

9 May 2017

SSC documents for proactive release relating to the CERA: Alleged Conflicts of Interest Inquiry

In the interests of transparency the State Services Commission is releasing the following record of the internal administrative documents the State Services Commission (SSC) holds directly relating to its inquiry into allegations of conflicts of interest by three employees of the former Canterbury Earthquake Recovery Authority (CERA), other than evidence given or submissions made to the inquiry; and documents withheld in full in accordance with the good reasons under the Official Information Act 1982 (OIA), being:

- section 9(2)(a), to protect the privacy of natural persons, including that of deceased natural persons;
- section 9(2)(b)(ii), to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;
- section 9(2)(ba), to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information—
 - (i) would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; or
 - (ii) would be likely otherwise to damage the public interest;
- section 9(2)(f)(iv), to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials;
- section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty
- section 9(2)(h), to maintain legal professional privilege;
- section 9(2)(k), to prevent the disclosure or use of official information for improper gain or improper advantage.

Where documents refer to attachments which are not included in this release, those documents have been withheld in full under one or more of the above grounds. Trivial information and information not directly in scope has also been withheld.

Information has also been withheld within the released documents in accordance with the good reasons under the OIA. Where information has been withheld, the reasons are indicated alongside the withholding with a reference to the relevant section in the OIA.

Where withholding has occurred, the public interest in releasing the information has been considered, but has been outweighed by the reasons for the withholding.

Select relevant evidence and submissions to the inquiry have been released separately as an Appendix to the Final Report of the inquiry.

Nicholai Mumford [SSC]

From: Tim Ingleton [SSC]
Sent: Thursday, 2 February 2017 5:56 p.m.
To: @SSC Media Alerts
Subject: Editorial: Allegations of earthquake recovery double-dipping must be thoroughly investigated | Stuff.co.nz

<http://i.stuff.co.nz/the-press/opinion/89025291/Editorial-Allegations-of-earthquake-recovery-double-dipping-must-be-thoroughly-investigated>

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Nicholai Mumford [SSC]

From: Nicholai Mumford [SSC]
Sent: Monday, 30 January 2017 2:00 p.m.
To: Geoff Short [SSC]; Tim Ingleton [SSC]
Cc: Andrew Gane [SSC]; Leanne Kelly [SSC]
Subject: FW: CERA - Code of Conduct
Attachments: 1821298_CERA - application of code.nrl; 1792095_11_03_2011 CERA senior team induction (Benesia Smith).nrl (WILSON, John).nrl; 1661399_Application of Code (CERA, MSI, Productivity Commission, Electricity Authority, Southern DHB, Health Quality and Safety Commission).nrl; 1661066_Code of Conduct - Application to CERA.nrl

Hi Geoff and Tim,

Please find attached links to the records that show SSC applied the Code of Conduct to CERA commencing from 1 August 2011.

Kind regards,
Nicholai

Nicholai Mumford
Solicitor
State Services Commission
DDI: +64 4 495 6622
Nicholai.Mumford@ssc.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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From: Leanne Kelly [SSC]
Sent: Monday, 30 January 2017 1:50 p.m.
To: Andrew Gane [SSC] <Andrew.Gane@ssc.govt.nz>; Nicholai Mumford [SSC] <Nicholai.Mumford@ssc.govt.nz>
Subject: CERA - Code of Conduct

[IN-CONFIDENCE]

FYI

Leanne Kelly | Legal Services Group | State Services Commission
Tel: +64 4 495 6682 | Cell: 9(2)(a) privacy | Email: leanne.kelly@ssc.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

Response Sheet

Phone -calls

Phone calls from individuals wishing to provide information regarding individuals associated with the SSC investigation into three former CERA employees should be referred to The State Services Commission mainline 04 495 6600. Callers will be referred to an appropriate member of SSC to talk to.

Callers to other agencies or Ministers' offices should be advised:

"The State Services Commissioner has initiated an investigation into three former CERA employees in their public roles. This investigation is being undertaken under the State Sector Act 1988. Any matters related to the investigation need to be raised with the appropriate people at the State Services Commission. You will need to ring 04 495 6600 for assistance."

E-mails

E-mails to other agencies or Minister's offices should be referred to commission@ssc.govt.nz. These e-mails will be centrally recorded.

Ministers' Offices may wish to respond to any correspondence with the following:

"Thank you for your correspondence. The State Services Commissioner has initiated an investigation into three former CERA employees in their public roles. This investigation is being undertaken under the State Sector Act 1988. Any matters related to the investigation must be referred to the State Services Commission.

As a result I have forwarded your correspondence to the State Services Commission for further action or information."

Letters

Letters to other agencies or Minister's offices should be referred to The State Services Commissioner and will be acknowledged by SSC and centrally recorded.

Ministers' Offices may wish to respond to any letter correspondence with the following:

"Thank you for your correspondence. The State Services Commissioner has initiated an investigation into three former CERA employees in their public roles. This investigation is being undertaken under the State Sector Act 1988. Any matters related to the investigation must be referred to the State Services Commission.

As a result I have forwarded your correspondence to the State Services Commission for further action or information. The State Services Commissioner will respond to you in due course"

The address for correspondence to SSC is below:

State Services Commissioner
Level 10, Reserve Bank of New Zealand (RBNZ) Building
2 The Terrace
PO Box 329
Wellington 6140

Attached for your information is a statement I have just issued, announcing that I am launching a State Sector Act investigation into these allegations.

I am grateful to Andrew Kibblewhite and Chai Chuah for their professional handling of the initial review.

Cheers,
Peter

1 February 2017

SSC to investigate allegations against former CERA employees

State Services Commissioner Peter Hughes is launching an investigation into allegations former employees of the Canterbury Earthquake Recovery Authority used their Public Service position to advance their private business interests.

"Allegations have been made in the news media that three individuals were inappropriately involved in private business dealings that were related to their roles as Public Servants at the time," Mr Hughes said.

"These allegations are very concerning and if established would be a serious breach of the standards of integrity expected in the Public Service," he said.

The Department of the Prime Minister and Cabinet has been looking into the allegations made, with the assistance of SSC, to gain a better understanding of what took place.

"On the basis of that work and the need to look beyond CERA, I have formed the view that there are grounds for a wider investigation," said Mr Hughes.

"I am launching an investigation under the State Sector Act to establish what has happened here," he said.

"New Zealanders need to be able to have trust and confidence in Public Servants and the Public Service. These allegations raise questions that cannot be left unanswered," said Mr Hughes.

"The Code of Conduct for the State Services makes it clear that it is unacceptable for any State Servant to use their role to advance private business interests or seek any sort of personal benefit," he said.

The investigation will be carried out using the powers set out in the State Sector Act 1988. It will investigate the actions of the three individuals while employed by CERA and in subsequent roles they have held in government agencies, in relation to the allegations concerning the identification and management of conflicts of interest.

The Commissioner intends to appoint a qualified investigator to carry out the investigation. SSC is working to finalise an appointment, which will be publicly notified as soon as possible.

Terms of reference for the investigation are currently being prepared and will be published once they are finalised. This is expected by the end of the week.

The Commissioner is requesting an interim report by the end of February.

ENDS

Nicholai Mumford [SSC]

From: Andrew Gane [SSC]
Sent: Wednesday, 1 February 2017 3:47 p.m.
To: Andrew Royle [SSC]
Subject: FW: MOH TORs
Attachments: 01022017150539-0001.pdf; South Island Neurosurgical Service Expert Panel TOR.docx; Electives inquiry ToR.doc

[IN-CONFIDENCE]

fyi
Hei konei ra

Andrew Gane
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From: Phil_Knipe@moh.govt.nz [mailto:Phil_Knipe@moh.govt.nz]
Sent: Wednesday, 1 February 2017 3:16 p.m.
To: Andrew Gane [SSC] <Andrew.Gane@ssc.govt.nz>
Subject: MOH TORs

I've got yin and yang for you (plus a form of ToR I use as the middle way, usually when I have to come up with something in 1-2 hours).

- The 2007 HBDHB ToR 9(2)(g)(i) free and frank
- The 2010 Neurosurgery ToR 9(2)(g)(i) free and frank
- Elective Services ToR.
-

Cheers,

Phil Knipe
Chief Legal Advisor
Ministry of Health
DDI: 04 498 2137
9(2)(a)

<http://www.health.govt.nz>
mailto:Phil_Knipe@moh.govt.nz
----- Forwarded by Phil Knipe/MOH on 01/02/2017 03:00 p.m. -----

Nicholai Mumford [SSC]

From: Lisa Ngaia [SSC]
Sent: Wednesday, 1 February 2017 3:08 p.m.
To: Debbie Power [SSC]; Geoff Short [SSC]; Tim Ingleton [SSC]; Andrew Royle [SSC]; Andrew Gane [SSC]; Nicholai Mumford [SSC]
Subject: FW: Murray Cleverley investigation
Attachments: 01022017144425-0001.pdf

[UNCLASSIFIED]

FYI ...

From: Jo_Waugh@moh.govt.nz [mailto:Jo_Waugh@moh.govt.nz] **On Behalf Of** Chai_Chuah@moh.govt.nz
Sent: Wednesday, 1 February 2017 2:52 PM
To: Peter Hughes [SSC] <Peter.Hughes@ssc.govt.nz>
Cc: Lisa Ngaia [SSC] <Lisa.Ngaia@ssc.govt.nz>; Michael_Hundleby@moh.govt.nz
Subject: Murray Cleverley investigation

Dear Peter

Please find attached a letter from Chai in regard to the above.

Kind regards

Jo Waugh
Executive Assistant to
Chai Chuah
Director-General of Health
Ministry of Health
Ph: 04 816 - 2381

<http://www.health.govt.nz>
mailto:Chai_Chuah@moh.govt.nz

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1 February 2017

Peter Hughes
State Services Commissioner
Wellington

Dear Peter

I am writing to reiterate the Ministry of Health's full cooperation in regard to the investigation into Murray Cleverley.

The Ministry would support the investigation being widened to look at real or perceived conflicts of interest between Mr Cleverley's public and private roles.

In this regard, we note that Mr Cleverley's public roles in the health sector are:

- Chair of Canterbury DHB
- Elected member and Chair of South Canterbury DHB
- Member of the Christchurch Hospital Redevelopment Partnership Group
- Member of the board of New Zealand Health Partnerships.

The Ministry was aware of Mr Cleverley's perceived conflict of interest in relation to Silverfin Capital Ltd (Mr Cleverley is a Director), purchasing 32 Oxford Terrace in 2016, which Canterbury DHB leases.

The Ministry sought assurances that this was being appropriately managed and note the perceived conflict was disclosed to the Board as outlined in this media story from October 2016.

<http://www.stuff.co.nz/business/84981757/CDHB-chairman-declares-possibility-of-perceived-conflict>

Please let me know if we can be of further assistance during the inquiry.

Yours sincerely



Chai Chuah
Director-General of Health

cc: Andrew Kibblewhite
Chief Executive, Department of the Prime Minister and Cabinet

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1 February 2017

SSC to investigate allegations against former CERA employees

State Services Commissioner Peter Hughes is launching an investigation into allegations former employees of the Canterbury Earthquake Recovery Authority used their Public Service position to advance their private business interests.

"Allegations have been made in the news media that three individuals were inappropriately involved in private business dealings that were related to their roles as Public Servants at the time," Mr Hughes said.

"These allegations are very concerning and if established would be a serious breach of the standards of integrity expected in the Public Service," he said.

The Department of the Prime Minister and Cabinet has been looking into the allegations made, with the assistance of SSC, to gain a better understanding of what took place.

"On the basis of that work and the need to look beyond CERA, I have formed the view that there are grounds for a wider investigation," said Mr Hughes.

"I am launching an investigation under the State Sector Act to establish what has happened here," he said.

"New Zealanders need to be able to have trust and confidence in Public Servants and the Public Service. These allegations raise questions that cannot be left unanswered," said Mr Hughes.

"The Code of Conduct for the State Services makes it clear that it is unacceptable for any State Servant to use their role to advance private business interests or seek any sort of personal benefit," he said.

The investigation will be carried out using the powers set out in the State Sector Act 1988. It will investigate the actions of the three individuals while employed by CERA and in subsequent roles they have held in government agencies, in relation to the allegations concerning the identification and management of conflicts of interest.

The Commissioner intends to appoint a qualified investigator to carry out the investigation. SSC is working to finalise an appointment, which will be publicly notified as soon as possible.

Terms of reference for the investigation are currently being prepared and will be published once they are finalised. This is expected by the end of the week.

The Commissioner is requesting an interim report by the end of February.

ENDS

IN-CONFIDENCE

Nicholai Mumford [SSC]

From: Debbie Power [SSC]
Sent: Wednesday, 1 February 2017 2:55 p.m.
To: martin.matthews@oag.govt.nz
Cc: Andrew Royle [SSC]
Subject: FW: updated PR
Attachments: 2256179_CERA staff business - Investigation announcement - Feb 2017.DOCX

[IN-CONFIDENCE]

Martin – please find attached a press release we are issuing at 3pm today.

--
Debbie Power
Deputy State Services Commissioner
State Services Commission
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Fax: +64 4 495 6686
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Nicholai Mumford [SSC]

From: Geoff Short [SSC]
Sent: Wednesday, 1 February 2017 9:07 a.m.
To: Debbie Power [SSC]; Andrew Gane [SSC]; Andrew Royle [SSC]; Tim Ingleton [SSC]
Cc: Dallas Welch [SSC]
Subject: Latest version of CERA note
Attachments: Aide Memoire CERA Allegations.docx

Hi

Here's an electronic version of the latest draft this morning following feedback overnight.

Thanks

Geoff Short
Assistant Commissioner
State Services Commission
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From: [Geoff Short \[SSC\]](#)
To: [Andrew Gane \[SSC\]](#); [Andrew Royle \[SSC\]](#); [Nicholai Mumford \[SSC\]](#); [Debbie Power \[SSC\]](#)
Cc: [Dallas Welch \[SSC\]](#)
Subject: Draft Aide Memoire for MoSS
Date: Tuesday, 31 January 2017 8:11:34 p.m.
Attachments: [Aide Memoire CERA Allegations.docx](#)

Hi all

Attached is a draft note to the Minister following the discussions this evening.

We need to have it through our processes for Peter to consider and approve by 10am tomorrow.

Thanks

Geoff

Geoff Short
Assistant Commissioner
State Services Commission
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SSC Aide Mémoire: Process to Investigate Allegations relating to the conduct of former CERA Employees

Date:	1 February 2017	Report No:	SSC2017/52
Contact:	Peter Hughes	Telephone:	

Proposal:

- 1 As part of my obligations under the no surprises convention I wish to advise you of my intention to undertake an investigation into three former employees of the Canterbury Earthquake Recovery Authority (CERA). To enable me to investigate the matters comprehensively I intend to seek to a written direction from the Prime Minister to investigate this matter pursuant to section 11(1) of the State Sector Act 1988.

Background

- 2 Recent media reports have alleged that, whilst employed by CERA, three individuals incorporated a company, Project and Investment Management Limited (the company), for the purposes of doing business with the same investors that CERA was attempting to attract.
- 3 The Canterbury Earthquake Recovery Authority (CERA) was established as a government department on 29 March 2011 to lead and coordinate the Government's response and recovery efforts following the earthquakes of 2010 and 2011 in Canterbury. From 1 April 2015 it operated as a departmental agency attached to the Department of Prime Minister and Cabinet. Subsequently, CERA was disestablished on 18 April 2016 as the Government transitions from leading the recovery, to establishing long-term, locally-led recovery and regeneration arrangements.
- 4 The three individuals named in the media were Mr Murray Cleverley, Mr Gerard Gallagher and Mr Simon Nikoloff, each of whom was employed by CERA in investment facilitation roles over a period of time. During the period in which they were employed by CERA each of the employees would have been subject to the State Sector Code of Conduct.
- 5 A search of the Companies Register confirms that the company referred to in the media was incorporated on 13 August 2014 and removed from the register on 12 October 2016. Mr Simon Nikoloff was listed as a director of the company and all three individuals were listed as shareholders.
- 6 We understand that both the Serious Fraud Office and the Office of the Auditor-General are looking into whether they may investigate these issues as well. Should either or both of these investigative agencies determine to undertake inquiries, SSC will work with them on any consideration of Code of Conduct issues.

Allegations

- 7 The main allegation in the media is that the three individuals established a company for the purposes of doing business with the same investors that they were employed into the public service to attract to Canterbury.
- 8 That business apparently included the proposed sale of the Youth Hostel Association building. It has been suggested by the media that the intention was for the company to receive fees from the investors.
- 9 In my view, these circumstances give rise to questions concerning alleged conflicts of interest (both actual and perceived) and CERA's role in this matter. While CERA is now disestablished, I place a high priority on the public service maintaining the trust and confidence of the public. I also wish to be fair to all parties and to ascertain the facts.

- 10 I now wish to advise you that it is my intention to undertake an investigation under the State Sector Act 1998 to ascertain whether there is substance to the allegations which have been made.
- 11 When the allegations surfaced, I asked the Chief Executive of the Department of Prime Minister and Cabinet (DPMC) to look into the matters raised, given his Canterbury related role and the Department's former responsibilities for CERA.
- 12 I have been maintaining close contact with the Chief Executive of DPMC over the last 48 hours. I have formed a view that these matters warrant further investigation. Subsequently, the Chief Executive of DPMC has indicated to me that he concurs with my decision.

Chair of Canterbury and South Canterbury District Health Boards

- 13 One of the individuals that has had allegations raised in the media is currently the Chair of both the Canterbury District Health Board (CDHB) and South Canterbury District Health Board (SCDHB). Mr Cleverley was reappointed Chair to both District Health Boards (DHBs) in 2016, following re-election as a member of the SCDHB and appointment as a member of the CDHB. Both these roles are important public governance and leadership roles.
- 14 In light of the allegations made regarding this individual in relation to his employment by CERA, I have asked the Director-General of Health to look into whether there were any health sector related issues that may warrant further investigation. In addition, during the last six months there have been suggestions made in the media that there were perceptions of conflicts of interest in relation to Mr Cleverley undertaking his role as Chair of CDHB.
- 15 In relation to Mr Cleverley's current roles as Chair of CDHB and SCDHB, I as State Services Commissioner have no specific jurisdiction to investigate. While the District Health Board's employees are covered by the State Sector Code of Conduct, the Board Members are appointed by and responsible to the Minister of Health.
- 16 We understand that both the Serious Fraud Office and the Office of the Auditor-General are looking into whether they may investigate these issues as well. Should either or both of these investigative agencies determine to undertake inquiries, SSC will work with them on any consideration of Code of Conduct issues.

Investigation Process

- 17 The investigation needs to be carried out independently and as a matter of urgency.
- 18 It is important that these allegations are thoroughly investigated and that they are considered comprehensively and in their entirety, rather than on an agency by agency basis.
- 19 I intend to appoint a suitably qualified and credible person to lead the investigation on my behalf and to delegate to them the relevant powers.
- 20 I expect the investigation will take place over the next four weeks and produce an interim report by the first week of March 2017.
- 21 Consequently, I have formed that the view that this would be best undertaken using my powers of investigation under the State Sector Act 1988.
- 22 There are two options around the scope of the investigation. The first would be only be in relation to allegations relating to the three individuals during their employment at CERA. As the State Services Commissioner I have the appropriate powers to investigate the matters around the three former employees of CERA, while they were employed by CERA.

- 23 To be fair to all it makes sense to investigate the conduct of the individuals since their employment by CERA through to their current roles. It is my strong advice that we do that.
- 24 Because I have no jurisdiction in relation to Members of DHBs, I intend to seek to a written direction from the Prime Minister to investigate this matter pursuant to section 11(1) of the State Sector Act 1988. The Prime Minister's direction would enable me to carry out, in respect of any part of the State services that does not form part of the Public Service, any of the functions and powers conferred on me by any provision of sections 6 to 10 (investigation powers), therefore covering DHB boards.
- 25 9(2)(h) legal privilege

Hon Paula Bennett
Minister of State Services

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Prime Minister

Mr Peter Hughes, CNZM
State Services Commissioner
PO Box 329
Wellington 6140

Dear Peter

CERA conflict of interest investigation

Thank you for advising me about the allegations surrounding the actions of three former employees of the former departmental agency, the Canterbury Earthquake Recovery Authority (CERA).

In summary the allegation in the media is that the three individuals established a company for the purposes of doing business with the same investors that they were employed into the Public Service to attract to Canterbury. If established, this would suggest a breach of the Code of Conduct in relation to their employment by CERA.

You have advised me that given the serious nature of allegations and the need to ensure the highest level of integrity within the State services, you are undertaking an investigation into the matters as they relate to CERA and also any subsequent roles within the State services of these individuals.

You have also advised me that to be fair to all parties and to ascertain the full facts it is your view that you should also investigate these matters as they relate to Mr Cleverley in respect of his role as board member and chair of the Canterbury and South Canterbury District Health Boards. To do so, you have sought a direction from me under section 11(1) of the State Sector Act 1988 (the Act).

I therefore direct you under section 11(1) of the Act to exercise your functions and powers under the Act to investigate the matters raised as they relate to Mr Cleverley in respect of his role as board member and chair of the Canterbury and South Canterbury District Health Boards.

Once you have completed your investigation into these allegations, I expect to be briefed on your findings.

Yours sincerely

Rt Hon Bill English
Prime Minister

Nicholai Mumford [SSC]

From: Geoff Short [SSC]
Sent: Thursday, 2 February 2017 3:32 p.m.
To: Debbie Power [SSC]; Peter Hughes [SSC]
Cc: Andrew Royle [SSC]; Tim Ingleton [SSC]
Subject: Draft Letters
Attachments: Letter to Mr Cleverley.docx; Letter to Mr Gallagher.docx; Letter to Mr Nikoloff.docx

Hi both

Attached are draft letters to all three people subject to the investigation. The one to Mr Cleverley also responds to his letter yesterday. The letters to Mr Nikoloff and Mr Gerrard are the same. We are attaining some contact information from DPMC for them both.

