

## **Further Amended Defence**

No. **NTD 17 of 2024**

Federal Court of Australia  
District Registry: Northern Territory  
Division: General

**LESLEY TURNER**

Applicant

**JACINTA NAMPIJINPA PRICE**

Respondent

- 1 The respondent (**Senator Price**) admits the allegations pleaded in paragraph 1 of the Statement of Claim (**SOC**).
- 2 Senator Price admits the allegations pleaded in paragraph 2 of the SOC.
- 3 In response to paragraph 3 of the SOC:
  - (a) Senator Price admits that she published the First Media Release (as defined in that paragraph) by causing:
    - (i) emails to be sent on 21 July 2024 to the email addresses in Annexure A to the Further Amended Defence constituting email addresses for journalists and media organisations in the Northern Territory, the Australian Capital Territory, New South Wales and the other States of Australia, being the email contacts on her media distribution list;
    - (ii) the First Media Release to be uploaded to the URL: <https://www.jacintaprice.com/21-july-2024> at about 9:30am on 22 July 2024; and
  - (b) otherwise does not know and cannot admit the allegations pleaded in this paragraph.

Filed on behalf of (name & role of party)

**Jacinta Nampijinpa Price**

Prepared by (name of person/lawyer)

**Vasilios Kalantzis**

Law firm (if applicable)

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**55 Stanley Street, EAST SYDNEY, NSW, 2010**

(include state and postcode)

4 In response to paragraph 4 of the SOC, Senator Price:

(a) as to subparagraph 4(a):

- (i) admits that she caused the First Media Release to be uploaded to the URL <https://www.jacintaprice.com/21-july-2024> at about 9:30am on 22 July 2024;
- (ii) admits that she published the First Media Release to any person who downloaded, read and comprehended the First Media Release from that URL; and
- (iii) says that between 22 July 2024 and 3 September 2024,
  - (A) there were 161 total views of that URL, including multiple views from some unknown number of persons;
  - (B) there were 67 unique views of that URL; and
  - (C) the total views and unique views includes views by:
    - Senator Price's office staff and website manager;
    - the applicant, his agents and his legal advisers; and
    - Senator Price's legal advisers;

(b) as to subparagraph 4(b):

- (i) admits that on 21 July 2024 she caused the First Media Release to be sent by email to the email addresses in Annexure A to the Defence, being the email contacts on her media distribution list;
- (ii) admits that she published the First Media Release to at least two people who received, read and comprehended the First Media Release from those emails; and
- (iii) does not know and cannot admit if any other persons received, read and comprehended the First Media Release;

(c) in response to subparagraph 4(c), admits she intended that the persons she caused to be emailed the First Media Release may republish or report on its

contents in the mainstream media in accordance with ethical journalistic practice, including by seeking comment from other persons or bodies referred to within or herself;

- (d) in response to subparagraph 4(d):
  - (i) says the NT News Article, as defined in that subparagraph, reported *inter alia* on the First Media Release; and
  - (ii) denies the NT News Article republished the First Media Release or repeated the sense and substance of the imputations pleaded by the applicant in paragraph 6 of the SOC; and
- (e) otherwise denies the allegations pleaded in paragraph 4 of the SOC.

5 In response to paragraph 5 of the SOC, Senator Price:

- (a) in response to subparagraph 5(a):
  - (i) admits the applicant was identifiable by readers of the First Media Release who knew at the time that he was the Chief Executive Officer (**CEO**) of the Central Land Council (**CLC**);
  - (ii) admits that she published the First Media Release to Camden Smith, who knew the applicant was the CEO of the CLC and identified the applicant when reading the First Media Release;
  - (iii) does not know and cannot admit that readers of the First Media Release other than Camden Smith identified the applicant; and
  - (iv) admits that any such identification would be, and the identification by Camden Smith was, reasonable in the circumstances;
- (b) in response to subparagraph 5(b):
  - (i) admits the applicant was identifiable by readers of the First Media Release who made sufficient enquiries as to the identity of the CEO of the CLC at the time of or shortly after reading the First Media Release;
  - (ii) does not know and cannot admit that any reader of the First Media Release identified the applicant after making sufficient inquiries as to

the identity of the CEO of the CLC at the time of or shortly after reading the First Media Release; and

- (iii) does not know and cannot admit that such enquiries would be such as to render identification reasonable in the circumstances;

(c) in response to subparagraph 5(c):

- (i) admits the applicant was identifiable by readers who read the NT News Article at the time of or shortly after reading the First Media Release;
- (ii) does not know and cannot admit that any reader read the NT News Article at the time of or shortly after reading the First Media Release and identified the applicant; and
- (iii) admits that any such identification of the applicant that is proven to have occurred would be reasonable in the circumstances;

(d) admits the First Media Release was of and concerning the applicant insofar as Camden Smith identified the applicant when reading the First Media Release; and

(e) otherwise does not know and cannot admit the allegations pleaded in paragraph 5 of the SOC.

6 In answer to paragraph 6 of the SOC, Senator Price:

- (a) denies the imputation pleaded in subparagraph 6a. is carried but admits if carried it is defamatory of the applicant;
- (b) admits that a defamatory imputation that does not differ in substance to the imputation pleaded in subparagraph 6b. is carried and is defamatory of the applicant;
- (c) denies the imputation pleaded in subparagraph 6c. is carried but admits if carried it is defamatory of the applicant; and
- (d) otherwise denies the allegations pleaded in paragraph 6 of the SOC.

