Ridd

BACKGROUND

At all material times:

1. You were employed by JCU as a Professor
2. You were bound by:
 - a. the Enterprise Agreement;
 - b. the Code of Conduct;
 - c. all other policies and procedures issued by JCU so far as those policies and procedures applied to your employment by JCU.

Statement of Allegations of *prima facie* misconduct – Professor Peter Ridd – 24 August 2017

SUMMARY OF ALLEGATIONS – check code and check 14.6 of the EA

The following allegations of prima facie misconduct have been made against you.

It is alleged that you stated in an interview with Sky News Live, Sydney on 1 August 2017 which aired at 8.44pm, , ".... *that scientific organisations like the Australian Institute of Marine Science and the ARC Centre for Coral Reef Studies can no longer be trusted*". (The transcript of the interview is attached).

It is therefore alleged that you breached:

1. Principle 1 of the Code of Conduct which states, In our conduct, we will:
 - a. have the right to make public comment in a professional, expert or individual capacity, provided that we do not represent our opinions as those of the University unless authorised to do so.
2. Principle 2 of the Code of Conduct which states, we will:
 - a. Behave in a way that upholds the integrity and good reputation of the University;
 - b. act within the limits of our authority.
3. Principle 3 of the Code of Conduct which states, we will:
 - a. Treat fellow staff members, students and members of the public with honesty, respect and courtesy, and have regard for the dignity and needs of others.
4. Clause 14. Intellectual Freedom, particularly 14.6 of the JCU Enterprise Agreement 2013 – 2016, which states:
 - a. Staff members commenting publicly in a professional or expert capacity may identify themselves using their University appointment or qualifications, but must not represent their opinions as those of JCU. The University expects that staff will maintain professional standards when they intentionally associate themselves with its name in public statements and/or forums.

It is further alleged, that in participating in the alleged behaviour (above), you have not abided by the direction given to you by the by the Senior Deputy Vice Chancellor in his Formal Censure letter to you of 29 April 2016, which stated "*In future it is an expectation that in maintaining your right to make public comment in a professional, expert or individual capacity in an academic field in which you are recognised, it must be in a collegial manner that upholds the University and individuals respect.*" (The letter of censure is attached).

It is therefore alleged that you breached:

- 1) Principle 2 of the Code of Conduct in that you did not comply with any lawful and reasonable direction given by someone who has authority to give that direction;
- 2) Principle 2 of the Code of Conduct in that you did act within the limits of your authority.

Statement of Allegations of *prima facie* misconduct – Professor Peter Ridd – 24 August 2017

Transcript of Interview

Interview with Professor Peter Ridd, Geophysicist, James Cook University....

Sky News Live, Sydney, Jones and Co. Alan Jones and Peta Credlin 01 Aug 2017 8:44 PM

Duration: 10 mins 25 secs • ASR AUD 14,575 • National • Australia • Radio & TV Media • ID: X09071278955

Interview with Professor Peter Ridd, Geophysicist, James Cook University.

Jones says Ridd is one of the authors of the IPA's book *Climate Change: The Facts 2017*, and that Ridd talked about the lack of quality assurance in science. He mentions that Ridd has said they make graphic and compelling images on television to demonstrate the perils of climate change on the Great Barrier Reef, but there is nothing wrong with the coral. Ridd points out that while many corals die, they recover over the next few years. He states that the corals in the Great Barrier Reef also live in New Guinea and Indonesia where it is much hotter, and he notes that they grow faster there. He says people should not be worried about the effects of increasing temperatures on the Great Barrier Reef. Ridd says the basic problem is that scientific organisations like the Australian Institute of Marine Science and the ARC Centre for Coral Reef Studies can no longer be trusted. He states that science is not being quality checked. He points out that bleach generally often helps to stop corals from dying, meaning they should not be thought of as a death sentence.

Audience

53,000 ALL, 23,000 MALE 16+, 24,000 FEMALE 16+

Interviewees

Professor Peter Ridd, Geophysicist, James Cook University

Also broadcast from the following 9 stations

Sky News Live (Melbourne), Sky News Live (Canberra), Sky News Live (Brisbane), Sky News Live (Adelaide), Sky News Live (Perth), Sky News Live (Regional NSW), Sky News Live (Regional Queensland), Sky News Live (Regional Victoria), Sky News Live (Tasmania)

Statement of Allegations of *prima facie* misconduct – Professor Peter Ridd – 24 August 2017

17

From: Ridd, Peter
Sent: Friday, 25 August 2017 12:48 PM
To: Peter Ridd
Subject: misconduct
Attachments: 24082017151236-0001.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

From: Ridd, Peter
Sent: Thursday, 24 August 2017 10:32 PM
To: cheryl.ridd@bigpond.com
Subject: Fw: PRN-D014-102 Scanner

From: peter.ridd@jcu.edu.au <peter.ridd@jcu.edu.au>
Sent: Thursday, 24 August 2017 3:12 PM
To: Ridd, Peter
Subject: PRN-D014-102 Scanner

Sent by: phpvr [peter.ridd@jcu.edu.au]
Number of Images: 14
Attachment File Type: PDF

Device Name: PRN-D014-102-P1
Device Location:

29 April 2016

Private & Confidential

Professor Peter Ridd
Professor of Physics
College of Science and Engineering
James Cook University
TOWNSVILLE QLD 4870

Townsville Campus
Townsville Qld 4811 Australia
Telephone (07) 4781 4111
International +61 7 4781 4111
www.jcu.edu.au

Professor Chris Cocklin
BScSc (Wabab) MA (Geoph)
PhD (Hicklaster) DipBusSt (Massey)
Senior Deputy-Vice-Chancellor
Telephone (07) 4781 6884
International +61 7 4781 6884
Mobile +61 (0)427 765 470
Email sdvc@jcu.edu.au

Dear Professor Ridd,

Formal Censure

I refer to the allegations of misconduct provided to you on 12 April 2016, and your response to the allegations emailed to Director, Human Resources on 14 April 2016.

After careful consideration of all relevant evidence, as well as information provided by you in response to the allegations, I am satisfied that you have breached JCU's Code of Conduct and that 'Misconduct' (as defined by the JCU Enterprise Agreement 2013-2016) has occurred without reasonable excuse.

In particular, it has been found that:

- Your actions breached Principle 1 of the Code of Conduct and its requirements to act in a collegial way and in the academic spirit illustrated by the use of the terms:
 - "...GBRMPA and the ARC Centre of Excellence should check their facts before they spin their story"
 - "My guess is that they will both wiggle and squirm because they actually know that these pictures are likely to be telling a misleading story - and they will smell a trap."
- You breached Principle 1 of the Code of Conduct by going to the media in your professional capacity in a way that was not collegial and did not respect the rights of others or uphold professional standards. This includes using the language above in an external environment.
- You breached Principle 1 of the Code of Conduct by not displaying responsibility in respecting the reputations of other colleagues. Your actions were seen to be directed at individuals, and named their position titles calling into question their professional and/or academic integrity.
- These actions also breached Principle 2 of the Code of Conduct, which did not uphold the integrity and good reputation of the University.

As a result, I am issuing you with a formal censure. Should there be a further breach during your employment at James Cook University, it could lead to further disciplinary action which could amount to serious misconduct.

In future it is an expectation that in maintaining your right to make public comment in a professional, expert or individual capacity in an academic field in which you are recognised, it must be in a collegial manner that upholds the University and individuals respect. If you are unclear about these obligations or require any additional support please seek the advice of your Dean before expressing view in a similar way in future.

You are reminded that JCU has an Employee Assistance Program offering a free and confidential counselling service on 1300 360 364.

Yours sincerely

PROFESSOR CHRIS COCKLIN
SENIOR DEPUTY-VICE-CHANCELLOR
cc. Professor Marcus Lane, Dean, Science and Engineering

From: Ridd, Peter
Sent: Tuesday, 22 August 2017 7:21 AM
To: Piers Larcombe
Subject: RE: <https://judithcurry.com/2016/06/13/a-new-definition-of-academic-misconduct/>

Follow Up Flag: Follow up
Flag Status: Flagged

Thanks Piers,
but it looks like I will have to go through it all over again. I was told yesterday by the Dean that I am in trouble again - I have not seen the allegations yet but it will be about my comments on the reef and science QA over the last month. All to be expected.

P

From: Piers Larcombe [<mailto:piers.larcombe@iinet.net.au>]
Sent: Monday, 21 August 2017 10:04 PM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Subject: <https://judithcurry.com/2016/06/13/a-new-definition-of-academic-misconduct/>

Judith Curry - a world famous oceanographer for whom I have the utmost respect.

Even more so now.

