



LEGISLATIVE ASSEMBLY

STANDING ORDERS AND PROCEDURE COMMITTEE

CITIZENS' RIGHT OF REPLY – MS LEA ROSSER

REPORT 5/55 – NOVEMBER 2013

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# Terms of Reference

The committee was established to inquire into and report on matters relating to the standing orders and the procedures of the House and its committees.

# Speaker's Foreword

At a meeting of the Standing Orders and Procedure Committee held on 21 November 2013, the Committee agreed that Ms Lea Rosser should be given a response to references made about her in the House by the Member for Cessnock, Mr Clayton Barr MP on 22 November 2012.

The Committee's report on the proposal is commended for consideration by the House.

**Shelley Hancock**  
Speaker

# Chapter One

- 1.1 Ms Lea Rosser, former General Manager of Cessnock City Council, has made an application pursuant to the Citizens' Right of Reply procedure (adopted by the House on 3 May 2011) for the publication of a response to references made about her in the House by the Member for Cessnock, Mr Clayton Barr MP on 22 November 2012.
- 1.2 The Committee considers that Ms Rosser should be given a response; and a copy of that response is at Appendix One.
- 1.3 In agreeing to the response, the Committee notes, as required by the resolution of the House for a Citizen's Right of Reply procedure (at Appendix Two), that it has not considered or judged the truth of any statements made in the Legislative Assembly or the submission.
- 1.4 The Committee recommends that this report be published incorporating the response by Ms Rosser at Appendix One.

Appendix One – Response by Ms Lea  
Rosser to references made about her by the  
Member for Cessnock, Mr Clayton Barr MP

I, Lea Rosser, former General Manager of Cessnock City Council wish to claim a citizen's right of reply to statements made by Mr Clayton Barr, MLA. I refer to the following comments by Clayton Barr the Member for Cessnock at 8.50pm on 11 November 2012, the last sitting day of Parliament for the year.

Mr Barr makes a number of statements during his speech that are factually incorrect and the subject matter of which has adversely affected my reputation. In the absence of an accurate and up to date public record, the subject matter also has the potential to adversely affect my future dealings and associations with others.

I will refrain from addressing all of the inaccuracies on Mr Barr's speech but seek to correct the public record in relation to the key misrepresentations.

The key misrepresentations in Mr Barr's speech follow with my clarification for the record.

*"The 'rot' of Cessnock council is first and foremost led by the current general manager, Ms Lea Rosser."*

The Division of Local Government has not expressed any such concern over the operations at Cessnock City Council. In fact the Council has delivered well over 90% of its delivery program/operational plan, which is an improvement of less than 70% in 2009/10. Further, Council had its planning powers returned (which were taken prior to my commencement) following internal improvements.

*"She was not reinstated to any of her previous four contracts with local or State government departments, either having either failed to fulfil her five-year term of agreement or having been moved on as soon as she completed her term."*

I was not removed from any of my previous roles and the reasons for moving were simply career progressions. My contract was renewed as General Manager at Canada Bay Council. I served my full 5 year term at Auburn Council, and I left Warringah Council after being head-hunted for a senior role at the Sydney Catchment Authority.

*"...costs in excess of \$1 million..."*

I assume Mr Barr is making reference to legal costs associated with my protection as a whistleblower, all of which are very much less than that suggested. Had certain Councillors given an undertaking not to sack me until the ICAC preliminary investigation was concluded no costs would have been incurred. A number of Councillors chose to provide the undertaking, others did not. In September 2012 ICAC assumed conduct of the litigation and announced the escalation of its preliminary investigation to a full operation which is still underway.

*"The general manger miraculously returned from two months of long illness. She submitted a report of corrupt conduct to the Division of Local Government, the Ombudsman and the Independent Commission Against Corruption. This meant that she could invoke the whistleblowers protection Act."*

During this time my mother was gravely ill, hospitalised for three weeks and not expected to live. Further, I cannot invoke the Whistleblowers Act – General Managers have a legislated responsibility to report matters to the ICAC, which I did. I

am also able to make protected disclosures, which has been stated in Court and it is on record that they were made prior to January 2012. The Supreme Court has upheld the veracity of the disclosures in granting several subsequent injunctions.

*"The councillors were seeking to sack Ms Rosser because of ongoing performance issues, which have been raised by councillors of all political persuasions over the past couple of years."*

All of my performance reviews, which were adopted by Council, have rated my performance as satisfactory and in a number of areas have been more than satisfactory.

*"...three motions of no confidence in her by staff,*

All matters raised in the motions of no confidence were addressed and where required, all matters addressed were acknowledged in the Industrial Relations Commission.