7 Senator Price denies the allegations pleaded in paragraph 7 of the SOC.

8 In response to paragraph 8 of the SOC, Senator Price:

- (a) denies that the applicant has suffered any hurt or that any such hurt has been aggravated by the conduct of Senator Price;
- (b) denies that the allegations pleaded in this paragraph by themselves or in combination constitute conduct that is improper, unjustified or lacking in bona fides;
- (c) in response to the allegations pleaded in subparagraph 8a:
  - (i) admits that neither she nor her staff communicated with or attempted to communicate with the applicant before the First Media Release was published; and
  - (ii) otherwise denies the allegations pleaded in the subparagraph;
- (d) denies the allegations pleaded in subparagraph 8b;
- (e) in response to subparagraph 8c:
  - (i) says that on 3 September 2024 she caused the First Media Release to be removed from the URL: <https://www.jacintaprice.com/21-july-2024>;
  - (ii) admits that save for the action in the preceding subparagraph she has not retracted or apologised for the First Media Release; and
  - (iii) otherwise denies the allegations pleaded in the subparagraph;
- (f) denies the allegations pleaded in subparagraph 8d;
- (g) save for her actions pleaded in subparagraph 8(e)(i) above, Senator Price admits the allegations pleaded in subparagraph 8e;
- (h) in response to subparagraph 8f:
  - (i) admits that on 26 August 2024 she published a media release of and concerning the CEO of the CLC;
  - (ii) relies upon the terms of that media release in their ~~its~~ natural and ordinary meaning; and
  - (iii) otherwise denies the allegations pleaded alleged in subparagraph 8f;
- (i) admits the allegations pleaded in subparagraph 8g;

- (j) in response to subparagraph 8h:
  - (i) repeats her pleading in subparagraph 8(g) above;
  - (ii) admits that the NT News published an apology to the applicant on 29 August 2024 (the **Apology**);
  - (iii) denies that the Apology was a retraction because on its terms it only included a clarification and apology; and
  - (iv) save for her actions pleaded in subparagraph 8(e)(i) above, ~~Senator Price~~ admits she has not retracted the First Media Release; and
- (k) otherwise denies:
  - (i) the allegations pleaded in paragraph 8; and
  - (ii) that the applicant is entitled to aggravated damages.

## DEFENCES

9 In further answer to the SOC, Senator Price says that insofar as the Court finds, contrary to the matters pleaded above, that the applicant has established a cause of action in defamation against her arising from the publication of the First Media Release, she relies upon the following defences.

## **JUSTIFICATION – s. 22 OF THE DEFAMATION ACT 2006 (NT)**

~~10 Each of the imputations pleaded in paragraph 6 of the SOC (or any imputations that do not differ in substance) which the Court finds are carried and defamatory is are substantially true.~~

### **~~Particulars of substantial truth~~**

~~Senator Price relies on the following facts and matters:~~

### **~~Imputation 6a:~~**

**~~The applicant, as CEO of the Central Land Council had behaved so unprofessionally, that it warranted his dismissal:~~**

~~(1) The applicant had been CEO of the CLC since April 2021.~~

~~(2) The CLC was at all relevant times:~~

- ~~(a) a body corporate established under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (**Land Rights Act**);~~
- ~~(b) a Commonwealth entity subject to the *Public Governance, Performance and Accountability Act 2013* (Cth) (**PGPA Act**);~~
- ~~(c) subject to section 10 of the *Public Governance, Performance and Accountability Rule 2014* (Cth) (**PGPA Rule Act**); and~~
- ~~(d) a Commonwealth entity whose primary functions under the s. 23 of the *Land Rights Act* included (the **Primary Functions**);~~

~~“(a) to ascertain and express the wishes and the opinion of  
Aboriginals living in the area of the Land Council as to the  
management of Aboriginal land in that area and as to  
appropriate legislation concerning that land; and~~

~~(b) to protect the interests of traditional Aboriginal owners of,  
and other Aboriginals interested in, Aboriginal land in the  
area of the Land Council; and~~

~~(c) to consult with traditional Aboriginal owners of, and other  
Aboriginals interested in, Aboriginal land in the area of the  
Land Council with respect to any proposal relating to the  
use of that land”.~~

~~(3) In the financial year 2021-22, the CLC received~~

- ~~(a) \$34.4 million from the Aboriginals Benefit Account for its operations;~~
- ~~(b) \$15.9 million from specific purpose contracts (primarily from the  
Australian Government); and~~
- ~~(c) \$82.8 million from land use rents and royalties in trust for distribution to  
its constituents.~~

~~(4) In or about June 2021, the applicant as CEO of the CLC endorsed a Fraud  
Policy that required fraud risk assessment to be conducted and then, in the  
event a fraud risk was identified, for a specific plan to be developed to manage  
that identified risk.~~

~~(5) As of June 2021, the CLC had not conducted a fraud risk assessment since 2018.~~

~~(6) The applicant as CEO of the CLC failed to ensure that by 3 June 2023 the CLC:~~

~~(a) conducted a fraud risk assessment or develop a specific plan to manage any identified risk;~~

~~(b) developed a fraud control plan that dealt with identified risks as required under:~~

~~(i) the Fraud Policy he endorsed in June 2021; and~~

~~(ii) section 10 of the PGPA Rule Public Governance, Performance and Accountability Rule 2014 (Gth); or~~

~~(c) had a system of fraud control that was fully effective.~~

~~(7) The applicant in his failures particularised in sub paragraph (6) above:~~

~~(a) caused the CLC to be found by the Australian National Audit Office, in its report dated 7 June 2023, to have a system of fraud control that was not fully effective; and~~