Thanks

Geoff

Geoff Short
Assistant Commissioner
State Services Commission
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2 February 2017

Mr Simon Nikoloff

Dear Mr Nikoloff

Yesterday I initiated an investigation under my powers set out in the State Sector Act 1988. The investigation will look at the actions of you and two other individuals while employed by the Canterbury Earthquake Recovery Authority and in your subsequent roles held in government agencies, in relation to public allegations concerning the identification and management of conflicts of interest.

Thank you for indicating that you intend to cooperate fully with this investigation. I am totally committed to this being a fair and transparent process.

Like you I am keen to quickly address the reputational issues that have arisen in the media related to perceptions of conflicts of interest and other matters. Public Servants must be trustworthy, never misuse our position for personal gain, ensure our actions are not affected by our personal interests or relationships and avoid any activities, work or non-work that may harm the reputation of our organisation or of the State services. It is my role to determine the facts of this matter at the earliest opportunity.

To that end, I am appointing a suitably qualified person to undertake this investigation on my behalf, which I expect to finalise the arrangements for before the end of this week.

I expect to provide you with a copy of the Terms of Reference for the investigation before I finalise them to ensure they are properly understood by all involved. I would appreciate it if you could provide me with an appropriate contact point for me to send these to.

I note that you have stood aside from your public roles, while this investigation is undertaken, which I think is the right thing to do. I expect the investigator to have an interim report from this investigation completed by the end of February 2017.

I will be able to provide you further information, once the Terms of Reference are finalised and the investigator has been appointed.

Yours sincerely

Peter Hughes
State Services Commissioner

SENSITIVE

SSC File Note		File Ref: 20170202 DPMC Handover
Date/Time:	Thursday 2 February 2017, 11.00	
Attendees:	Anne Shaw (DPMC), Geoff Short (SSC), Philip Stables (SSC), Nicholai Mumford (SSC)	
Copies to:		
Subject:	DPMC transition and handover – allegations against former CERA employees	

The meeting was set up for the transition and handover of the investigation from DPMC to SSC. DPMC passed on details of who could help with the investigation both procedurally and as potential interviewees. SSC initiated further background information for the investigator, key individuals to be interviewed and other documentation.

Kelvan Smith, Director, Greater Christchurch Group, DPMC had phoned former CERA employees Roger Sutton, John Ombler, Baden Ewart, Warwick Isaacs, James Stewart, and Caroline Fleetwood about the allegations. Mr Smith told them that they were likely to be interviewed and is writing a file note. Anne Shaw had spoken to Albert Brantley (CE, Otakaro Ltd) and those alleged against, Mr Cleverley, Mr Gallagher and Mr Nikoloff, who all confirmed that they would cooperate willingly.

Ms Shaw summarised her conversations to date as follows:

- 9(2)(ba)(i) confidential with prejudice

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SENSITIVE

Philip Stables
Senior Analyst

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Thursday, 2 February 2017 12:03 p.m.
To: 'Michael Heron'
Subject: TOR
Attachments: 2256432_1.docx; Letter from Prime Minister.PDF

[UNCLASSIFIED]

Mike

Draft terms of reference. Any comments welcomed.

Regards
Andrew Royle

Andrew Royle
Chief Legal Advisor
State Services Commission
DDI: +64 4 495 6754
Mob: +64 22 9(2)(a)
Fax: +64 4 495 6686
Andrew.Royle@SSC.govt.nz
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RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Mike Heron QC

9(2)(a) privacy

Dear Mike

CANTERBURY EARTHQUAKE RECOVERY: ALLEGED CONFLICTS OF INTEREST

As discussed, I am appointing you pursuant to sections 23(1) and 25(2) of the State Sector Act 1988 to undertake an inquiry on my behalf on the terms set out in this letter. Under this delegation and appointment, you have all necessary and expedient powers that I exercise under the State Sector Act for the purposes of the undertaking inquiry, including my general powers under section 7 to 10 and the specific powers provided under section 25.

Attached for your information is a letter of direction received from the Prime Minister relating to Mr Cleverley's current role as Board chair and member at the South Canterbury and Canterbury District Health Boards.

Terms of Reference

Background and allegations

Prior to its disestablishment, the Canterbury Earthquake Recovery Authority (CERA) employed Murray Cleverley, Gerard Gallagher and Simon Nikoloff (the former CERA staff members) in investment facilitation roles.

Recent media reports have alleged that, whilst employed by CERA, the three individuals incorporated a company, Project and Investment Management Limited (the company), for the purposes of doing business with the same investors that CERA was attempting to attract.

Messrs Gallagher and Nikoloff have now been employed at Otakaro Limited, to undertake ongoing activities relating to Canterbury Earthquake Recovery. Mr Cleverley occupies governance roles at the South Canterbury and Canterbury District Health Boards. Recent media reports have also alleged that there may also have been private business dealings by one or more of the former CERA staff members while occupying these subsequent positions.

Terms of reference

The Inquiry will investigate:

- any past or current conflicts of interest of the former CERA staff members, during their employment at CERA or their subsequent State services employment or governance roles;
- the management of any such conflicts of interest by the relevant State services agencies;
- any other related matter arising from the course of the investigation that ought to be considered to provide me with a complete report.

Reporting

I may publish some or all of your review after it is finalised. Please prepare your report in a matter suitable for publication, including indicating to me any parts or material that should be redacted from the public report to protect any appropriate interests.

DRAFT – NOT GOVERNMENT POLICY – IN CONFIDENCE

I look forward to receiving your report.

Yours sincerely

Peter Hughes

State Services Commissioner

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Thursday, 2 February 2017 4:06 p.m.
To: Peter Hughes [SSC]; Debbie Power [SSC]
Cc: Geoff Short [SSC]; Nicholai Mumford [SSC]; Philip Stables [SSC]
Subject: TOR
Attachments: 2256432_1.docx

[IN-CONFIDENCE]

Draft TOR for discussion

Regards
Andrew

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

SENSITIVE

SSC File Note	File Ref: SSC-AGS-13-1-5-7
Date/Time:	Friday 3 February 2017
Attendees:	Geoff Short, Andrew Royle, Philip Stables, Nikolai Mumford
Copies to:	
Subject:	Meeting with Henry Broughton, OAG

The meeting was set-up to discuss OAG's Performance Audit of Canterbury Earthquake Recovery Authority (CERA), due to be published on the following Wednesday, which could provide some context for the investigation into allegations made against former CERA staff members.

The Audit would highlight CERA's good work around demolitions, the cordon, the Red Zone, and health and safety. The report would also convey that there were loose systems and management controls, confirming what had been as previously raised through the annual audits of CERA. No evidence of fraud had come to light.

The Christchurch Central Development Unit's (CCDU's) governance and role in relation to CERA was not clear, including the reporting line to the Minister, and it could not be demonstrated that CERA was operating effectively. That said, the context of responding to such an event, with an organisation continually growing over time, made it a difficult operating environment.

CCDU had got involved in both policy and delivery including planning, procurement, and setting up and managing contracts with suppliers. The policies were more advanced than the culture, creating an impression of always having to play catch-up. The anchor projects were managed separately but a programme approach would have helped create efficiencies. These findings were considered to be consistent with CERA's Performance Improvement Framework (PIF) review in 2014.

9(2)(g)(i) free and frank

9(2)(ba)(i) confidential with prejudice

There was no evidence in the audit files of ever having declared the Property and Investment Management Ltd (PIM).

There may have been issues in the management response to some findings of the Risk and Audit Committee around Key Performance Indicators. Each anchor project had a probity review and there were management "eyeballing" sessions. He advised speaking to Catherine Drayton, the chair of CERAs Audit and Risk Committee.

Mr Broughton advised speaking to CERA's auditors with regard to CERA's conflict of interest policies (note: according to 2014 annual report, this was Scott Tobin, Audit New Zealand on behalf of the Auditor-General). He advised speaking to the Chair and CE of Otakaro Ltd in respect of what they inherited. He noted that Otakaro were to have their annual review by the Finance and Expenditure Committee (FSC) next week.

For DHB's, he advised speaking to Greg Goulding of OAG, who is responsible for the Health Sector.

Philip Stables
Senior Analyst

Nicholai Mumford [SSC]

From: Peter Gunn <Peter.Gunn@crownlaw.govt.nz>
Sent: Friday, 3 February 2017 4:59 p.m.
To: Andrew Royle [SSC]
Cc: Aaron Martin
Subject: RE: TOR

Hi Andrew

Further to my email and comments below, we have conducted an internal electronic check and have not located any documents suggesting there would be any potential or actual conflict of interest in Michael Heron undertaking the proposed review.

Kind regards

Peter Gunn
Crown Counsel/Team Manager Constitutional and Human Rights Team
Crown Law Te Tari Ture o te Karauna
DDI: +64 4 494 5561
M: 027 9(2)(a)
www.crownlaw.govt.nz

From: Peter Gunn
Sent: Friday, 3 February 2017 12:27
To: Andrew Royle [SSC] (Andrew.Royle@ssc.govt.nz)
Cc: Aaron Martin
Subject: FW: TOR

Hi Andrew

9(2)(h) legal privilege

Kind regards

Peter Gunn
Crown Counsel/Team Manager Constitutional and Human Rights Team
Crown Law Te Tari Ture o te Karauna
DDI: +64 4 494 5561
M: 027 9(2)(a)
www.crownlaw.govt.nz

3 February 2017

Mr Murray Cleverley
9(2)(a) privacy



Email: 9(2)(a) privacy

Dear Mr Cleverley

Thank you for your correspondence received on 1 February 2017 I very much appreciated you making contact at this early stage and you letting me know that you intend to cooperate fully with this investigation. I want to assure you I am totally committed to this being a fair and transparent process.

As you know, I have initiated an investigation under my powers set out in the State Sector Act 1988. The investigation will look at the public allegations concerning the identification and management of conflicts of interest during your employment at the Canterbury Earthquake Recovery Authority and in your subsequent public roles.

Like you I am keen to quickly address the reputational issues that have arisen in the media related to perceptions of conflicts of interest and other matters. As public servants we must all be trustworthy and it is my role to determine the facts of this matter at the earliest opportunity.

I am appointing a suitably qualified person to undertake this investigation on my behalf, and I expect to provide you with a copy of the Terms of Reference for the investigation before I finalise them. This will ensure they are properly understood by all involved before the investigation is underway. I will be sending these through to Mr Rennie QC, who you have advised me is acting on your behalf. Andrew Royle from my office will be in touch with Mr Rennie if there are any issues.

I note that you have chosen to step aside from your public roles, while this investigation is undertaken, which I think is the right thing to do.

With regards to timing, I expect the investigator to have an interim report from this investigation completed by the end of February 2017. I will be able to provide you further information, once the Terms of Reference are finalised and the investigator has been appointed.

I look forward to resolving these issues as quickly as possible.

Yours sincerely

A handwritten signature in black ink, appearing to be 'PH'.

Peter Hughes
State Services Commissioner

Michael Heron QC

9(2)(a) privacy

7 February 2016

Dear Mr Heron

CANTERBURY EARTHQUAKE RECOVERY: ALLEGED CONFLICTS OF INTEREST

I am appointing you pursuant to sections 23(1) and 25(2) of the State Sector Act 1988 to undertake an inquiry on my behalf on the terms set out in this letter, effective from the date of this letter. Under this delegation and appointment, you have all necessary and expedient powers that I can exercise under the State Sector Act for the purposes of undertaking this inquiry, including my general powers under section 7 to 10 and the specific powers provided under section 25.

Attached for your information is a letter of direction received from the Prime Minister relating to Mr Cleverley's current role as Board chair and member at the South Canterbury and Canterbury District Health Boards.

Background and allegations

Prior to its disestablishment, the Canterbury Earthquake Recovery Authority (CERA) employed Murray Cleverley, Gerard Gallagher and Simon Nikoloff (the former CERA staff members) in investment facilitation roles.

Recent media reports have alleged that, whilst employed by CERA, the three individuals were inappropriately involved in private business dealings that were related to their roles as Public Servants at the time.

Messrs Gallagher and Nikoloff have now been employed at Otakaro Limited, to undertake ongoing activities relating to Canterbury Earthquake Recovery. Mr Cleverley occupies governance roles at the South Canterbury and Canterbury District Health Boards. Other media reports have also suggested that there may also have been private business dealings by one or more of the former CERA staff members while occupying these subsequent positions.

In light of my function to promote and reinforce standards of integrity and conduct in the State services, and the matters raised in the media, I have determined it necessary to inquire into these allegations to determine whether the State Services Standards of Integrity and Conduct have been observed.

Terms of reference

The inquiry will investigate:

- any actual or perceived conflicts of interest of the former CERA staff members, during their employment at CERA or their subsequent State services employment or governance roles in the State services;

- the management of any such conflicts of interest by the relevant individuals and State services agencies;
- any other related matter arising from the course of the investigation that ought to be considered to provide me with a complete report.

Reporting

I intend to publish your report in its entirety after it is finalised. Please prepare your report in a manner suitable for publication. Please have an interim report available for my consideration by the end of February.

I look forward to receiving your report.

Yours sincerely

Peter Hughes

State Services Commissioner

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Nicholai Mumford [SSC]

From: Lisa Ngaia [SSC]
Sent: Friday, 3 February 2017 2:37 p.m.
To: 9(2)(a) privacy
Subject: Letter from Peter Hughes and draft Terms of Reference
Attachments: Letter to Mr Gallagher.pdf; 2256432_Terms of reference.docx

[IN-CONFIDENCE]

Dear Mr Gallagher

Please find attached a letter and draft Terms of Reference from State Services Commissioner, Peter Hughes for your information.

Kind regards
Lisa

Lisa Ngaia
Senior EA to the State Services Commissioner
State Services Commission
DDI: +64 4 495 6602
Mobile: 9(2)(a)
Lisa.Ngaia@SSC.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

3 February 2017

Mr Gerrard Gallagher

Email: 9(2)(a) privacy



Dear Mr Gallagher

As you know, I have initiated an investigation under my powers set out in the State Sector Act 1988. The investigation will look at the public allegations concerning the identification and management of conflicts of interest during your employment at the Canterbury Earthquake Recovery Authority and in your subsequent public roles.

Like you I am keen to quickly address the reputational issues that have arisen in the media related to perceptions of conflicts of interest and other matters. As public servants we must all be trustworthy and it is my role to determine the facts of this matter at the earliest opportunity.

I understand that you have indicated that you intend to cooperate fully with this investigation which I very much appreciate. I want to assure you I am totally committed to this being a fair and transparent process.

I am appointing a suitably qualified person to undertake this investigation on my behalf, and I have attached a copy of the Terms of Reference for the investigation which are not yet finalised. This is provided to you, in confidence, to ensure they are properly understood by all involved before the investigation is underway.

I expect to finalise these Terms of Reference on Tuesday next week for public distribution. If you have any issues you wish to raise I would be grateful if you made contact with Andrew Royle from my office who can be reached at andrew.royle@ssc.govt.nz

I note that you have stood aside from your current public role, while this investigation is undertaken, which I think is the right thing to do.

With regards to timing, I expect the investigator to have an interim report from this investigation completed by the end of February 2017. I will be able to provide you further information once the Terms of Reference are finalised and the investigator has been appointed.

I look forward to resolving these issues as quickly as possible.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Peter Hughes'.

Peter Hughes
State Services Commissioner

Michael Heron QC

9(2)(a) privacy

7 February 2016

Dear Mr Heron

CANTERBURY EARTHQUAKE RECOVERY: ALLEGED CONFLICTS OF INTEREST

I am appointing you pursuant to sections 23(1) and 25(2) of the State Sector Act 1988 to undertake an inquiry on my behalf on the terms set out in this letter, effective from the date of this letter. Under this delegation and appointment, you have all necessary and expedient powers that I can exercise under the State Sector Act for the purposes of undertaking this inquiry, including my general powers under section 7 to 10 and the specific powers provided under section 25.

Attached for your information is a letter of direction received from the Prime Minister relating to Mr Cleverley's current role as Board chair and member at the South Canterbury and Canterbury District Health Boards.

Background and allegations

Prior to its disestablishment, the Canterbury Earthquake Recovery Authority (CERA) employed Murray Cleverley, Gerard Gallagher and Simon Nikoloff (the former CERA staff members) in investment facilitation roles.

Recent media reports have alleged that, whilst employed by CERA, the three individuals were inappropriately involved in private business dealings that were related to their roles as Public Servants at the time.

Messrs Gallagher and Nikoloff have now been employed at Otakaro Limited, to undertake ongoing activities relating to Canterbury Earthquake Recovery. Mr Cleverley occupies governance roles at the South Canterbury and Canterbury District Health Boards. Other media reports have also suggested that there may also have been private business dealings by one or more of the former CERA staff members while occupying these subsequent positions.

In light of my function to promote and reinforce standards of integrity and conduct in the State services, and the matters raised in the media, I have determined it necessary to inquire into these allegations to determine whether the State Services Standards of Integrity and Conduct have been observed.

Terms of reference

The Inquiry will investigate:

- any actual or perceived conflicts of interest of the former CERA staff members, during their employment at CERA or their subsequent State services employment or governance roles in the State services;

- the management of any such conflicts of interest by the relevant individuals and State services agencies;
- any other related matter arising from the course of the investigation that ought to be considered to provide me with a complete report.

Reporting

I intend to publish your report in its entirety after it is finalised. Please prepare your report in a manner suitable for publication. Please have an interim report available for my consideration by the end of February.

I look forward to receiving your report.

Yours sincerely

Peter Hughes

State Services Commissioner

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Memorandum

To: Peter Hughes, State Services Commissioner
From: Andrew Royle
Date: 7 February 2017
Subject: Terms of Reference for appointment of Michael Heron QC to undertake inquiry into allegations of conflict of interest at CERA

- 1 Please find attached two letters for your signature.
- 2 The first letter appoints Michael Heron QC under sections 23(1) and 25(2) of the State Sector Act 1988 to undertake an inquiry into the allegations of a conflict of interests relating to three former employees of CERA.
- 3 The second letter sets out more detailed expectations regarding the inquiry, including timeframes and agreed fees.
- 4 As Mr Heron is engaged pursuant to a statutory appointment, it is a non-procurement activity and not subject to the Government Rules of Sourcing.

Recommendation

5 It is recommended that you:

- | | | |
|---|-------------------------------|----------|
| 1 | Sign the two attached letters | Yes / No |
|---|-------------------------------|----------|

Andrew Royle
Chief Legal Advisor

Nicholai Mumford [SSC]

From: Tim Ingleton [SSC]
Sent: Tuesday, 7 February 2017 4:06 p.m.
To: Debbie Power [SSC]; Peter Hughes [SSC]
Subject: FW: SSC PR - Michael Heron QC to investigate allegations against former CERA staff members

Hi

Statement out now.

Cheers

From: Tim Ingleton [SSC]
Sent: Tuesday, 7 February 2017 4:04 p.m.
Subject: SSC PR - Michael Heron QC to investigate allegations against former CERA staff members

SSC MEDIA STATEMENT

7 February 2017

Michael Heron QC to investigate allegations against former CERA staff members

State Services Commissioner Peter Hughes has today announced the appointment of Michael Heron QC to investigate allegations made against former staff members of the Canterbury Earthquake Recovery Authority (CERA).

Allegations have been made that these former employees of CERA used their Public Service positions to advance their private business interests. The State Services Commissioner announced that these allegations would be the subject of a State Sector Act investigation on 1 February 2017.

Michael Heron is a Queen's Counsel and former Solicitor-General. He has extensive legal experience, including as a Crown Prosecutor and advisor to a wide range of government agencies on complex commercial and litigation issues. Mr Heron carried out an investigation into three fisheries compliance operations for the Director-General of Primary Industries in 2016.

"I am very pleased to appoint Mr Heron, said Mr Hughes. "He is a respected barrister and solicitor, an experienced investigator and a highly regarded former senior Public Servant."

Mr Heron's appointment is effective immediately.

"I have asked Mr Heron to provide me with an interim report by the end of February," Mr Hughes said.

The State Sector Act grants extensive powers of inquiry to the State Services Commissioner or their delegate. This includes the legal power to require the production of any records, files or other information, require government employees to answer questions and enter government premises.

The State Services Commission will provide secretarial support and arrange any additional resources or advice the investigation may require.

The Terms of Reference for the investigation are below.

The Inquiry will investigate:

- any actual or perceived conflicts of interest of the former CERA staff members, during their employment at CERA or their subsequent State services employment or governance roles in the State services;
- the management of any such conflicts of interest by the relevant individuals and State services agencies;
- any other related matter arising from the course of the investigation that ought to be considered to provide the State Services Commissioner with a complete report.

ENDS

Media contact: Tim Ingleton SSC (04) 495 6648

[UNCLASSIFIED]

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT



7 February 2017

Mr Ron Luxton
Acting Chair
South Canterbury District Health Board

Dear Mr Luxton

As you know, I have initiated an investigation under my powers set out in the State Sector Act 1988. The investigation will look at the public allegations concerning the identification and management of conflicts of interest during three individuals employment at the Canterbury Earthquake Recovery Authority and into their subsequent public roles.

As one of the people being investigated is Mr Murray Cleverley, who holds a number of public roles including as the Chair of the South Canterbury District Health Board, I am writing to you to attach a copy of the Terms of Reference that will be publicly released today.


I want to assure you I am totally committed to this being a fair and transparent process.

I am keen to quickly address the reputational issues that have arisen in the media related to perceptions of conflicts of interest and other matters. As public servants we must all be trustworthy and it is my role to determine the facts of this matter at the earliest opportunity.

I have appointed Mr Mike Heron QC to undertake this investigation on my behalf. He may need to be in touch with you to gain access to information or to organise to interview people at the District Health Board. I expect the investigator to have an interim report from this investigation completed by the end of February 2017.

I look forward to resolving these issues as quickly as possible.