Piers

19

From: Ridd, Peter
Sent: Monday, 28 August 2017 11:13 AM
To: Don Aitkin
Subject: RE: your good health

Follow Up Flag: Follow up
Flag Status: Flagged

Thanks Don.

Perhaps a letter to our vc would help. Not sure. But I suspect contact from an ex-VC would count for something.
vc@jcu.edu.au

I like the look of the title of your book

Peter

Professor Peter Ridd (Physics)
Marine Geophysics Laboratory
College of Science and Engineering
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

From: Don Aitkin [<mailto:donaitkin@grapevine.com.au>]
Sent: Sunday, 27 August 2017 7:58 PM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Cc: Don Aitkin <donaitkin@grapevine.com.au>; Jennifer Marohasy <jennifermarohasy@jennifermarohasy.com>
Subject: your good health

Dear Peter,

I read that you are in trouble (again!) and I write to support you in what you are doing and saying about the poor quality of much of the 'science' published about the GBR. If there is anything I can do to help, please let me know.

Incidentally, I have a book coming out at the end of the year. It doesn't really touch on the current issues, but it is a precursor, perhaps:

Every good wish,

Don
donaitkin@grapevine.com.au
www.donaitkin.com

20

From: Ridd, Peter
Sent: Sunday, 10 September 2017 7:06 PM
To: Peter Ridd
Subject: Fw: Misconduct
Attachments: Letter to JCU - written response to allegations (1).pdf

Follow Up Flag: Follow up
Flag Status: Flagged

From: Ridd, Peter
Sent: Thursday, 7 September 2017 8:34 PM
To: White, Ronald
Subject: Fw: Misconduct

Hi Ron,

My misconduct case is entering an interesting phase. My legal people have sent JCU a response to the allegations which I think leaves the JCU case pretty well crippled (please see attachment if you want a laugh). I hope that JCU will see that this is going nowhere good for JCU and give up. However I suspect there will be some hurt prides which might make that hard to do. You may already be working behind the scenes but this might be a good time to pass up the chain of command that if we could work together we could make something really good come of this. I reckon I could shake money out of the tree for a Centre for Policy-Science Quality Assurance. In the end we could triple the money that the CoE brings in. I would at least like to speak about this idea to Marcus and the management group if he is amenable to the idea.

If however JCU continues down its present path, there is no doubt that we can all tear each other apart, in court and in the media. That does not seem to be a sensible way to carry on.

I am taking a day off tomorrow so I might see you on Monday but I will be frantically trying to get that last prac for BM1003 finished off.

kind regards

Peter

From: Ridd, Peter
Sent: Thursday, 7 September 2017 2:01 PM
To: Director JCU HRM
Subject: RE: Misconduct

Dear Nick,

21

From: Ridd, Peter
Sent: Friday, 29 September 2017 10:25 AM
To: White, Ronald
Cc: Dean CMES
Subject: Ridd Serious Misconduct
Attachments: Second letter to HR from Mahoneys.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ron and Marcus,

FYI: the letter of response from my lawyer people. They are itching to get to court as JCU is in a very bad position procedurally, legally, and morally.

It would seem from the EBA that the SDVC will have to make a decision by Thursday at latest. They will possibly instruct me to remain silent even if I am cleared of serious misconduct. I have no intention of complying and it looks like they have absolutely no basis in the EBA to force my silence. Not that I care. I'd rather be fired for talking to the media than be muzzled.

The only honourable and productive way out for JCU is for JCU to

- (a) accept they made a small mistake in not checking the allegations before setting out on this path (I don't need an apology or anything like that),
- (b) make a public statement endorsing my work on improving the quality assurance processes for science in general, and the GBR in particular.
- (c) support my proposal to establish a Centre for Policy science Quality Assurance here at JCU. I don't even need any cash for it – just recognition and a space on the web page.

I would sing their praise if they would do this and this whole sorry affair would be forgotten, and JCU would get a lot of brownie-points for its commitment to quality science.

Can you please send these three suggestions/conditions up the chain? You never know - sanity might prevail.

Peter

Professor Peter Ridd (Physics)
Marine Geophysics Laboratory
College of Science and Engineering
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

22

From: [REDACTED]
Sent: Thursday, 31 August 2017 9:06 AM
To: Ridd, Peter
Subject: RE: th

Hi Peter,

That's what I am confused about. Why is a coral reef scientist at a meteorology and oceanography conference?! Thanks for the article it will be good to have as much information as possible, I might ask him some questions re warming isn't harmful for corals and that bleaching is not a new phenomenon. Where is the chapter going to be published? Hopefully the more physicists at a conference the less hype they will believe.

I met [REDACTED] yesterday and briefly sat in on a coastal workshop he was hosting.

Clair

From: Ridd, Peter [mailto:peter.ridd@jcu.edu.au]
Sent: Thursday, 31 August 2017 8:49 AM
To: [REDACTED]
Subject: RE: th

Hi Clair,

You wonder why he is there. It is not like he has any clue about the weather. He will give the normal doom science about the GBR. If I had the energy I'd come to the conference and explain why a bit of global warming would make the reef grow faster and better. You may not have seen the attached chapter I wrote recently on this matter.

Good luck in Canberra, at least it will soon warm up.

P

From: [REDACTED]
Sent: Wednesday, 30 August 2017 1:53 PM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Subject: th

Hi Peter,

I'm writing an abstract to attend the Australian Meteorological and Oceanographic Society conference in Sydney next year, and bloody terry hughes is a keynote speaker! Can't escape him ☹

It's freezing down here but settling in well

Hope everything is going well in Townsville

[REDACTED]

23

From: Ridd, Peter
Sent: Friday, 25 August 2017 3:09 PM
To: cheryl.ridd cheryl.ridd
Cc: Ridd, Peter
Subject: FW: Request to have formal censure annulled

Importance: Low

From: Senior DVC
Sent: Monday, 6 June 2016 8:49 AM
To: Ridd, Peter <peter.ridd@jcu.edu.au>
Cc: Gordon, Iain <iain.gordon@jcu.edu.au>; White, Ronald <ronald.white@jcu.edu.au>; Dirks, Paul <paul.dirks@jcu.edu.au>; cse@jcu.edu.au; Rogers, Nick <nick.rogers@jcu.edu.au>
Subject: RE: Request to have formal censure annulled
Importance: Low

Dear Peter

No, I absolutely will not withdraw the censure and I encourage you to read more widely. For example:

The Guardian 4/6/16

But the taskforce's data was broadly similar to data from in-water surveys from the authority and the Australian Institute of Marine Science released on Friday afternoon that found almost a quarter of the coral on the Great Barrier Reef was now dead.

Reichelt told Guardian Australia on Saturday that he did not mean to imply in his comments to The Australian that activists and lobbyists were being misleading. Rather, it was the media that was misinterpreting the data it received from scientists, lobbyists and activists, he said.

He acknowledged that there was "no discrepancy" between the scientific statements released this week by the authority, James Cook University, and the Australian Institute of Marine Science.

"The map of the northern reef by James Cook University is very similar to the map of that section of the whole reef we produced on Friday," he said, adding that coral bleaching of the reef was "a very serious event".

Townsville Bulletin 6/6/16

"There is no discrepancy between the scientific statements issued by GBRMPA, the Australian Institute of Marine Science and the ARC Centre of Excellence for Coral Reef Studies," he said. "Indeed, I greatly appreciate the close working relationship formed between scientists from all three organisations."

"All the data collected and published by these three organisations shows this is a very serious bleaching event resulting in substantial mortality," he said. "However, the same scientific assessments also show approximately three quarters of the Reef to date has survived."

It is a great pity that in your haste you chose to post the following comments online, which disregard the truth of the matter and also that grossly misrepresent the basis on which we you were issued a letter of censure. Perhaps you would be so kind to withdraw your misleading remarks, for the reputation of JCU.

I find it interesting that The Head of GBRMPA has said that Prof Terry Hughes organisation was "misleading" the public.

I recently made a similar comment of Prof Hughes organisation (COE Coral Reef Studies at JCU) about a related issue - they stated that there was no coral on a particular reef and I furnished photographic evidence that this was incorrect. I stated that the information from Hughes organisation was "misleading" among other things including that there is clearly a need for some better quality assurance of the science.

For my sins, I was hit with an academic misconduct charge from JCU, found guilty, and duly threatened with dismissal if I transgressed again. I am still bewildered by what happened.

And this is only the tip of the iceberg as far as exaggeration of threats to the GBR is concerned.