~~(b) in the premises particularised in paragraphs (1) to (5) above, engaged in constituted unprofessional conduct.~~

~~(7A) On 16, 17 and 18 July 2024, at Kings Canyon in the Northern Territory, a meeting (the full CLC meeting) was held of all delegates to the CLC. The Chair of the CLC, Matthew Palmer (**Mr Palmer**) was one such delegate and attended the meeting. The applicant was not such a delegate but was present for parts of the meeting.~~

~~(8) As of 18 July 2024, the applicant had engaged in unprofessional conduct in that he had:~~

~~(a) ceased to consult with the elected Chair of the CLC, Matthew Palmer;~~

~~(b) travelled to Canberra for meetings involving the CLC without giving notice to the elected Chair;~~



~~(c) — submitted and presented a so-called “Governance Matter regarding the Chair” at the full CLC meeting on 17 July 2024, for which there was no legitimate or proper basis.~~

and as Mr Palmer was ~~the~~ elected head of the CLC, and a member (with the applicant) of the accountable authority under the PGPA Rule Act, this conduct was unprofessional;

~~(9) — The applicant conducted himself in an unprofessional way in his performance of the Primary Functions by failing to consult, or adequately consult, with the Indigenous Australians living in the area of the CLC, or to ascertain and express their wishes and opinions and protect their interests, including:~~

~~(a) — in about April 2021, the applicant met with Arrernte elders and traditional land owners including Pamela Lynch on behalf of the Mpweringe Arnapipe Aboriginal Land Trust, who informed him that they wished to be represented on, and their concerns heard by, the CLC; but since that time to 18 July 2024:~~

~~(i) — the applicant had not communicated, or adequately communicated, with the Arrernte elders and traditional land owners of the Mpweringe Arnapipe Aboriginal Land Trust; and~~

~~(ii) — the applicant had taken no or no adequate steps to enable allow the elders or the traditional owners of the Mpweringe Arnapipe Aboriginal Land Trust to be represented on the CLC or to ascertain their wishes and opinions or consult with them.~~

~~(b) — on about 17 July 2024, Arrernte elders Margaret Lynch, Sabella Turner and Pamela Lynch (the **Arrernte elders**) attended the full CLC meeting, in relation to which:~~

~~(i) — they were invited to attend the full CLC meeting by the Chair Mr Palmer;~~

~~(ii) — they were entitled to attend the full CLC meeting as constituents and traditional land owners;~~

~~(iii) — in the morning on 17 July 2024, they participated in discussions about Region 1 and expressed their concerns, wishes and opinions about the governance of their lands; and~~

~~(iv) — at lunch on 17 July 2024, they were approached by Barbara Shaw, CLC member delegate and Mischa Cartwright, CLC staff member, on behalf of the applicant, who demanded they leave the full CLC meeting, or in the alternative as CEO the applicant allowed Ms Shaw and Ms Cartwright to demand the Arrernte elders leave;~~

~~(10) — By 18 July 2024, the elected Chair of the CLC, Mr Palmer, based on his own experiences and in broad consultation with CLC member delegates, tribal elders and traditional owners in the CLC constituency:~~

~~(i) — had lost confidence in the applicant; and~~

~~(ii) — wanted him considered that because of his unprofessional conduct he should be removed from office;~~

~~(iii) — such that he had prepared a written motion for his dismissal. on 18 July 2024~~

~~(11) — By 18 July 2024, due to the applicant's unprofessional failures to engage with them, the Arrernte tribe, represented by Mr Palmer, the Arrernte elders and other elders, considered thatwanted:~~

~~(i) — the applicant should be removed as CEOfrom his role office;~~

~~(ii) — there needed to be change in the governance of the CLC; and~~

~~(iii) — in the absence of the applicant's removal and change in the governance of the CLC, for the Arrernte tribe should to break away from the CLC and establish their own Land Council.; and~~

~~(e) — only Warren Williams and Geoffrey Matthews of the 48 male members at a male only session at the full CLC meeting on 18 July 2024 spoke out against Mr Palmer's motion or request to have the applicant removed from office for unprofessional conduct where he spoke to the matters particularised in subparagraphs 8.a. and 8.b. above and in~~

~~response Mr Williams and Mr Matthews only expressed concerns about whether there was a sufficient legal basis to move the dismissal and the legal repercussions member delegates may face in signing the motion or supporting the applicant's dismissal;~~

**~~Imputation 6b.~~**

**~~The applicant, the CEO of the Central Land Council, no longer had the support of the majority of Central Land Council members because of his unprofessional behaviour in that role:~~**

- ~~(1) — Senator Price The applicant repeats the particulars to imputation 6a. above;~~
- ~~(2) — As of 18 July 2024, there were no more than 90 member delegates of the CLC;~~
- ~~(3) — There were 48 male member delegates of the CLC in attendance at the full CLC meeting on 18 July 2024;~~
- ~~(4) — At the full CLC meeting on 18 July 2024, part of the meeting was attended only by the 48 male member delegates. Female delegates and CLC staff, including the applicant, were not present during that part of the meeting;~~
- ~~(5) — In the male-only part of the meeting, Mr Palmer as Chair of the CLC brought forward moved and spoke in favour of a motion (the 18 July motion) or discussion to dismiss the applicant at the full CLC meeting for insubordination and unprofessional conduct;~~
- ~~(6) — Prior to doing so, Mr Palmer and Mr Jampijinpa Hargraves had having consulted either directly or indirectly with all 48 male member delegates, all of whom had expressed support for the dismissal of the applicant; or almost all the member delegates of the CLC who attended the full CLC meeting on 18 July 2024 and ascertained near unanimous support for a change in executive leadership;~~
- ~~(7) — Most of the female member delegates also supported the dismissal of the applicant; At the meeting on 18 July 2024, the Chair of the CLC, Mr Palmer moved or attempted to move a motion or raised a discussion to dismiss the applicant from his position as CEO for insubordination and unprofessional conduct;~~