Yours sincerely


Peter Hughes
State Services Commissioner

CERA staff member allegations – announcement of TOR & investigator

Michael Heron QC to investigate allegations against former CERA staff members

State Services Commissioner Peter Hughes has today announced the appointment of Michael Heron QC to investigate allegations made against former staff members of the Canterbury Earthquake Recovery Authority (CERA).

Allegations have been made that these former employees of CERA used their Public Service positions to advance their private business interests. The State Services Commissioner announced that these allegations would be the subject of a State Sector Act investigation on 4 February 2017.

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"I am very pleased to appoint Mr Heron, said Mr Hughes. "He is a respected barrister and solicitor, an experienced investigator and a highly regarded former senior Public Servant."

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- any other related matter arising from the course of the investigation that ought to be considered to provide the State Services Commissioner with a complete report.

ENDS



7 February 2017

Mr Albert Brantley
Chief Executive
Ōtākaro Limited

Dear Mr Brantley

As you know, I have initiated an investigation under my powers set out in the State Sector Act 1988. The investigation will look at the public allegations concerning the identification and management of conflicts of interest during three individuals employment at the Canterbury Earthquake Recovery Authority and into their subsequent public roles.

As two of the people being investigated, Mr Gerrard Gallagher and Mr Simon Nikoloff, are employed at Ōtākaro Limited, I am writing to you to attach a copy of the Terms of Reference that will be publicly released today.


I am keen to quickly address the reputational issues that have arisen in the media related to perceptions of conflicts of interest and other matters. As public servants we must all be trustworthy and it is my role to determine the facts of this matter at the earliest opportunity.

Thank you for indicating that Ōtākaro Limited will cooperate fully with this investigation, I very much appreciate your support in resolving these issues. I want to assure you I am totally committed to this being a fair and transparent process.

I have appointed Mr Mike Heron QC to undertake this investigation on my behalf. He may need to be in touch with you to gain access to information or to organise to interview people at Ōtākaro Limited. I expect the investigator to have an interim report from this investigation completed by the end of February 2017.

I look forward to resolving these issues as quickly as possible.

Yours sincerely


Peter Hughes
State Services Commissioner

DRAFT ONLY – IN-CONFIDENCE

CERA staff member allegations – announcement of TOR & investigator

Michael Heron QC to investigate allegations against former CERA staff members

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- any other related matter arising from the course of the investigation that ought to be considered to provide the State Services Commissioner with a complete report.

ENDS



7 February 2017

Sir Mark Solomon
Acting Chair
Canterbury District Health Board

Dear Sir Mark

As you know, I have initiated an investigation under my powers set out in the State Sector Act 1988. The investigation will look at the public allegations concerning the identification and management of conflicts of interest during three individuals employment at the Canterbury Earthquake Recovery Authority and into their subsequent public roles.

As one of the people being investigated is Mr Murray Cleverley, who holds a number of public roles including as the Chair of the Canterbury District Health Board, I am writing to you to attach a copy of the Terms of Reference that will be publicly released today.

I want to assure you I am totally committed to this being a fair and transparent process.

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I look forward to resolving these issues as quickly as possible.

Yours sincerely


Peter Hughes
State Services Commissioner

DRAFT ONLY – IN-CONFIDENCE

CERA staff member allegations – announcement of TOR & investigator

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- the management of any such conflicts of interest by the relevant individuals and State services agencies;
- any other related matter arising from the course of the investigation that ought to be considered to provide the State Services Commissioner with a complete report.

ENDS

Nicholai Mumford [SSC]

From: Nicholai Mumford [SSC]
Sent: Tuesday, 7 February 2017 4:19 p.m.
To: 'Michael Heron'
Subject: RE: CERA inquiry - letter of appointment from State Services Commissioner
Attachments: Letter of expectations.pdf; Letter from PM to SSCer.pdf; Letter of appointment.pdf

Hi Mike,

Please find separate pdfs attached.

Kind regards,
Nicholai

Nicholai Mumford
Solicitor
State Services Commission
DDI: +64 4 495 6622
Nicholai.Mumford@ssc.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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From: Michael Heron [mailto:9(2)(a) privacy]
Sent: Tuesday, 7 February 2017 4:14 p.m.
To: Nicholai Mumford [SSC] <Nicholai.Mumford@ssc.govt.nz>
Subject: RE: CERA inquiry - letter of appointment from State Services Commissioner

Thanks Nicholai
For my benefit, could you please send these as separate pdfs?
Many thanks
Mike

From: Nicholai Mumford [SSC] [mailto:Nicholai.Mumford@ssc.govt.nz]
Sent: Tuesday, 7 February 2017 3:46 PM
To: Michael Heron <9(2)(a) privacy>
Cc: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>; Geoff Short [SSC] <Geoff.Short@ssc.govt.nz>
Subject: CERA inquiry - letter of appointment from State Services Commissioner

[IN-CONFIDENCE]

Dear Michael,

Please find attached the letter of appointment from the State Services Commissioner, a letter setting out related expectations, and a copy of the letter from the Prime Minister directing the State Services Commissioner to inquire into Mr Cleverley in respect of his role as board member and chair of two DHBs.

Kind regards,
Nicholai

Nicholai Mumford
Solicitor
State Services Commission
DDI: +64 4 495 6622
Nicholai.Mumford@ssc.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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Michael Heron QC
9(2)(a) privacy

7 February 2016

Dear Mr Heron

CANTERBURY EARTHQUAKE RECOVERY: ALLEGED CONFLICTS OF INTEREST

I am appointing you pursuant to sections 23(1) and 25(2) of the State Sector Act 1988 to undertake an inquiry on my behalf on the terms set out in this letter, effective from the date of this letter. Under this delegation and appointment, you have all necessary and expedient powers that I can exercise under the State Sector Act for the purposes of undertaking this inquiry, including my general powers under section 7 to 10 and the specific powers provided under section 25.

Attached for your information is a letter of direction received from the Prime Minister relating to Mr Cleverley's current role as Board chair and member at the South Canterbury and Canterbury District Health Boards.

Background and allegations

Prior to its disestablishment, the Canterbury Earthquake Recovery Authority (CERA) employed Murray Cleverley, Gerard Gallagher and Simon Nikoloff (the former CERA staff members) in investment facilitation roles.

Recent media reports have alleged that, whilst employed by CERA, the three individuals were inappropriately involved in private business dealings that were related to their roles as Public Servants at the time.

Messrs Gallagher and Nikoloff have now been employed at Otakaro Limited, to undertake ongoing activities relating to Canterbury Earthquake Recovery. Mr Cleverley occupies governance roles at the South Canterbury and Canterbury District Health Boards. Other media reports have also suggested that there may also have been private business dealings by one or more of the former CERA staff members while occupying these subsequent positions.

In light of my function to promote and reinforce standards of integrity and conduct in the State services, and the matters raised in the media, I have determined it necessary to inquire into these allegations to determine whether the State Services Standards of Integrity and Conduct, or other relevant applicable standards, have been observed.

Terms of reference

The Inquiry will investigate:

- any actual or perceived conflicts of interest of the former CERA staff members, during their employment at CERA or their subsequent State services employment or governance roles in the State services;

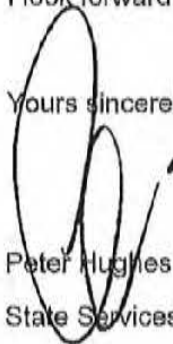
- the management of any such conflicts of interest by the relevant individuals and State services agencies;
- any other related matter arising from the course of the investigation that ought to be considered to provide me with a complete report.

Reporting

I intend to publish your report in its entirety after it is finalised. Please prepare your report in a manner suitable for publication. Please have an interim report available for my consideration by the end of February.

I look forward to receiving your report.

Yours sincerely



Peter Hughes

State Services Commissioner

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT



Prime Minister

Mr Peter Hughes, CNZM
State Services Commissioner
PO Box 329
Wellington 6140

Dear Peter

CERA conflict of interest investigation

Thank you for advising me about the allegations surrounding the actions of three former employees of the former departmental agency, the Canterbury Earthquake Recovery Authority (CERA).

In summary the allegation in the media is that the three individuals established a company for the purposes of doing business with the same investors that they were employed into the Public Service to attract to Canterbury. If established, this would suggest a breach of the Code of Conduct in relation to their employment by CERA.


You have advised me that given the serious nature of allegations and the need to ensure the highest level of integrity within the State services, you are undertaking an investigation into the matters as they relate to CERA and also any subsequent roles within the State services of these individuals.

You have also advised me that to be fair to all parties and to ascertain the full facts it is your view that you should also investigate these matters as they relate to Mr Cleverley in respect of his role as board member and chair of the Canterbury and South Canterbury District Health Boards. To do so, you have sought a direction from me under section 11(1) of the State Sector Act 1988 (the Act).

I therefore direct you under section 11(1) of the Act to exercise your functions and powers under the Act to investigate the matters raised as they relate to Mr Cleverley in respect of his role as board member and chair of the Canterbury and South Canterbury District Health Boards.

Once you have completed your investigation into these allegations, I expect to be briefed on your findings.

Yours sincerely



Rt Hon Bill English
Prime Minister



Michael Heron QC
9(2)(a) privacy

7 February 2017

Dear Michael,

CANTERBURY EARTHQUAKE RECOVERY: ALLEGED CONFLICTS OF INTEREST

This letter sets out my detailed expectations regarding the inquiry that I have appointed you to conduct under the attached terms of reference.

Timeframes

I expect an interim report by the end of February. A timeframe for the production of the final report will be determined as the scope of the inquiry becomes clearer, taking into account the time required to complete the necessary natural justice processes.


Fees

9(2)(a) privacy, 9(2)(b)(ii) prejudice commercial position

We have agreed that you will invoice us for the costs of your assisting barrister and Beattie Varley. All other support for the inquiry will be provided by SSC.

We will be in close contact throughout this matter, and request that you raise any issues with scope and costs as soon as they may arise.

Yours sincerely


Peter Hughes, CNZM
State Services Commissioner

Nicholai Mumford [SSC]

From: Michael Heron <9(2)(a) privacy
Sent: Tuesday, 7 February 2017 1:54 p.m.
To: Tim Ingleton [SSC]
Cc: Andrew Royle [SSC]
Subject: Re: Draft press release

Thanks Tim
All okay by me.
Mike

Sent from my iPhone

On 7/02/2017, at 1:28 PM, Tim Ingleton [SSC] <Tim.Ingleton@ssc.govt.nz> wrote:

[IN-CONFIDENCE]

Hi Michael

Please see attached a draft press release we plan to issue at around 4pm today announcing your appointment as investigator.

If you have any comments or changes please let me know.

Best regards
Tim.

Tim Ingleton
Principal Communications Advisor
State Services Commission
DDI: +64 4 495 6648
Mob: +64 21 9(2)(a)
Fax: +64 4 495 6686
Tim.Ingleton@SSC.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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<2256761_CERA staff business - TOR and investigator announcement - 7 Feb 2017.DOCX>

SENSITIVE

SSC File Note	File Ref: SSC-AGS-13-1-5-7
Date/Time:	Wednesday 8 February 2017
Attendees:	Geoff Short, Andrew Royle, Philip Stables, Nicholas Mumford
Copies to:	
Subject:	CERA: Assessing its effectiveness and efficiency

This note sets out some selected contextual statements in relation to CCDU and CERA's management controls from the OAG performance audit of CERA, released on 8 February.

Overview section:

- o "CERA had to be established quickly as a functioning government department with the necessary policies, systems, and controls required by the Public Finance Act 1989 and the State Sector Act 1988. It had to start this task from scratch since there was no plan in place for establishing a recovery agency in New Zealand."
- o "it took a long time for CERA to set up effective systems and controls, which meant that staff had to work in a challenging environment without the usual back-office support and controls that we expect in a public entity. CERA's management controls and performance information needed improvement right up to the time of its disestablishment."
- o "it became more challenging for CERA to maintain momentum as the recovery moved into the reconstruction phase. Its role became less clear as it took on responsibility for delivering more projects and programmes."
- o "Engagement with stakeholders suffered from a lack of clarity about the role of the Christchurch Central Development Unit."

Lessons for the future section

- o "The length of time taken for CERA to establish appropriate systems, functions, and controls led to an increased risk of misuse of public funds and created a difficult environment for staff"
- o "A recovery agency needs effective financial and management controls from the start. The early stage of recovery is when there is the greatest risk and opportunity for fraudulent activities and inappropriate spending of public funds."

Establishing and managing CERA section

- o "the management team of CERA had to design and deliver financial and management systems, controls, and policies while co-ordinating and leading the emergency phase of the recovery" (para 2.2)
- o "it took CERA a long time to set up the systems and controls we expect to see in the public entities. Although financial controls improved by the time of CERA's disestablishment, management controls and performance information systems still needed improvement after five years." (para 2.3)
- o "A service level agreement was established with the Ministry of Social Development, which provided financial systems and infrastructure for information communications and technology" (para 2.9)
- o "Our annual audits of CERA identified a wide range of areas where CERA needed to strengthen its management controls. For example:
 - CERA took time to put programme management in place for Anchor Projects;

SENSITIVE

- There were challenges in securing enough staff with the right skills to support programmes;
- There were opportunities to improve how contracts were managed;
- Improvements were needed to information systems, including the need to adopt appropriate policies." (para 2.10)
- "the time it took to establish robust controls and policies created a risky environment, particularly in the emergency phase of the recovery. This meant that CERA's staff were engaged in challenging tasks, many of which involved transactions of significant value, without being able to refer to signed-off policies and procedures." (para 2.11)
- "the temporary nature of CERA's role also meant that attracting and retaining staff with the required skills was challenging and required more work by the human resources staff". (para 2.22)
- "the finance team had to deal with many complex accounting issues, particularly about land acquisition, funding, and uncertainty about future ownership of assets" "The quality and effectiveness of CERA's finance function improved over time....By the end of 2012/13, these controls were much improved. CERA's financial information systems and controls were rated as "good" by our auditors until CERA became a departmental agency and its finances were consolidated into (DPMC)." (paras 2.25 & 2.26)
- "By 2013, CERA's role had changed from what had been originally envisioned. When established, CERA was largely seen by its leadership team as a leader and co-ordinator of the recovery, rather than being responsible for delivering a number of projects and programmes. Over time, CERA took on more delivery roles. By the time of disestablishment, it was responsible for 24 major programmes and more than 130 projects." (para 3.24)
- "there were loose management controls for the procurement of services for clearing and managing some of the Red Zones, which created the potential for fraudulent activities." (para 4.3)
- "CCDU would have benefited from stronger commercial expertise. It did not take an effective programme approach to delivering the Anchor Projects it was responsible for" (para 4.4)
- "Although part of CERA, CCDU operated independently. In 2012, we noted that CCDU staff reported separately to the Minister. This caused confusion among stakeholders (in government, the private sector, and the community) about leadership, governance, and accountability." (para 4.5)
- "The clearance and management of Crown-acquired properties in the Red Zones in the flat lands of Christchurch did not have adequate management and financial controls for a time, particularly for the procurement and contract management of services to clear and manage the Red Zones. These weaknesses were later addressed after a report from CERA's Audit and Risk Committee to the senior leadership team." (para 4.26)
- "CERA strengthened its policies and controls for managing procurement in the Red Zones in response to the quality review." (para 4.49)
- "Cabinet decided to give CERA responsibility for leading the recovery of the CBD because it had existing statutory powers under the Act to gather and collate information, amend consenting processes, and to acquire and dispose of land. (para 4.57)"

SENSITIVE

- "most of the Anchor Projects were appropriately governed and managed." (para 4.69)
- "probity reviews of the Anchor Projects found that procurement processes were mostly in line with expectations, with no major issues in most projects" (para 4.70)
- "Stakeholders noted that CCDU would have benefited from stronger commercial capability. The Transition Advisory Board also noted that there was a need for more focus on commercial capability, certainty, and discipline to deliver Anchor Projects and to enhance private sector confidence and development opportunities" (para 4.78)
- "CCDU had both a delivery and policy role. From our interviews with stakeholders and former senior staff of CERA, we found that this created a lack of clarity about the roles of CERA and CCDU. In 2012, we noted that the head of CCDU had reported directly to the Minister. DPMC told us that this changed so that the head of CCDU reported to the head of CERA." (para 4.79)
- "Reviews of CCDU by the Treasury, reports by external stakeholders such as the New Zealand Council for Infrastructure Development, and our interviews identified that many stakeholders had concerns about the governance model for the recovery and redevelopment of the CBD." (para 4.80)
- "The 2013 annual review of the Act noted that the interviewees had indicated a preference for an alternative governance model that would have a more commercial operation and "be arms-length from CERA... Many of those involved in CERA, CCDU, and the wider recovery said that establishing CCDU as a separate entity with an independent board may have helped it to be more effective, in particular by separating policy advice from delivery" (para 4.81)

Philip Stables
Senior Analyst

Nicholai Mumford [SSC]

From: Ben Mak 9(2)(a) privacy
Sent: Wednesday, 8 February 2017 5:27 p.m.
To: Wayne Greer [CASS]
Cc: Andrew Royle [SSC]
Subject: CERA inquiry - confidential

Hi Wayne,

As we mentioned over the phone, upon discussion with Michael Heron and the others working on the CERA inquiry, we plan to send the data we received onto an external company that specialises in litigation support and eDiscovery. They will have software that is capable of processing and extracting the data into a more useable form. They will also host the data online for us to review with login access.

9(2)(ba)(i) confidential with prejudice

9(2)(a) privacy

- 9(2)(ba)(i) confidential with prejudice

I've still yet to ascertain the company where the data will be physically hosted, but I'll let you know once I have it.

Let me know if you need any more information for me.

Cheers,
Ben

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UNCLASSIFIED

DEPARTMENT
of the PRIME MINISTER
and CABINET



8 February 2017

Geoff Short
Assistant Commissioner
State Services Commission
PO Box 329
WELLINGTON 6140

Dear Geoff

Thank you for your email of 7 February 2017 advising of the appointment of Mr Mike Heron QC to undertake the investigation into the public allegations concerning three prior employees of the Canterbury Earthquake Recovery Authority.

We will provide Mr Heron with any information and assistance that he requires to carry out his investigation. We are currently gathering the relevant records that we hold from the Canterbury Earthquake Recovery Authority in the expectation that Mr Heron will request these. Please let Mr Heron know that Anne Shaw is our contact person for the purposes of this investigation. Anne's contact details are:

Anne Shaw
Director, Office of the Chief Executive
Department of the Prime Minister and Cabinet
Phone: (04) 817-9691
Mobile: 9(2)(a) privacy
Email: anne.shaw@dpmc.govt.nz

Yours sincerely

Andrew Kibblewhite
Chief Executive

UNCLASSIFIED

3914023V1

Executive Wing, Parliament Buildings, Wellington 6011, New Zealand
☎ 64 4 817 9700 Facsimile: 64 4 472 3181 www.dpmc.govt.nz

Nicholai Mumford [SSC]

From: Tim Ingleton [SSC]
Sent: Wednesday, 8 February 2017 4:43 p.m.
To: @SSC Media Alerts
Subject: FW: PR: Gerry Brownlee - Report into CERA effectiveness misses the point

[UNCLASSIFIED]

From: Julie Collier 9(2)(a) privacy
Sent: Wednesday, 8 February 2017 4:42 p.m.
To: Sia Aston [SSC] <Sia.Aston@ssc.govt.nz>; Tim Ingleton [SSC] <Tim.Ingleton@ssc.govt.nz>
Subject: FW: PR: Gerry Brownlee - Report into CERA effectiveness misses the point

Julie Collier
Editor
Select Committee News
9(2)(a)
privacy

**Hon Gerry
Brownlee**

**Minister supporting Greater
Christchurch Regeneration**

8 February 2017

Media Statement

Report into CERA effectiveness misses the point

The Office of the Auditor-General report into CERA's effectiveness must be viewed in the context of New Zealand's most significant natural disaster, the Minister supporting Greater Christchurch Regeneration Gerry Brownlee says.

"I believe the report as a whole is unbalanced at times and doesn't compare CERA with other recovery agencies or post-disaster experiences worldwide," Mr Brownlee says.

"After I requested the involvement of the OAG from the early stages of CERA, it's disappointing that this report only reflects their inability to identify problems earlier.

"CERA was in an evolving post-disaster situation – that included thousands of aftershocks. People were very stressed for a great number of reasons and the report skims over the enormity of this impact on every facet of the community's recovery.

"The report compares CERA to government departments that have existed for decades and doesn't recognise the unprecedented nature of the organisation and its tasks.

"The clarity of the role of CERA and relationships with other agencies had to evolve in order for the government to be able to disestablish the organisation and move towards a new regeneration phase after five years, as we committed to.

"The report says CERA's communications did not meet public expectations, but fails to compare them with the experiences of recovery agencies worldwide, where this is sadly always the case.

"CERA was subject to annual audits, including quality assurance reports, as well as a robust select committee process and was assisted in financial management by Treasury.

"I remain proud of the work CERA staff accomplished alongside other local and central government agencies and they should be too," Mr Brownlee says.

Media Contact: Georgina Stylianou – 9(2)(a) privacy

Nicholai Mumford [SSC]

From: Geoff Short [SSC]
Sent: Thursday, 9 February 2017 12:56 p.m.
To: Michael Heron
Cc: Andrew Royle [SSC]
Subject: Correspondence and contacts
Attachments: Letter to Mr Brantley TORs.pdf; Letter to Sir Mark Solomon TORs.docx.pdf; Letter to Mr Luxton TORs.pdf; gillum-7-53-18.pdf

Hi Mike

Please find attached correspondence sent to each of the key organisations where individuals have or have held public roles or are otherwise involved from an agency perspective in the provision of information that could potentially assist the investigation.

Letters were sent and received by the Acting Chairs of SCDHB, and CDHB. I have spoken to both Acting Chairs subsequently and indicated that you may wish to engage with them to set out any informational requirements you have or to seek contact with individuals for interview purposes.

9(2)(a) privacy

9(2)(a) privacy

A letter was also sent to the CE of Otakaro Ltd. I have spoken to him also and he is happy for me to pass you his contacts should you require anything. These are below.

