

Person acting Mitchell Downes  
**Reply to Brisbane office**  
Our reference 23409

20 April 2018

Sandra Harding  
Vice Chancellor  
James Cook University  
Townsville Campus  
Townsville QLD 4811

Care of: hcray@claytonutz.com

Dear Madam

## Re: Professor Peter Ridd - Employment with James Cook University

As you will be aware we act for Professor Ridd.

We refer to the letter from Deputy Vice Chancellor [REDACTED] (**DVC**) to our client dated 20 April 2018 pursuant to clause 54.3.6 of the Enterprise Agreement (**EA**) informing our client that she has determined that:

- our client had engaged in Serious Misconduct, including serious breaches of the James Cook University (**JCU**) code of conduct and behaviour that is contrary to the best interests of JCU (**DVC Determinations**); and
- our client's employment ought to be terminated (**Proposed Termination**).

Pursuant to clause 54.4 of the EA our client is entitled to make a written submission to you as to why the Proposed Termination ought not be imposed. This letter is that submission.

### Submission on Proposed Termination

This submission is made subject to and without derogating from the Primary Position set out hereunder.

The DVC Determinations rely on the DVC's findings in respect of nine allegations (**DVC Findings**). The bulk of the DVC Findings, and the findings relied on to issue the previous final censure, are the subject of a legitimate dispute between our client and JCU, which our client is in the process of ventilating through the courts.

There are reasonable grounds for the interpretation of the EA that has been adopted by our client and his view as to the validity of directions given to him on behalf of JCU. While JCU states that it has a different view in relation to these matters, our client's position cannot be said to be baseless, without merit or hopeless.

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It is in that context that our client and JCU has found itself in dispute. The effect of that, is that our client has not been wilfully and knowingly conducting himself in breach of his obligations as an employee of JCU.

If our client is ultimately found to be wrong about his interpretation of the EA and the validity of the relevant directions given to him, he will, of course, abide by that decision and conduct himself henceforth in accordance that determination.

Further, no actual harm, loss or material prejudice said to have been caused by any of our client's conduct has been identified.

It is for these reasons, as well as our client's length of service and contribution to teaching, that our client submits that the Proposed Termination is inappropriate.

The appropriate disciplinary sanction in the circumstances in a censure.

### Primary Position

The DVC Determinations rely on the SDVC's findings in respect of nine allegations (**DVC Findings**). Factual and legal disputes central to the bulk of the DVC Findings are presently before the court, and more will soon be. If those matters are determined in favour of our client (which our client contends they will be), the relevant the DVC Findings will fall - so too the previous final censure.

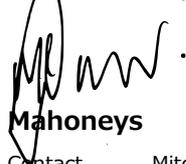
The balance of the DVC Findings not so infected are, of themselves, incapable of constituting Serious Misconduct and/or do not warrant termination, particularly in the absence of a previous final censure (which will have been set aside).

In those circumstances, the appropriate disciplinary sanction, if any, is counselling or censure.

Further, the DVC has failed to give adequate (and in some cases, any) reasons in relation to arguments made on behalf of our client and the complaints previously made in our client's response to the Third SoA are maintained.

All of our client's rights in relation to the above, and other matters not specifically mentioned herein, are reserved.

Yours faithfully



**Mahoneys**

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