~~(8) — The 18 July motion was not put to a vote; At a male only session of the full CLC meeting on 18 July 2024, only Warren Williams and Geoffrey Matthews of the 48 male member delegates present at the CLC meeting on 18 July 2024 spoke out against Mr Palmer's motion or request to have the applicant dismissed for unprofessional conduct where he spoke to the matters particularised in the particulars to imputation 6a. subparagraphs 8.a. and 8.b. above and in response Mr Williams and Mr Matthews only expressed concerns about whether there was a sufficient legal basis to move the dismissal and the legal repercussions member delegates may face in signing the motion or supporting the applicant's dismissal; and~~

~~(9) — In the premises particularised in paragraphs 1 to 6 above there was majority support of the CLC member delegates that the applicant be removed from his role as CEO of the CLC for unprofessional conduct.~~

#### **~~Imputation 6(c)~~**

**~~The applicant, the CEO of the Central Land Council, was unfit to continue to occupy the role of CEO of the Central Land Council:~~**

~~(1) — Senator Price The applicant repeats the particulars of substantial truth to imputations 6a. and 6b. above.; and~~

~~(2) — In the context of the particulars to imputation 6a paragraphs 1 to 3, the applicant was unfit to continue to occupy the role of the CEO of the CLC given individually or in combination the facts, matters and circumstances particularised in the particulars to imputation 6a paragraphs 4 to 9 and the particulars to imputation 6b.~~

### **QUALIFIED PRIVILEGE**

#### **Qualified Privilege at Common Law (extended *Lange* defence)**

- 11 The First Media Release constituted information, opinions and arguments concerning government and political matters that affect the people of Australia, in that:
  - (a) it concerned the CLC, the second largest land council constituted under the *Land Rights Act* and its governance;

- (b) it discussed a motion in the Commonwealth Parliament calling for an inquiry into the governance of the Lands Councils;
- (c) it was a media release from a Senator for the Northern Territory and Shadow Minister for Indigenous Australians about:
  - (i) the CLC;
  - (ii) a call and attempt by the Chair of the CLC to dismiss the CEO of CLC;
  - (iii) the Commonwealth government, Prime Minister and Minister for Indigenous Australians and their governance of:
    - (A) the CLC;
    - (B) the North Australian Aboriginal Justice Agency (**NAAJA**);
    - (C) indigenous affairs and indigenous-run organisations; and
    - (D) the *Land Rights Act*; and
- (d) it called for a review of the *Land Rights Act*.

12 Senator Price and the recipients of the First Media Release as members of the Australian community and/or as journalists, in the circumstances pleaded in paragraph 11 above, had a community of interest in disseminating and receiving the First Media Release respectively.

13 Senator Price's conduct in publishing the First Media Release was reasonable in the circumstances.

***Particulars of reasonableness***

- (1) Senator Price:
  - (a) was at all material times the Shadow Minister for Indigenous Australians in the Commonwealth Parliament;
  - (b) served as the Senator for the Northern Territory since 21 May 2022;
  - (c) served as Deputy Mayor of Alice Springs from 29 September 2020 to 28 August 2021;

- (d) served as an elected councillor on the Alice Springs Town Council from September 2015 to 28 August 2021;
  - (e) grew up in and lived in Alice Springs, Northern Territory most of her life within the CLC constituency; and
  - (f) advocated for Indigenous Australians' social and economic advancement and independence throughout her political life.
- (2) On 29 March 2023, Senator Colbeck (Lib, Tas) moved a motion and on behalf of herself, Senator Price, and Senators Liddle (Lib, SA), McGrath (Lib, QLD) and Thorpe (Ind, VIC) in the Senate that the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by the first sitting Thursday in November 2023:

*The role, governance and accountability of key Aboriginal and Torres Strait Islander representative organisations, including land councils and native title bodies such as prescribed bodies corporate, with particular reference to:*

- (a) *administrative, operational and governance arrangements to ensure accountability, risk mitigation, and transparency for present and future Traditional Owners, to protect their interests and deliver positive economic and social outcomes;*
- (b) *the quality and effectiveness of consultation and engagement with Traditional Owners to ascertain their views, and opportunities for the views of Traditional Owners to be reflected in decisions of the organisations;*
- (c) *how these organisations undertake their responsibilities to:*
  - (i) *negotiate: on behalf of Traditional Owners,*
  - (ii) *manage and maintain an accurate register of members,*
  - (iii) *conciliate disputes, and*
  - (iv) *appropriately manage dissenting views;*
- (d) *arrangements for commercial and lands trust activities;*
- (e) *the extent to which administrative, operational and governance arrangements align with the principles contained in the United Nations Declaration of the Rights of Indigenous Peoples with specific reference to the principles of free, prior and informed consent and other relevant principles and conventions;*

- (f) *the extent to which these organisations are contributing to justice for First Nations people; and*
- (g) *any other related matters.*

