

**STRICTLY PRIVATE AND CONFIDENTIAL**

13 April 2018

Professor Peter Ridd  
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***By hand***

Dear Professor Ridd

**Employment with James Cook University - Notice of Termination**

I refer your discussion with ██████████, Director Human Resources (HR) (██████████) and Professor ██████████, Deputy Vice Chancellor Tropical Environments & Societies (**DVC**) in relation to this letter.

I also refer to:

- (a) your meeting with the DVC, and ██████████, on 8 February 2018 at which you were provided with a letter from ██████████ detailing allegations of serious misconduct that the University required your response to (**Allegations Letter**); and
- (b) your response dated 23 February 2018 submitted through your solicitors (**Response**).

Thank you for your Response.

The University has had the opportunity to review all evidence, including your Response, and taken into account all relevant matters.

The purpose of this letter is to confirm that:

- (a) the Senior Deputy Vice Chancellor has delegated his power under clause 54 of the *James Cook University Enterprise Agreement 2013 - 2016* (**Enterprise Agreement**) to me; and
- (b) 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 termination of your employment.
- (c) pursuant to clause 54.6 of the Enterprise Agreement, I have determined to suspend your employment from today until the University makes a final determination in relation to your employment.

I understand you have booked a period of 38 hours long service leave to be taken from 4 April to 29 May 2018 and are working otherwise during this period. To be clear, as a result of the determination to suspend your employment, any proposed long service leave during the suspension will be converted to suspension on pay, without deduction from your leave balance.

Further details are set out below.

## **Background**

The background of these matters and the University's concerns is outlined in the Allegations Letter. In summary, the University sought your response to concerns that you have engaged in a pattern of ongoing unacceptable conduct by:

- (a) deliberately breaching confidentiality;
- (b) denigrating the University, its employees and stakeholders contrary to your obligations under the Code of Conduct and/or the best interests of the University; and
- (c) failing to take reasonable steps to avoid, disclose and manage a conflict of interest between your own interest and those of the IPA, on the one hand, and your duties to the University, on the other, contrary to your obligations under the Code of Conduct.

## **Determination on Serious Misconduct**

As set out above, I have determined that you have engaged in Serious Misconduct, including serious breaches of the *James Cook University Code of Conduct (Code of Conduct)* and behaviour that is contrary to the best interests of the University.

In making my determination, I have reviewed all the relevant evidence and taken into account all relevant matters, including your Response 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 and turned my own mind to whether, on balance, you have engaged in the conduct alleged and if so, whether it amounts to Serious Misconduct.

Attachment 1 sets out details of each allegation (including sub-allegations) and whether each allegation is substantiated or unsubstantiated, reflecting my findings on the allegations.

My reasons for determining that you have engaged in Serious Misconduct are set out below, adopting the allegation references used in Attachment 1.

### ***Lawful and reasonable directions given to you***

Before dealing with your specific responses to each allegation, it is appropriate to address the contentions, raised in your Response, that the confidentiality directions you have been given are not lawful and reasonable directions.

As your employer, the University is entitled to provide you with directions to maintain the confidentiality of confidential information that you have access to in the course of your employment. You are required to comply with those directions.

In the context of disciplinary proceedings, the approach to maintaining confidentiality is detailed in clause 54.1.5 of the Enterprise Agreement. Clause 54.1.5 makes it clear that "all information gathered and recorded" will remain confidential. This is obligatory language: it requires the information to be kept confidential. This includes information gathered during the process, and also any information recorded, such as the University's reasons for issuing the censures to you (which is 'information recorded' on your personnel file).

I do not accept that there is any reasonable basis on which you can refuse to comply with such directions, given that:

- (a) the directions given were for the purpose of protecting confidential, sensitive and personal information, including information relating to you, your colleagues and the University; and
- (b) the directions do not prevent you from exercising any right to academic freedom, subject to the Code of Conduct, such as to express a scientific view different to that of the University or its stakeholders, or to express disagreement with the outcome of disciplinary decisions or the processes used to make those decisions; and

- (c) the directions to not prevent you from commencing, or pursuing, your litigation before the Court objecting to the outcome of your prior disciplinary sanction.

I am also satisfied that you are aware of the University's expectations with respect to the maintenance of confidentiality.

You have now, on a number of occasions, been provided with directions to maintain the confidentiality of information relating to the disciplinary processes you were subject to in 2016 and 2017 (the **2016 Disciplinary Process** and **2017 Disciplinary Process** respectively).

The details of those directions are confirmed in the Allegations Letter.

I am further satisfied that you were aware following the final censure issued to you on 21 November 2017 by the Senior Deputy Vice Chancellor (**Final Censure**) that:

- (a) the University takes breaches of confidentiality seriously; and
- (b) you may face further disciplinary action, including termination of employment, if the University became aware of the same or similar conduct or any conduct that does not meet the standards expected of you as an employee of the University.

### ***Academic freedom***

Your Response raises claims that the disciplinary process is about academic freedom and that, by taking disciplinary steps under the Enterprise Agreement, the University is infringing on your right to academic freedom.

Your claims on this issue misrepresent the facts.

The Final Censure made it clear to you why you were disciplined. That is, you were disciplined for behaviour that was contrary to your obligations under the Code of Conduct and/or the best interests of the University. As was explained in the Final Censure, you are entitled to express your scientific views on matters relating to the Great Barrier Reef.

Academic freedom does not, however, override your obligations under the Code of Conduct to be collegial nor justify criticism of your colleagues, the University, or key affiliates of the University, in a manner that is inconsistent with the Code, or which denigrates the University or its key affiliates.