Prof Peter Ridd

Marine Geophysics Laboratory

James Cook University

From: Ridd, Peter

Sent: Sunday, 5 June 2016 11:40 AM

To: Senior DVC <sdvc@jcu.edu.au>

Cc: Gordon, Iain <iain.gordon@jcu.edu.au>; White, Ronald <ronald.white@jcu.edu.au>; Dirks, Paul <paul.dirks@jcu.edu.au>; cse@jcu.edu.au

Subject: Re: Request to have formal censure annulled

Dear Chris,

I note on the front page of the Australian that the Head of GBRMPA, Russ Reichelt, has said that Terry Hughes has misled the the public with his comments on bleaching.

Not a good look - but it is a wonder that it has not happened before.

You will remember that I was formally censured and threatened with dismissal for saying Prof Hughes misled the public by claiming that a reef near Bowen has no coral even though we provided photographic evidence that this was not so.

In the light of Russell Reichelt's comments, I formally request my censure be annulled, not for my sake, but for the reputation of JCU.

kind regards

Peter

From: Ridd, Peter
Sent: Tuesday, 3 May 2016 10:28 AM
To: Senior DVC
Cc: Gordon, Iain; Dean CMES; White, Ronald; Dirks, Paul; Sheaves, Marcus
Subject: Censure letter and Scientific Quality Assurance.

Dear Chris,

thanks for the formal censure letter, and thinly veiled threat of dismissal, regarding my comments about the obviously misleading photographs published by the COE Coral Reef Studies. I will frame it and hang it on the wall beside my other teaching and academic awards.

But seriously - do you think that you may have just shot the messenger about the use of a couple of naughty words? How much confidence do you really have in any of the scare stories that are promulgated by Terry and others, and have you contemplated the damage to the local region that is being caused? In the last fortnight we have Terry wanting to close down the coal industry and telling potential tourists that the reef is bugged, and we have AIMS scientists calling for agricultural land to be taken out of production. And when I simply ask for some decent quality assurance and checking, I am threatened with legal action and potentially dismissal.

It only confirms that I must be doing something right.

Kind regards

Peter

Professor Peter Ridd (Physics)
Marine Geophysics Laboratory
College of Science and Engineering
James Cook University, 1 James Cook Drive
Townsville QLD 4811 AUSTRALIA
0747814978

From: Senior DVC
Sent: Friday, 29 April 2016 1:12 PM
To: Ridd, Peter
Subject: PRIVATE and CONFIDENTIAL

Please refer to the attached letter from Professor Cocklin.

regards

Lisa

Mrs Lisa Pearce
Executive Support Officer
Office of the SDVC
James Cook University,
1 James Cook Drive

Townsville QLD 4811 AUSTRALIA

P: 07 4781 6884 F: 07 4781 6890

E: lisa.pearce@jcu.edu.au

W: www.jcu.edu.au

Location: DA001:115 (Ken Back Chancellery Building; Room 115)

JCU CRICOS Provider Code: 00117J

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Responsible partner Mitchell Downes
Person acting Mitchell Downes
Reply to Brisbane office
Our reference 23161
Your reference 13888/18512/80190290

7 November 2017

Ms. Heddy Cray
Clayton Utz

By email hcray@claytonutz.com

Dear Colleagues

Professor Peter Ridd

We refer to your letters dated 17 October 2017 and 23 October 2017, the latter of which attached a letter from your client, JCU, of even date and sets out, relevantly, further allegations of serious misconduct (**Further Allegations**).

We continue to adopt the defined terms from our earlier letters in this letter.

Change of position

By your client's letter dated 19 September 2017, clarified by our letter dated 29 September 2017, and confirmed by your letter dated 6 October 2017, our client was previously advised that Director of HRM had made a recommendation to the Senior Deputy Vice Chancellor, pursuant to subclause 54.3.5(b) of the EA in respect of the Allegations.

Relevantly, in your 6 October 2017 letter, you stated "[t]hese matters are currently before the Director of HRM and the Senior Deputy Vice Chancellor under the EA".

By your 17 October 2017 letter you now seek to depart from that position and

- (a) characterise your client's letter of 19 September 2017 as being merely information provided to our client "by way of courtesy";
- (b) assert that the Director HRM is permitted by subclause 54.3.5 of the EA to "review all evidence" i.e. evidence beyond the scope of the Allegations and that concerns the SoA;
- (c) assert that the Director HRM is under no time limitation to make a recommendation to the SDVC under clause 54.3.5(b) of the EA;
- (d) assert that no recommendation has been made by the Director HRM under clause 54.3.5(b) of the EA to the SDSV;
- (e) state that no recommendation will be made by the Director HRM under clause 54.3.5(b) to the SDSV until our client has responded to the Further Allegations.

Brisbane Office
Level 18
167 Eagle Street
Brisbane Qld 4000

GPO Box 3311
Brisbane Qld 4001

p 07 3007 3777
f 07 3007 3778

Gold Coast Office
Level 2
235 Varsity Parade
Varsity Lakes Qld 4230

PO Box 482
Varsity Lakes Qld 4227

p 07 5562 2959
f 07 5575 7803

info@mahoneys.com.au
www.mahoneys.com.au

ABN 99 349 703 654

The positions set out in your 6 October 2017 letter and 17 October 2017 letter cannot be reconciled.

The reference to "review all evidence" in subclause 54.3.5 of the EA is, upon its proper construction, confined to the evidence in relation to the Allegations as set out in the SoA and our client's Response. It is not, and cannot sensibly be, a new opportunity to consider evidence in relation to other matters which your client has not put to our client and that do not arise out of the Alleged Offending Conduct.

Despite your attempt to categorise these matters as being an extension of the Allegations, the "new evidence" concerns matter entirely separate to the Alleged Offending Conduct and which was relied on to make the Allegations.

In the preantpenultimate paragraph on page 1 of your client's 22 October 2017 letter, you state that *"the University has considered [our] Response and has made further enquiries based on the matters raised in [our] Response."*

Save for what follows, that statement is, with respect, not accurate. The only connection between the two is that our client's response was a complete and compelling explanation as to why the Allegations ought to have been effectively dismissed pursuant to clause 54.3.5(a) of the EA, and your client, it seems determine to achieve a different outcome, has sought to backtrack and build a new and different case against our client.

Your client has further breached of section 50 of the FWA by:

- (a) the SDVC (and possibly other persons) referring the Allegations back to the Director of HRM for further consideration purportedly pursuant to section 54.3.5 of the EA, despite a recommendation having been made pursuant to subclause 54.3.5(b) of the EA and when there is no power in the EA to do so; and
- (b) the Director of HRM, now having purporting to have regard to matters beyond the scope of and irrelevant to the Allegations, purportedly pursuant to the requirement to "review all evidence" in clause 54.3.5 of the EA, when upon that clauses' proper construction, the Director of HRM has no power to do so.

Our client is concerned that there appears to be an attempt to mislead him as to what has occurred in respect of the handling of the Allegations to date and that he is not being dealt with a fair manner – a manner consonant with the requirements of procedural fairness and in breach of clause 54.1.1 of the EA.

Further, and of significant concern to our client, rather than the Director HRM effectively dismissing the Allegations pursuant to clause 54.3.5(a) of the EA (as he ought to have done) or the SDVC doing the same pursuant to clause 54.3.6 of the EA (as he ought to have done) your client has now, apparently of its own motion and not in response to any complaint, accessed our client's work email and sought to "dig up" further evidence so as to bolster the Allegations and (attempt to) legitimise the course it seems determined to take.

That course of conduct gives rise to apprehended bias and likely constitutes actual bias in your client's handling of the Allegation, and it now seems the Further Allegations. Those matters constitute a further contravention section 50 of the FWA as they constitute breaches of clause 54.1.1 of the EA.

We continue reserve our client's rights in full.

Conflict of interest

We have on numerous occasions now set out a "proper or considered basis to support the assertion that the Director HRM, SDVC and VC all have a conflict of interest" in respect of the determination of the Allegations, despite your assertion to the contrary.

The only substantive response to that issue that you or your client has responded with is to state that the VC holds her position as a council member of AIMS "not due to any personal relationship", but by means of a statutory appointment, pursuant to the *Australian Institute of Marine Science Act 1972* (Cth) (AIMSA).

The mode of the VC's appointment to the council of AIMS has no bearing on the duties owed by her as a council member of AIMS to AIMS and her role in being the final adjudicator on the Allegations and Further Allegations.

The Director HRM reports to the SDVC, who in turn reports to the VC. Each of the Director HRM, SDVC and the VC are conflicted in respect of determining the Allegations.

In any event, we apprehend that the VC has nominated herself to be a member of the AIMS council pursuant to subsection 12(1)(ba) of the AIMSA, when she or council for JCU (being the only two entities that can make decisions on behalf of JCU, absent a delegation of power from either of them) could have nominated anyone. Presumably, that was because she has a personal interest in the work undertaken by AIMS.