Albert Brantley | Chief Executive | Ōtākaro Limited
E: 9(2)(a) privacy | 9(2)(a)
Level 8, HSBC Tower, 62 Worcester Boulevard Christchurch, 8013

His best contact is on 9(2)(a)

Attached is a response from the CE of DPMC to my correspondence, identifying the key contact for DPMC and you will have noticed information already being provided.

The Ministry of Health contact is Michael Hundleby. He is the second tier leader there which has the contact relationship with the Canterbury and South Canterbury DHB. The Ministry of Health has direct access to some of the documentation you may need, Board minutes etc when you are looking at the issues raised related to the health sector. Mr Hundleby's contact details are below and he has been designated as the contact person for health by the Director-General of Health.

Please let me know if I can assist with connecting you or your folks with any of these people above.

Cheers

Geoff

Geoff Short
Assistant Commissioner
State Services Commission
DDI: +64 4 495 6655
Mob: 9(2)(a)
Fax: +64 4 495 6686
geoff.short@ssc.govt.nz

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Nicholai Mumford [SSC]

From: Geoff Short [SSC]
Sent: Thursday, 9 February 2017 12:43 p.m.
To: Michael Heron
Cc: Andrew Royle [SSC]
Subject: Employment Information
Attachments: 3913300_Employment and company details for 3 CERA individuals.DOCX; Contact Details - CERA Review.docx

Hi Mike

Please find attached 9(2)(a) privacy other material you have sought from DPIC. We hope to get the 9(2)(k) up and operating soon, which will make it much easier and less person reliant on getting electronic information to you and your team.

I'd also be interested in getting a list of the folks you have working to you on this investigation and their contact details and for us to set up a regular phone/video conversation, so we can work our way through any process issues that may be emerging. Do you have any preferred availability over the next day or so?

Cheers

Geoff

Geoff Short
Assistant Commissioner
State Services Commission
DDI: +64 4 495 6655
Mob: 9(2)(a)
Fax: +64 4 495 6686
geoff.short@ssc.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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Nicholai Mumford [SSC]

From: Ben Mak 9(2)(a) privacy
Sent: Thursday, 9 February 2017 4:44 p.m.
To: Wayne Greer [CASS]
Cc: Andrew Royle [SSC]
Subject: RE: CERA inquiry - confidential
Attachments: 9(2)(b)(ii) prejudice commercial position

Wayne,

I've attached whitepapers regarding the aforementioned systems and services.

Regards,
Ben

From: Ben Mak
Sent: Thursday, 9 February 2017 12:55 p.m.
To: 'Wayne Greer [CASS]' <Wayne.Greer@cass.govt.nz>
Cc: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: RE: CERA inquiry - confidential

Hi Wayne,

9(2)(g)(i) free and frank

9(2)(b)(ii) prejudice commercial position

I'm working on getting you additional info about these systems.

Regarding the NZ Government classification, are you saying that the people involved need to hold a security clearance in order to handle it?

Regards,
Ben

From: Wayne Greer [CASS] [<mailto:Wayne.Greer@cass.govt.nz>]
Sent: Thursday, 9 February 2017 11:14 a.m.
To: Ben Mak 9(2)(a) privacy
Cc: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: RE: CERA inquiry - confidential

[IN-CONFIDENCE]

Hi Ben

Ok the most important part for me is who will processing this information and where will they store it. Do you know if either of these systems have been reviewed by the Ministry of Justice? 9(2)(k) improper gain or advantage

So can you please provide as much information as you can find?

9(2)(k) improper gain or advantage

Regards

Wayne Greer | IT Security Manager: CASS | **Central Agencies Shared Services**

Tel: +64 4 917 6116: 9(2)(a) pri9(2)(a) Email: wayne.greer@cass.govt.nz

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- b. any use, dissemination or copying of this email is strictly prohibited and may be unlawful.

From: Ben Mak 9(2)(a) privacy

Sent: Wednesday, 8 February 2017 5:27 PM

To: Wayne Greer [CASS] <Wayne.Greer@cass.govt.nz>

Cc: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>

Subject: CERA inquiry - confidential

Hi Wayne,

As we mentioned over the phone, upon discussion with Michael Heron and the others working on the CERA inquiry, we plan to send the data we received onto an external company that specialises in litigation support and eDiscovery. They will have software that is capable of processing and extracting the data into a more useable form. They will also host the data online for us to review with login access.

9(2)(b)(ii) prejudice commercial position, 9(2)(k) improper gain or advantage

I've still yet to ascertain the company where the data will be physically hosted, but I'll let you know once I have it.

Let me know if you need any more information for me.

Cheers,
Ben

Nicholai Mumford [SSC]

From: Gib Beattie 9(2)(a) privacy
Sent: Thursday, 9 February 2017 2:03 p.m.
To: Geoff Short [SSC]; Andrew Royle [SSC]
Cc: Michael Heron
Subject: Draft Action Plan
Attachments: Draft Plan - 8 February 2017.docx

Gentlemen

Draft Action Plan as promised. It is not meant to be a detailed blueprint of the investigation - more an initial working document in order to put some shape and scope around the likely work but within the available timeframe.

Kind regards

Gib

Gib Beattie
Director

Beattie Varley Limited
9(2)(a) privacy

From: Michael Heron [mailto:9(2)(a) privacy]
Sent: Thursday, 9 February 2017 1:10 p.m.
To: Geoff Short [SSC] <Geoff.Short@ssc.govt.nz>
Cc: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>; Steven Bird 9(2)(a) privacy ; Ben Mak9(2)(a) privacy Gib Beattie9(2)(a) privacy
Subject: RE: Employment Information

Thanks Geoff.

Gib – could you email Geoff and Andrew that draft action plan from yesterday, amended to reflect our discussions please on timing?

Nicholai Mumford [SSC]

From: Steven Bird 9(2)(a) privacy
Sent: Thursday, 9 February 2017 1:15 p.m.
To: simon9(2)(a) privacy
Subject: CERA - Alleged Conflicts - Simon Nikoloff
Attachments: CERA - Alleged Conflicts - Simon Nikoloff.pdf

Dear Mr Nikoloff

Please see the attached letter.

Kind regards

Steven Bird

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Michael Heron QC | Barrister

9(2)(a) privacy

9(2)(a) privacy

9 February 2017

Simon Nikoloff

CONFIDENTIAL

By email: 9(2)(a) privacy

Dear Mr Nikoloff

CANTERBURY EARTHQUAKE RECOVERY AUTHORITY - ALLEGED CONFLICTS OF INTEREST - SIMON NIKOLOFF

1. Pursuant to sections 23(1) and 25(2) of the State Sector Act 1998 (**SSA**) the State Services Commissioner (**SSC**) has appointed me to undertake an inquiry into the above subject matter on his behalf and produce an interim report by the end of February 2017.
2. The Inquiry will investigate:
 - i) any actual or perceived conflicts of interest you may have had during your employment at the Canterbury Earthquake Recovery Authority (**CERA**) or your subsequent State services employment;
 - ii) the management of any such conflicts of interest by you and State services agencies; and
 - iii) any other related matter arising from the course of the investigation that ought to be considered to provide the SSC with a complete report.
3. As part of the Inquiry I would like to interview you. The most convenient time for me would be on **23 February 2017** with precise arrangements to be made closer to the time. Given the very limited time available there is little flexibility around that date, but please let me know if that is inconvenient and we can attempt to find another date.
4. To assist me to prepare my report and in preparation for the interview can you please provide me with the following material:
 - i) Any documents, electronic or otherwise, in your possession or control that relate to Project and Investment Management Limited (**PIM**), that may be relevant to the Inquiry;
 - ii) Any documents, electronic or otherwise, in your possession or control that relate to the following properties, that may be relevant to the Inquiry:

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MH

273 Manchester Street, Christchurch; and

159 Hereford Street, Christchurch;

- iii) Any statement you wish to offer in relation to the documents provided;
and
 - iv) Any other information you would like me to consider.
5. Please provide these documents electronically. Please let me know before the close of business on **10 February 2017** if you are unable to comply with the above requests. Please provide your substantive response by **16 February 2017**. While the SSA provides powers of summons pursuant to s 25 of the SSA, I do not envisage the need to exercise these powers.
6. Please contact Steven Bird on 9(2)(a) privacy if there is any matter you wish to discuss or clarify.

Yours faithfully,



Michael Heron QC

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Nicholai Mumford [SSC]

From: Steven Bird 9(2)(a) privacy
Sent: Thursday, 9 February 2017 1:13 p.m.
To: 9(2)(a) privacy
Subject: CERA - Alleged Conflicts - Gerard Gallagher
Attachments: CERA - Alleged Conflicts - Gerard Gallagher.pdf

Dear Mr Gallagher

Please see the attached letter.

Kind regards

Steven Bird

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT



Michael Heron QC | Barrister

9(2)(a) privacy

9(2)(a) privacy

9 February 2017

Gerard Gallagher

CONFIDENTIAL

By email: 9(2)(a) privacy

Dear Mr Gallagher

CANTERBURY EARTHQUAKE RECOVERY AUTHORITY - ALLEGED CONFLICTS OF INTEREST - GERARD GALLAGHER

1. Pursuant to sections 23(1) and 25(2) of the State Sector Act 1998 (**SSA**) the State Services Commissioner (**SSC**) has appointed me to undertake an inquiry into the above subject matter on his behalf and produce an interim report by the end of February 2017.
2. The inquiry will investigate:
 - i) any actual or perceived conflicts of interest you may have had during your employment at the Canterbury Earthquake Recovery Authority (**CERA**) or your subsequent State services employment;
 - ii) the management of any such conflicts of interest by you and State services agencies; and
 - iii) any other related matter arising from the course of the investigation that ought to be considered to provide the SSC with a complete report.
3. As part of the inquiry I would like to interview you. The most convenient time for me would be on **23 February 2017** with precise arrangements to be made closer to the time. Given the very limited time available there is little flexibility around that date, but please let me know if that is inconvenient and we can attempt to find another date.
4. To assist me to prepare my report and in preparation for the interview can you please provide me with the following material:
 - i) Any documents, electronic or otherwise, in your possession or control that relate to Project and Investment Management Limited (**PIM**), that may be relevant to the inquiry;
 - ii) Any documents, electronic or otherwise, in your possession or control that relate to the following properties, that may be relevant to the inquiry:

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1111

273 Manchester Street, Christchurch; and

159 Hereford Street, Christchurch;

iii) Any statement you wish to offer in relation to the documents provided;
and

iv) Any other information you would like me to consider.

5. Please provide these documents electronically. Please let me know before the close of business on **10 February 2017** if you are unable to comply with the above requests. Please provide your substantive response by **16 February 2017**. While the SSA provides powers of summons pursuant to s 25 of the SSA, I do not envisage the need to exercise these powers.
6. Please contact Steven Bird on 9(2)(a) privacy if there is
any matter you wish to discuss or clarify.

Yours faithfully,



Michael Heron QC

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Nicholai Mumford [SSC]

From: Steven Bird 9(2)(a) privacy
Sent: Thursday, 9 February 2017 12:51 p.m.
To: 9(2)(a) privacy
Cc: Sarah Dysart
Subject: CERA - Alleged Conflicts - Murray Cleverley
Attachments: CERA - Alleged Conflicts - Murray Cleverley.pdf

Dear Mr Rennie QC

Please see the attached letter.

Kind regards

Steven Bird

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Michael Heron QC | Barrister

9(2)(a) privacy

9 February 2017

Murray Cleverley
c/- Hugh Rennie QC
Barrister

CONFIDENTIAL
By email: 9(2)(a) privacy

Dear Mr Cleverley

CANTERBURY EARTHQUAKE RECOVERY AUTHORITY - ALLEGED CONFLICTS OF INTEREST - MURRAY CLEVERLEY

1. As you are aware pursuant to sections 23(1) and 25(2) of the State Sector Act 1998 (SSA) the State Services Commissioner (SSC) has appointed me to undertake an Inquiry into the above subject matter on his behalf and produce an interim report by the end of February 2017.
2. The Inquiry will investigate:
 - i) any actual or perceived conflicts of interest you may have had during your employment at the Canterbury Earthquake Recovery Authority (CERA) or your governance roles in the State services;
 - ii) the management of any such conflicts of interest; and
 - iii) any other related matter arising from the course of the investigation that ought to be considered to provide the SSC with a complete report.
3. As part of the Inquiry I would like to interview you. The most convenient time for me would be on **23 February 2017** with precise arrangements to be made closer to the time. Given the very limited time available there is little flexibility around that date, but please let me know if that is inconvenient and we can attempt to find another date.
4. To assist me to prepare my report and in preparation for the interview can you please provide me with the following material:
 - i) Any documents, electronic or otherwise, in your possession or control that relate to Project and Investment Management Limited (PIM), that may be relevant to the Inquiry;
 - ii) Any documents, electronic or otherwise, in your possession or control that relate to your involvement with Silverfin Capital Limited (Silverfin) or any other entity that may be relevant to the Inquiry;

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iii) Any documents, electronic or otherwise, in your possession or control that relate to the following properties, that may be relevant to the Inquiry:

273 Manchester Street, Christchurch;

159 Hereford Street, Christchurch; and

32 Oxford Terrace

iv) Any statement you wish to offer in relation to the documents provided, and

v) Any other information you would like me to consider.

5. Please provide these documents electronically. Please let me know before the close of business on **10 February 2017** if you are unable to comply with the above requests. Please provide your substantive response by **16 February 2017**. While the SSA provides powers of summons pursuant to s 25 of the SSA, I do not envisage the need to exercise these powers.
6. Please contact Steven Bird on **9(2)(a) privacy** if there is any matter you wish to discuss or clarify. Mr Rennie QC is welcome to discuss with me at any stage.

Yours faithfully,



Michael Horon QC

cc:

Sarah Dysart

By email: **9(2)(a) privacy**

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Nicholai Mumford [SSC]

From: Wayne Greer [CASS]
Sent: Thursday, 9 February 2017 12:21 p.m.
To: dave.rudge@justice.govt.nz
Cc: Andrew Royle [SSC]
Subject: Evidence for courts

Importance: High

[SEEMAIL][IN-CONFIDENCE]

Hello Dave

I am currently working on providing some assurance to the State Services Commissioner regarding an investigation into the conduct of several ex-CERA employees and was wondering if you could help?

9(2)(k) improper gain or advantage, 9(2)(b)(ii) prejudice commercial position

The reason for my query is that DPMC own the information that is being analysed, so we can't be sure that some information classified as restricted/sensitive is included.

regards

Wayne Greer | IT Security Manager: CASS | Central Agencies Shared Services

Tel: +64 4 917 6116; 9(2)(a) privacy Email: wayne.greer@cass.govt.nz

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Nicholai Mumford [SSC]

From: Geoff Short [SSC]
Sent: Friday, 10 February 2017 6:29 p.m.
To: 9(2)(a) privacy
Subject: Additional Notes
Attachments: File Note - Phone call with 9(2)(a) privacy DPMC Handover.docx;
2257267_1.pdf

Hi Ian

Apologies for the delay in getting these through. I've been awaiting follow-up from my colleague at DPMC that she was comfortable with us sending notes of our conversation with her through and she has only been contactable late today.

Please find attached a file note of my conversation with 9(2)(a) , who I called following a referral.
Please find attached a note we did following the handover discussion with Anne Shaw.
2(1) not official information

I am keen to have a chat with you as well about some additional information I have gained from Anne Shaw as well that suggests a conversation with Albert Brantley might be useful to you.

Feel free to call me any time over the weekend or whenever suits.

Cheers

Geoff

Geoff Short
Assistant Commissioner
State Services Commission
DDI: +64 4 495 6655
Mob: 9(2)(a)
Fax: +64 4 495 6686
geoff.short@ssc.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Friday, 10 February 2017 2:58 p.m.
To: Nicola Purvis [DPMC]
Subject: Requests for information

[UNCLASSIFIED]

Good afternoon Nicola

As discussed last evening, I confirm that the information requested and provided last week 9(2)(k) namely CERA inboxes, was required pursuant to the Commissioner's statutory powers to require information under the State Sector Act for the purpose of the current investigation.

Regards
Andrew Royle
Chief Legal Advisor
State Services Commission
DDI: +64 4 495 6754
Mob: +64 22 9(2)(a)
Fax: +64 4 495 6686
Andrew.Royle@SSC.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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Nicholai Mumford [SSC]

From: Michael Heron <9(2)(a) privacy
Sent: Friday, 10 February 2017 11:17 a.m.
To: Kathryn Dalziel
Cc: Michael Heron
Subject: RE: Canterbury Earthquake Recovery - alleged conflicts of interests

Dear Kathryn,

Thank you for the emails. I am very grateful for your prompt response on behalf of Mr Gallagher and Mr Nikoloff.

We will do our best to work around your commitments. I expect we will travel to Christchurch early on Thursday 23rd and aim to have consecutive meetings with your clients that day (ie one meeting for Mr Nikoloff say in the morning and one meeting for Mr Gallagher when we can).

At present we have been provided with a vast amount of documentation, none of which yet falls within your description "emails or documents that you may have obtained already to which you seek a response".

Before the 23rd, however, we will aim to make available to you such emails or documents.

We will keep in touch about logistical arrangements. I will likely be accompanied by Mr Steven Bird who is a lawyer working for me and one of the Beattie Varley team who are assisting me on the inquiry.

Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy
9(2)(a)

From: Kathryn Dalziel [mailto:Kathryn@taylorshaw.co.nz]
Sent: Friday, 10 February 2017 10:58 AM
To: Michael Heron <9(2)(a) privacy
Subject: RE: Canterbury Earthquake Recovery - alleged conflicts of interests

Dear Mr Heron

Further to my email below, I confirm your proposed timetable with a written response by 16 February 2017 and interviews on 23 February 2017.9(2)(a) privacy

I would be grateful if we could make the meeting times in the morning.

I look forward to receiving emails/documents as referred to below.

Many thanks

Kathryn Dalziel
Partner

taylor shaw BARRISTERS & SOLICITORS

Level 2, 53 Victoria Street
PO Box 1123
Christchurch 8140
www.taylorshaw.co.nz

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From: Kathryn Dalziel
Sent: Thursday, 9 February 2017 5:39 p.m.
To: '9(2)(a) privacy'
Subject: Canterbury Earthquake Recovery - alleged conflicts of interests

Dear Mr Heron

I am sending you this email to advise I have been instructed by Gerard Gallagher and Simon Nikoloff to provide legal advice/support to them in respect of the CERA alleged conflicts of interest inquiry.

I understand you are arranging interview times – I should be able to advise tomorrow of availability. I do not anticipate any difficulties with your time frames or date for interview. I have also spoken with my clients already about any documents they may have and they are checking to see if they hold anything which may assist.

In the meantime, it would be helpful if we could receive copies of emails or documents that you may have obtained already to which you seek a response. These will be held by my office on my undertaking not to distribute or provide electronic copies to anyone, including my clients, and for the purpose of showing to my clients in order that they may prepare for your interview.

Many thanks

Kathryn Dalziel
Partner

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Level 2, 53 Victoria Street
PO Box 1123
Christchurch 8140
www.taylorshaw.co.nz

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Nicholai Mumford [SSC]

From: Geoff Short [SSC]
Sent: Thursday, 9 February 2017 12:56 p.m.
To: Michael Heron
Cc: Andrew Royle [SSC]
Subject: Correspondence and contacts
Attachments: Letter to Mr Brantley TORs.pdf; Letter to Sir Mark Solomon TORs.docx.pdf; Letter to Mr Luxton TORs.pdf; gillum-7-53-18.pdf

Hi Mike

Please find attached correspondence sent to each of the key organisations where individuals have or have held public roles or are otherwise involved from an agency perspective in the provision of information that could potentially assist the investigation.

Letters were sent and received by the Acting Chairs of SCDHB, and CDHB. I have spoken to both Acting Chairs subsequently and indicated that you may wish to engage with them to set out any informational requirements you have or to seek contact with individuals for interview purposes.

9(2)(a) privacy

9(2)(a) privacy

A letter was also sent to the CE of Otakaro Ltd. I have spoken to him also and he is happy for me to pass you his contacts should you require anything. These are below.

Albert Brantley | Chief Executive | Ōtākaro Limited
E: 9(2)(a) privacy | DDI: +64 3 357 6370
Level 8, HSBC Tower, 62 Worcester Boulevard Christchurch, 8013

His best contact is on 9(2)(a)

Attached is a response from the CE of DPMC to my correspondence, identifying the key contact for DPMC and you will have noticed information already being provided.

The Ministry of Health contact is Michael Hundleby. He is the second tier leader there which has the contact relationship with the Canterbury and South Canterbury DHB. The Ministry of Health has direct access to some of the documentation you may need, Board minutes etc when you are looking at the issues raised related to the health sector. Mr Hundleby's contact details are below and he has been designated as the contact person for health by the Director-General of Health.

Please let me know if I can assist with connecting you or your folks with any of these people above.

Cheers

Geoff

Geoff Short
Assistant Commissioner
State Services Commission
DDI: +64 4 495 6655
Mob: 9(2)(a)
Fax: +64 4 495 6686
geoff.short@ssc.govt.nz

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DEPARTMENT
of the PRIME MINISTER
and CABINET



8 February 2017

Geoff Short
Assistant Commissioner
State Services Commission
PO Box 329
WELLINGTON 6140

Dear Geoff

Thank you for your email of 7 February 2017 advising of the appointment of Mr Mike Heron QC to undertake the investigation into the public allegations concerning three prior employees of the Canterbury Earthquake Recovery Authority.