You are well aware that this is the case. When you were censured in 2016, it was made clear to you that you are entitled to make public comments in your professional, expert or individual capacity in an academic field in which you are recognised, and reinforced that you were to do so in a way that is collegial and upholds the reputation of the University and your colleagues.

In light of that situation, I am satisfied that you were well aware of your obligations under the Code of Conduct when exercising academic freedom, and the circumstances in which you may be disciplined should you exercise academic freedom in a manner inconsistent with your obligations as an employee of the University.

Further, I am satisfied that at no time have you been prevented from exercising a right to academic freedom.

Nothing in the confidentiality directions or the censures you have been given previously, prevents you from exercising a right to academic freedom under clause 14 of the Enterprise Agreement and consistent with the Code of Conduct.

That is evidenced by you:

- (a) giving a key note speech at Institute of Public Affairs (**IPA**) book launch events, which book you contributed a chapter to. You spoke in both Melbourne (on 10 November 2017) and Sydney (on 25 November 2017);

- (b) speaking at The Sydney Institute on 30 November 2017;
- (c) speaking at an event organised by The Ginger Group, on 28 February 2018;
- (d) publishing an article in the *Marine Pollution Bulletin* expressing your scientific views on quality assurance in research concerning the Great Barrier Reef: Larcombe and Ridd 'The need for a formalised system of Quality Control for environmental policy-science' (2018) 126 *Marine Pollution Bulletin* 449; and
- (e) commencing and pursuing your proceedings regarding the outcome of the 2017 Disciplinary Process.

Your continued representation that your right to academic freedom has been 'infringed' is clearly contrary to those facts, and a deliberate misrepresentation of what has actually occurred.

### ***Allegation 1***

As is detailed in the Allegations Letter, the University is concerned that you provided confidential information to *The Australian* by providing them with your affidavit, which comprised documents relating to the 2016 and 2017 Disciplinary Processes.

It was reasonable for the University to conclude that *The Australian* could not have accessed those documents without you otherwise providing your affidavit to them, or referring to its contents, having regard to:

- (a) the timing of the media enquiry from *The Australian* on the morning of 21 November 2017;
- (b) the fact that *The Australian* would not have been able to obtain a Court order for the disclosure of the affidavit prior to this time, given the time at which the proceeding was filed on 20 November 2017; and
- (c) the article in *The Australian* expressly refers to and quotes from your correspondence with the newspaper.

It was on that basis that you were directed to provide a copy of your correspondence with *The Australian*.

It was also reasonable for the University to require you to provide a copy of the correspondence in circumstances where the material published by *The Australian* contained confidential, sensitive and personal information, where no steps were taken to redact that information or protect the privacy of individuals named in the documents.

Your refusal to provide a copy of your correspondence is a failure to comply with a lawful and reasonable direction. This is not the first time you have failed to comply with this direction, having been previously directed to provide the correspondence in a letter dated 24 November 2017 from the University's solicitors to your solicitors, and again in correspondence on 7 March 2018 from the University's solicitors to your solicitors.

I also do not accept your response that you did not disclose the information to *The Australian*. Given the timing of *The Australian's* request, publication and the content of the article, I am satisfied that you did disclose information about the 2016 and 2017 Disciplinary Processes to *The Australian* in breach of confidentiality directions given to you. I am also satisfied that you did so deliberately, for no proper purpose, where you knew or ought to have understood that the publication of this information would damage the University.

Accordingly, you have breached the Code of Conduct by failing to "*comply with [a] lawful and reasonable direction given by someone who has authority to give that direction*".

### **Allegation 2.1**

The Allegations Letter refers to the publication of a suite of confidential documents relating to the 2016 and 2017 Disciplinary Processes on a Wordpress website that appears to have been created by you or which otherwise appear to be under your control.

Your Response does not dispute that you published the information or that you control the Wordpress website. It merely asserts that the information published on the website is not confidential or that you are otherwise required to comply with any confidentiality directions or direction to take the information down.

I do not accept your Response.

You are aware of the reasons why the University considers the 2016 and 2017 Disciplinary Processes to be confidential, having been told so on numerous occasions.

Further:

- (a) The information was not in the public domain at the time you published it, contrary to what your Response appears to assert. You were the architect of publicising that information, through your correspondence with *The Australian* and your publication of the material on the Wordpress website. It was your actions, in breaching the confidentiality directions, that made the information publically accessible and you have continued to benefit from your breach by reason of the fact that information about the 2016/2017 Disciplinary Processes continues to be discussed in the media (including at your behest).
- (b) You had no reasonable basis for publishing the material in the first place, particularly where it contained confidential, sensitive and personal information, where no steps were taken to redact that information or protect the privacy of individuals named in the documents. You knew or ought to have understood that the publication of this information would damage the University.

I am satisfied that your publication of this information and your refusal to remove it are a deliberate disregard of the direction given to you in the Final Censure to keep that information confidential. I am also satisfied that your behaviour in publishing the information was a deliberate act designed to damage the University.

Accordingly, you have breached the Code of Conduct by failing to "*comply with [a] lawful and reasonable direction given by someone who has authority to give that direction*".

### **Allegation 2.2**

This aspect of Allegation 2 concerns the fact that the material published on the Wordpress website includes information relating to the Final Censure you were given, which included amongst other things your denigration of Professor ██████████.

I do not accept that your denigration of Professor ██████████ was "*legitimate and proper criticism*" (as stated in the Response). You are aware of the reasons why the University considered that comment denigrating, detailed as it was in the Final Censure.

You have not demonstrated any contrition for your actions. Your republication of this material is deliberate and fails to understand the impact that republishing denigrating comments may have on your colleague. This is particularly so in circumstances where the information published by you includes personal and sensitive information relating to Professor ██████████, where no steps were taken to redact that information, and where there is otherwise no justifiable excuse for that information being published to the world at large.