The true position is that the VC is not some disinterested member of the council of AIMS as if the role was merely some accouchement of her office.

Would you please confirm that it was the VC that nominated herself to the council of AIMS pursuant to subsection 12(1)(ba) of the AIMSA?

Further, you have mischaracterised our client's position as being that the conflict of interest "excuses or condones the concerns the University has expressed regarding [our] client's conduct, such as it should not proceed under the EA." That has never been our client's position. If you persist with that contention, kindly refer us to the relevant parts in our letters.

By our 7 September 2017 letter we asked your client to "inform us how [the Director HRM] and/or JCU intends to abide by its obligation to afford our client natural justice in the determination of the Allegation[s]."

We have received no response from you to this query, other than to baldly assert (save for the above misconceived mode of appointment contention) that no conflict of interest exists. With respect, that position cannot be maintained.

The EA is silent as to how serious misconduct allegations are to be determined in circumstances where those involved in the usual process have a conflict of interest. It seems to us that the EA will likely contain an implied term to the effect that in such circumstances the serious misconduct allegations are to be determined by the council for JCU, it being the only other entity (i.e. other than the VC) with authority to make decisions on behalf of JCU. We note section 9(2) of the *James Cook University Act 1997* (Qld).

Further particulars regarding Allegations and Other matters raised in your Response

We do not understand the purpose of these parts of your client's 23 October 2017 letter. They appear to be an attempt to amend the SoA, but your client has not stated that it is an amended SoA.

The EA does not provide a mechanism for JCU to require, or allow, our client to respond to the Allegations for a second time (or however many attempts JCU may wish to take to try and set up a proper case against our client), or for JCU to simply repeat arguments already made (the purpose of which is unclear).

Your client is not permitted to adopt this course pursuant to the EA and is proceeding in breach of the EA and consequently section 50 of the FWA and our client objects to this course.

Without derogating from the foregoing, we, on behalf of our client, respond as set out hereunder.

As to the introduction now referred to, our client accepts that as part of his introduction in the interview his position at JCU was referred to. That introduction, which your client now seems to rely on, did not form part of the Alleged Offending Conduct in the SoA – that point seems to be missed in the arguments raised about the introduction.

Again and in any event, that introduction is something that is expressly authorised by clause 14.6 of the EA. It, of and by itself, is incapable of rendering the views expressed by our client as being purportedly expressed on behalf of JCU or representing its views. Even recast, Allegation 1 and Allegation 2 (authority) are baseless.

As to the statements now relied on at subparagraphs (a) and (b) on page 3 (**Revised Offending Conduct**), we have already responded to the bulk of the matters therein under the heading *Allegation 2, Behave in a way that upholds the integrity and good reputation of JCU* in our 7 September 2017.

Your client has not asserted that the statements comprising the Revised Offending Conduct are untrue, that our client does not believe them to be true or that no reasonable person could believe them to be true. It seems your client's complaint is that the statements comprising the Revised Offending Conduct were made by our client, regardless of whether they are true or not.

Properly understood and taken in context, the Revised Offending Conduct:

- (a) contains criticism of scientific processes employed in scientific organisations generally and including, but not limited to AIMS and ARC Centre;
- (b) are clearly stated to be expressions of our client's personal view;
- (c) are supported by authority, one of which was identified by our client;
- (d) does not identify any particular colleague or person - he played the ball and not the man;
- (e) was part of an interview in which our client presented himself in a considered, professional, calm, reasonable and reasoned manner; and
- (f) insofar as it is comprised of the matter at subparagraph (b), was in fact part of our client refusing to agree with what he perceived to be an unfair criticism and mischaracterisation of his argument raised by the interviewer; and

- (g) insofar as it is comprised of the matter at subparagraph (b), was not directed solely at scientists engaged by AIMS and ARC Centre but scientists studying the reef generally.

Neither the EA nor the Code of Conduct prohibits our client from criticising JCU (or its joint venturers, stakeholders and partners – see below).

In respect of the new or re-cast contraventions it seems are now alleged against our client, at subparagraphs (a) to (d) on page 4, we respond as follows:

- (a) as to (a), no explanation is given of how the Revised Offending Conduct meets this nebulous and vague characterisation and transcends permissible criticism;
- (b) as to (b), the Revised Offending Conduct was critical – that is the nature of criticism. But no explanation is given of how that criticism rises as high as denigration, disrespect and discourteousness. Further and in any event, AIMS, ARC Centre and JCU are not one and the same. Your description of:
- (i) AIMS as being a “key stakeholder” of JCU and a “joint venturer” with JCU in AIMS@JCU; and
 - (ii) ARC Centre as being a “key stakeholders” of JCU and a “partnership” comprised of AIMS, JCU and three other universities as well as a statutory authority;

confirms that comments directed at AIMS and ARC Centre are not comments directed at JCU; and

- (c) as to (c) and (d), any criticism may have this effect, but that does not render it actionable pursuant to the EA or Code of Conduct. Again, AIMS is not JCU and JCU’s relationships with its stakeholders is not something that is protected by the Code of Conduct. That said, there is no evidence that any actual damage to the reputation of AIMS or JCU’s relationship with it was caused or was likely to have been caused by the Revised Offending Conduct. This course of action by your client (i.e. its attempt to silence criticism rather than meet the arguments advanced by our client the subject of the Revised Offending Conduct and debate them on their merits) is however, likely to have that effect.

A new and additional element of “necessity” is now apparently contended for. Its introduction now is a distraction and an irrelevant consideration.

The Revised Offending Conduct cannot reasonably have had any effect on the relationship of trust and confidence between employer and employee, that is of course, unless the employer was hypersensitive in the extreme and determined to find slight in every action where even the most tenuous of argument might be made that it exists.

These new or re-cast allegations arising out of the Revised Offending Conduct are denied.

Additional Allegations

Your client has plainly conducted a review of our client’s jcu.edu.au email account (**Email Account**). The ICT acceptable use policy expressly entitles our client to limited personal use of the Email Account.

Your client now sets out further allegations of serious misconduct against our client (**Further Allegations**) and we provide the following responses on his behalf.

As to the [REDACTED] this was a personal, private email. The part that has been extracted and complained about is not directed at AIMS or its scientists specifically.

As to the concerns regarding repeated denigration, insubordination and interference with disciplinary process:

- (a) the matters quoted at (a) are an expression of opinion (honestly held) and the first and first part of the second quote are, as a matter of fact, true. For the reasons previously outlined, the confidentiality obligations pursuant to clause 54.1.5 of the EA (upon its proper construction or by reason of our client consenting to the disclosure) and the purported direction do not impose an obligation of confidence on our client. Further, the earlier sanction was already in the public domain;
- (b) the matter quoted at (b) is: a personal, private email to a friend – not a current student or colleague at JCU. There is nothing wrong with this email. The handling of the Allegations and the making of the Further Allegations demonstrates the concerns expressed therein were warranted and prescient;
- (c) the matter quoted at (c) is: a personal, private email to a group of friends – not students or colleagues at JCU. There is nothing wrong with this email. The making of the Allegations, the Further Allegations and your letter under reply renders the thrust of the statement true;
- (d) the matter quoted at (d) is: a personal, private email to a friend – not a current student or colleague at JCU. There is nothing wrong with this email. The making of the Allegations, the Further Allegations and your letter under reply renders the thrust of the statement true;
- (e) the matter quoted at (e) is: a personal, private email in response to an email from a concerned student. The last sentence is clearly an expression of a personal view. No person is identified by name or other identifying characteristic. The making of the Allegations, the Further Allegations and your letter under reply renders the thrust of the statement true. The Allegations (the only live complaints at the relevant time) are baseless and even as re-cast are tenuous at best. Given that, and our client's previously expressed concerns regarding apprehended bias and actual bias, there is a reasonable basis from which to draw the inference the subject of his view. The email contains no information that is confidential or alleged to be confidential. There is nothing wrong with this email;
- (f) the matter quoted at (f) is: a personal, private email in response to an email from a concerned student. The email in question contains no information that is confidential or alleged to be confidential. There is nothing wrong with this email;
- (g) the matter quoted at (g) is: a personal, private email; it is directed at universities generally, not just JCU. The making of the Allegations, the Further Allegations and your letter under reply renders the thrust of the statement true. There is nothing wrong with this email; and
- (h) the matter quoted at (h) is: a personal, private email to a group of friends – not students or colleagues at JCU. There is nothing wrong with this email. The earlier sanction was already in the public domain. In fact, the email demonstrates that our client has refrained from disclosing the matters pertaining to the Allegations, as JCU has asserted he is obliged to do. There is nothing wrong with this email.