We will provide Mr Heron with any information and assistance that he requires to carry out his investigation. We are currently gathering the relevant records that we hold from the Canterbury Earthquake Recovery Authority in the expectation that Mr Heron will request these. Please let Mr Heron know that Anne Shaw is our contact person for the purposes of this investigation. Anne's contact details are:

Anne Shaw
Director, Office of the Chief Executive
Department of the Prime Minister and Cabinet
Phone: (04) 817-9691
Mobile: 9(2)(a) privacy
Email: anne.shaw@dpmc.govt.nz

Yours sincerely

Andrew Kibblewhite
Chief Executive

UNCLASSIFIED

3914023V1

Executive Wing, Parliament Buildings, Wellington 6011, New Zealand
☎ 64 4 817 9700 Facsimile: 64 4 472 3181 www.dpmc.govt.nz

Nicholai Mumford [SSC]

From: Ben Mak 9(2)(a) privacy
Sent: Monday, 13 February 2017 11:05 a.m.
To: Wayne Greer [CASS]
Cc: Andrew Royle [SSC]
Subject: RE: CERA inquiry - confidential

Hi Wayne,

Can you estimate the likelihood on how long it will take to give us the greenlight with regards to these systems? I appreciate that there are a number of inquiries to do and things to consider; I just need to know the timeframe I'm dealing with.

Thanks,
Ben

From: Ben Mak
Sent: Thursday, 9 February 2017 4:44 p.m.
To: Wayne Greer [CASS] <Wayne.Greer@cass.govt.nz>
Cc: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: RE: CERA inquiry - confidential

Wayne,

I've attached whitepapers regarding the aforementioned systems and services.

Regards,
Ben

From: Ben Mak
Sent: Thursday, 9 February 2017 12:55 p.m.
To: 'Wayne Greer [CASS]' <Wayne.Greer@cass.govt.nz>
Cc: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: RE: CERA inquiry - confidential

Hi Wayne,

I do not know if the Ministry of Justice have reviewed the systems. Here are further details:

9(2)(k) improper gain or advantage, 9(2)(b)(ii) prejudice commercial position

I'm working on getting you additional info about these systems.

Regarding the NZ Government classification, are you saying that the people involved need to hold a security clearance in order to handle it?

Nicholai Mumford [SSC]

From: David Meates <David.Meates@cdhb.health.nz>
Sent: Wednesday, 15 February 2017 3:58 p.m.
To: Andrew Royle [SSC]
Cc: Susan Fitzmaurice
Subject: FW:
Attachments: CDHB 9551 Request.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Hi Andrew

Following discussion yesterday, please find attached a copy of the DIA received from 9(2)(a). Your thoughts and advice re responding to this would be appreciated particularly to ensure that responding to this DIA does not impact or cut across the current review re conflicts of interest at CERA.

Regards

David Meates, MNZM

Chief Executive, Canterbury District Health Board and West Coast District Health Board

T: 03 364 4110 (ext 62110) | E: david.meates@cdhb.health.nz

P O Box 1600, Christchurch 8140

www.cdhb.health.nz | www.westcoastdhb.org.nz



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Responsibility for outcomes - Te Takohanga i ngā hua

CDHB 9551

Received 7/02/2017
Draft due 22/02/2017
Final response due 8/03/2017

From: 9(2)(a) privacy
Sent: Tuesday, 7 February 2017 9:49 a.m.
To: ChiefExecutive <ChiefExecutive@cdhb.health.nz>
Cc: Kathleen Smitheram <Kathleen.Smitheram@cdhb.health.nz>
Subject: OIA request 9(2)(a) privacy

Good morning

On behalf of 9(2)(a) privacy, under section 12 of the Official Information Act 1982 I request the following information:

- Copies of all papers, reports, text messages, phone conversations, correspondence, including to and from the DHB Chair, regarding the leasing arrangements for the Oxford Terrace building
<http://www.clearwaterconstruction.co.nz/portfolio/32+Oxford+Terrace+Christchurch.html>; and
- Copies of all papers, reports, text messages, phone conversations, correspondence relating to 9(2)(a) privacy involvement with Canterbury DHB.

If you require any clarification of the intent of 9(2)(a) request please do not hesitate to contact me on 9(2)

Thank you for your consideration of this request.

Regards

9(2)(a)
privacy

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9(2)(a) privacy

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Nicholai Mumford [SSC]

From: Michael Heron <9(2)(a) privacy>
Sent: Thursday, 16 February 2017 4:53 p.m.
To: Kathryn Dalziel
Subject: RE: SSC inquiry - document update

Dear Kathryn,

Thank you for the update. I understand. The earlier the better for me but if you need until Monday, that is fine.

Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy
9(2)(a)

From: Kathryn Dalziel 9(2)(a) privacy
Sent: Thursday, 16 February 2017 4:48 PM
To: Michael Heron <9(2)(a) privacy>
Subject: RE: SSC inquiry - document update

Dear Michael

Thank you for this information. I have been endeavouring to complete a statement today with my clients but it does not look like I will be able to achieve this. 9(2)(a) privacy

I also want to have a look through the documents as well as soon as they are available. Obviously Simon and Gerard do not have access to CERA documents and they may need to refresh their memory.

I am conscious of your time constraints and trust that a delay until Monday for a statement will not interfere with your process.

Many thanks

Kathryn Dalziel
Partner

taylor shaw BARRISTERS & SOLICITORS

9(2)(a) privacy

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From: Michael Heron [mailto:9(2)(a) privacy]
Sent: Thursday, 15 February 2017 2:01 p.m.
To: Hugh Rennie; Sarah Dysart; Kathryn Dalziel
Cc: Steven Bird; 'Ian Varley'; Andrew Royle [SSC]; Ben Mak; David Osborn
Subject: SSC inquiry - document update

Dear Hugh, Sarah, Kathryn,

We will shortly be providing to you the first tranche of documents 9(2)(k)) which appear relevant to matters covered by the inquiry. You will see two folders with an index for each. The index is hyperlinked so that you can immediately access the document from the index. The 9(2)(k) permissions are controlled by State Services but the documents are uploaded under my direction. I understand that each of the documents is sourced from either CERA or another government department (and is therefore official information). The documents (some more than others) will form the basis of the discussion at interview.

I will follow up tomorrow with more detail about the interviews. I will likely provide another set of documents also. I look forward to any initial responses from your clients (as requested for later today). If there is any need for those to be staggered or delayed, then please just ask.

Please contact me if you have questions or requests.

Michael Heron QC | 13-11-16

9(2)(a) privacy
9(2)(a)

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Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Friday, 17 February 2017 3:12 p.m.
To: 'David Meates'
Cc: 'Michael Heron'
Subject: RE:

In fact I failed to copy Mr Heron as intended – please see his email address attached.

Regards
Andrew Royle

From: Andrew Royle [SSC]
Sent: Friday, 17 February 2017 3:11 p.m.
To: 'David Meates' <David.Meates@cdhb.health.nz>
Subject: RE:

[UNCLASSIFIED]

David – apologies for the slight delay in responding.

Our view is that CDHB should proceed to answer the questions as asked in the usual manner. It seems unlikely that there would be anything that compromises the investigation, but it would be sensible to provide Michael Heron QC with a copy of the material prior to its final release, so that he can confirm that there would not be any compromise to his process in its release. I've copied Mr Heron into this email for that purpose.

It is also possible that the material might assist Mr Heron substantively, so it would be greatly appreciated if it could be gathered and provided to Mr Heron, in confidence if need be, as a matter of priority. Would it be possible to supply it before the middle of next week?

Regards
Andrew

Andrew Royle
Chief Legal Advisor
State Services Commission
DDI: +64 4 495 6754
Mob: +64 22 9(2)(a)
Fax: +64 4 495 6686
Andrew.Royle@SSC.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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From: David Meates [<mailto:David.Meates@cdhb.health.nz>]
Sent: Wednesday, 15 February 2017 3:58 p.m.

To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Cc: Susan Fitzmaurice <Susan.Fitzmaurice@cdhb.health.nz>
Subject: FW:

Hi Andrew

Following discussion yesterday, please find attached a copy of the OIA received from 9(2)(a) Your thoughts and advice re responding to this would be appreciated particularly to ensure that responding to this OIA does not impact or cut across the current review re conflicts of interest at CERA.

Regards

David Meates, MNZM
Chief Executive, Canterbury District Health Board and West Coast District Health Board
T: 03 364 4110 (ext 62110) | E: david.meates@cdhb.health.nz
P O Box 1600, Christchurch 8140
www.cdhb.health.nz | www.westcoastdwb.org.nz



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Responsibility for outcomes - Te Takohanga i ngā hua

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Nicholai Mumford [SSC]

From: Michael Heron <9(2)(a) privacy>
Sent: Wednesday, 1 March 2017 8:41 a.m.
To: Geoff Short [SSC]; Gib Beattie
Cc: Andrew Royle [SSC]
Subject: RE: CONFIDENTIAL - STATE SERVICES COMMISSION

Dear Geoff,

As discussed with you and Mr Brantley, I have considered this material as has Gib Beattie of Beattie Varley. In our view, on present information, there is nothing to link it to the current inquiry (relating to conflicts of interest). It appears to me that Ōtākaro have reviewed the transactions concerned and reached a conclusion on them. It may be prudent for them to continue to do so in light of further developments, including any conclusions that I might reach.

Would it be suitable for SSC to respond to 9(2)(a) on my behalf? I am happy to do so directly if you wish.

I will email you further on separate matters.

Kind regards,

Mike

From: Geoff Short [SSC] [mailto:Geoff.Short@ssc.govt.nz]
Sent: Sunday, 26 February 2017 4:50 PM
To: Michael Heron <9(2)(a) privacy> Gib Beattie <9(2)(a) privacy>
Subject: FW: CONFIDENTIAL - STATE SERVICES COMMISSION
Importance: High

Hi Mike and Gib
9(2)(ba)(i) confidential with prejudice

Happy to assist either way.

Cheers

Geoff

Geoff Short
Assistant Commissioner
State Services Commission
DDI: +64 4 495 6655
Mob: 9(2)(a)
Fax: +64 4 495 6686
geoff.short@ssc.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

Nicholai Mumford [SSC]

From: Geoff Short [SSC]
Sent: Sunday, 26 February 2017 4:48 p.m.
To: Michael Heron; Gib Beattie
Subject: FW: CONFIDENTIAL - STATE SERVICES COMMISSION
Attachments: Otakaro Documentation.pdf

Importance: High

Hi Mike and Gib
9(2)(ba)(i) confidential with prejudice

Happy to assist either way.

Cheers

Geoff

Geoff Short
Assistant Commissioner
State Services Commission
DDI: +64 4 495 6655
Mob: 02 9(2)(a)
Fax: +64 4 495 6686
geoff.short@ssc.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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From: Tim Ingleton [SSC]
Sent: Friday, 24 February 2017 1:14 p.m.
To: Geoff Short [SSC] <Geoff.Short@ssc.govt.nz>
Subject: FW: CONFIDENTIAL - STATE SERVICES COMMISSION
Importance: High

[IN-CONFIDENCE]

Hi Geoff

Please see the message below I have just received, with attached documents, addressed to Mike Heron.

Would be good to discuss acknowledgement of the message.

Thanks
Tim.

Nicholai Mumford [SSC]

From: Michael Heron <9(2)(a) privacy
Sent: Monday, 27 February 2017 6:04 p.m.
To: Geoff Short [SSC]
Cc: Andrew Royle [SSC]; Michael Heron
Subject: Further inquiries and steps from here - confidential

Hi Geoff/Andrew,

There are two matters which I thought I would note and give my view for your consideration:

9(2)(f)(iv) confidentiality of advice

Following our discussion, I understand the plan from here is:

- I will send you the interim report as signalled
- You will send me the SSC release
- I will send both to each of MC, SN and GG and lawyers
- I will say that the draft with conclusions will come to them on Monday (6th);
- Two working weeks will be allowed for comment (close of play on 17th)
- All things being equal, final report to SSC by end of month.

I plan to invoice SSC tomorrow for the work to the interim report stage (including the whole investigative team). Further work hopefully will not be as significant and can be done on a basis to be agreed between Andrew and I (if that suits).

Please let me know your thoughts.

Mike

Michael Heron QC | Barrister

9(2)(a) privacy

Nicholai Mumford [SSC]

From: Michael Heron <9(2)(a) privacy>
Sent: Tuesday, 28 February 2017 5:45 p.m.
To: Hugh Rennie; 'Sarah Dysart'; Kathryn Dalziel; Geoff Short [SSC]; Andrew Royle [SSC]
Cc: Michael Heron
Subject: CERA: Alleged conflicts of interest Inquiry - Interim Report dated 28 February 2017 - confidential
Attachments: Interim Report 28 02 17 sent.pdf

Please see attached as promised.

I propose to provide a draft report to Mr Cleverley, Mr Gallagher and Mr Nikoloff on or before 6 March 2017 with my preliminary conclusions. This will expand upon the preliminary report.

Each is welcome to provide further material before that date but I will be providing sufficient time to comment on the draft report following its circulation and it may be more efficient to wait until then.

There are some further inquiries to be undertaken. Any material which is relevant to the conclusions will be disclosed on or before 6 March 2017 with the draft report.

Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy
9(2)(a)

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

1 March 2017

Ōtākaro Limited
BY EMAIL

For the attention of Ruth Keating, General Counsel

Dear Ms Keating

State Services Commission inquiry

I write further to our recent telephone conversation regarding the Commission's current investigations into the actions of two current Ōtākaro Limited employees, Gerard Gallagher and Simon Nikoloff, along with another former staff member of CERA. In light of the potential overlap with the Commissioner's investigation, Mr Brantley also advised the Deputy State Services Commissioner, Ms Power, yesterday evening about his intention to commence a disciplinary process with these two staff members.

As discussed with you, any employment processes are entirely a matter for Ōtākaro Limited. However, it is likely that you now hold information that will be of relevance to the current inquiry by the Commissioner. Pursuant to section 9 of the State Sector Act, please supply to me any reports that Ōtākaro Limited has prepared or received, and key supporting material to those reports, relating to potential conflicts of interest of or other related concerns regarding Gerard Gallagher and Simon Nikoloff, particularly relating to their property investment activities.

I confirm that I hold the necessary delegated authority to require this information.

Yours sincerely

Andrew Royle
Chief Legal Advisor
State Services Commission

Nicholai Mumford [SSC]

From: David Meates <David.Meates@cdhb.health.nz>
Sent: Wednesday, 1 March 2017 8:06 p.m.
To: Andrew Royle (SSC)
Cc: Michael Heron
Subject: RE:

Hi Andrew

We are just in the final stages of pulling all the information relevant to the OIA. We will get this information through to you by the end of this week.

Regards

David Meates, MNZM
Chief Executive, Canterbury District Health Board and West Coast District Health Board
T: 03 364 4110 (ext 62110) | E: david.meates@cdhb.health.nz
P O Box 1600, Christchurch 8140
www.cdhb.health.nz | www.westcoastdhd.org.nz



Values – Ā Mātou Uara

Care and respect for others - Manuaki me te whakaute i te tangata | Integrity in all we do - Hāpai i ā mātou mahi katoa i runga i te pono |
Responsibility for outcomes - Te Takohanga i ngā hua

From: Andrew Royle [SSC] [<mailto:Andrew.Royle@ssc.govt.nz>]
Sent: Friday, 17 February 2017 3:12 p.m.
To: David Meates <David.Meates@cdhb.health.nz>
Cc: Michael Heron <9(2)(a) privacy>
Subject: RE:

In fact I failed to copy Mr Heron as intended – please see his email address attached.

Regards
Andrew Royle

From: Andrew Royle [SSC]
Sent: Friday, 17 February 2017 3:11 p.m.
To: 'David Meates' <David.Meates@cdhb.health.nz>
Subject: RE:

[UNCLASSIFIED]

David – apologies for the slight delay in responding.

Our view is that CDHB should proceed to answer the questions as asked in the usual manner. It seem unlikely that there would be anything that compromises the investigation, but it would be sensible to provide Michael Heron QC with a copy of the material prior to its final release, so that he can confirm that there would not be any compromise to his process in its release. I've copied Mr Heron into this email for that purpose.

It is also possible that the material might assist Mr Heron substantively, so it would be greatly appreciated if it could

be gathered and provided to Mr Heron, in confidence if need be, as a matter of priority. Would it be possible to supply it before the middle of next week?

Regards
Andrew

Andrew Royle
Chief Legal Advisor
State Services Commission
DDI: +64 4 495 6754
Mob: +64 22 9(2)(a)
Fax: +64 4 495 6686
Andrew.Royle@SSC.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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From: David Meates [<mailto:David.Meates@cdhb.health.nz>]
Sent: Wednesday, 15 February 2017 3:58 p.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Cc: Susan Fitzmaurice <Susan.Fitzmaurice@cdhb.health.nz>
Subject: FW:

Hi Andrew

Following discussion yesterday, please find attached a copy of the OIA received from 9(2)(a) privacy. Your thoughts and advice re responding to this would be appreciated particularly to ensure that responding to this OIA does not impact or cut across the current review re conflicts of interest at CERA.

Regards

David Meates, MNZM
Chief Executive, Canterbury District Health Board and West Coast District Health Board
T: 03 364 4110 (ext 62110) | E: david.meates@cdhb.health.nz
P O Box 1600, Christchurch 8140
www.cdhb.health.nz | www.westcoastdhb.org.nz



Values – Ā Mātou Uara

Care and respect for others - Manaaki me te whakaute i te tangata | Integrity in all we do - Hāpai i ā mātou mahi katoa | runga i te poro |
Responsibility for outcomes - Te Takohanga | ngā hua

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Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Wednesday, 1 March 2017 7:03 p.m.
To: 'Ruth Keating'
Cc: 'Michael Heron'
Subject: Request pursuant to the State Sector Act: State Services Commission inquiry

[IN-CONFIDENCE]

Dear Ms Keating

I write further to our recent telephone conversation regarding the Commission's current investigations into the actions of two current Ōtākaro Limited employees, Gerard Gallagher and Simon Nikoloff, along with another former staff member of CERA. In light of the potential overlap with the Commissioner's investigation, Mr Brantley also advised the Deputy State Services Commissioner, Ms Power, yesterday evening about his intention to commence a disciplinary process with these two staff members.

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As you have requested, and in light of the employment relationship with Messrs Gallagher and Nikoloff, the Commission will hold this material in confidence for the purposes of its investigation, subject only to any disclosure obligations to meet Parliamentary or audit reporting requirements or as otherwise required by law.

I confirm that I hold the necessary delegated authority to require this information.

Kind regards

Andrew Royle
Chief Legal Advisor
State Services Commission
DDI: +64 4 495 6754
Mob: +64 22 9(2)(a)
Fax: +64 4 495 6686
Andrew.Royle@SSC.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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.....
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Nicholai Mumford [SSC]

From: Michael Heron <9(2)(a) privacy
Sent: Wednesday, 1 March 2017 4:09 p.m.
To: Hugh Rennie; 'Sarah Dysart'; Kathryn Dalziel
Cc: Steven Bird
Subject: SSC update - for your clients information

Dear Hugh, Kathryn,

Please see below the text of what SSC will put on its website this afternoon. For information only.

Kind regards,

Mike

Update – Investigation into allegations against former CERA employees

On 7 February 2017 State Services Commissioner Peter Hughes appointed Michael Heron QC to investigate allegations made against former staff members of the Canterbury Earthquake Recovery Authority (CERA). Mr Heron was asked to provide an interim report by the end of February.

The interim report was provided on 28 February 2017 setting out the progress of the investigation so far.

Mr Heron is now working to complete the investigation and prepare his final report and conclusions.

Michael Heron QC | Barrister

9(2)(a) privacy
9(2)(a)

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Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Wednesday, 1 March 2017 2:02 p.m.
To: 'ruth.keating@otakarold.co.nz'
Subject: DRAFT
Attachments: 2259030_1.docx

[IN-CONFIDENCE]

This is what I propose to send. Any comments?

Regards
Andrew

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

1 March 2017

Ōtākaro Limited
BY EMAIL

For the attention of Ruth Keating, General Counsel

Dear Ms Keating

State Services Commission inquiry

I write further to our recent telephone conversation regarding the Commission's current investigations into the actions of two current Ōtākaro Limited employees, Gerard Gallagher and Simon Nikoloff, along with another former staff member of CERA. In light of the potential overlap with the Commissioner's investigation, Mr Brantley also advised the Deputy State Services Commissioner, Ms Power, yesterday evening about his intention to commence a disciplinary process with these two staff members.

As discussed with you, any employment processes are entirely a matter for Ōtākaro Limited. However, it is likely that you now hold information that will be of relevance to the current inquiry by the Commissioner. Pursuant to section 9 of the State Sector Act, please supply to me any reports that Ōtākaro Limited has prepared or received, and key supporting material to those reports, relating to potential conflicts of interest of or other related concerns regarding Gerard Gallagher and Simon Nikoloff, particularly relating to their property investment activities.

I confirm that I hold the necessary delegated authority to require this information.

Yours sincerely

Andrew Royle
Chief Legal Advisor
State Services Commission

Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Thursday, 2 March 2017 5:35 p.m.
To: 'Ruth Keating'
Subject: RE: Request pursuant to the State Sector Act: State Services Commission inquiry

Hi Ruth

9(2)(f)(iv) confidentiality of advice

Regards
Andrew

From: Ruth Keating 9(2)(a) privacy
Sent: Thursday, 2 March 2017 1:57 p.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: RE: Request pursuant to the State Sector Act: State Services Commission Inquiry

Hi Andrew

We have no issue with sharing the material with the Commission investigation team (including Mr Heron QC) and Crown Law. This is as I had anticipated.

9(2)(k) improper gain or advantage

Regards

Ruth

Ruth Keating | General Counsel | Ōtakaro Limited
E: 9(2)(a) privacy D: +64 3 357 6398 | M: 9(2)(a) privacy
Level 8, HSBC Tower, 62 Worcester Boulevard Christchurch, 8013

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From: Andrew Royle [SSC] [<mailto:Andrew.Royle@ssc.govt.nz>]
Sent: Thursday, 2 March 2017 1:38 PM
To: Ruth Keating 9(2)(a) privacy
Subject: RE: Request pursuant to the State Sector Act: State Services Commission Inquiry

Ruth,

Regarding confidentiality, I should have been slightly clearer. I will need to share the material with the Commission investigation team (including Mr Heron QC) and Crown Law. Please advise if you have any comment on that.