I am satisfied that you have published this information deliberately, without regard for its impact on others, and in deliberate defiance of directions you have been given previously about not denigrating your colleagues.

Accordingly, you have not respected the rights of others, and failed to "*treat fellow staff members...with honesty, respect and courtesy, and have regard for the dignity and needs of others*", contrary to the code of Conduct.

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.

**Allegation 3**

The Allegations Letter also details several other instances on which you are alleged to have breached directions regarding confidentiality by disclosing confidential information gathered and recorded during the 2016 and 2017 Disciplinary Processes.

I have reviewed your Response in respect of each instance. I am satisfied that you disclosed confidential information as follows:

- (a) through an article published by Don Aitkin on the *Cairns News* website on 29 January 2018, which refers to you writing to him about the misconduct processes (Allegation 3.4). Your Response does not dispute the words attributed to you, which clearly disclose that you communicated with Don Aitkin confidential information about the 2017 Disciplinary Process, including information about why the Final Censure was issued to you and the nature of the allegations that led to the Final Censure; and
- (b) in the contents of a flyer being distributed on the University campus which refers to the 2017 Disciplinary Process (Allegation 3.5). Your Response does not dispute the contents of the Flyer or that you (directly or indirectly) caused it to be distributed. Given the contents expressly refer to the 2017 Disciplinary Process, the Final Censure being issued to you, and the reasons why you were issued the Final Censure, I am satisfied you disclosed confidential information in this instance.

On review of all of the material, I am satisfied that the publications were not just a mere disagreement by you of the Final Censure or the 2016/2017 Disciplinary Processes.

You had previously been told by the University that the information you published is confidential, and was to be kept confidential by you. You did not raise any concerns regarding the Final Censure or the 2016/ 2017 Disciplinary Processes through applicable processes nor give a reasonable opportunity for those processes to be followed.

Rather, you have engaged in the unnecessary publication of confidential information which, when considered with your conduct in respect of other allegations (particularly Allegation 4), is indicative of a pattern of conduct that is in breach of the Code of Conduct and contrary to the interests of the University.

The University does not accept your explanation that you are not obliged to keep information about the 2016 and 2017 Disciplinary Processes confidential.

You are aware of the reasons why the University considers and has directed that you keep the 2016 and 2017 Disciplinary Processes confidential and your conduct in disclosing that information is a deliberate disregard of the direction you were given in the Final Censure.

I note also that your Response does not engage with the allegation that you provided Professor [REDACTED]

Rather, your Response appears to refer to an email (or set of emails) that were not the subject of the Allegations Letter.

The University is satisfied that you were given a reasonable opportunity to respond to this aspect of the allegations and did not do so.

I have reviewed the evidence available to me, including the letter from [REDACTED] when she returned the documents to you. The letter states:

*I received the hard copy material that you delivered to the [REDACTED] last week. I have not read the material and have not shared it with anyone. On reflection, I think it best to return the material to you, so I arranged that.*

I am satisfied that the documents you provided to [REDACTED] were confidential documents that related to the 2016 and 2017 Disciplinary Processes, which you knew to be confidential (having been told so by the University) and which [REDACTED] was uncomfortable to receive. That is clear from the context of [REDACTED] letter, including that she did not read the documents or disclose them to anyone else, and returned them to you.

In providing the folder of documents to [REDACTED] I find that you deliberately breached the confidentiality direction provided to you in the Final Censure.

Accordingly, you have breached the Code of Conduct by failing to "*comply with [a] lawful and reasonable direction given by someone who has authority to give that direction*".

With regards to Allegations 3.1 and 3.3, I find these allegations to be unsubstantiated. My reasons are as follows:

- (a) Allegation 3.1, being discussions with [REDACTED]—I have found this allegation unsubstantiated as although your Response acknowledges that you discussed with [REDACTED] the fact that there were confidentiality directions in place (whatever form of words were used), and that you discussed the 2016 and 2017 Disciplinary Processes, I am not satisfied that you disclosed confidential information about either process to Professor [REDACTED] at that particular meeting.
- (b) Allegation 3.3, being the article published in *The Australian* on 1 February 2018—I have found this allegation to be unsubstantiated as the words attributed to you do not disclose confidential information gathered or recorded during the process. I remain concerned by the content of the article, however, as the statement that you intend to speak about the 2016 and 2017 Disciplinary Processes confirms your preparedness to disclose confidential information.

#### ***Allegation 4***

Allegation 4 concerns several publications by you regarding the nature of the disciplinary proceedings that do not uphold the integrity and good reputation of the University by continuing to perpetuate the view (both internally and outside the University) that the University has taken disciplinary action against you because you have expressed a scientific view, different to the view of the University or its stakeholders.

The assertion in your Response that the University is treating you in a manner inconsistent with your right to express scientific views that are contrary to views that may be held by the University or its stakeholders is grossly inconsistent with the 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.

You are well aware of the University's concerns in that regard, having been put on notice of them in the 2016 censure and the Final Censure (as detailed above).