(3) On 9 August 2023, Senator Liddle ~~and~~ on behalf of herself and Senator Price moved a motion in the Senate that the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 30 June 2024:

- (a) *the role, governance and accountability requirements of Aboriginal Land Councils and/or similar governing bodies across Australia, their respective members and how these are maintained;*
- (b) *the scope of activities funded by the Australian Government and delivered by Aboriginal Land Councils or similar governing bodies and Aboriginal organisations, and how they are impacting the communities they act on behalf of;*
- (c) *how services are delivered, their effectiveness and whether other opportunities exist to provide greater community-led benefit to Traditional Owners;*
- (d) *how Traditional Owners are consulted in making decisions that impact on the entire community;*
- (e) *how Aboriginal Land Councils and/or similar governing bodies and Aboriginal Organisations assess applications for funding and development and any reasons for delays;*
- (f) *how the future of Aboriginal Benefit Account funding will benefit communities; and*
- (g) *any other related matters.*

(4) On 7 September 2023, Senator Price spoke in the Senate calling for an inquiry into land councils and other organisations.

(5) On 17 October 2023, Senator Price moved a motion in the Senate:

*That, in the opinion of the Senate, the following is a matter of urgency:*

*The need for Prime Minister Albanese to support the Opposition's call for a Royal Commission into child sexual abuse in Indigenous communities, to audit spending on indigenous programs, and to support practical policy ideas to improve the lives of Indigenous Australians to help Close the Gap.*

- (6) The CLC, as known to Senator Price at the time of publication, through documents she had read or information she had received in her various roles as a constituent, councillor, Senator and the Shadow Minister of Indigenous Australians:
- (a) was the second largest land council constituted under the Aboriginal Land Rights (Northern Territory) Act 1976 (Cth) (Land Rights Act);
  - (b) had the functions set-out in s. 23 of the *Land Rights Act*;
  - (ba) was a Commonwealth entity subject to the Public Governance, Performance and Accountability Act 2013 (Cth) (PGPA Act);
  - (bb) was subject to section 10 of the Public Governance, Performance and Accountability Rule 2014 (Cth) (PGPA Rule);
  - (c) had its head office in Alice Springs and represents the Aboriginal people in the southern half of the Northern Territory including Alice Springs;
  - (d) had the applicant as its Chief Executive Officer since about April 2021;
  - (e) had Matthew Palmer (**Mr Palmer**) as its Chair since about February 2023;
  - (f) was found by the Australian National Audit Office in its report dated 7 June 2023:
    - (i) in 2021–22, to have received: \$34.4 million from the Aboriginals Benefit Account for its operations; \$15.9 million from specific purpose contracts (primarily from the Australian Government); and \$82.8 million from land use rents and royalties in trust for distribution to its constituents;
    - (ii) despite having a Fraud Policy dated June 2021 endorsed by the then CEO that required fraud risk assessment to be conducted and then, in the event a fraud risk is identified, for a specific plan to be developed to manage that identified risk:
      - (A) not to have conducted a fraud risk assessment since the implementation of that Fraud Policy or since 2018;



- (B) not to have developed a fraud control plan that deals with identified risks as required under the Fraud Policy and section 10 of the PGPA Rule; and
  - (C) to have a system of fraud control that was not fully effective.
- (7) At all relevant times, in her roles as a constituent, councillor, Senator, and Shadow Minister for Indigenous Australians, Senator Price was aware, based on her own observations, experiences, discussions with constituents and research, and concerned, that despite the large amount of money spent on Indigenous Australians and indigenous affairs generally, as expended and managed by the CLC in particular:
  - (a) too many Indigenous people within the CLC constituency were suffering from domestic abuse and sexual violence, at a greater rate, and had lower standards of living, education and health and life expectancy compared to both Indigenous Australians in urban communities and the general Australian population;
  - (b) traditional owners ~~that~~ were not advancing economically or becoming economically independent; and
  - (c) in the 2023 *Closing the Gap* annual report released 13 February 2024, only three of 17 outcomes were on track.
- (8) Sometime before 18 July 2024, Senator Price was contacted by Dr Gavin Morris (**Dr Morris**), the principal of the Yipirinya School, Alice Spring and councillor on the Alice Springs Town Council, about the elected Chair of the CLC, Matthew Palmer.
- (9) By July 2024, Senator Price had become aware through conversations with Dr Morris and Mr Palmer that:
  - (a) Mr Palmer had serious concerns about the way in which the applicant was performing in his role as CEO of the CLC in consulting with himself and the CLC constituency;
  - (b) Mr Palmer believed that his concerns were shared amongst almost all of the CLC constituency;

- (c) there was broad support in the CLC constituency for a change in the unelected leadership at the CLC, in particular with respect to the applicant as CEO; and
  - (d) Mr Palmer intended to raise his concerns at the CLC meeting scheduled for 16 to 18 July 2024 and seek to have the applicant removed.
- (10) In the lead-up to the 2022 Federal Election, Senator Price ~~as when~~ a candidate had extensive professional dealings with Dr Morris about funding for the Yipirinya School, and from those dealings and Dr Morris' reputation in the Alice Springs region amongst the people she mixed, Senator Price:
  - (a) understood him to be honest and driven passionately to help the most vulnerable children in the Alice Springs and Indigenous communities;
  - (b) knew that he had well established relationships with traditional owners in Alice Springs; and
  - (c) considered him to be trustworthy and a reliable source of information.
- (11) On or about 16 July 2024, Senator Price directed her Senior Adviser Damien Wilks (**Mr Wilks**) to engage with Dr Morris to assist Mr Palmer.
- (11A) On 16, 17 and 18 July 2024, at Kings Canyon in the Northern Territory, a meeting (the full CLC meeting) was held of all delegates to the CLC. The Chair of the CLC, Mr Palmer, was one such delegate and attended the meeting. The applicant was not such a delegate but was present for parts of the meeting.
- (12) As at July 2024, Senator Price:
  - (a) had known of, and known, Mr Palmer for many years, from living in Alice Springs most of her adult life, as he was a prominent member of the Indigenous community in Alice Springs with a reputation as a man of great integrity;
  - (b) was aware that Mr Palmer, as Chair of the CLC, had authority to speak and engage in correspondence on its behalf; and