9(2)(k) improper gain or advantage

Regards
Andrew

From: Andrew Royle [SSC]
Sent: Thursday, 2 March 2017 12:51 p.m.
To: 'Ruth Keating' 9(2)(a) privacy
Cc: Albert Brantley 9(2)(a) privacy
Subject: RE: Request pursuant to the State Sector Act: State Services Commission Inquiry

Thanks Ruth. I appreciate your attention to our timeline. 9(2)(ba)(i) confidential with prejudice

Regards
Andrew

From: Ruth Keating 9(2)(a) privacy
Sent: Thursday, 2 March 2017 12:02 p.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Cc: Albert Brantley 9(2)(a) privacy
Subject: RE: Request pursuant to the State Sector Act: State Services Commission inquiry

Andrew

Further to your email below, please find attached a copy of a report prepared by EY 9(2)(ba)(i) confidential with prejudice

9(2)(ba)(i) confidential with prejudice

The supporting documentation for this report will be transmitted separately.

Regards

Ruth Keating | General Counsel | Ōtākaro Limited
E: 9(2)(a) privacy D: +64 3 357 6398 | 9(2)(a) privacy
Level 8, HSBC Tower, 62 Worcester Boulevard Christchurch, 8013

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From: Andrew Royle [SSC] [<mailto:Andrew.Royle@ssc.govt.nz>]
Sent: Wednesday, 1 March 2017 7:03 PM
To: Ruth Keating 9(2)(a) privacy
Cc: Michael Heron 9(2)(a) privacy
Subject: Request pursuant to the State Sector Act: State Services Commission inquiry

[IN-CONFIDENCE]

Dear Ms Keating

I write further to our recent telephone conversation regarding the Commission's current investigations into the actions of two current Ōtākaro Limited employees, Gerard Gallagher and Simon Nikoloff, along with another former staff member of CERA. In light of the potential overlap with the Commissioner's investigation, Mr Brantley also advised the Deputy State Services Commissioner, Ms Power, yesterday evening about his intention to commence a disciplinary process with these two staff members.

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As you have requested, and in light of the employment relationship with Messrs Gallagher and Nikoloff, the Commission will hold this material in confidence for the purposes of its investigation, subject only to any disclosure obligations to meet Parliamentary or audit reporting requirements or as otherwise required by law.

I confirm that I hold the necessary delegated authority to require this information.

Kind regards

Andrew Royle
Chief Legal Advisor
State Services Commission
DDI: +64 4 495 6754
Mob: +9(2)(a) privacy
Fax: +64 4 495 6686
Andrew.Royle@SSC.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Thursday, 2 March 2017 5:11 p.m.
To: 'gib9(2)(a) privacy'
Subject: FW: Request pursuant to the State Sector Act: State Services Commission inquiry
Attachments: 9(2)(ba)(i) confidential with prejudice

Gib

Report as discussed.

Regards
Andrew

From: Ruth Keating 9(2)(a) privacy
Sent: Thursday, 2 March 2017 12:02 p.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Cc: Albert Brantley 9(2)(a) privacy
Subject: RE: Request pursuant to the State Sector Act: State Services Commission Inquiry

Andrew

Further to your email below, please find attached a copy of a report prepared by EY 9(2)(ba)(i) confidential with prejudice

The supporting documentation for this report will be transmitted separately.

Regards

Ruth Keating | General Counsel | Ōtakaro Limited
E: 9(2)(a) privacy D: +64 3 357 6398 | M: 9(2)(a) privacy
Level 8, HSBC Tower, 62 Worcester Boulevard Christchurch, 8013

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From: Andrew Royle [SSC] [mailto:Andrew.Royle@ssc.govt.nz]
Sent: Wednesday, 1 March 2017 7:03 PM
To: Ruth Keating 9(2)(a) privacy
Cc: Michael Heron 9(2)(a) privacy
Subject: Request pursuant to the State Sector Act: State Services Commission inquiry

[IN-CONFIDENCE]

Dear Ms Keating

I write further to our recent telephone conversation regarding the Commission's current investigations into the actions of two current Ōtakaro Limited employees, Gerard Gallagher and Simon Nikoloff, along with another former staff member of CERA. In light of the potential overlap with the Commissioner's investigation,

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I confirm that I hold the necessary delegated authority to require this information.

Kind regards

Andrew Royle
Chief Legal Advisor
State Services Commission
DDI: +64 4 495 6754
9(2)(a) privacy
Fax: +64 4 495 6686
Andrew.Royle@SSC.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Thursday, 2 March 2017 12:44 p.m.
To: Debbie Power [SSC]; Geoff Short [SSC]; Philip Stables [SSC]; Nicholai Mumford [SSC]; Aaron Martin (Aaron.Martin@crownlaw.govt.nz); 'Michael Heron'
Subject: FW: Request pursuant to the State Sector Act: State Services Commission inquiry
Attachments: 9(2)(ba)(i) confidential with prejudice

Otakaro EY report attached. I will text you the password separately.

I have printed two copies – one for Debbie and one for me.

Regards
Andrew

From: Ruth Keating 9(2)(a) privacy
Sent: Thursday, 2 March 2017 12:02 p.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Cc: Albert Brantley 9(2)(a) privacy
Subject: RE: Request pursuant to the State Sector Act: State Services Commission inquiry

Andrew

Further to your email below, please find attached a copy of a report prepared by EY 9(2)(ba)(i) confidential with prejudice

The supporting documentation for this report will be transmitted separately.

Regards

Ruth Keating | General Counsel | Ōtakaro Limited
E: 9(2)(a) privacy D: +64 3 357 6398 | M: 9(2)(a) privacy
Level 8, HSBC Tower, 62 Worcester Boulevard Christchurch, 8013

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From: Andrew Royle [SSC] [mailto:Andrew.Royle@ssc.govt.nz]
Sent: Wednesday, 1 March 2017 7:03 PM
To: Ruth Keating 9(2)(a) privacy
Cc: Michael Heron 9(2)(a) privacy
Subject: Request pursuant to the State Sector Act: State Services Commission Inquiry

[IN-CONFIDENCE]

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Kind regards

Andrew Royle
Chief Legal Advisor
State Services Commission
DDI: +64 4 495 6754
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.....
From: Michael Heron 9(2)(a) privacy
Sent: Monday, 6 March 2017 12:34 p.m.
To: Hugh Rennie; 'Sarah Dysart'; Kathryn Dalziel; Geoff Short [SSC]; Andrew Royle [SSC]
Cc: Steven Bird; Michael Heron
Subject: RE: CERA: Alleged conflicts of interest Inquiry - Interim Report dated 28 February 2017 - confidential

Dear Hugh, Sarah, Kathryn,

You will see from the 9(2)(k) material that additional matters have been raised which might be relevant to the draft report and any preliminary conclusions I reach. I am inquiring further into some of them. Accordingly, it is not possible to provide the draft today as originally signalled.

I will keep you advised as to progress and provide the draft report as soon as I am able.

Kind regards,

Michael Heron QC | 021 484 484

9(2)(a) privacy
9(2)(a)

From: Michael Heron
Sent: Tuesday, 28 February 2017 5:45 PM
To: Hugh Rennie 9(2)(a) privacy ; 'Sarah Dysart' 9(2)(a) privacy ; 'Kathryn Dalziel' 9(2)(a) privacy ; 'Geoff Short [SSC]' <Geoff.Short@ssc.govt.nz>; 'Andrew Royle [SSC]' <Andrew.Royle@ssc.govt.nz>
Cc: Michael Heron 9(2)(a) privacy
Subject: CERA: Alleged conflicts of interest Inquiry - Interim Report dated 28 February 2017 - confidential

Please see attached as promised.

I propose to provide a draft report to Mr Cleverley, Mr Gallagher and Mr Nikoloff on or before 6 March 2017 with my preliminary conclusions. This will expand upon the preliminary report.

Each is welcome to provide further material before that date but I will be providing sufficient time to comment on the draft report following its circulation and it may be more efficient to wait until then.

There are some further inquiries to be undertaken. Any material which is relevant to the conclusions will be disclosed on or before 6 March 2017 with the draft report.

Kind regards,

Michael Heron QC | 021 484 484

9(2)(a) privacy

No virus found in this message.

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Version: 2016.0.7998 / Virus Database: 4756/14053 - Release Date: 03/04/17

Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Tuesday, 7 March 2017 9:08 p.m.
To: Geoff Short [SSC]; Michael Heron
Subject: FW: Draft OIA Response

Just arrived

Sent with BlackBerry Work (www.blackberry.com)

From: David Meates <David.Meates@cdhb.health.nz>
Date: Tuesday, 07 Mar 2017, 7:07 PM
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: Draft OIA Response

Hi Andrew

Apologies for the delay – this has taken a bit longer due to staff illness.

Please find **enclosed**:

1. Summary of Timeline; and
2. Summary of Documents held.

We can arrange for any of the documents from the enclosed Summary of Documents to be made available to you if required.

As advised, we are preparing a response to an Official Information Act (OIA) request from 9(2)
That request asked for: (a)
priv

- "Copies of all papers, reports, text messages, phone conversations, correspondence, including to and from the DHB Chair, regarding the leasing arrangements for the Oxford Terrace building <http://www.clearwaterconstruction.co.nz/portfolio/32+Oxford+Terrace+Christchurch.html>; and
- Copies of all papers, reports, text messages, phone conversations, correspondence relating to 9(2)(a) privacy involvement with Canterbury DHB."

We can also provide you with a copy of our response to this OIA if required.

Please let me know if you require any further details / clarification.

Regards

David Meates, MNZM
Chief Executive, Canterbury District Health Board and West Coast District Health Board
T: 03 364 4110 (ext 62110) | E: david.meates@cdhb.health.nz
P O Box 1600, Christchurch 8140
www.cdhb.health.nz | www.westcoastdhb.org.nz



Values – Ā Mātou Uara

Care and respect for others - Manaaki me te whakaute i te tangata | Integrity in all we do - Hāpai i ā mātou mahi katoa i runga i te pono |
Responsibility for outcomes - Te Takohanga i ngā hua

From: Andrew Royle [SSC] [mailto:Andrew.Royle@ssc.govt.nz]
Sent: Monday, 6 March 2017 1:23 p.m.
To: David Meates <David.Meates@cdhb.health.nz>
Subject: RE:

Hī David

Just following up on this potential OIA material. It was anticipated we would have it late last week, so could I have a new ETA on its arrival?

Regards
Andrew

From: Andrew Royle [SSC]
Sent: Friday, 17 February 2017 3:12 p.m.
To: 'David Meates' <David.Meates@cdhb.health.nz>
Cc: 'Michael Heron'9(2)(a) privacy
Subject: RE:

In fact I failed to copy Mr Heron as intended – please see his email address attached.

Regards
Andrew Royle

From: Andrew Royle [SSC]
Sent: Friday, 17 February 2017 3:11 p.m.
To: 'David Meates' <David.Meates@cdhb.health.nz>
Subject: RE:

[UNCLASSIFIED]

David – apologies for the slight delay in responding.

Our view is that CDHB should proceed to answer the questions as asked in the usual manner. It seems unlikely that there would be anything that compromises the investigation, but it would be sensible to provide Michael Heron QC with a copy of the material prior to its final release, so that he can confirm that there would not be any compromise to his process in its release. I've copied Mr Heron into this email for that purpose.

It is also possible that the material might assist Mr Heron substantively, so it would be greatly appreciated if it could be gathered and provided to Mr Heron, in confidence if need be, as a matter of priority. Would it be possible to supply it before the middle of next week?

Regards
Andrew

Andrew Royle
Chief Legal Advisor
State Services Commission
DDI: +64 4 495 6754

Mob: 9(2)(a) privacy
Fax: +64 4 495 6686
Andrew.Royle@SSC.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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From: David Meates [<mailto:David.Meates@cdhb.health.nz>]
Sent: Wednesday, 15 February 2017 3:58 p.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Cc: Susan Fitzmaurice <Susan.Fitzmaurice@cdhb.health.nz>
Subject: FW:

Hi Andrew

Following discussion yesterday, please find attached a copy of the OIA received from 9(2)(a) Your thoughts and advice re responding to this would be appreciated particularly to ensure that responding to this OIA does not impact or cut across the current review re conflicts of interest at CERA.

Regards

David Meates, MNZM
Chief Executive, Canterbury District Health Board and West Coast District Health Board
T: 03 364 4110 (ext 62110) | E: david.meates@cdhb.health.nz
P O Box 1600, Christchurch 8140
www.cdhb.health.nz | www.westcoastdhb.org.nz

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RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Nicholai Mumford [SSC]

From: Michael Heron 9(2)(a) privacy
Sent: Thursday, 9 March 2017 7:52 p.m.
To: Andrew Royle [SSC]
Subject: FW: Draft Final Report - 9 March 2017 - for your review
Attachments: Draft Final Report.docx

As discussed.
Thanks
M

From: Michael Heron
Sent: Thursday, 9 March 2017 7:48 PM
To: Gib Beattie 9(2)(a) privacy ; Ian Varley 9(2)(a) privacy David Osborn
9(2)(a) privacy Steven Bird 9(2)(a) privacy
Cc: Michael Heron 9(2)(a) privacy
Subject: Draft Final Report - 9 March 2017 - for your review

Team,

I am hoping to send this out late tomorrow. I've still got work to do on the Otakaro side and a bit of proofing and tidying.

But in the meantime, could I ask you (or one of you) to have a look through and see if it makes sense to you.

Any comments etc welcome.

Many thanks

Mike

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Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Friday, 10 March 2017 1:42 p.m.
To: Debbie Power [SSC]; Peter Hughes [SSC]
Subject: FW: Draft Final Report - 9 March 2017 - for your review
Attachments: Draft Final Report.docx

[UNCLASSIFIED]

Peter/Debbie

Mike has provided me with a copy of the draft report, specifically so that we could discuss the possible "system" recommendation.

However, it is also useful for you to see it as a draft at this stage, so that you can see his progress and assess if it meets your current expectations. Note that the report is still draft and subject to natural justice – any and all of the conclusions could still be subject to change. Counsel for the 3 people involved have been advised that you will see this early draft, and have raised no objections.

I will provide hard copies.

Regards
Andrew

From: Michael Heron 9(2)(a) privacy
Sent: Thursday, 9 March 2017 7:52 p.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: FW: Draft Final Report - 9 March 2017 - for your review

As discussed.
Thanks
M

From: Michael Heron
Sent: Thursday, 9 March 2017 7:48 PM
To: Gib Beattie 9(2)(a) privacy ; Ian Varley 9(2)(a) privacy ; David Osborn
9(2)(a) privacy ; Steven Bird 9(2)(a) privacy
Cc: Michael Heron 9(2)(a) privacy
Subject: Draft Final Report - 9 March 2017 - for your review

Team,

I am hoping to send this out late tomorrow. I've still got work to do on the Otakaro side and a bit of proofing and tidying.

But in the meantime, could I ask you (or one of you) to have a look through and see if it makes sense to you.

Any comments etc welcome.

Many thanks

Mike

Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Friday, 10 March 2017 1:49 p.m.
To: 'Michael Heron'
Subject: RE: Draft Final Report - 9 March 2017 - for your review

[UNCLASSIFIED]

Mike

As discussed, we think it likely that the forthcoming material from Otakaro will enable you to write a little more context/narrative around the Otakaro processes – just to fill out the context for your conclusion that it is unnecessary for you to go there further at this point.

In addition, we are working on what a sensible system response will look like – so it may be that your “system conclusion” is informed by that i.e. whether you think what we propose is a sensible approach, or recommend other steps.

As a result, do you want to place those two conclusions in square brackets, or indicate to counsel that there may be some minor adjustments in those two areas and that they'd be provided in due course if that occurs? IN both cases, I'm not entirely sure that the extent of the changes would need natural justice but that would be your call.

Happy to discuss, if necessary
Andrew

From: Michael Heron 9(2)(a) privacy
Sent: Thursday, 9 March 2017 7:52 p.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: FW: Draft Final Report - 9 March 2017 - for your review

As discussed.
Thanks
M

From: Michael Heron
Sent: Thursday, 9 March 2017 7:48 PM
To: Gib Beattie 9(2)(a) privacy ; Ian Varley 9(2)(a) privacy David Osborn
9(2)(a) privacy Steven Bird 9(2)(a) privacy
Cc: Michael Heron 9(2)(a) privacy
Subject: Draft Final Report - 9 March 2017 - for your review

Team,

I am hoping to send this out late tomorrow. I've still got work to do on the Otakaro side and a bit of proofing and tidying.

But in the meantime, could I ask you (or one of you) to have a look through and see if it makes sense to you.

Any comments etc welcome.

Many thanks

Mike

Nicholai Mumford [SSC]

From: Michael Heron 9(2)(a) privacy
Sent: Friday, 10 March 2017 2:31 p.m.
To: Kathryn Dalziel; 'Hugh Rennie'; 'Sarah Dysart'
Cc: Steven Bird; Andrew Royle [SSC]; Michael Heron
Subject: RE: Draft final report

Thank you Hugh and Kathryn,

I confirm that the Commissioner recognises that the report is still subject to natural justice processes and any conclusions are, at this stage, draft and subject to alteration depending on the responses received.

Kind regards,
Mike

From: Kathryn Dalziel 9(2)(a) privacy
Sent: Friday, 10 March 2017 12:04 PM
To: 'Hugh Rennie' 9(2)(a) privacy
9(2)(a) privacy
Cc: Steven Bird 9(2)(a) privacy
Subject: RE: Draft final report

Michael Heron 9(2)(a) privacy 'Sarah Dysart'
: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>

Dear Michael

Thank you from me as well.

We will also be working to provide feedback as soon as possible.

I have no objection with a copy of the draft report being provided to the Commissioner on the basis of the provisos that Mr Rennie raises below.

Regards

Kathryn Dalziel
Partner

taylor shaw BARRISTERS & SOLICITORS

Level 2, 53 Victoria Street T +64 03 379 4114
PO Box 1123 F +64 03 388 6370
Christchurch 8140 E 9(2)(a) privacy
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From: Hugh Rennie9(2)(a) privacy
Sent: Friday, 10 March 2017 11:59 a.m.
To: Michael Heron; 'Sarah Dysart'; Kathryn Dalziel

Cc: Steven Bird; Andrew Royle [SSC]
Subject: RE: Draft final report

Thank you.

I will work to provide a prompt response. 9(2)(a) privacy

I acknowledge that you are entitled, should you wish to do so, to provide a copy of your draft report to the Commissioner, given that you are his delegate and that that provides a means for ensuring that the scope of the report meets his expectations when delivered. My only concern is that it is clear that any views which you may express in it are recognised by him to be tentative and not yet the subject of response from those affected.

Regards

Hugh Rennie

Hugh Rennie QC

Harbour Chambers
Level 10 Equinox House 111 The Terrace
WELLINGTON 6011

P O Box 10242 - Ph: +64 4 4992684 - Fax +64 4 4992705 Mobile 9(2)(a) privacy www.harbourchambers.co.nz

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From: Michael Heron 9(2)(a) privacy

Sent: Friday, 10 March 2017 11:17 a.m.

To: Hugh Rennie; 'Sarah Dysart'; Kathryn Dalziel

Cc: Steven Bird; Andrew Royle [SSC]

Subject: Draft final report

Good morning,

I expect to send you a draft final report later this afternoon. I am hoping you will be able to provide comments back to me in the following week, so that I can finalise it after that.

Just one matter of process to cover which I am not sure I have been clear on. Ordinarily I would copy the draft to the Commissioner so that he is kept informed of where I am at in the process. I presume there is no difficulty with that. The document is clearly marked draft and is subject to your clients' comments.

Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy

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Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Friday, 10 March 2017 12:06 p.m.
To: 'Michael Heron'
Subject: FW: Draft final report

[UNCLASSIFIED]

Mike

I'm comfortable with the statement from Mr Rennie and Ms Dalziel. You can confirm that the Commissioner recognises that the report is still subject to natural justice processes and any conclusions are, at this stage, draft and subject to change pending any response. Or equivalent wording.

Regards
Andrew

From: Hugh Rennie 9(2)(a) privacy
Sent: Friday, 10 March 2017 11:59 a.m.
To: Michael Heron 9(2)(a) privacy 'Sarah Dysart' 9(2)(a) privacy Kathryn Dalziel
9(2)(a) privacy
Cc: Steven Bird 9(2)(a) privacy ; Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: RE: Draft final report

Thank you.

I will work to provide a prompt response. 9(2)(a) privacy

I acknowledge that you are entitled, should you wish to do so, to provide a copy of your draft report to the Commissioner, given that you are his delegate and that that provides a means for ensuring that the scope of the report meets his expectations when delivered. My only concern is that it is clear that any views which you may express in it are recognised by him to be tentative and not yet the subject of response from those affected.

Regards

Hugh Rennie

Hugh Rennie QC

Harbour Chambers
Level 10 Equinox House 111 The Terrace
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The contents of this email and any attachments may be subject to legal privilege. My terms of engagement as counsel are on my website.

From: Michael Heron 9(2)(a) privacy
Sent: Friday, 10 March 2017 11:17 a.m.
To: Hugh Rennie; 'Sarah Dysart'; Kathryn Dalziel

Cc: Steven Bird; Andrew Royle [SSC]
Subject: Draft final report

Good morning,

I expect to send you a draft final report later this afternoon. I am hoping you will be able to provide comments back to me in the following week, so that I can finalise it after that.

Just one matter of process to cover which I am not sure I have been clear on. Ordinarily I would copy the draft to the Commissioner so that he is kept informed of where I am at in the process. I presume there is no difficulty with that. The document is clearly marked draft and is subject to your clients' comments.

Kind regards,

Michael Heron QC | Barrister

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Nicholai Mumford [SSC]

From: Michael Heron 9(2)(a) privacy
Sent: Wednesday, 15 March 2017 9:41 p.m.
To: Andrew Royle [SSC]
Subject: RE: Draft A3

Thanks Andrew – that looks good to me – happy to chat tomorrow afternoon if that suits?