The University is satisfied that you have continued to perpetuate the view that the University has taken disciplinary proceedings against you because you have expressed a particular scientific view, including but not limited to making the following comments in relation to the disciplinary process:

- (a) In comments published on the Go Fund Me Website (Allegation 4.1), including:

- (i) *"My name is Peter Ridd and I am a Professor of Physics at James Cook University, and I am facing serious repercussions for supporting scientific integrity."*
  - (ii) *"I have now been issued a 'Final Censure' by James Cook University for talking about quality assurance in science and told to remain silent."*
- (b) In comments published on the Wordpress Website (Allegation 4.2), including:
- (i) *"In a similar case in 2016 JCU had already found him guilty of academic misconduct and censured him. In that case he had exposed a very famous piece of science, which claimed massive damage to inshore reefs, to be wrong and questioned the quality assurance systems used in GBR science."*
  - (ii) *"Ridd's intention is to fight this matter to a final decision in court because he believes academics should not be prevented from publicly questioning another scientists' work, or the trustworthiness of work from institutions, especially where there is a public impact as a result of the work."*
- (c) In *The Australian* Article (Allegation 4.3), which attributes the following words to you:
- Professor Ridd said in correspondence to The Australian he hoped the court action would "draw attention to the quality assurance problems in science and the obligation of universities in general to genuinely foster debate, argument and the clash of ideas".*
- "I think it is right to challenge our science institutions about whether their work is reliable and trustworthy," he said.*
- (d) In the February *Australian* Article (Allegation 4.4), which attributes the following words to you:
- "This is as much a case about free speech as it is about quality of science," he said.*
- (e) in comments contained in the Flyer (Allegation 4.5), which relevantly provides:
- [You] got into trouble after making a comment on TV saying that [you] did not believe that the science coming from two of our science organizations was trustworthy and was given a final censure and told to remain quiet about the matter.*

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.

I am satisfied therefore that there was no reasonable basis for you to make each of the comments the subject of Allegation 4, and that your comments are a deliberate misrepresentation of what has occurred.

I note that your Response does not otherwise engage with Allegation 4, particularly the allegation that your comments have damaged the reputation of the University, and have the potential to further damage the University's reputation. You were given an opportunity to consider that part of the allegation in your Response.

I am satisfied that the comments are likely to have damaged, and have the potential to further damage, the University's reputation, by reason of the fact that:

- (a) you have not caused the information to be redacted, removed from the internet or otherwise retracted from publication. As such, the comments remain available for all the world to see, and in the case of the Flyer, any person who may have access to a copy of it (being unknown to the University);
- (b) your comments deliberately misrepresent the nature of the 2016 and 2017 Disciplinary Processes;
- (c) you are readily identifiable as an employee of the University in the publications, either because your status as an employee is expressly referred to or otherwise identifiable from the context; and
- (d) to the extent you have concerns about the 2017 Disciplinary Process, you have not sought to address those concerns through the appropriate channels at the University. Rather, you have proactively made and published public comments that are sensationalist, denigrating of the University and that I consider do not reflect the disciplinary process that was carried out and documents provided to you during that process.

In such circumstances, the University is satisfied that by promoting to external parties 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.

#### **Allegation 5**

Allegation 5 concerns several publications by you about issues concerning procedural fairness in the 2017 Disciplinary Process, including in relation to comments you made about the University's review of your University email account, in circumstances where those comments are denigrating of the University and are inconsistent with what has actually occurred.

I am satisfied that you made each of the following comments:

- (a) Your comment in the February Australian Article that *"I am very keen that the trawling of emails to dig up more dirt becomes known."* (Allegation 5.1)
- (b) Comments published on the Wordpress website including (Allegation 5.2):
  - (i) *"Ridd was prepared to the apparently inevitable outcome that he would be fired especially as JCU's senior administration are effectively the accuser, jury and judge on the matter."*
  - (ii) *"JCU used its surveillance powers to read all of Ridd's email correspondence and used information gained to allege 25 new misconduct allegations – mostly because Ridd refused to be silent about the existence of JCU's allegations."*
  - (iii) *"Perhaps due to indications that JCU's case would fail if challenged in court, and because JCU was annoyed that he had not kept quiet, in October 2017 JCU hit Ridd with a new 128 page document listing details of 25 further allegations of misconduct."*
  - (iv) *"Perhaps unintentionally, JCU's actions have engendered an atmosphere of fear and intimidation."*
  - (v) *"It is reasonable that JCU be able to read emails in cases where illegal activity may be suspected, but in this case its surveillance powers were used in an attempt to bolster a weak academic misconduct case. It also had the effect of"*

*being intimidating in the extreme to Ridd and his family which may have been intentional."*

- (c) Comments in the Flyer including *"JCU also used some quite intimidating techniques including reading all his emails in order to find a further 25 examples of what they called misconduct (see link below for details). They were particularly unhappy he would not remain silent."* (Allegation 5.3)

Your comments in particular regarding the review of your University email account are inconsistent with the further allegations letter and Final Censure, which outline that:

- (a) the University made further enquiries based on matters raised in your response;
- (b) the University made further enquiries based on your conduct during the process, including during your meeting with the Dean on 24 August 2017 when you commented to the effect that *"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"*; and
- (c) the University's review of your University email account was carried out in accordance with the Information Communication and Technology Acceptance Use Policy.

The Allegations Letter provided you with an opportunity to respond to these allegations.

You have not provided any proper basis for the assertions that the University has acted in an intimidating manner or otherwise denied you procedural fairness in the course of the 2017 Disciplinary Process.

I also note that, if you have legitimate concerns regarding the process by which the Final Censure was made:

- (a) you are expected to raise those concerns through applicable processes and give a reasonable opportunity for those processes to be followed (per clause 14.4 of the Enterprise Agreement); and
- (b) in any event, any disagreement or concerns you may express, remain subject to your obligations to comply with the Code of Conduct in the way in which you express such concerns.

Your conduct with respect to these particular publications does not comply with either standard. You have not raised any concerns through legitimate means. Rather, you have sought to publically denigrate the University and misrepresent the true factual circumstances regarding the 2017 Disciplinary Process in circumstances where you knew, or ought to have known, that this was contrary to the interests of the University.