Again, you have not contended the substance of what has been said by our client is untrue.

It is not a breach of the EA or the Code of Conduct for our client to disagree with JCU or to be fairly critical of it, especially in private communications.

The allegations of repeated denigration, insubordination and interference with disciplinary process are denied for the reasons set out above. The evidence does not rise as high as denigration and/or insubordination. No interference as alleged is made out on the evidence relied on.

As to the concerns regarding complying with directions regarding confidentiality, a failure to show respect for the integrity of the disciplinary process in relation to confidentiality, undermining the disciplinary process and denigrating JCU:

- (a) for the reasons already articulated, the confidentiality obligation pursuant to clause 54.1.5 of the EA (upon its proper construction or by reason of our client consenting to its disclosure) does not impose an obligation of confidence on our client. The reminding of same is of no effect;
- (b) as to the matters quoted at (a)(i), see (a) herein;
- (c) as to the matters quoted at (a)(ii), the statement is incapable of constituting a breach of confidence (if such an obligation are binding);
- (d) as to the matters quoted at (a)(iii), none of these statements are improper. The dispute once before the courts will be in the public domain in a manner that has not contravened the obligations of confidence pursuant to the EA or the direction (if such obligations are binding). As inconvenient as it might be, our client is perfectly entitled to resist what seem to be a process designed to bring about the termination of his employment.;
- (e) as to the matters at (b) to (e), the "*lawful and reasonable direction*" was not "*reinforced*" – this is a recent invention that first emerged in your letter of 6 October 2017 letter to us. All that had been asserted at that time was that the obligation of confidence under the EA was effective despite our client consenting to the disclosure. the confidentiality obligation pursuant to clause 54.1.5 of the EA (upon its proper construction or by reason of our client consenting to its disclosure) does not impose an obligation of confidence on our client;
- (f) in respect of the Australian article on 26 August 2017:
 - (iii) the paragraph about pressing Ms. Kosteliz for a response is mere speculation and does not require a response;
 - (iv) the article confirms that our client abided by JCU's request to maintain confidentiality. Our client denies that he discussed any matter that was not already in the public domain; and
 - (v) no explanation of how the "*integrity ... of the process*" was undermined by the article is given. It is denied that the article had any effect on the integrity of the disciplinary process. If your client continues to assert otherwise, please provide a proper explanation for this contention and evidence to support same;
- (g) in respect of the Townsville Bulletin article on 1 September 2017, our client did provide a quote to the Townsville Bulletin journalist Ms. Victoria Nugent. That was because she informed him that it had already been disclosed to her by JCU that our client had been the subject of a previous disciplinary proceeding and censured as a result of same. Please let us know whether your client denies this – it would seem to be important. Plainly, that matter was already in the public domain and the confidentiality obligation pursuant to the EA no longer applied (if it did at all or post our client consenting to disclosure being made). Given that JCU has disclosed this matter, it cannot complain about our client doing so;

- (h) as to the 23 August 2017 email to Mr. Olsen, he is a PhD student and had a right to know that he may soon be without a supervisor. The fact of the previous censure was already in the public domain. No confidentiality has been breached;
- (i) as to the 24 and 25 August 2017 email to Ms. Cheryl Ridd, Ms. Ridd is his wife. He has been told on numerous occasions by JCU officers that he is able to disclose the matters the subject of the Allegations to a support person. His wife is his support person. The disclosure was approved by JCU;
- (j) as to the matters at (e)(i), the email predates the meeting with the Dean and Ms. Kosteliz, and the confidentiality obligation pursuant to clause 54.1.5 of the EA (upon its proper construction or by reason of our client consenting to its disclosure) does not oblige our client to keep the disciplinary process confidential. In any event, the subject matter of the Allegation was not disclosed, only that our client was "in trouble again". That vague reference cannot constitute a disclosure of confidential information;
- (k) as to the matters at (e)(ii), the email referred to was not attached. In any event, our client is perfectly entitled to ask for support;
- (l) as to the matters at (e)(iii), the email was in response to Mr. Aitkin's email wherein he stated that he "*read that [our client] was in trouble again.*" Plainly, the commencement of the disciplinary process was in the public domain. The email contains no disclosure by our client. Our client is perfectly entitled to ask for support. The terms in which he suggested same are entirely appropriate; and
- (m) as to the matters at (e)(iv) to (vi), the emails referred to were not attached. In any event, the confidentiality obligation pursuant to clause 54.1.5 of the EA (upon its proper construction or by reason of our client consenting to its disclosure) does not oblige our client to keep the disciplinary process confidential.

The suggestion that a letter of support (in those vague terms) constitutes "interference with the disciplinary process" is unsustainable.

As to the alleged "interfere[nce] with the process", the emails to Professor White of 7 and 29 September 2017 are plainly a without prejudice discussion regarding the benefits of resolving the dispute between our client and JCU and flagging what might be a mutually beneficial way of moving forwards and working collaboratively in the future. Professor White is our client's superior. There is nothing wrong with these emails.

You offer no explanation as to how the disclosure of the fact that the disciplinary process was underway or how attention to same, or public scrutiny of same, has, as you have asserted, "*undermined the integrity of the disciplinary process*". No evidence of that assertion has been provided and it is not apparent from the matters referred to how that may have come about. Our client denies that anything he has done has had the consequence of undermining the integrity of the disciplinary process.

All that the disclosures by our client you have identified have resulted in, is the Allegations relied on to take action against our client having been exposed to scrutiny and the recipients being able to form their own view about their merits. No doubt those people have concluded that the Allegations are unsustainable, baseless and ought never to have been made.

For the reasons set out above, our client denies that he has failed to comply with any proper direction regarding confidentiality, that he has undermined the integrity of the disciplinary process in relation to confidentiality or otherwise, or that he has denigrating JCU. Further, the matters relied on are incapable of constituting a denigration of JCU.

The basis for our client's view as to the enforceability of the confidentiality obligation pursuant to clause 54.1.5 of the EA against him and the validity of the purported "*lawful and reasonable*" direction in respect of confidentiality (this only having been asserted for the first time by you on behalf of your client on 6 October 2017) have already been set out in detail in our earlier letters. The responses provided by your firm for your client have not persuaded him that his view is wrong.

Our respective clients have a different view as to the enforceability of the particular obligation your client is contending for. This is something fundamentally different to our client, as an employee, simply refusing to follow a proper lawful and reasonable direction from your client, as employer. If a court ultimately finds that our client's view is wrong (and it will soon be called on to decide, *inter alia*, this issue), he will of course abide by that decision and so conduct himself.

In those circumstances, the conduct of our client in this regard does not strike at the relationship of trust and confidence generally and there is no proper basis for JCU to conclude that proper lawful and reasonable directions will not be complied with in the future.

As to the concerns that our client has denigrated Professor Hughes, the basis for the allegation is that in a personal email and private email communication our client in an obviously flippant manner stated "[i]t's not like he has a clue about the weather". That statement was made in respect of a meteorological conference at which Professor Hughes was scheduled to speak.

A review of the "People" section of the coralcoe.org.au webpage in respect of Professor Hughes:

- (a) sets out his (undeniably impressive) qualifications, but does not descend to the detail necessary to ascertain whether any of them were obtained in respect of meteorology. Given the other matters stated therein it is presumed that they were not obtained in respect of meteorology;
- (b) states that "*[i]n the past five years, Terry's research has increasingly evolved to encompass the interface between biology and the social sciences, enabling a broader evaluation of the linkages between coral reef ecosystems, the goods and services they provide to people, coral reef governance, and the welfare of human societies.*". That statement tends to confirm that Professor Hughes has not undertaken any material work in respect of the field of meteorology, at least in the past five years;
- (c) identifies the focus of his future research, none of which can be fairly be described as being in the field of meteorology; and
- (d) contains a list of selected publications, none of the titles of which indicate that a single one of them is in respect of meteorology.

You have not asserted that the thrust of what our client said is untrue i.e. that in our client's view that Professor Hughes did not have such expertise in matters meteorological as to warrant him speaking at a meteorological conference was wrong.

It is hardly denigrating to say that an expert in one field is not an expert in some other field that he does not claim to be an expert in. Unless and until your client asserts and establishes that Professor Hughes does have such expertise in matters meteorological as to warrant him speaking at a meteorological conference, the statement simply cannot constitute a denigration of Professor Hughes and the allegation is unsustainable, as are the balance of the matters said to arise out of this allegation.

Conclusion

For the reasons previously articulated, the Allegations as first advanced are baseless and unsustainable.

Our client objects to the impermissible course that is now being adopted of re-agitating the Allegations by means of your 23 October 2017 letter. There is no basis for same under the EA.