From: Andrew Royle [SSC] [mailto:Andrew.Royle@ssc.govt.nz]
Sent: Wednesday, 15 March 2017 10:14 AM
To: Michael Heron 9(2)(a) privacy
Subject: FW: Draft A3

[UNCLASSIFIED]

Mike

Attached for your info is our proposed draft A3 about the way forward – we are continuing to work it up.

However, it will give you a flavour of where we are going. Shall we have a chat at your convenience about your “system” recs?

Andrew

From: Geoff Short [SSC]
Sent: Friday, 10 March 2017 2:49 p.m.
To: Phillip Stables [SSC] <Phillip.Stables@ssc.govt.nz>; Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>; Jane Paterson [SSC] <Jane.Paterson@ssc.govt.nz>; Tim Ingleton [SSC] <Tim.Ingleton@ssc.govt.nz>; Nicholai Mumford [SSC] <Nicholai.Mumford@ssc.govt.nz>
Subject: Draft A3

Hi folks

Attached is the draft A3 on the way forward I've printed off for Debbie's weekend review. Happy to take any feedback for next version.

Cheers

Geoff Short
Assistant Commissioner
State Services Commission
DDI: +64 4 495 6655
Mob: 9(2)(a)
Fax: +64 4 495 6686
geoff.short@ssc.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Monday, 20 March 2017 11:30 a.m.
To: 'Michael Heron'
Subject: RE: Mr Cleverley - confidential

[UNCLASSIFIED]

Mike – yes, exactly.

The material is in the 9(2)(k) Otakaro folder (EY report and attachments). I also emailed Ruth's summary timeline document (on 10/3/17 at 4.32 pm, to assist you to locate it). I don't think that summary timeline document has been placed in the Otakaro folder yet.

I'd like to keep Kathryn moving as fast as possible, but given we have some further work to do re: Murray Cleverley we can probably accommodate a delay.

I will also pull together our own (reasonably modest) feedback for you to take on board.

Regards
Andrew

From: Michael Heron 9(2)(a) privacy
Sent: Monday, 20 March 2017 10:22 a.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Cc: Michael Heron 9(2)(a) privacy ; Steven Bird 9(2)(a) privacy
Subject: Mr Cleverley - confidential

Andrew,

Just following up on our conversation of last week. I am to look at Otakaro material with a view to ascertaining whether that makes any difference to my conclusions re Cleverley as currently stated. If so, Mr Cleverley will need to be given further opportunity to comment.

Just to check, I am assuming that we have the relevant Otakaro material in the Otakaro folder 9(2)(k)

You will see that Kathryn is hoping to get me something on Wednesday (and I would not count on that being a substantive response). We can reassess where to from there.

Perhaps we could chat then as to next steps and how to incorporate your thoughts/SSC comments. Have I missed anything?

Many thanks,
Mike

Michael Heron QC | Barrister

9(2)(a) privacy

Nicholai Mumford [SSC]

From: Michael Heron 9(2)(a) privacy
Sent: Friday, 24 March 2017 1:35 p.m.
To: Andrew Royle [SSC]; Geoff Short [SSC]
Subject: FW: Draft final report - confidential

Andrew/Geoff

Nothing much we can do about this but I am minded to say Monday is now the final deadline and I want to finalise the report by Friday 31 March with the benefit of their response.

Anything you want to say on that?

Mike

From: Kathryn Dalziel 9(2)(a) privacy
Sent: Friday, 24 March 2017 9:36 AM
To: Michael Heron 9(2)(a) privacy
Cc: 'Sarah Dysart' 9(2)(a) privacy
<Andrew.Royle@ssc.govt.nz>
Subject: RE: Draft final report - confidential

'Hugh Rennie' 9(2)(a) privacy

'Steven Bird' 9(2)(a) privacy

'Andrew Royle [SSC]'

Dear Michael

Once again I am going to have to plead for an indulgence. I have been trying to complete this work 9(2)(a) privacy but it has been impossible. I have arranged to see my clients this weekend so we can finalise a response for Monday.

Many thanks

Kathryn Dalziel
Partner

taylor shaw BARRISTERS & SOLICITORS

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From: Kathryn Dalziel
Sent: Wednesday, 22 March 2017 8:45 a.m.
To: 'Michael Heron'; 'Hugh Rennie'
Cc: 'Sarah Dysart'; Steven Bird; Andrew Royle [SSC]
Subject: RE: Draft final report - confidential

Dear Michael

Further to my email last week, I hope to be in a position to finalise a response with my clients either tonight or tomorrow night 9(2)(a) privacy

I am endeavouring to have this with you by Friday.

Many thanks

Kathryn Dalziel
Partner

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From: Michael Heron 9(2)(a) privacy
Sent: Friday, 17 March 2017 3:11 p.m.
To: 'Hugh Rennie'; Kathryn Dalziel
Cc: 'Sarah Dysart'; Steven Bird; Andrew Royle [SSC]; Michael Heron
Subject: RE: Draft final report - confidential

Dear Kathryn,

I have received feedback on behalf of Mr Cleverley 9(2)(k) improper gain or I have not received any on behalf of your clients.

I would very much like to finalise the report to the Commissioner next week if that was possible. Could you please let me know when you will be able to provide me your clients' feedback?

Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy
9(2)(a)

From: Michael Heron
Sent: Friday, 10 March 2017 5:11 PM
To: 'Hugh Rennie' 9(2)(a) privacy
Cc: 'Sarah Dysart' 9(2)(a) privacy
<Andrew.Royle@ssc.govt.nz>
Subject: Draft final report - confidential

'Kathryn Dalziel' 9(2)(a) privacy
; 'Steven Bird' 9(2)(a) privacy ; Andrew Royle [SSC]

Dear Hugh/Kathryn,

As signalled, please see attached my draft. It is confidential and provided solely for the purposes of enabling your clients to comment on it.

As made clear, these are my preliminary conclusions on the basis of material reviewed to date. I would be most grateful for your comments/submissions on it, if possible by end of next **Thursday 16 March 2017**. You will see a couple of paragraphs remain in square brackets in short because those need further information from your clients and SSC.

Please let me know at your earliest convenience if there is any material which you consider relevant and which you have not had access to.

Kind regards,

Michael Heron QC | Barrister

--- --

9(2)(a) privacy

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Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Monday, 27 March 2017 4:50 p.m.
To: Geoff Short [SSC]
Subject: RE: Draft letters

[UNCLASSIFIED]

Thanks Geoff. I think these are good – if Mike’s conclusions stay as they are in his preliminary report. We’ll need to check that and adjust for any changes in the report before these get to Peter.

Cheers

From: Geoff Short [SSC]
Sent: Thursday, 16 March 2017 1:34 p.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: Draft letters

Hi Andrew
Draft letters as discussed.

Geoff Short
Assistant Commissioner
State Services Commission
DDI: +64 4 495 6655
Mob: 9(2)(a)
Fax: +64 4 495 6686
geoff.short@ssc.govt.nz
www.ssc.govt.nz | newzealand.govt.nz

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Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Tuesday, 28 March 2017 8:00 a.m.
To: Geoff Short [SSC]; Nicholai Mumford [SSC]
Subject: FW: Draft final report - confidential
Attachments: KTD-143155-2-200-1 Response Gerard Gallagher and Simon Nikoloff 270317.pdf

Fyi

Sent with BlackBerry Work (www.blackberry.com)

From: Kathryn Dalziel 9(2)(a) privacy
Date: Monday, 27 Mar 2017, 6:47 PM
To: Michael Heron 9(2)(a) privacy
Cc: Hugh Rennie 9(2)(a) privacy, Sarah Dysart 9(2)(a) privacy, Steven Bird
9(2)(a) privacy, Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: RE: Draft final report - confidential

Dear Michael

Please find attached Mr Nikoloff and Mr Gallagher's response to the Draft Final Report.

Regards

Kathryn Dalziel
Partner

taylor shaw BARRISTERS & SOLICITORS

Level 2, 53 Victoria Street
PO Box 1123
Christchurch 8140
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From: Kathryn Dalziel
Sent: Monday, 27 March 2017 2:04 p.m.
To: Michael Heron
Cc: Hugh Rennie; Sarah Dysart; Steven Bird; Andrew Royle [SSC]
Subject: Re: Draft final report - confidential

Dear Michael

Thank you for your reply. It is likely that I will be sending through the response after close of business 9(2)(a) privacy
It will be sent through this evening.

Regards
Kathryn Dalziel

Partner
Taylor Shaw

On 24/03/2017, at 3:13 PM, Michael Heron 9(2)(a) privacy wrote:

Dear Kathryn,

Thank you for keeping me updated. I am anxious to finalise my report but clearly would prefer to do so with your clients' input.

I trust I can work on the basis that the final deadline for your clients response will be close of business Monday, following which I will consider all the material provided and finalise the report.

Ideally I would like to do so by 31 March (all other things being equal) but that depends in part on the material provided.

Kind regards,

Michael Heron QC | Solicitor

9(2)(a) privacy

From: Kathryn Dalziel 9(2)(a) privacy
Sent: Friday, 24 March 2017 9:36 AM
To: Michael Heron 9(2)(a) privacy ; 'Hugh Rennie' 9(2)(a) privacy
Cc: 'Sarah Dysart' 9(2)(a) privacy ; Steven Bird' 9(2)(a) privacy ; 'Andrew
Royle [SSC]' <Andrew.Royle@ssc.govt.nz>
Subject: RE: Draft final report - confidential

Dear Michael

Once again I am going to have to plead for an indulgence. 9(2)(a) privacy
I have arranged to see my clients this
weekend so we can finalise a response for Monday.

Many thanks

Kathryn Dalziel
Partner

<image001.png>

Level 2, 63 Victoria Street
PO Box 1123
Christchurch 8140
www.taylorshaw.co.nz

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9(2)(a) privacy

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From: Kathryn Dalziel
Sent: Wednesday, 22 March 2017 8:45 a.m.
To: 'Michael Heron'; 'Hugh Rennie'
Cc: 'Sarah Dysart'; Steven Bird; Andrew Royle [SSC]
Subject: RE: Draft final report - confidential

Dear Michael

Further to my email last week, I hope to be in a position to finalise a response with my clients either tonight or tomorrow night 9(2)

I am endeavouring to have this with you by Friday.

Many thanks

Kathryn Dalziel
Partner

<image001.png>

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From: Michael Heron 9(2)(a) privacy
Sent: Friday, 17 March 2017 3:11 p.m.
To: 'Hugh Rennie'; Kathryn Dalziel
Cc: 'Sarah Dysart'; Steven Bird; Andrew Royle [SSC]; Michael Heron
Subject: RE: Draft final report - confidential

Dear Kathryn,

I have received feedback on behalf of Mr Cleverley which is available on 9(2)(k) I have not received any on behalf of your clients.

I would very much like to finalise the report to the Commissioner next week if that was possible. Could you please let me know when you will be able to provide me your clients' feedback?

Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy

From: Michael Heron
Sent: Friday, 10 March 2017 5:11 PM
To: 'Hugh Rennie' 9(2)(a) privacy ; 'Kathryn Dalziel'
9(2)(a) privacy
Cc: 'Sarah Dysart' 9(2)(a) privacy ; 'Steven Bird' 9(2)(a) privacy ; Andrew
Royle [SSC] <Andrew.Rovle@ssc.govt.nz>
Subject: Draft final report - confidential

Dear Hugh/Kathryn,

As signalled, please see attached my draft. It is confidential and provided solely for the purposes of enabling your clients to comment on it.

As made clear, these are my preliminary conclusions on the basis of material reviewed to date. I would be most grateful for your comments/submissions on it, if possible by end of next **Thursday 16 March 2017**. You will see a couple of paragraphs remain in square brackets in short because those need further information from your clients and SSC.

Please let me know at your earliest convenience if there is any material which you consider relevant and which you have not had access to.

Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Nicholai Mumford [SSC]

From: Michael Heron 9(2)(a) privacy
Sent: Tuesday, 28 March 2017 6:34 p.m.
To: Hugh Rennie
Cc: Sarah Dysart; Steven Bird; Andrew Royle [SSC]; Michael Heron
Subject: RE: Draft final report - confidential

Dear Hugh,

Thanks for the email. Two matters on which I would be grateful for your client's comment:

1. Please review Exhibit A of the Gallagher/Nikoloff response (page 13 of the pdf) and provide me with any comment he wishes to?
2. Please review paragraph 8 of the response (page 1) and provide any comment he wishes to?

Many thanks again.

Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy

From: Hugh Rennie 9(2)(a) privacy
Sent: Monday, 27 March 2017 9:54 PM
To: Michael Heron 9(2)(a) privacy
Cc: Kathryn Dalziel 9(2)(a) privacy; Sarah Dysart 9(2)(a) privacy; Steven Bird
9(2)(a) privacy; Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: Re: Draft final report - confidential

Michael

Thanks for copying me in.

Murray 9(2)(a) privacy is yet to see this response and attachments. I am getting in touch with him to see if there is anything he wants to add; but I am in Court all tomorrow so won't be able to action any response before tomorrow evening.

I have seen the statement and attachments for the first time this evening.

If there is anything on which you want a response please let me know, copy to Sarah 9(2)(a) privacy

Thanks

Hugh

Hugh Rennie QC
Harbour Chambers
Wellington NZ
+6444992684
9(2)(a)

On 27/03/2017, at 21:07, Michael Heron 9(2)(a) privacy wrote:

Thank you very much Kathryn
I appreciate the effort you and your clients have put into producing this thorough response.
I will give you an update of my timing before Friday.
Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy

From: Kathryn Dalziel 9(2)(a) privacy
Sent: Monday, 27 March 2017 6:47 PM
To: Michael Heron 9(2)(a) privacy
Cc: Hugh Rennie 9(2)(a) privacy; Sarah Dysart 9(2)(a) privacy
Steven Bird 9(2)(a) privacy; Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: RE: Draft final report - confidential

Dear Michael

Please find attached Mr Nikoloff and Mr Gallagher's response to the Draft Final Report.

Regards

Kathryn Dalziel
Partner

<image002.png>

Level 2, 53 Victoria Street
PO Box 1123
Christchurch 8140
www.taylorshaw.co.nz

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Nicholai Mumford [SSC]

From: Hugh Rennie 9(2)(a) privacy
Sent: Wednesday, 29 March 2017 12:27 p.m.
To: Michael Heron
Cc: Sarah Dysart; Steven Bird; Andrew Royle [SSC]
Subject: RE: Draft final report - confidential

Michael

We have made contact with Murray and he has prepared responses which Sarah will get to you once he has checked them.

2(1) not official information

Finally I am not sure what release/ communication/ publication process may be intended for your report and if there is to be reference to Murray personally in any such publications I would appreciate advance knowledge of content and timing.

Regards

Hugh

Hugh Rennie QC

Harbour Chambers
Level 10 Equinox House 111 The Terrace
WELLINGTON 6011

P O Box 10242 - Ph: +64 4 4992684 - Fax +64 4 4992705 Mobile 9

www.harbourchambers.co.nz

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No responsibility is accepted for any alterations made to this email after despatch by me. If you require verification please request a fax or posted signed copy.

The contents of this email and any attachments may be subject to legal privilege. My terms of engagement as counsel are on my website.

From: Michael Heron 9(2)(a) privacy
Sent: Tuesday, 28 March 2017 6:34 p.m.
To: Hugh Rennie
Cc: Sarah Dysart; Steven Bird; Andrew Royle [SSC]; Michael Heron
Subject: RE: Draft final report - confidential

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Kind regards,

Michael Heron QC | Barrister

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Cc: Kathryn Dalziel 9(2)(a) privacy ; Sarah Dysart 9(2)(a) privacy Steven Bird
9(2)(a) privacy Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
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Cc: Hugh Rennie 9(2)(a) privacy ; Sarah Dysart 9(2)(a) privacy
Steven Bird 9(2)(a) privacy ; Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: RE: Draft final report - confidential

Dear Michael

Please find attached Mr Nikoloff and Mr Gallagher's response to the Draft Final Report.

Regards

Kathryn Dalziel
Partner

<image002.png>

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From: Kathryn Dalziel
Sent: Monday, 27 March 2017 2:04 p.m.
To: Michael Heron
Cc: Hugh Rennie; Sarah Dysart; Steven Bird; Andrew Royle [SSC]
Subject: Re: Draft final report - confidential

Dear Michael

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It will be sent through this evening.

Regards
Kathryn Dalziel
Partner
Taylor Shaw

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Michael Heron QC | Barrister

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From: Kathryn Dalziel 9(2)(a) privacy
Sent: Friday, 24 March 2017 9:36 AM
To: Michael Heron 9(2)(a) privacy; Hugh Rennie'
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Cc: 'Sarah Dysart' 9(2)(a) privacy; 'Steven Bird'
9(2)(a) privacy; 'Andrew Royle [SSC]' <Andrew.Royle@ssc.govt.nz>
Subject: RE: Draft final report - confidential

Dear Michael

Once again I am going to have to plead for an indulgence. 9(2)(a) privacy

have arranged to see my clients this weekend so we can finalise a response for Monday.

Many thanks

Kathryn Dalziel
Partner

<image001.png>

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To: 'Michael Heron'; 'Hugh Rennie'
Cc: 'Sarah Dysart'; Steven Bird; Andrew Royle [SSC]
Subject: RE: Draft final report - confidential

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Kathryn Dalziel
Partner

<image001.png>

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From: Michael Heron 9(2)(a) privacy
Sent: Friday, 17 March 2017 3:11 p.m.
To: 'Hugh Rennie'; Kathryn Dalziel
Cc: 'Sarah Dysart'; Steven Bird; Andrew Royle [SSC]; Michael Heron
Subject: RE: Draft final report - confidential

Dear Kathryn,

I have received feedback on behalf of Mr Cleverley which is available on the dropbox. I have not received any on behalf of your clients.

I would very much like to finalise the report to the Commissioner next week if that was possible. Could you please let me know when you will be able to provide me your clients' feedback?

Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy
9(2)(a)

From: Michael Heron
Sent: Friday, 10 March 2017 5:11 PM
To: 'Hugh Rennie' 9(2)(a) privacy ; 'Kathryn Dalziel'
9(2)(a) privacy
Cc: 'Sarah Dysart' 9(2)(a) privacy ; 'Steven Bird'
9(2)(a) privacy ; Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>
Subject: Draft final report - confidential

Dear Hugh/Kathryn,

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As made clear, these are my preliminary conclusions on the basis of material reviewed to date. I would be most grateful for your comments/submissions on it, if possible by end of next **Thursday 16 March 2017**. You will see a couple of paragraphs remain in square brackets in short because those need further information from your clients and SSC.

Please let me know at your earliest convenience if there is any material which you consider relevant and which you have not had access to.

Kind regards,

Michael Heron QC | Barrister

9(2)(a) privacy

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Version: 2016.0.8007 / Virus Database: 4769/14199 - Release Date: 03/28/17

Nicholai Mumford [SSC]

From: Andrew Royle [SSC]
Sent: Friday, 31 March 2017 3:42 p.m.
To: 'Michael Heron'
Subject: RE: CERA - Alleged conflicts of interest - Final report dated 31 March 2017 - confidential

[UNCLASSIFIED]

Thanks Mike

Have a good weekend and we will engage again on Monday.

9(2)(a) privacy

Regards
Andrew

From: Michael Heron 9(2)(a) privacy
Sent: Friday, 31 March 2017 3:02 p.m.
To: Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz>; Geoff Short [SSC] <Geoff.Short@ssc.govt.nz>
Subject: CERA - Alleged conflicts of interest - Final report dated 31 March 2017 - confidential

Dear Andrew/Geoff,

Attached is my final report as signalled. I provide this to SSC in advance so that you can confirm that I have met the terms of reference.

I will let the subjects know that it has been sent to you and will be provided to them early next week (along with information around publication).

We can liaise further as to the relevant documents but I am able to provide you with an index of documents referred to, together with electronic versions, early next week.

Many thanks for your instructions. 9(2)(a) privacy

Kind regards,

Mike

Michael Heron QC | Barrister

9(2)(a) privacy

Nicholai Mumford [SSC]

From: Michael Heron 9(2)(a) privacy
Sent: Friday, 31 March 2017 3:02 p.m.
To: Andrew Royle [SSC]; Geoff Short [SSC]
Subject: CERA - Alleged conflicts of interest - Final report dated 31 March 2017 - confidential
Attachments: Final Report 31 03 2017 MHQC for SSC.pdf

Dear Andrew/Geoff,

Attached is my final report as signalled. I provide this to SSC in advance so that you can confirm that I have met the terms of reference.

I will let the subjects know that it has been sent to you and will be provided to them early next week (along with information around publication).

We can liaise further as to the relevant documents but I am able to provide you with an index of documents referred to, together with electronic versions, early next week.

Many thanks for your instructions. 9(2)(a) privacy

Kind regards,

Mike

Michael Heron QC | Barrister

9(2)(a) privacy

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Hon Dr Jonathan Coleman
Minister of Health
Executive Wing
Parliament Buildings
Wellington 6140

Dear Minister Coleman

Conflict of interest investigation

In early February this year I advised the Prime Minister about allegations surrounding the actions of three former employees of the former departmental agency, the Canterbury Earthquake Recovery Authority and my intention to investigate. I also advised him that given the serious nature of allegations and the need to ensure the highest level of integrity within the State services, I would also look into any subsequent roles within the State services of these individuals.

To enable me to do that the Prime Minister directed me under section 11(1) of the State Sector Act 1988 to exercise my functions and powers under the Act to investigate matters raised as they relate to Mr Murray Cleverley in respect of his role as board member and chair of the Canterbury and South Canterbury District Health Boards. I was further asked to report directly to you on the outcome of the investigation in relation to Mr Cleverley in this regard, given your responsibilities. Please find attached a copy of the investigation report.

I appointed Mr Michael Heron QC as a suitably qualified and independent investigator to undertake the inquiry. The inquiry focused on specific activities involving Mr Cleverley, Mr Gallagher and Mr Nikoloff, their association with a company called Project and Investment Management Limited and in the case of Mr Cleverley only the Canterbury District Health Board and property at 32 Oxford Terrace, Christchurch. Mr Heron determined early that there were no relevant matters to investigate in relation to the South Canterbury District Health Board.