- (c) found Mr Palmer to be honest and reliable when she communicated with him.
- (13) Based on her experiences with and knowledge of Dr Morris and Mr Palmer, at all times Senator Price believed the information she and her staff received from Mr Palmer and Dr Morris about the CLC and the applicant to be true.
- (13A) On or about 18 July 2024, Senator Price saw a copy of a document titled “DRAFT RESOLUTIONS THURSDAY 18<sup>th</sup> JULY 2024” (the 18 July Motion).
- (14) On or about 19 July 2024, Senator Price had a telephone discussion with Mr Palmer and Dr Morris among others, in which, *inter alia*, Mr Palmer informed her:
  - (a) that all the men and women were behind the removal of the applicant other than two men and one woman;
  - (b) that his motion did not pass because those two men scared the other male members about possible legal repercussions from the applicant if the motion for dismissal of the CEO were passed;
  - (c) about the paper that Mr Palmer had shown people at the meeting, being the 18 July Motion; and
  - (d) that as his motion was unsuccessful, his people would seek to breakaway from the CLC.
- ~~(15) On or about 19 July 2024, Senator Price saw a copy of the paper referred to in that telephone discussion, titled “DRAFT RESOLUTIONS THURSDAY 18<sup>th</sup> JULY 2024”, being the 18 July Motion.~~
- (16) Between 18 July and 21 July 2024, Mr Wilks and Rebekah Hart (media adviser to Senator Price) prepared successive drafts of what became the First Media Release;
- (17) Mr Wilks:
  - (a) had been a Senior Adviser in the office of Senator Price since January 2024, a role in which he, amongst other duties:

- (i) provided high-level political advice to Senator Price to assist her in meeting her responsibilities to the Parliament, the Senate, the Coalition and as Shadow Minister for Indigenous Australians;
  - (ii) oversaw the successful fulfilment of Senator Price's portfolio and electorate responsibilities;
  - (iii) worked with other staff in the office to develop and manage Senator Price's portfolio, media and communications commitments; and
  - (iv) led the preparation of a range of documents;
- (b) was employed by Senator Price in that role for reasons including:
- (i) his experience working in the office of the Hon Tony Abbott AC from February 2017 to January 2024, including acting as principal adviser from 2019 to 2024 and as chief of staff;
  - (ii) his experience working in the office of the Hon Damien Tudehope from March 2014 to February 2017;
  - (iii) a reference and recommendation from the Hon Tony Abbott AC; and
  - (iv) Senator Price's satisfaction that he was suitable and qualified for the role in her office; and
- (c) had in Senator Price's opinion performed well in his role and was trusted and considered qualified by her to draft, assist in drafting, and advise on media releases and statements.

(18) Ms Hart:

- (a) had been the Media Adviser in the office of Senator Price since May 2024, a role in which she, amongst other duties;
  - (i) conducted news and media monitoring;
  - (ii) liaised with media outlets to arrange media engagements for Senator Price;

- (iii) drafted and advised on speeches, media statements and media releases for Senator Price;
    - (iv) provided briefings to Senator Price before media engagements;
    - (v) oversaw online and social media content for Senator Price;
    - (vi) was present and within hearing when Senator Price had the telephone discussion on 19 July 2024 particularised in subparagraph (1514) above;
  - (b) was employed by Senator Price in that role for reasons including:
    - (i) her experience and training as a legal practitioner, that meant she would learn quickly and adapt well to the new role; and
    - (ii) Senator Price's satisfaction that she was suitable and qualified for the role in her office; and
  - (c) had in Senator Price's opinion performed well in her role, ~~the~~ and was trusted and considered qualified by her to draft, assist in drafting, and advise on media releases and statements.
- (19) Between 17 and 21 July 2024, in relation to preparing the successive drafts of the First Media Release:
- (a) On 17 July 2024, Mr Wilks received an email from Dr Morris containing the text of a draft media release proposed to be issued by Mr Palmer;
  - (b) Mr Wilks spoke with Dr Morris both before and after the 18 July 2024 meeting about what Mr Palmer intended and did attempt to do at the meeting and what had occurred at the meeting;
  - (c) On 18 July 2024, Mr Wilks received from Dr Morris the 18 July motion;
  - (d) Mr Wilks and Ms Hart spoke with each other;
  - (e) Mr Wilks and Ms Hart spoke with Senator Price;
  - (f) Drafts were sent, by email and WhatsApp, between Mr Wilks and Ms Hart, and between those two persons and Senator Price,;