Given there is no proper basis for your assertions and the manner in which you have expressed disagreement with the 2017 Disciplinary Process, the University is satisfied that by promoting your view to other parties that you have been denied procedural fairness, and that the University has acted in an intimidating manner with respect to the 2017 Disciplinary Process, 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"*.

I am also concerned by:

- (a) Your characterisation of your comments to the Dean on 24 August 2017, to the effect that *"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"*, is also inappropriate. Your Response attempts to characterise these comments as being a legitimate response to what you see as an attempt to infringe your legal rights. I do not consider that explanation satisfactory. The language used is threatening, insubordinate, disrespectful, and not of the standard expected of a Professor of the University.
- (b) The comment in your Response that *"if JCU's reputation has been damaged, it has not been damaged by our client holding it to account for its unlawful, misleading and*

*improper conduct, but rather it is its acts of engaging in that conduct that has caused such damage". You appear not to recognise or accept the impact that your actions may have on the reputation of the University, as it is viewed by the outside world including its students and affiliates.*

### **Allegation 6**

I am satisfied that the 23 November 2017 email trivialises, satirises or parodies the University taking disciplinary action against you.

Your email clearly communicates that you find the 2017 Disciplinary Process "amusing" and at least indirectly seeks to trivialise, satirise or parody the 2017 Disciplinary Process. It was sent to a student of the University from your University email account. That conduct is contrary to the Final Censure which outlines the University's expectations that you will not directly or indirectly trivialise, satirise or parody the University taking disciplinary action against you.

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"*

### **Allegation 7**

This allegation concerns two comments published on the Wordpress Website, to the effect that you were not permitted to talk with your wife about the 2017 Disciplinary Process.

You have not denied making either comment.

I am satisfied that you have continued to perpetuate the view to outsiders of the University that you were not permitted to speak to your wife about the 2017 Disciplinary Process, including through the following comment published on the Wordpress site:

*"JCU also instructed Ridd not to talk to anybody about the existence of their allegations, or the details of the allegations. When Ridd asked if he could mention them to his wife, he was not given permission"*

Your assertion in the Response that this comment is true is inconsistent with:

- (a) the Comments made by the Dean at the 24 August 2017 meeting that you could have a support person at any stage of the process, provided you notify the University; and
- (b) the letter from the Director HR dated 19 September 2017, which included a statement that *"You are, however, allowed to discuss these matters with your immediate family"*.

I am further satisfied that your comment on the Wordpress site that *"Even emails to [your] wife were deemed to be further misconduct"* was misleading. The Final Censure clearly stated that you were able to disclose disciplinary matters to your wife as your support person.

I also note that, despite your Response offering to remove the second comment from your Wordpress website that you have failed to do so. It remains accessible to the world at large via the link: <https://platogbr.files.wordpress.com/2018/01/summary-of-case-f-for-redacted3.pdf>.

In such circumstances, I am satisfied that you have published to outsiders comments that are untrue, misleading and/or not full and frank, and therefore failed to act with integrity and honesty contrary to the Code of Conduct.

### **Allegation 8**

In response to concerns about the content of your emails of 28 November 2017 to the Dean, your Response asserts that the Dean's email to you *"overstepped the mark and sought to impose obligations on [you] that [you] [were] not subject to"*. Your Response further asserts that you were *"not subject to the Code of Conduct"*.

The Dean's email of 28 November 2017 outlined the expectations of you in relation to your presentation at the Sydney Institute. Those expectations were consistent with the conduct expected of you as a University employee, including the obligation in the Code of Conduct to uphold the integrity and good reputation of the University. Contrary to what your Response asserts, there was nothing inappropriate in the Dean doing so, particularly where you had recently received a Final Censure for communicating in a manner inconsistent with the Code of Conduct and breaching your obligations with respect to confidentiality.

Your Response relies on the University not alleging that the Dean was, in fact, threatened, in answer to this allegation.

Your email is addressed to: "██████████ (and ██████████ and whoever)" (sic).

The email salutation is disrespectful. The language used in the email is intimidating, disrespectful and divisive and directed not only to the Head of Physical Sciences and Dean but also the University management, in the manner of addressing it to "whoever" (sic).

Comments such as *"I think you should consider your actions in all this and which side you want to be remembered as being part of. So far it does not look encouraging but I live in hope"*, and stating that the Dean's email is *"offensive"* and does *"not live up to public expectations of decent behaviour"* are, by any reasonable measure, threatening and disrespectful, particularly when used in discussions with your supervisor.

Further, it is not an answer to state that, as a long serving employee you should be given *"occasional leeway"*.

By the very fact of your seniority and length of service, and in circumstances where you had been previously censured for conduct contrary to the Code of Conduct, including failing to respect others, you know what is expected of you in communications with your colleagues and that should be with respect and consistent with the Code of Conduct.

On 7 March 2018, you wrote to the Dean, over three months after your email, and after the Allegations Letter and the Response. While you acknowledge in your email to the Dean that you could have communicated better, you do not acknowledge the inappropriateness of the communication.

Rather, you assert that it was nothing more than a *"frank exchange"* between educated, professional adults and appear to assert that because the Dean may not in fact feel threatened, there is nothing inappropriate about the email exchange. You have failed to address the language used in the email, including the comments that:

- (a) *"I think you should consider your actions in all this and which side you want to be remembered as being part of. So far it does not look encouraging but I live in hope"*;
- (b) that the Dean's email is *"offensive"* and does *"not live up to public expectations of decent behaviour"*.