In relation to the allegations of conflict of interest within CERA, the report has concluded that there was a serious and sustained breach of the applicable standards for which a disciplinary process would ordinarily follow. In particular, Mr Gallagher and Mr Nikoloff's use of Project and Investment Management Limited and another company for personal gain in CERA-related matters and their omission to disclose this.

Mr Heron concluded in relation to CERA that Mr Cleverley did not know the extent of the activities of Mr Nikoloff and Mr Gallagher. Mr Cleverley was not aware of the conflict although he ought to have been. Mr Heron accepted Mr Cleverley's position that he thought the substantive activities of Project and Investment Management Limited were intended to be post-CERA. Mr Cleverley did not take sufficient care to ensure that either a conflict did not arise through his shareholding in Project and Investment Management Limited or that the potential for conflict was disclosed. Mr Heron considered Mr Cleverley had made an error of judgement in that respect. Mr Cleverley has accepted that.

In relation to Mr Cleverley's conflict of interest in the lease arrangements for the CDHB corporate office, Mr Heron has concluded that Mr Cleverley met all statutory requirements relating to identifying and managing the conflict of interest. Mr Cleverley recognised the existence of a conflict, and declared it in the manner anticipated by the legislation. However, Mr Heron also concluded that it would have been prudent for Mr Cleverley to follow the advice he was receiving from SSC and MOH, and resign from the company that held the lease.

Ultimately, like Mr Heron, I accept that management of this issue falls to Mr Cleverley and his Board. However, guidance from the Ministry for Health to Board members recognises that response strategies for conflicts may also require action to be taken outside the Boardroom, including the member removing him or herself from an employment or financial situation. It would have been more prudent for Mr Cleverley to stand aside from his corporate position, even if the strict requirements of the Act could be met. This view is held particularly because Mr Cleverley is the Chair of the Board and therefore responsible for setting the standard for his fellow board members. In my opinion, the legislative framework for managing conflicts is a minimum requirement for governors of Crown entities. In order that members maintain the reputation of the State Services and their organisations more generally, additional action may sometimes be necessary to respond to a conflict. This was such a case.

I am writing to Mr Cleverley to advise him of my view.

Ōtākaro Limited has been undertaking its own investigation and employment process in relation to Mr Gallagher and Mr Nikoloff. I have sought not to duplicate the investigation but have been kept informed as appropriate by Ōtākaro Limited. Mr Cleverley has not been part of that process, however the documentation reviewed by Ōtākaro Limited has implied a connection to Mr Cleverley. Mr Heron reviewed the documentation and on the basis of the material concluded that there were no matters for Mr Cleverley to answer and I concur with his view.

I intend to release Mr Heron's report publicly, once all parties have had the opportunity to consider it. I would be happy to provide you with any further information in relation to this investigation should you require it.

Yours sincerely

Peter Hughes
State Services Commissioner

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SSC Report: Inquiry into Alleged Conflicts of Interest at CERA

Date:	5 April 2017	Report No:	SSC2017/170
Contact:	Debbie Power	Telephone:	9(2)(a) privacy

	Action Sought	Deadline
Minister of State Services (Hon Paula Bennett)	<p>Note the attached report into alleged conflicts of interest at CERA;</p> <p>Note the intention to publicly release the report; and</p> <p>Refer copies of the attached report to the Minister Supporting Greater Christchurch Regeneration, and the Minister of Health.</p>	For referral by 6 April 2017

Enclosure: Yes (report attached)

Independent Investigation

Background

- 1 Following a series of allegations in late January and early February 2017, the State Services Commissioner appointed Mr Michael Heron QC (as a suitably qualified and independent investigator) to undertake an inquiry pursuant to section 23 (1) and 25 (2) of the State Sector Act 1988. The appointment of Mr Heron was made on 7 February, with an interim report received from him on 28 February and a final report received dated 31 March 2017.
- 2 The inquiry focused on Mr Murray Cleverley, Mr Simon Nikoloff and Mr Gerard Gallagher each of whom worked for the Canterbury Earthquake Recovery Authority (CERA) in the Christchurch Central Development Unit (CCDU). Mr Heron was asked to investigate:
 - 2.1 whether they had any actual or perceived conflicts of interest during their employment at CERA or their subsequent State services or governance roles;
 - 2.2 the management of any such conflicts of interest by them and State services agencies; and
 - 2.3 any other related matter arising from the course of the investigation that ought to be considered to provide the State Services Commissioner with a complete report.
- 3 The inquiry focused on specific activities involving Mr Cleverley, Mr Gallagher and Mr Nikoloff, their association with a company called Project and Investment Management Limited (PIML) and (in the case of Mr Cleverley only) the Canterbury District Health Board (DHB) and property at 32 Oxford Terrace, Christchurch.
- 4 It was intended that the investigation would look into matters associated with Mr Gallagher and Mr Nikoloff during their employment at Ōtākaro Limited, however before significant progress was made on that aspect separate matters arose that required the chief executive of Ōtākaro Limited to undertake his own investigation. The issues under investigation by the chief executive overlapped with the wider inquiry and it was therefore not appropriate for the State Services Commissioner to duplicate that process.

IN-CONFIDENCE

The State Services Commission (SSC) has been kept informed of progress in the Ōtākaro process.

- 5 Mr Heron's investigation primarily utilised electronic information (emails, calendar entries etc.) of the three former CERA employees, information provided by the former employees themselves, information provided by the Ministry of Health and the Canterbury DHB, and interviews by the investigative team of people with information relevant to the inquiry. Mr Heron then produced an interim report for comment by the former employees and a draft final report with preliminary conclusions for further comment and response.

Summary of Mr Heron's Conclusions

Canterbury Earthquake Recovery Authority (CERA) and Project Investment Management Limited (PIML)

- 1 The applicable standards for conflicts of interest required Mr Cleverley, Mr Gallagher and Mr Nikoloff to ensure they could fulfil their employment obligations without being affected by personal interests. They could not be involved in activity which might conflict their responsibilities and were required to get prior written consent to any outside activity. Each had to declare potential conflicts. If they were unsure, they should declare, so that the CERA chief executive could decide.
- 2 By September 2014, Mr Gallagher and Mr Nikoloff had a conflict of interest in relation to PIML that required disclosure. They were aware it was a conflict of interest but did not disclose it.
- 3 Overall, there was a serious and sustained breach of the applicable standards for which a disciplinary process would ordinarily follow. In particular, Mr Gallagher and Mr Nikoloff's use of PIML and another company for personal gain in CERA-related matters and their omission to disclose this to parties to a transaction they were involved with and CERA.
- 4 Whilst Mr Heron considered whether the conduct might involve provisions of the Crimes Act, it was not his role to reach a view on that. Consequently this report will be referred to the Serious Fraud Office so the Director of the Serious Fraud Office can determine whether the conduct and any other relevant conduct is worthy of further investigation. Mr Heron thought there are factors which mitigate against this being criminal conduct and it will be for the Serious Fraud Office to consider this matter.
- 5 Mr Cleverley did not know the extent of the activities of Mr Nikoloff and Mr Gallagher through PIML. He was not aware of the conflict although he ought to have been. Mr Heron accepted Mr Cleverley's position that he thought the substantive activities of PIML were intended to be post-CERA.
- 6 Mr Cleverley did not take sufficient care to ensure that either a conflict did not arise through PIML or that the potential for conflict was disclosed. Mr Heron considered Mr Cleverley had made an error of judgement in that respect, and Mr Cleverley accepted that position.
- 7 The environment that CERA operated in was challenging and its employees faced a difficult task particularly as it moved into the reconstruction phase. Mr Heron has recommended that SSC consider whether the usual approach to conflict management ought to be modified for such organisations. Mr Heron considered that the recent findings by the Auditor-General support the suggestion that proactive conflict management by CERA was unlikely to be occurring.

IN-CONFIDENCE

- 8 On Mr Heron's limited review, however, he reached a view that the HR processes of CERA were adequate in respect of conflict management. He considered that the documentation he saw did cover the matter of conflicts in an orthodox manner.

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IN-CONFIDENCE

Mr Cleverley, Canterbury DHB and Oxford Terrace

- 9 Mr Heron concluded that Mr Cleverley was entitled to take the position he did in respect to Canterbury DHB, Silverfin and 32 Oxford Terrace. The choice of becoming a director in Silverfin and continuing to hold that directorship in circumstances where the DHB was a tenant of the building which Silverfin owned was a matter of judgement for Mr Cleverley. The inclination of the public service is to take a more cautious approach. The less cautious approach tends to draw criticism and Mr Cleverley must take responsibility for that.
- 10 In Mr Heron's view, the DHB, the Ministry of Health and SSC managed the situation appropriately and proactively at each stage.

Next Steps

CERA Matters

- 11 SSC supports the conclusions that Mr Heron has reached with regards to Mr Gallagher, Mr Nikoloff and Mr Cleverley in relation to their actions and activities at CERA.
- 12 In light of the above, the State Services Commissioner is writing to Mr Gallagher and Mr Nikoloff to make clear that had he been their employer he would have referred the matter for disciplinary action and would have expected their dismissal as an outcomes of the process.
- 13 The State Services Commissioner will be referring Mr Heron's report on Mr Gallagher and Mr Nikoloff's involvement in property transactions during their time at CERA to the Serious Fraud Office (SFO) to further investigate. SFO currently has a Part 1 investigation open and is the appropriate authority to determine whether there is any criminal wrongdoing.
- 14 Mr Heron's report has also been provided to Ōtākaro Limited, where both Mr Nikoloff and Mr Gallagher have been employed since transferring from CERA and have been subject to disciplinary action arising from separate but related activity.
- 15 There is no doubt the environment that CERA operated in was challenging and its employees faced a difficult task particularly as it moved into the reconstruction phase. The Office of the Auditor-General (OAG) has separately reported on whether the internal controls were sufficiently developed by CERA through its existence. OAG has amongst other things recommended SSC consider the most appropriate organisational type of any future recovery agency, and how to prepare for the quick establishment of core corporate services.
- 16 Mr Heron has raised whether a government entity established for a finite time with such a commercial operating environment ought to have a more active approach to management of interests. SSC will consider Mr Heron's recommendation further, however, it should be noted that Ōtākaro Limited has strengthened its conflict of interest management since taking over the commercial role previously carried out by CERA. SSC considers that Ōtākaro Limited's approach to identifying and managing conflicts in relation to Mr Gallagher and Mr Nikoloff has been appropriate.

Ōtākaro Limited

- 17 The State Services Commissioner agreed with Mr Heron that as the Chief Executive has been required to move to investigate Mr Gallagher and Mr Nikoloff as a result of separate but related matters it was not necessary to duplicate that process. These are serious allegations and SSC has been kept informed of progress in the Ōtākaro investigation and subsequent employment process.

IN-CONFIDENCE

- 18 The decision of the Chief Executive of Ōtākaro Limited to immediately investigate and pursue disciplinary action was the right course of action to be followed. It is expected that Ōtākaro Limited will be in a position to comment publicly on the matter and the matters will also be referred to the Serious Fraud Office.

Mr Cleverley

- 19 In relation to his role as Chair of the Canterbury DHB and his directorship at Silverfin Ltd, Mr Heron concluded that Mr Cleverley was entitled to hold both positions as he did. He also concluded that Mr Cleverley was less prudent in his approach than the State Services Commissioner expects of public servants. He went on to say that Mr Cleverley needed to take responsibility for any criticism that might emerge as a result.
- 20 Consistent with the directive to the State Services Commissioner to investigate these matters under section 11(1) of the State Sector Act 1988, these matters will also be reported separately to the Minister of Health as directed by the Prime Minister.

Other Matters

- 21 During the course of the investigation one other individual was identified as part of the CCDU team as being recipient of some of the e-mails and other material associated with PIML. This individual was interviewed and Mr Heron formed a view that the individual was not involved in the key transactions focused on by the investigation, subsequently departed CERA before it was disestablished, was not a shareholder or director of PIML and therefore did not need further investigation or comment.
- 22 During the latter part of the investigation, Mr Gallagher and Mr Nikoloff also identified three individuals they considered had private interests that could conflict with their public duties. As these individuals were outside the scope of this investigation we will be referring them to DPMC to further consider in light of the chief executive of DPMC's responsibility for CERA since its disestablishment.

Releasing Mr Heron's Report

- 23 The State Services Commissioner intends to publicly release the report once the relevant parties have been briefed and have had sufficient time to consider the findings. The earliest that could happen is 11 April 2017, however it may take longer for parties to work through some of the consequences. It is important that the report is thoroughly considered and there is no specific timeframe that needs to be met.
- 24 SSC intends to publish the report on its website and proactively release the key material Mr Heron used to substantiate his findings. At the same time, consistent with our obligations to be transparent, SSC will release the relevant material it holds in a proactive manner.
- 25 To assist with contextualising the release of the report it is proposed to hold a press conference involving the State Services Commissioner and Mr Heron. It is likely that Ōtākaro Limited will have made sufficient progress in relation to its disciplinary processes that it will be in a position to provide some of the key material arising from its investigation. Both matters will be referred to the Serious Fraud Office concurrently.
- 26 Ahead of the public release of the report SSC will be providing confidential copies to the Chief Executive of DPMC and the Director-General of the Ministry of Health given their involvement to date.

Recommended Action

We recommend that you:

- a **Note** the attached report from the independent investigator Mr Michael Heron QC into alleged conflicts of interest at the Canterbury Earthquake Recovery Authority and the Canterbury District Health Board;
- b **Note** the State Services Commissioner's intention to publicly release the report once the relevant parties have been briefed;
- c **Note** that consistent with the direction to the State Services Commissioner by the Prime Minister to investigate the matters as they relate to Mr Cleverley, the State Services Commissioner will report directly on this matter to the Minister of Health as directed; and
- d **Refer** copies of this briefing and the attached report to the Minister Supporting Greater Christchurch Regeneration, and the Minister of Health for their information.

Noted / Approved

Hon Paula Bennett
Minister of State Services

Date: / / 2017

Nicholai Mumford [SSC]

From: Ruth Keating 9(2)(a) privacy
Sent: Wednesday, 5 April 2017 10:12 a.m.
To: Andrew Royle [SSC]
Subject: Re: SSC CERA inquiry - Final Report attached

Thanks.

Ruth Keating | General Counsel | Ōtakaro Limited
9(2)(a) privacy | D: [+64 3 357 6398](tel:+6433576398) | M: 9(2)(a) privacy
Level 8, HSBC Tower, [62 Worcester Boulevard Christchurch, 8013](https://www.otakaroltd.co.nz)

www.otakaroltd.co.nz | Building places for people

On 5 Apr 2017, at 10:11, Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz> wrote:

Trying again.

We will be briefing Ministers shortly.

Regards
Andrew

Sent from my iPhone

Begin forwarded message:

From: Ruth Keating 9(2)(a) privacy
Date: 5 April 2017 at 10:07:47 AM NZST
To: "Andrew Royle [SSC]" <Andrew.Royle@ssc.govt.nz>
Subject: Re: SSC CERA inquiry - Final Report attached

It isn't attached. Can you please resend?

Ruth Keating | General Counsel | Ōtakaro Limited
9(2)(a) privacy | D: [+64 3 357 6398](tel:+6433576398) | M: 9(2)(a) privacy
Level 8, HSBC Tower, [62 Worcester Boulevard Christchurch, 8013](https://www.otakaroltd.co.nz)

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On 5 Apr 2017, at 09:53, Andrew Royle [SSC] <Andrew.Royle@ssc.govt.nz> wrote:

Dear Ruth

As discussed, the Commissioner has now received the final report in this matter. Given Otakaro Limited's related interest, employment of two of the individuals concerned, and the likelihood for the Chief Executive to have to comment on these matters, it is appropriate for you receive a copy of the final report.

Kind regards

Andrew

Sent from my iPhone

Begin forwarded message:

From: "Michael Heron" 9(2)(a) privacy
To: "Hugh Rennie"
9(2)(a) privacy "Kathryn
Dalziel" 9(2)(a) privacy "Sarah"
Dysart" 9(2)(a) privacy
Cc: "Steven Bird" 9(2)(a) privacy
"Andrew Royle [SSC]" <Andrew.Royle@ssc.govt.nz>,
"Geoff Short [SSC]" <Geoff.Short@ssc.govt.nz>
Subject: SSC CERA Inquiry - Final Report attached

Dear Hugh, Kathryn, Sarah,

Please find attached my final report. The Commission has confirmed that it is consistent with the terms of reference and I may release it to you. In respect to publicity, the SSC advises me as follows:

- (a) As was indicated in the terms of reference, the Commissioner is intending to release the report publicly and will also likely make a public statement relating to its release at that time; and
- (b) The timing in relation to the release and any comment is still being finalised, but SSC will provide at least 24 hours' notice of the release unless circumstances require SSC to release earlier (e.g. if there is material from the report in the public domain earlier).

I will also shortly upload the final report and a set of the documents referred to in it (BVL documents only) into the Natural Justice 9(2)(k). Any release of such documents will be determined by SSC consistent with the Official Information Act including privacy considerations.

Many thanks again for your assistance.

Mike

Michael Heron QC | Barrister

9(2)(a) privacy

<Final Report 31 03 2017 MHQC to SSC and subjects.pdf>

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.....
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6 April 2017

Julie Read
Serious Fraud Office
PO Box 7124
Wellesley Street
Auckland 1141



Dear Ms Read

Conclusion of SSC inquiry into allegations of conflict of interest at CERA

The Serious Fraud Office previously notified the State Services Commission that it opened a Part 1 inquiry under the Serious Fraud Office Act 1990 into the allegations of conflicts of interest at the former Canterbury Earthquake Recovery Authority (CERA).

I have concluded my own investigation into these matters, the findings of which are contained in the attached report.

The Commission holds the following information which might assist you in investigating the matter, if you want to request it:

- the relevant email databases from CERA;
- other documents relevant to the inquiry from CERA, such as conflict of interest registers;
- interview material with a number of the parties noted in Appendix 5 of the report;
- a small number of other documents provided by Nikoloff, Gallagher, Cleverley and third parties.

I also understand that you may be interested in the matters currently under investigation at Ōtākaro Limited, and that these matters may also be referred to you in due course by that agency. I anticipate that you would request material relating to these matters directly from Ōtākaro, but note that the Commission also holds some material that has been provided to it by Ōtākaro for the purposes of my investigation.

The remainder of material relating to CERA is held by the Department of the Prime Minister and Cabinet (DPMC).

Yours sincerely

Peter Hughes
State Services Commissioner



11 April 2017

Ms Julie Read
Director
Serious Fraud Office
Level 6
21 Queen Street
AUCKLAND 1010

Dear Julie

I refer to my earlier letter of 6 April. In that letter I referred Mr Heron QC's report dated 31 March 2017 to you, for your consideration.

As I also indicated in that letter, Ōtākaro Limited has been investigating and undertaking employment action in relation to two of the former CERA employees, Mr Gallagher and Mr Nikoloff. While the terms of reference for Mr Heron's investigation were sufficiently broad to enable him to look into the matters under investigation by Ōtākaro Limited it was determined that Mr Heron inquiring into the same territory would be duplicative and potentially unfair.

During that process, I obtained under my statutory powers material from Ōtākaro Limited relating to that internal inquiry. The Ōtākaro Limited employment process has now completed, and from our review of that material it raises similar issues of a serious and concerning nature to the report I have already referred to you. Therefore, I am now also referring the Ōtākaro Limited matters to you for your consideration under the relevant criminal law. I have attached the material we hold, for your review.

Kind regards

Peter Hughes
State Services Commissioner

SSC MEDIA ADVISORY

STATE SERVICES COMMISSION
Te Komihana O Nga Tari Kawanatanga



11 April 2017

Media advisory: Report of investigation into allegations against former CERA staff members

State Services Commissioner Peter Hughes will this afternoon publish the report of Mr Michael Heron's investigation into allegations against former staff members of the Canterbury Earthquake Recovery Authority (CERA).

Media are invited to attend.

There will be 30 minutes to pre-read the report and statement under embargo. This will be followed by Mr Hughes and Mr Heron making statements and then taking questions.

Order of events

Tuesday 11 April 2017.

- 3:30pm pre-read of report and statement under embargo.
- 4:00pm – Mr Hughes and Mr Heron will make statements and answer questions.
- 4:30pm – Embargo on report lifts and published on SSC website.

Venue

State Services Commission
Level 10
Reserve Bank Building
2 The Terrace
Wellington

ENDS

Media contact: Tim Ingleton SSC (04) 495 6648

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Nicholai Mumford [SSC]

From: Peter Hughes [SSC]
Sent: Wednesday, 12 April 2017 10:11 a.m.
To: NZSIS: Rebecca Kitteridge; ^MSD: Brendan Boyle; Grainne.Moss001@msd.govt.nz; nicholas.pole@ero.govt.nz; ^DIA: Colin MacDonald; Helene Quilter; tim.keating@nzdf.mil.nz; David Smol; ^LINZ: Andrew Crisp; ^MPI: Martyn Dunne; Ray Smith; ^MFAT: Brook Barrington
Subject: FW: Investigation into allegations against former CERA staff

Giddyay

I sent the email below yesterday, attaching my media statement and a copy of Mike Heron's report into allegations against former CERA staff.

The report was a reasonably large file and unfortunately it looks like it didn't make it through the email system to you.

You may have seen this in the news by now, but my media statement and the report are on the SSC website. <http://www.ssc.govt.nz/final-report-investigation-allegations-against-former-cera-employees>

cheers
Peter

[UNCLASSIFIED]

Giddyay all,

This afternoon I held a media conference to release my findings with relation to allegations against former staff members of CERA.

These allegations were made on 28 January this year and I commissioned Mike Heron to undertake an investigation into them on my behalf.

Copies of my media statement and Mike's report are attached for your information.

Cheers,
Peter

Peter Hughes
Head of State Services - State Services Commissioner
State Services Commission
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Peter.Hughes@SSC.govt.nz
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