- (g) Senator Price, Dr Morris and Mr Palmer participated in the telephone discussion on 19 July 2024 particularised above;
  - (h) Senator Price, Mr Wilks and Ms Hart and received and read a copy of a media release published by Mr Palmer on 20 July 2024 entitled "*CLC Council voice no confidence in CEO Lesley Turner*" (the **20 July Palmer media release**), the terms of which were substantially similar to the draft text received on 17 July 2024;
  - (i) Senator Price, Mr Wilks and Ms Hart and received and read an article published in the NT News on 21 July 2024 entitled "*Lindsay Turner dumped as Central Land Council chief executive*" ("the **21 July NT News article**");
  - (j) Mr Wilks, Ms Hart and Senator Price became aware later on 21 July 2024 that the NT News had subsequently taken down the 21 July NT News article.
- (20) In the circumstances particularised above, Senator Price had reasonable grounds for believing that the applicant's imputations were true, and took proper steps, such as were reasonably available to her, to verify the accuracy of the material published by her;
- (21) Senator Price did not believe the applicant's imputations to be untrue;
- (22) It was reasonable in the circumstances for Senator Price not to seek a response from the applicant before publishing the First Media Release, and impracticable and/or unnecessary to do so, because:
- (a) the ordinary reasonable reader would understand the First Media Release to be a media release from a Shadow Minister intended for journalists, who would undertake their own investigations, including seeking comment from any affected person;
  - (b) the subject matter of the First Media Release ~~was~~ had already been reported on in the 21 July NT News article;
  - (c) Senator Price reasonably believed that the intended audience of the matter, being journalists, would seek comment from the applicant if necessary;

- (d) the applicant was not named in the First Media Release, and the principal subjects of the First Media Release were the Commonwealth government, the Prime Minister and the Minister for Indigenous Australians, and their policies towards Indigenous Australians;
- (e) the primary source of the information relating to the applicant was the Chair of the CLC, and he had:
  - (i) communicated with Senator Price on behalf of the CLC in the past;
  - (ii) provided the 18 July motion to her staff; and
  - (iii) published the 20 July Palmer media release;
- (ea) at the full CLC meeting on 18 July 2024, part of the meeting was attended only by the male member delegates including Mr Palmer. Female delegates and CLC staff, including the applicant, were not present during that part of the meeting;
- (f) the 18 July motion was dealt with at the male-only part of the full CLC meeting on 18 July 2024 when the applicant was not present;
- (g) neither the applicant nor anyone from the CLC had put out a public release or response since the 20 July Palmer media release and the 21 July NT News article reporting on that release; and
- (h) Senator Price waited until after 9pm on 21 July 2024 to approve the First Media Release;
- (i) Senator Price considered that a call and attempt by the Chair of CLC to remove the applicant from his position as CEO of the CLC, and the failure of that attempt, were issues of significant and immediate public interest that required her comment as Shadow Minister for Indigenous Australians and Senator for Northern Territory.

#### **Qualified Privilege pursuant to s.27 Defamation Act 2006 (NT)**

- 14 The First Media Release published information about the subjects pleaded in paragraph 11 above.

- 15 Senator Price believed on reasonable grounds, and the fact was, that the recipients of the First Media Release had an interest or apparent interest in receiving information about those subjects because:
- (a) the subjects affect the people and community of Australia as pleaded in paragraph 11 above;
  - (b) the First Media Release was published to the journalists on the media distribution list of the Shadow Minister for Indigenous Australians; and
  - (c) the First Media Release was published on her website, being the website of the Shadow Minister for Indigenous Australians.
- 16 The First Media Release was published in the course of giving recipients information about the subjects pleaded in paragraph 11 above.
- 17 Senator Price's conduct in publishing the First Media Release was reasonable in the circumstances.

***Particulars of reasonableness***

Senator Price repeats the particulars to paragraph 13 above.

**HONEST OPINION: s.28 DEFAMATION ACT 2006 (NT)**

~~18 The First Media Release:~~

- ~~(a) was an expression of opinion of Senator Price rather than a statement of fact;~~
- ~~(b) the expression of opinion related to a matter or matters of public interest, in that it related to the matters pleaded in paragraph 11 above; and~~
- ~~(c) the expression of opinion was based on proper material.~~

***Particulars of Proper Material***

~~(1) The following facts were stated within or sufficiently referred to in the First Media Release:~~

- ~~(a) In September 2023, the Coalition called for an inquiry into the governance of Land Councils but was opposed by the Albanese government: see lines 4-5;~~



~~(b) — Matthew Palmer was the Chair of the CLC: see line 8;~~

~~(c) — on 18 July 2024, at the full CLC meeting, Mr Palmer moved a motion for the dismissal of the CEO of the CLC for unprofessional conduct: see lines 1 and 8;~~

~~(d) — on 20 July 2024, Mr Palmer published the 20 July Palmer media release: see had made the statements attributed to him at lines 9 to 167;~~

~~(e) — Matthew Palmer backed a motion to dismiss the CEO of the CLC the previous week for unprofessional conduct (the **motion**), see line 8;~~

~~(f) — As at 18 July 2024, a majority of CLC members supported the dismissal of the CEO for unprofessional conduct: the previous week see lines 6-7 and 11-12;~~

~~(g) — The motion was unsuccessful: see line 8.~~

~~(h) — The Albanese government had overseen, see lines 21-23:~~

~~1. — issues at the NAAJA;~~

~~2. — giving funds to boards with domestic violence offenders to deliver domestic violence services; and~~

~~3. — a cessation of ABA grants for Homelands;~~

~~(2) — The facts in subparagraph (1) above were substantially true: see~~

~~(a) — the particulars of substantial truth at paragraph 10 above;~~

~~(b) — the particulars set out at paragraph 13 (2) (5) above;~~

~~(3) — As to (2)(b) above: in that:~~

~~i. — as to subparagraph a.i., Senator Price repeats particulars paragraphs ii. iv. to paragraph 13 above:~~