*"...the general manager moved from a purpose-built office upstairs and constructed a new downstairs area at a cost of just \$500. If Ms Rosser can build an office for \$500, she could rebuild the State with a couple of thousand dollars"*

This is factually incorrect. The move was made in response to frequent suggestions to staff that I relocate to the same floor level as the rest of the staff of Council. No new office was constructed downstairs. A partition was removed from two pre-existing offices and the cost has been reported to Council on more than one occasion.

*"Ms Rosser has failed to address allegations that she has improperly recruited persons based on their religious belief, in a form of positive discrimination. (Q) It has been suggested that people of the same religious belief as her have been given unnecessary and preferential treatment in their recruitment."*

My religion is irrelevant to my professional roles and these comments are offensive and contrary to law. For the record I have never employed someone who is a member of my religion in any organisation I have worked in, including Cessnock City Council.

*"Three of the four current directors share her religion, which is a minority religion. It is a staggering statistic of 33 million to one that that would happen in a single council"*

This is untrue and offensive. None of the directors share my religion.

*"No-one should lose sight of the fact that the general manager convinced the former mayor to take a case to the Supreme Court involving the council against the councillors at a cost of approximately \$1 million to date."*

I was on leave at the time the action was commenced and did not at any time speak to the Mayor to convince her to take a case to the Supreme Court. I was not aware of the action of the Councillors or the Mayor in respect of this matter until after the fact.

Legal costs associated with my protection as a whistleblower are very much less than that suggested. Again, had certain Councillors given an undertaking not to sack me until the ICAC preliminary investigation was concluded no costs would have been incurred. A number of Councillors chose to provide the undertaking, others did not. In September 2012 ICAC assumed conduct of the litigation and announced the escalation of its preliminary investigation to a full operation which is still underway.

*"This leaves the Cessnock Council lame and impotent because it does not have the ability to performance manage the general manager"*

This is factually incorrect. I returned early from sick leave in March 2012 for my performance review. The outcome of the review of following reviews was that my performance was assessed to be satisfactory. This assessment was adopted by Council and included consideration of factors such as delivering greater than 90% of Council's operational program for the first time.

## Appendix Two – Citizens' Right of Reply

*(Adopted 3 May 2011, Votes and Proceedings p. 36)*

*That, during the current Parliament, unless otherwise ordered, the following Citizens' Right of Reply be adopted:*

*(1) That where a submission is made in writing by a person who has been referred to in the Legislative Assembly by name, or in such a way as to be readily identified:*

*(a) claiming that the person or corporation has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person or corporation; and*

*(b) requesting that the person be able to incorporate an appropriate response in Hansard,*

*and the Speaker is satisfied:*

*(c) that the subject of the submission is not so obviously trivial or the submission so frivolous, vexatious or offensive in character as to make it inappropriate that it be considered by the Standing Orders and Procedure Committee;*

*(d) the submission was received within 6 months after the relevant comments were made in the House unless the applicant can show exceptional circumstances to explain the delay; and*

*(e) that it is practicable for the Committee to consider the submission under this resolution, the Speaker shall refer the submission to that Committee.*

*(2) That the Committee may decide not to consider a submission referred to it under this resolution if the Committee considers that the subject of the submission is not sufficiently serious or the submission is frivolous, vexatious or offensive in character, and such a decision shall be reported to the Legislative Assembly.*

*(3) That if the Committee decides to consider a submission under this resolution, the Committee may confer with the person who made the submission and any member who referred in the Legislative Assembly to that person or corporation.*

*(4) That in considering a submission under this resolution, the Committee shall meet in private session.*

*(5) That the Committee shall not publish a submission referred to it under this resolution of its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the Legislative Assembly.*

*(6) In considering a submission under this resolution and reporting to the Legislative Assembly the Committee shall not consider or judge the truth of any statements made in the Legislative Assembly or the submission.*

*(7) That in its report to the Legislative Assembly on a submission under this resolution, the Committee may make either of the following recommendations:*

*(a) that no further action be taken by the Committee or the Legislative Assembly in relation to the submission; or*

*(b) that a response by the person who made the submission, in terms specified in the report and agreed to by the person or corporation and the Committee, be published by the Legislative Assembly or incorporated in Hansard, and shall not make any other recommendations.*

*(8) That a document presented to the Legislative Assembly under paragraph (5) or (7):*

*(a) in the case of a response by a person or corporation who made a submission, shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character; and*

*(b) shall not contain any matter the publication of which would have the effect of:*

*(i) unreasonably adversely affecting or injuring a person or corporation, or unreasonably invading a person's privacy, in the manner referred to in paragraph (1); or*

*(ii) unreasonably adding to or aggravating any such adverse effect, injury or invasion of privacy suffered by a person.*

*(9) That a corporation making a submission under this resolution is required to make it under their common seal.*