You have not apologised to the Dean and demonstrate no contrition for your communication, merely stating you acknowledged it could have been worded better. Therefore, I do not accept that your late email of 7 March 2018, nor your Response, excuse your behaviour in sending the email in the first place.

The University is therefore satisfied that you have breached the Code of Conduct, including the requirement to *"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"*

### ***Allegation 9***

The Allegations Letter identified a number of concerns giving rise to a conflict of interest with respect to your work with the Institute of Public Affairs (IPA).

Your Response asserts that there is no conflict of interest on the basis that:

- (a) IPA paid for your travel expenses for the presentation, but that is usual practice;

- (b) in the case of both the presentation and the IPA book chapter, you received no payment; and
- (c) you have disclosed to the University and the world at large that IPA was providing assistance with your legal costs.

You have failed to be full and frank with the University regarding the payments made by the IPA. You did not disclose that the IPA paid for your accommodation or travel costs at the time you attended the book launches. It was only when requested to do so by the University that you disclosed that the IPA had funded those costs.

Further, contrary to what your Response asserts, you did not disclose to the University that IPA was funding your legal costs to challenge the 2017 Disciplinary Process at the time at which they agreed to do so. You only disclosed this after the fact and your disclosure did not meet the requirements under the Code of Conduct for managing conflicts of interests.

As an employee of the University, you have a duty to promote the best interests of the University (as your employer), not your personal interests or the interests of another to the detriment of the University.

Your conduct in respect of the IPA demonstrates that you are preferring your own interests and those of the IPA over your duty to act in the University's best interests. In particular:

- (a) you were actively involved in promoting the IPA's book, attending the book launch at their request, and where you repeated comments that you had previously been censured for, including comments denigrating your colleagues and key stakeholders of the University; and
- (b) at the same time:
  - (i) the IPA was funding your legal costs to dispute the Final Censure, had paid for your travel and accommodation (without you making the required disclosure to the University contemporaneous to those costs being paid); and
  - (ii) the IPA endorses, and has promoted the comments you have expressed at the book launch and publically since.

Having regard to those matters I am satisfied that your conduct in connection with the IPA demonstrates that you are not capable of putting the University's interests ahead of your own or those of the IPA.

I am particularly concerned with these matters given the impact of your conduct on the integrity and good reputation of the University and your lack of understanding as to why your conduct is inappropriate.

In light of the above, I am satisfied that you have not taken reasonable steps to avoid or manage a conflict of interest between your own personal interests and the interests of the IPA, and the interests of the University, contrary to the Code of Conduct.

### ***Other matters***

Your Response asserts that the Allegations Letter implies you have "gone rogue".

There is no proper basis for such an allegation.

Your Response also appears to assert that the University, including through the confidentiality directions, has sought to "curtail" your rights.

That is a gross misrepresentation of the situation.

These allegations also do not relate to academic freedom, nor do they relate to free speech. The fact that you have, and continue to promote your academic views, including in speeches and publications, reflects the fact that the University has not prevented you from doing so, or sought to do so.

The allegations relate to your alleged conduct which appears to demonstrate disregard and disrespect for the University, for its employees, your co-workers and appears to be contrary to lawful and reasonable directions provided to you by the University and the Code of Conduct.

As a result, these allegations relate to your breach of obligations on all employees to comply with a lawful and reasonable direction from the University as employer and the Code of Conduct.

I have made my decision under the Enterprise Agreement, I am not influenced by any officer of the University in making this decision. I have not predetermined this matter and have considered your Response in making this decision.

I have not made my decision because you have commenced legal proceedings against the University and I am not influenced by those proceedings. Your decision to initiate legal action is and was a matter for you. You are entitled to do so. The University is equally entitled to defend itself, in court.

This conduct relates to your conduct as an employee and to the expectations that you will comply with the Code of Conduct. My determination is based on my review of the available evidence, and a consideration of whether, on balance, you have engaged in the conduct alleged having regard to the standards of behaviour set out in the Code of Conduct and the lawful and reasonable directions given to you by the University.

For the reasons outlined above the University is satisfied that you have repeatedly and wilfully disregarded your employment obligations, including directions from the University and the Code of Conduct, which were recently reinforced to you in the Final Censure.

As a result, the University has lost the trust and confidence necessary for it to have, that you value and respect your employment relationship with the University and will act in the best interests of the University moving forward.

Finally, I note that in correspondence on 7 March and 14 March 2018 from your solicitors to the University's solicitors, it is asserted that the Director HR was required to provide me with his recommendation on sanction and all the relevant evidence within 10 working days of receiving your Response.

That position does not reflect the text of the Enterprise Agreement.

Pursuant to clause 54.3.5, on receipt of your Response, the Director HR was required to consider all the evidence. No timeframe is stipulated in clause 54.3.5 for the Director HR to review all the evidence.

Having reviewed all the evidence, the Director HR was then required to either:

- (a) inform you within 10 days that there was no Serious Misconduct or that the allegations of Serious Misconduct were unsubstantiated; or
- (b) if satisfied there was Serious Misconduct, provide me with a recommendation on sanction along with all of the relevant evidence including your Response. There is no specified timeframe for that to occur.

As the Director HR was satisfied there was Serious Misconduct, he was required to provide me with a recommendation on sanction along with all of the relevant evidence including your Response. The Director HR was not bound by any 10 day timeframe to do so (or any other timeframe).

The correspondence from your solicitors appears to acknowledge the contradiction in the interpretation pressed by you.

On the one hand, your Response threatened an injunction and sought undertakings that would have suspended the disciplinary proceeding.