~~(i) — the Labor Senators did not vote to support those motions; and~~

~~(ii) — the Albanese government had not conducted the inquiry called for.~~

- ~~ii. as to subparagraph a.ii, Mr Palmer was the Chair of the CLC since about February 2023;~~
- ~~iii. as to subparagraph a.iii., Mr Palmer caused or approved the CLC Release to be issued on 20 July 2024;~~
- ~~iv. as to subparagraph a.iv., Mr Palmer backed a motion to dismiss the CEO of the CEO for unprofessional conduct the previous week, in that on and by 18 July 2024 at the full CLC meeting:~~
  - ~~(i) Mr Palmer as Chair of the CLC consulted either directly or indirectly with all or almost all the member delegates of the CLC who attended the full CLC meeting on 18 July 2024 and ascertained near unanimous support for a change in executive leadership;~~
  - ~~(ii) Mr Palmer took the Motion to the meeting;~~
  - ~~(iii) the CLC meeting went to a men's only session to discuss the Motion; and~~
  - ~~(iv) Mr Palmer spoke to the Motion at the meeting including speaking to the matters particularised in the particulars of substantial truth to imputation 6a. subparagraphs 8.a. and 8.b. above; and~~
- ~~v. as to subparagraph a.v., a majority of CLC member delegates showed their support for the dismissal of the CEO of the CLC the previous week on 18 July 2024:~~
  - ~~1. there were at the time no more than 90 CLC member delegates total;~~
  - ~~2. There were 48 male member delegates of the CLC in attendance at the full CLC meeting on 18 July 2024;~~
  - ~~3. At the full CLC meeting on 18 July 2024, the Chair of the CLC, Mr Palmer moved or attempted to move a motion or requested the applicant be dismissed from his~~

~~position as CEO for insubordination and unprofessional conduct;~~

~~4. At a male only session of the full CLC meeting on 18 July 2024, only Warren Williams and Geoffrey Matthews of the 48 male member delegates present at the CLC meeting on 18 July 2024 spoke out against Mr Palmer's motion to have the applicant dismissed for unprofessional conduct and Mr Williams and Mr Matthews only expressed concerns about whether there was a sufficient legal basis to move the dismissal and the legal repercussions member delegates may face in signing or supporting the motion; and~~

~~5. In the premises particularised in subparagraphs 1 to 4 above there was majority support of the CLC member delegates at the 18 July 2024 full CLC meeting that the applicant be removed from his role as CEO of the CLC for unprofessional conduct;~~

~~vi. as to subparagraph a.vi., Mr Palmer's motion was unsuccessful due to a fear or threats about legal repercussions from the applicant is seeking to have him dismissed;~~

~~vii. as to subparagraph a.vii., the Albanese government had overseen:~~

~~1. issues at the NAAJA where staff early in 2024 wrote a letter calling for urgent intervention by both the Territory and the federal governments calling for the removal of the Executive Team;~~

~~2. giving funds to:~~

~~a. the NAAJA that runs domestic violence prevention programs, when it was chaired by Mr Hugh Woodbury, who had pleaded guilty to assaulting his partner and served a 12-month~~

~~good behaviour bond and was fined \$200 without conviction in October 2020; and~~

~~b. the Tangentyere Council that runs the programs addressing domestic violence in town camps, and campaigns against family violence through its Tangentyere Women's Family Safety Group while Philip Miller sat on its board as a convicted domestic violence perpetrator who has been jailed for breaching multiple domestic violence orders, including a 17-month stint behind bars in 2019; and~~

~~3. the cessation of ABA grants for Homelands from about 31 August 2023 to about 6 June 2024 without any reason given.~~

~~(4) Further or in the alternative, the facts in subparagraph (1)(a) are material published on an occasion of absolute privilege, being proceedings in the Australian Commonwealth Parliament.~~

## MITIGATION OF DAMAGE

19 To the extent the Court finds the applicant is entitled to damages in defamation, which entitlement is denied, any damage suffered by the applicant as alleged should be reduced because of the following matters:

~~(a) the substantial truth of any of the imputations pleaded in paragraph 6 of the SOC;~~

~~(b) the substantial truth of the facts, matters and circumstances particularised at paragraphs 10 and 19 above;~~

(c) that the reputation of the applicant was not harmed, or further harmed, in the minds of readers of the First Media Release who read or were aware of the contents of:

(i) the 20 July Palmer media release; or

- (ii) the 21 July NT News article;
- (d) the contents of a media release by the CLC published on 22 July 2024;
- (e) the contents of an article published in the NT News on 22 July 2024;
- (f) that the NT News published its apology on 29 August 2024 as set out in the SOC at [8(g)]; and
- (g) that the First Media Release was no longer available for download to the public on Senator Price's website from 3 September 2024.

Date: **27 March 2025**



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Signed by Vasilios Kalantzis  
Lawyer for the respondent

This pleading was prepared by Peter Gray SC and Barry Dean of counsel, and Vasilios Kalantzis, solicitor for the respondent.

**Certificate of lawyer**

I Vasilios Kalantzis certify to the Court that, in relation to the Further Amended Defence filed on behalf of the Respondent, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: **27 March 2025**



.....  
Signed by Vasilios Kalantzis  
Lawyer for the Respondent





























































































































## NOTICE OF FILING

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*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.