Without prejudice to that position, in respect of the re-cast Allegations, there is, at best, slight evidence to support same.

As to the Further Allegations, these are entirely separate to the Allegations and our client objects to them being impermissibly "bolted on" to the process in respect of the Allegations which was underway and out to have been concluded.

That said, for the reasons set out above in relation to the conduct said to give rise to the Further Allegations, the Further Allegations are not made out – some there is no evidence to support and the others, the evidence relied on is insufficient.

Both the Allegations and the Further Allegations concern serious misconduct. The *Briginshaw v Briginshaw* principal is engaged. The Allegations and the Further Allegations have not been proved to the standard required and the Director HRM cannot consider that there has been serious misconduct for the purpose of subclause 54.3.5(b) of the of the EA. Accordingly, the Director HRM ought to give our client notice pursuant to subclause 54.3.5(b) of the of the EA.

Yours faithfully



Mahoneys

Contact Mitchell Downes
Direct phone 07 3007 3715
Email mdownes@mahoneys.com.au

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Confidential**Email**

Ben Seccombe
 Mahoneys
 bseccombe@mahoneys.com.au

Copy

Mitchell Downes
 Mahoneys
 mdownes@mahoneys.com.au

16 November 2017

Dear Mr Seccombe

Your client: Professor Peter Ridd

We refer to our correspondence of 23 October 2017 enclosing a copy of the letter that our client provided to your client that day seeking his response to additional allegations of serious misconduct (**Further Allegations Letter**), and to your letter of 7 November 2017 providing your client's response (**Response**).

Your client's Response was submitted outside of the 10 working day time frame provided for in clause 54.3.4 of the *James Cook University Enterprise Agreement 2013-2016 (EA)* and set out in the Further Allegations Letter. Further, your client's Response was submitted to our office and not to the Director HRM as required by the Further Allegations Letter.

Notwithstanding the above, our client is considering the Response.

The Response incorrectly asserts that several emails referred to in the Further Allegations Letter were not attached to that letter. We note:

- (a) Paragraph (k) on page 8 of the Response asserts that the email referred to in paragraph (e)(ii) of the Further Allegations Letter was not attached.
- (b) Paragraph (m) on page 8 of the Response asserts that the emails referred to in paragraphs (e)(iv) to (vi) of the Further Allegations Letter were not attached.
- (c) The emails referred to in paragraphs (e)(ii), (iv) to (vi) on page 8 of the Further Allegations Letter were examples of your client communicating in a manner that confirmed a disciplinary process had been commenced against him and/or encouraging discussion of this matter both within JCU and the broader public, and included:
 - (i) email from your client to numerous external recipients at 9.04am on 28 August 2017 soliciting recipients to send a letter of support for your client, to the Vice Chancellor;
 - (ii) email from your client to student [REDACTED] at 10.17am and 12.28pm on 1 September 2017;
 - (iii) email from your client to student [REDACTED] at 3.28pm on 1 September 2017; and
 - (iv) email to from your client to numerous recipients at 8.50am on 5 September 2017.
- (d) These emails were provided to your client as Attachments 4, 6, 7 and 8 to the Further Allegations Letter respectively.

Notwithstanding that your client has had access to these emails since he was provided with the Further Allegations Letter on 23 October 2017, our client would like to provide your client with a further

Level 28, Riparian Plaza
 71 Eagle Street
 Brisbane QLD 4000

GPO Box 9806
 Brisbane QLD 4001

T +61 7 3292 7000
 F +61 7 3221 9669
www.claytonutz.com

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Mr Ben Seccombe, Mahoneys

16 November 2017

opportunity to provide any further response he may have in relation to these emails. If your client would like to provide any further response in relation to these emails, he may do so by email to Nick Rogers, Director HRM, (directorhrm@jcu.edu.au), by **12 noon Monday, 20 November 2017**.

After **12 noon Monday, 20 November 2017**, the Director HRM will review all evidence and form a view as to whether there has been serious misconduct and, if so, escalate the matter to the Senior Deputy Vice Chancellor in accordance with clause 54.3.5(b) of the EA.

While your correspondence provides that your client reserves his rights in relation to alleged breaches of the EA, including in relation to alleged conflict of interest, bias and no prima facie case to answer, we have previously addressed these matters in our correspondence. Our client maintains that there is no proper basis for the injunctive proceedings threatened against the University. If your client takes such action, our client will rely upon this letter for the purposes of costs.

If you have any questions in relation to this letter, please don't hesitate to contact us.

Yours sincerely



Hedy Cray, Partner
+61 7 3292 7003
hcray@claytonutz.com

Megan Rutherford, Lawyer
+61 7 3292 7037
mrutherford@claytonutz.com

Our ref 13888/18512/80190290

Responsible partner Mitchell Downes
Person acting Mitchell Downes
Reply to Brisbane office
Our reference 23409
Your reference 13888/18512/80190290

20 November 2017

Clayton Utz
By email hcray@claytonutz.com

Dear Colleagues

Professor Peter Ridd

We refer to your letter 16 November 2017. Thank you for clarifying the emails to which your client's 23 October 2017 letter referred (we had, we now accept mistakenly, thought them not to have been included in the bundle) and allowing our client a further opportunity to respond.

We continue to adopt the defined terms from our earlier letters in this letter.

Further response to Additional Allegations

JCU complains the certain emails sent by our client confirmed that a disciplinary process had been commenced against him and/or encouraged discussion this matter both within JCU and the broader public.

- (a) As to the matters at paragraph (e)(ii) on page 8 of your client's 23 October 2017, the confidentiality obligation pursuant to clause 54.1.5 of the EA (upon its proper construction, by reason of our client consenting to its disclosure or the public domain exception) does not oblige our client to keep the disciplinary process confidential. The directions regarding confidentiality are not reasonable and lawful directions such that our client is obliged to comply with by reason of same being inconsistent with clause 54.1.5 of the EA. These points regarding confidentiality are relied on in relation to all allegations of disclosure contrary to the EA and the directions.

Further, by its letter dated 19 September 2017 JCU expressly authorised disclosure to "*immediate family, a support person*". The recipients of this email are support persons. In any event, the content of the email confirms that our client was complying with the directions because he states "*I am interpreting this instruction to mean that I cannot talk about the details as it is in the public domain that there has been a complaint.*".

The encouraging discussion complaint is not supported by the content of the emails. Rather, the highest it rises is suggesting that a letter of support to the Vice Chancellor would be useful. Our client is perfectly entitled to ask for such support.

Brisbane Office
Level 18
167 Eagle Street
Brisbane Qld 4000

GPO Box 3311
Brisbane Qld 4001

p 07 3007 3777
f 07 3007 3778

Gold Coast Office
Level 2
235 Varsity Parade
Varsity Lakes Qld 4230

PO Box 482
Varsity Lakes Qld 4227

p 07 5562 2959
f 07 5575 7803

info@mahoneys.com.au
www.mahoneys.com.au

ABN 99 349 703 654

Clauses 14.1 to 14.4 of the EA (the latter in particular) expressly authorises our client to communicate in this fashion. These clauses apply generally to the various email communications the subject of the Additional Allegations.

- (b) As to the matters at paragraph (e)(iv) on page 8 of your client's 23 October 2017 letter, the content of the email is incapable of supporting the allegations sought to be made based on it. The email chain: is initiated by a student; refers to an article in the Australian (**Article**); and, enquires as to who she can "email/talk to protesting this". Our client: confirms no more than is already in the public domain; expressly states "*I am not allowed to discuss the latest problem*" (i.e. complies with the directions regarding confidentiality); refers the student to articles that support his argument (i.e. engages in a debate about the merits of his argument, rather than seeking to silence those who disagree with him and attack them personally; and, states "*send that [i.e. the Article – something published in a newspaper circulated throughout Australia and on its webpage accessible throughout the World] to anybody you like.*", which he is perfectly entitled to say and she is perfectly entitled to do.

Again, clauses 14.1 to 14.4 of the EA (the latter in particular) expressly authorises our client to communicate in this fashion.

Interestingly, it is your client's actions against our client that are identified by the student (unprompted by our client) and described as "*absolutely, outrageously ridiculous*" and presumably the real source of any damage to its reputation (if there be any, which is of course denied).

- (c) As to the matters at paragraph (e)(v) on page 8 of your client's 23 October 2017 letter, it consists of an email from a student that refers to the immediately preceding student email. It rises no higher than the said email – i.e. the content of the email is incapable of supporting the allegations sought to be made based on it. As to our client's response, our client: defended your client; referred the student to articles that support his argument (i.e. engages in a debate about the merits of his argument); and, said nothing that constitutes disclosure or confirmation of anything alleged to be confidential.