Then, on 7 March 2018, through your solicitors, you acknowledged that this request was premature and sought to artificially retrigger an obligation that does not exist in the Enterprise Agreement—namely, for the Director HR to make a decision within a deadline set by you before the Director HR had reviewed all the evidence, as he was required by clause 54.3.5 of the Enterprise Agreement to so do.

I am satisfied that the Director HR has complied with clause 54.3.5 of the Enterprise Agreement. Firstly, by having reviewed all of the available evidence, and secondly, by then providing me with his recommendation on sanction along with all relevant evidence.

### **Termination of employment**

I have reviewed all evidence and taken into account all relevant matters, including your Response 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 by deliberately breaching confidentiality, denigrating the University and its employees, and not acting in the best interests of the University, contrary to your obligations under the Code of Conduct. Your breaches of the Code of Conduct are serious. I am further satisfied that you have not demonstrated insight into the inappropriateness of your conduct and its capacity to adversely affect the University.

Your behaviour in regards to each allegation, individually and collectively, is serious and destructive of the necessary trust and confidence for the continuation of the employment relationship.

Pursuant to clause 54.3.6 of the Enterprise Agreement, I have determined that there has been Serious Misconduct.

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. Individually, and collectively, the allegations demonstrate a pattern of deliberate Serious Misconduct contrary to the standards expected of you as an employee of the University under the Code of Conduct and having regard to the seniority of your position as a Professor.

Based on your Response, 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.

You also received the Final Censure on 21 November 2017 for engaging in a pattern of similar conduct, including breaching confidentiality and denigrating the University, its employees and stakeholders contrary to your obligations under the Code of Conduct and/or in the best interests of the University.

Given the pattern of conduct, I consider termination of your employment is an appropriate sanction. Your conduct, individually and collectively, is destructive of the trust and confidence necessary for the maintenance of the employment relationship and the University cannot be satisfied that you will comply with your obligations as an employee of the University moving forward.

I have taken into account your length of service and contributions to the University, particularly in relation to teaching. I have decided that these matters do not mitigate against termination.

**Opportunity to provide a final submission**

In accordance with clause 54.4 of the Enterprise Agreement, you have the opportunity to provide the Vice Chancellor with a written submission as to why termination of employment should not be imposed, prior to a final decision being made under clause 54.5 of the Enterprise Agreement.

If you wish to make a written submission, it must be received by **5.00pm on 20 April 2018**. Please direct your written response via email to the Vice Chancellor and ensure that it is marked "private & confidential".

If you do not make a written submission by **5.00pm on 20 April 2018**, the Vice Chancellor will proceed to make a final determination on the information before her.

**Suspension pending final submission**

Taking into account the preliminary determination of termination of your employment for Serious Misconduct and the nature of the findings against you, I consider that suspension of your employment is required.

I confirm under clause 54.6 that you are suspended with pay from today until the University makes a final determination in relation to your employment.

You are directed not to attend at work, or engage in any work during this period.

Having regard to the findings against you, your email access and access to the University is temporarily suspended.

**Ongoing confidentiality obligations**

I confirm that the disciplinary process and all matters relating thereto (including but not limited to this decision), 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 Geoff Rogers, Director HR or myself.

Yours sincerely



  
Deputy Vice Chancellor, Division of Services and Resources  
James Cook University

**Attachments:**

1. **Summary of Allegations and Findings**

## Attachment 1 - Summary of findings on each allegation

Allegation	Finding
<p><b>Allegation 1</b></p> <p>On or about November 2017, Professor Ridd deliberately disclosed confidential information to <i>The Australian</i> relating to the 2016 and 2017 Disciplinary Processes, in breach of confidentiality directions previously provided to him. The documents alleged to have been disclosed to <i>The Australian</i> included correspondence contained in his affidavit filed in his Court proceedings.</p> <p>The Allegations Letter directed Professor Ridd to provide the University with a copy of his correspondence with <i>The Australian</i>.</p>	<p>I find that allegation 1 is <b>substantiated</b>.</p>
<p><b>Allegation 2</b></p> <p>Professor Ridd has published confidential documents relating to the 2016 and 2017 Disciplinary Processes, contrary to the confidentiality direction provided to him by the University, on his Wordpress Website identified in the Allegations Letter (<b>Allegation 2.1</b>).</p> <p>In doing so, has republished his denigrating comments of Professor ██████████ without any regard for the impact of his conduct on Professor ██████████ deliberately knowing he has been censured in 2016 and 2017 for doing so (<b>Allegation 2.2</b>).</p>	<p>Allegation 2 consists of sub-allegations 2.1 and 2.2.</p> <p>I find that:</p> <ul style="list-style-type: none"> <li>(a) Allegation 2.1 is <b>substantiated</b>.</li> <li>(b) Allegation 2.2 is <b>substantiated</b>.</li> </ul>
<p><b>Allegation 3</b></p> <p>Professor Ridd deliberately and repeatedly breached the confidentiality directions given to him by the University:</p> <ul style="list-style-type: none"> <li>(a) in a meeting with ██████████ late December 2017 (<b>Allegation 3.1</b>);</li> <li>(b) by providing ██████████ with a folder of confidential documents relating to the 2016 and/or 2017 Disciplinary Process (<b>Allegation 3.2</b>);</li> <li>(c) in respect of comments attributed to him in an article published in <i>The Australian</i> on 1 February 2018 (the <b>February Australian Article</b>). Particulars of those comments were quoted in the Allegations Letter (<b>Allegation 3.3</b>);</li> <li>(d) in respect of an article published on the <i>Cairns News</i> website on 29 January 2018, which outlines that Professor Ridd disclosed confidential information relating to the 2017 Disciplinary Processes to the author of the article (Don Aitkin) (<b>Allegation 3.4</b>); and</li> <li>(e) by directly or indirectly causing or allowing a flyer to be distributed on the University campus which discloses the outcome of the 2017 Disciplinary Process, and that he has no intention of complying with the Final Censure (<b>Allegation 3.5</b>).</li> </ul>	<p>Allegation 3 consists of conduct involving multiple incidents, described as sub-allegations 3.1, 3.2, 3.3, 3.4 and 3.5.</p> <p>I find that:</p> <ul style="list-style-type: none"> <li>(a) Allegation 3.1 is <b>unsubstantiated</b>.</li> <li>(b) Allegation 3.2 is <b>substantiated</b>.</li> <li>(c) Allegation 3.3 is <b>unsubstantiated</b>.</li> <li>(d) Allegation 3.4 is <b>substantiated</b>.</li> <li>(e) Allegation 3.5 is <b>substantiated</b>.</li> </ul>
<p><b>Allegation 4</b></p> <p>Professor Ridd has continued to promote discussion and perpetrate the view, both within and external to the University, that the University</p>	<p>Allegation 4 consists of conduct involving multiple incidents,</p>