Again, clauses 14.1 to 14.4 of the EA (the latter in particular) expressly authorises our client to communicate in this fashion. There is nothing wrong with this email.

Proceedings

We attach unfiled application to the Federal Circuit Court of Australia. The supporting affidavit will be finalised by tomorrow and the proceeding then filed.

We confirm you hold instructions to accept service of this proceeding on behalf of your client i.e. JCU and will effect service of a sealed copy of the proceeding and supporting affidavit in shortly.

Please let us know whether you hold instructions to accept service in relation to the other three respondents.

You will note that interlocutory relief is sought to, in short, enjoin all of the decision makers pursuant to clause 54 of the EA in respect of the allegations the subject of First SoA and the Second SoA. That relief is sought, inter alia, on the basis that your client and its officers are in breach of clause 54.1.1 by reasons of conflict of interest, apprehended bias and actual bias.

The annexure A to the application demonstrates a (strong) prima facie case. The balance of convenience lies heavily in our client's favour – his reputation will be (further) damaged by the

disciplinary proceeding continuing to be determined and his obligations to third parties interfered with should an injunction not be granted.

Your client will not suffer any damage by being delayed in making the various recommendations, determinations, etc. pursuant to clause 54 of the EA in the event that our client fails to obtain the final relief sought. The various damage to your client's relationships and reputation identified in the correspondence to date is, while theoretically possible, highly unlikely, nebulous and (at least as advanced to date) is lacking in causation and is too remote. Most tellingly, it not supported by any particulars or evidence of actual material damage or loss.

The interlocutory injunctions will have no material effect on the second to fourth respondents.

Your clients (assuming you have or receive instructions to act for all respondents) ought to give undertakings in the terms of the interlocutory injunctions sought (or consent to same being made, if they would prefer), and we hereby request that your clients do so by midday on 22 November 2017.

Should such undertaking or consent not be provided, so that the application for interlocutory orders can be dealt with in an orderly fashion and, if necessary, determined on a date convenient to all concerned, we request that your clients undertake not to do those things the subject of the interlocutory orders sought without first giving our client five business days' notice in writing of their intention to do so.

Finally, and perhaps obviously, we will rely on your clients' failure to provide the requested undertakings or consent on the issue of costs, as a basis to seek costs against your clients at the appropriate time.

Yours faithfully



Mahoneys

Contact Mitchell Downes
Direct phone 07 3007 3715
Email mdownes@mahoneys.com.au

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STRICTLY PRIVATE AND CONFIDENTIAL

21 November 2017

By hand

Professor Chris Cocklin
Senior Deputy Vice Chancellor
Townsville Campus
Townsville Qld 4811 Australia

T (07) 4781 6884
T (INT'L) +61 7 4781 6884
F (07) 4781 6890
E sdvc@jcu.edu.au

Professor Peter Ridd
Professor of Physics
Head of Intelligent Systems, Information and Modelling
College of Science, Technology and Engineering
James Cook University

Dear Professor Ridd

Employment with James Cook University - Final censure

I refer your discussion with Nick Rogers, Director HRM, (**Mr Rogers**) and Marcus Lane, Dean in relation to this letter.

I also refer to:

- (a) your meeting with Professor Marcus Lane, Dean, College of Science and Engineering, (**Dean**) and Ms Zora Kosteliz, Human Resources Business Partner, on 24 August 2017 at which you were provided with a letter from Mr Rogers detailing allegations of serious misconduct that the University required your response to (**Allegations Letter**);
- (b) your response dated 7 September 2017 submitted through your solicitors (**Response**);
- (c) Mr Rogers' letter dated 19 September 2017 advising that he is not satisfied that there is no serious misconduct or that the allegations are unsubstantiated for the purpose of clause 54.3.5(a) of the *James Cook University Enterprise Agreement 2013 - 2016* (**Enterprise Agreement**) and that he will continue to address the matters in accordance with the Enterprise Agreement;
- (d) your solicitors' correspondence to Mr Rogers dated 29 September 2017;
- (e) the University's response through its solicitors to your solicitors dated 6 October 2017;
- (f) correspondence from your solicitors' to the University's solicitors dated 13 October 2017;
- (g) correspondence from the University's solicitors to your solicitors dated 17 October 2017;
- (h) Mr Rogers' letter dated 23 October 2017 detailing the further allegations of serious misconduct that the University required your response to (**Further Allegations Letter**);
- (i) correspondence from the University's solicitors to your solicitors dated 23 October 2017;
- (j) your response dated 7 November 2017 submitted through your solicitors (**Further Response**);

- (k) correspondence from the University's solicitors to your solicitors dated 16 November 2017 noting that the Further Response incorrectly asserts that some of the emails referred to in the Further Allegations Letter were not attached to that letter and providing you with an opportunity to provide any further response;
- (l) the response from your solicitors dated 20 November 2017 (**Third Response**).

Thank you for your Further Response and Third Response.

The University has had the opportunity to review all evidence, including your Response, Further Response and Third Response (together, the **Responses**), and taken into account all relevant matters.

The purpose of this letter is to confirm that pursuant to clause 54.3.6 of the Enterprise Agreement I have determined that there has been serious misconduct and that the appropriate disciplinary sanction is a final censure.

Further details are set out below.

Background

The background of these matters and the University's concerns is outlined in the Allegations Letter and Further Allegations Letter. In summary, the University sought your response to concerns that you have engaged in a pattern of conduct deliberately breaching confidentiality and denigrating the University, its employees and stakeholders contrary your obligations under the Code of Conduct and/or the best interests of the University.

Your responses

The University has considered your Responses.

Code of conduct

The University does not accept that academic freedom justifies your criticism of key stakeholders of the University in circumstances where you communicated such criticism in a manner that is inconsistent with your obligations under the Code of Conduct, including to criticise "*in the collegial and academic spirit of the search for knowledge, understanding and truth*" and "*treat fellow staff members, students and members of the public with honesty, respect and courtesy*". As outlined in the Further Allegations Letter, academic freedom under the Enterprise Agreement is expressed to be in accordance with the Code of Conduct.

The University is not satisfied that it is "*in the collegial and academic spirit of the search for knowledge, understanding and truth*" or respectful and courteous to:

- (a) comment to the effect that we can "*no longer trust*" scientific research published by the Australian Institute of Marine Science (**AIMS**) and ARC Centre of Excellence for Coral Reef Studies (**ARC Centre**); or
- (b) and are matters which I am able to form a view as the Senior Deputy Vice Chancellor . make comments that imply, insinuate and suggest that scientists who work for AIMS and the ARC Centre are "*emotionally attached*" to the reef and their scientific research is "*not objective*",

irrespective of whether you genuinely believe these comments to be true or made these comments in a calm manner.

The assertion in your Further Response that the University is attempting to "*silence criticism*" is grossly inconsistent with the Further Allegations Letter, which makes it clear that the University is not concerned that you have expressed a scientific view that is different to the view of the University or its stakeholders, rather, the University is concerned that you have expressed your views in a manner that is inconsistent with the professional standards expected by the University and reflected in the Code of Conduct.

After review of the Further Response, I am not satisfied that the conduct outlined in the Further Allegations Letter is excused including the conduct which further denigrates AIMS and ARC Centre as was clearly outlined to you given the joint venture and partnership relationships with these entities, of which you were aware, and had previously collaborated on, as a University employee. As a result, the University does not accept, that your conduct is consistent with the Code of Conduct, as it had and has the capacity to damage the reputation of AIMS and ARC Centre and therefore the relationship of the University with these bodies and by association the reputation of the University.

Denigration of Professor Hughes

The Further Allegations Letter refers to an email that you sent from your work email account to an external recipient (at ADFA) on 30 August 2017 denigrating your colleague, Professor Terry Hughes, including by making the following comment in relation to Professor Hughes being the keynote speaker at the 2018 Australian Meteorological and Oceanographic Society conference:

You wonder why he is there. It is not like he has any clue about the weather. He will give the normal doom science about the GBR.

The Further Allegations Letter outlines the University's concerns that you have failed to treat Professor Hughes with respect and courtesy in breach of the Code of Conduct. As you are aware you have previously received a censure in relation to your denigration of Professor Hughes.

The University is not satisfied that your conduct is excused on the basis that you made this comment in an "*obviously flippant manner*" as outlined in the Further Response. Nor is the University satisfied that the assertion in the Further Response, that it is "*hardly denigrating to say that an expert in one field is not an expert in some other field that he does not claim to be an expert in*", adequately addresses the substance of the University's concerns regarding the disrespectful manner in which you communicated about your colleague, including that you have published information on the University's email to [REDACTED] being not only an external recipient but also an employee of another University.

These matters impact on the trust and confidence that the University can have that you intend to meet the University's expectations regarding professional standards of communication as reflected in the Code of Conduct.

Repeated denigration of the University, insubordination and interference with the disciplinary process

The University is satisfied that you have repeatedly denigrated the University to its students and external parties as outlined in the Further Allegations Letter, including but not limited to making the following comments in relation to the disciplinary process:

- (a) in emails from your University email account to external recipients including recipients at other universities:

- (i) *"I am not sure that I have any influence on the outcome";*
 - (ii) *"As usual, I have offended some powerful organisations who don't like being challenged, and rather than debate the case, they just resort to threats and complaints."*
- (b) in emails from your University email account to students of the University:
- (i) you have *"certainly offended some sensitive but powerful and ruthless egos";*
 - (ii) the University, along with other universities, are *"Orwellian in nature"* and *"pretends to value free debate, but in fact it crushes it whenever the "wrong" ideas are spoken"*.

As outlined above, the University has made it clear to you that it is not concerned that you have expressed a scientific view that is different to the view of the University or its stakeholders, rather, the University is concerned that you have expressed your views in a manner that is inconsistent with the professional standards expected by the University and reflected in the Code of Conduct.

Further, the University provided you with an opportunity to respond to the University's concerns regarding your conduct in accordance with the disciplinary process under the Enterprise Agreement (and subsequently provided you with further opportunities to respond to additional allegations).

In such circumstances, the University is satisfied that by promoting to external parties (including at other universities) and students the view that the University has commenced a disciplinary process against you to prevent you from expressing your scientific views, your conduct is contrary to the best interests of the University and the requirement in the Code of Conduct to *"behave in a way that upholds the integrity and good reputation of the University"* and has been engaged in, in a way to attempt to interfere with confidentiality of the disciplinary process.

The University is not satisfied by assertions in the Further Response that there is *"nothing wrong"* with the emails or that they were *"personal, private emails"* as outlined below.

Personal emails

The University does not agree that the numerous emails in which you have repeatedly denigrated the University to its students and third parties were *"personal, private email[s]"*. The relevant emails were sent from your University email account, contained your University signature block and refer to matters relating to disciplinary process/es commenced against you in relation to your employment. Some of the emails were sent to students of the University, including students that you teach or supervise.

The University does not accept that you are excused from complying with the Code of Conduct on the basis that you made the relevant denigrating comments in personal emails from your University email account. While clause 1.6 of the University's Information Communication Technology Acceptable Use Policy (**ICT Policy**) allows staff members limited personal use of the University email account, the clause requires that such personal use *"is otherwise in accordance with this Policy"*. Clause 1.2 of the ICT Policy makes it clear that staff members must comply with the Code of Conduct when using the University's ICT services and relevantly provides *"All Authorised Users must act in accordance with this Policy and all other applicable University policies and procedures"*. Clause 4.1 of the ICT Policy outlines that the University may monitor and review staff members' activity on their University email account.

Confidentiality

In response to concerns that you have repeatedly failed to comply with your obligations with respect to confidentiality, the Further Response asserts that a confidentiality obligation does not arise pursuant to clause 54.1.5 of the Enterprise Agreement and that the lawful and reasonable direction to maintain confidentiality "*is a recent invention that first emerged in [the letter from the University's solicitors] of 6 October 2017*".

The correspondence from the University's solicitors dated 6 October 2017 clearly outlines the University's position that the Enterprise Agreement imposes mutual confidentiality obligations and that matters relating to disciplinary processes are also confidential to the University and, therefore, you cannot decide yourself to unilaterally waive confidentiality.

Contrary to the Further Response, it was not "recent invention" as asserted. The lawful and reasonable direction to maintain confidentiality did not first emerge in the correspondence of 6 October 2017. The Dean verbally directed you to maintain confidentiality in relation to the disciplinary process during your meeting on 24 August 2017. This lawful and reasonable direction was reinforced in Mr Rogers' correspondence of 27 August 2017, 19 September 2017 and 23 October 2017, as well as the University's correspondence of 6 October 2017 and 17 October 2017.

As outlined in correspondence dated 19 September 2017, you were permitted to disclose matters relating to the disciplinary process to a support person provided that you could assure yourself that they would maintain the same confidentiality as you. The University accepts that you disclosed matters relating to the disciplinary process to your wife as your support person, as asserted in the Further Response. However, the University does not accept that your conduct in soliciting the more than 30 recipients

of your email of 28 August 2017 (the majority of whom are external to the University and at other universities) to send a letter of support for you to the Vice Chancellor, is excused on the basis that these persons were your support persons. The University considers that this conduct was designed to interfere with the disciplinary process and was a direct breach of confidentiality.

Other matters

Your Further Response also raises a number of matters that have previously been addressed by the University's solicitors, including alleged conflict of interest, apprehended bias and breaches of the Enterprise Agreement.

The University maintains that there is no proper basis for such allegations.

The University's solicitors will respond to your solicitors directly in relation to these matters.

I have made my decision under the Enterprise Agreement, I am not influenced by the Vice Chancellor, or any council position that she holds in making this decision. I have not predetermined this matter and have considered your Responses in making this decision.

The relationship between the University AIMS and ARC Centre was clearly set out to you in the Further Allegations Letter. The University's concerns relate to your conduct which impacts on the University's reputation and relationships, and therefore your conduct as our employee.

The fact that the Vice Chancellor is a council member of AIMS, not due to any personal relationship, but by reason of the *Australian Institute of Marine Science Act 1972* (Cth) and

the joint venture between AIMS and the University reflects the relationship between AIMS and the University.

The Act requires the University to have a member on its council.

This conduct relates to your conduct as an employee and to the expectations that you will comply with the Code of Conduct. For the reasons outlined above the University is satisfied that your repeated denigration of the University, insubordination and interference with the disciplinary process itself constitutes serious misconduct, apart from the conduct you engaged in in relation to AIMS and the damage and potential damage to both that relationship but also the University's reputation that has occurred by reason of your conduct.

Final censure

I have reviewed all evidence and taken into account all relevant matters, including your Responses and matters raised in correspondence from your solicitors. While I may not have expressly referred to all of the matters that you have raised, including through your solicitors, I have considered these matters.

I am satisfied that you have engaged in a pattern of conduct deliberately breaching confidentiality and denigrating the University, its employees and stakeholders contrary to your obligations under the Code of Conduct and/or the best interests of the University.

Pursuant to clause 54.3.6 of the Enterprise Agreement, I have determined that there has been serious conduct.

The University does not accept that the matters you have raised, including through your solicitors, explains, justifies or excuses your conduct.

The University takes the conduct in which you have engaged seriously.

Based on your Response, Further Response and other communications, I am satisfied that you understood that your employment was in jeopardy as a result of your conduct.

You have previously received a formal censure dated 29 April 2016 for similar conduct, including communicating in a manner that was not collegial, respectful of your colleagues and did not uphold the integrity and good reputation of the University, giving rise to breaches of the Code of Conduct.

Given the pattern of conduct, I have considered termination of your employment.

However, I have taken into account your length of service and contributions to the University, particularly in relation to teaching, and I have decided that these matters mitigate against termination and as an alternative to termination, subject to your ongoing compliance with the Code of Conduct I have determined to provide you with a final censure.

Moving forward, it is the University's expectations that you:

- (a) along with all other staff members, will act consistently with the Code of Conduct, including refraining from criticising other persons or organisations in a manner that is inconsistent with the collegial and academic spirit of the search for knowledge, understanding and truth;
- (b) will keep all matters relating to the disciplinary process and this censure strictly confidential;

- (c) will not make any comments or engage in any conduct that directly or indirectly trivialises, satirises or parodies the University taking disciplinary action against you.

I need you to understand that if the University becomes aware of any further incidents involving the same or similar conduct or any conduct that does not meet the standards expected by the University, you may face further disciplinary action, including termination of your employment.


Ongoing confidentiality obligations

I confirm that the disciplinary process and all matters relating thereto (including but not limited to this censure), remain strictly confidential and that you are directed not to discuss or disclose these matters to any person, including the media or in any public forum. However, this does not prevent you from providing a copy of this letter to your solicitors or to your immediate family, provided that you can assure yourself that they will maintain the same confidentiality as you.

I remind you that the Employee Assistance Program is available to you if you need additional support and assistance at this time. The free, professional, independent and confidential counselling support services of *Davidson Trahaire Corpsych* can be accessed on telephone: 1300 360 364.

If you have any questions about this letter, please do not hesitate to contact Nick Rogers, Director HR or myself.

Yours sincerely



Professor Chris Cocklin
Senior Deputy Vice Chancellor