<p>took disciplinary action against him because he has a different scientific view to the University or its stakeholders, where:</p> <ul style="list-style-type: none"> <li>(a) there was no proper basis for making those comments;</li> <li>(b) the comments have damaged, and have the potential to further damage, the University's reputation; and</li> <li>(c) in deliberate disregard of his obligations to the University,</li> </ul> <p>including through comments published:</p> <ul style="list-style-type: none"> <li>(d) on his Go Fund Me website (<a href="https://www.gofundme.com/peter-ridd-legal-action-fund">https://www.gofundme.com/peter-ridd-legal-action-fund</a>) (<b>Allegation 4.1</b>);</li> <li>(e) on his Wordpress Website (<b>Allegation 4.2</b>);</li> <li>(f) in <i>The Australian</i> article of 22 November 2017 (<b>The Australian Article</b>) (<b>Allegation 4.3</b>);</li> <li>(g) in the February Australian Article (<b>Allegation 4.4</b>);</li> <li>(h) in the Flyer (<b>Allegation 4.5</b>).</li> </ul>	<p>described as sub-allegations 4.1, 4.2, 4.3, 4.4 and 4.5.</p> <p>I find that:</p> <ul style="list-style-type: none"> <li>(a) Allegation 4.1 is <b>substantiated</b>.</li> <li>(b) Allegation 4.2 is <b>substantiated</b>.</li> <li>(c) Allegation 4.3 is <b>substantiated</b>.</li> <li>(d) Allegation 4.4 is <b>substantiated</b>.</li> <li>(e) Allegation 4.5 is <b>substantiated</b>.</li> </ul>
<p><b>Allegation 5</b></p> <p>Professor Ridd has made or published comments to the effect that he was denied procedural fairness in the 2017 Disciplinary Process, where:</p> <ul style="list-style-type: none"> <li>(a) there was no proper basis for making those comments;</li> <li>(b) the comments have damaged, and have the potential to further damage, the University's reputation; and</li> <li>(c) in deliberate disregard of his obligations to the University,</li> </ul> <p>including through comments published:</p> <ul style="list-style-type: none"> <li>(d) in the February Australian article (<b>Allegation 5.1</b>);</li> <li>(e) on his Wordpress Website (<b>Allegation 5.2</b>); and</li> <li>(f) in the Flyer (<b>Allegation 5.3</b>).</li> </ul>	<p>Allegation 5 consists of conduct involving multiple incidents, described as sub-allegations 5.1, 5.2 and 5.3.</p> <p>I find that:</p> <ul style="list-style-type: none"> <li>(a) Allegation 5.1 is <b>substantiated</b>.</li> <li>(b) Allegation 5.2 is <b>substantiated</b>.</li> <li>(c) Allegation 5.3 is <b>substantiated</b>.</li> </ul>
<p><b>Allegation 6</b></p> <p>On 23 November 2017, Professor Ridd sent an email to a Student, Ross Marchant, attaching a copy of The Australian Article, with the subject line "<i>for your amusement</i>"</p> <p>In doing so, Professor Ridd indirectly communicated that the 2017 Disciplinary Process is "amusing" contrary to the Final Censure which outlines that Professor Ridd will not directly or indirectly trivialise, satirise or parody the University taking disciplinary action against him.</p>	<p>I find that allegation 6 is <b>substantiated</b>.</p>
<p><b>Allegation 7</b></p> <p>Professor Ridd has published comments regarding the 2017 Disciplinary Process that are untrue, misleading and/or not full and frank, and therefore failed to act with honesty and integrity.</p>	<p>I find that allegation 7 is <b>substantiated</b>.</p>

<p>This Allegation concerns comments published on his Wordpress Website, particulars of which are quoted in the Allegations Letter.</p>	
<p><b>Allegation 8</b></p> <p>On 28 November 2017, Professor Ridd communicated with Professor ██████████, Dean (Dean) in a manner that was threatening, insubordinate, disrespectful and contrary to the Code of Conduct including the requirement to "<i>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</i>".</p> <p>This allegation concerns an email Professor Ridd sent to the Dean, particulars of which are quoted in the Allegations Letter.</p>	<p>I find that allegation 8 is <b>substantiated</b>.</p>
<p><b>Allegation 9</b></p> <p>Professor Ridd has preferred his own interests, and those of the IPA, above the interests of the University in breach of his obligations under the Code of Conduct to "<i>take reasonable steps to avoid, or disclose and manage, any conflict of interest (actual, potential or perceived) in the course of employment</i>".</p>	<p>I find that allegation 9 is <b>substantiated</b>.</p>