

## MEDIA RELEASE

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### Commission investigation reveals fake engagement letters to authorise big payments

An investigation has revealed a former senior public servant falsified records, defied Cabinet decisions and recklessly failed to comply with proper procedure resulting in significant unauthorised expenditure of public funds.

The Commission today tabled in State Parliament its report *Abuse of power at the Department of Primary Industries and Regional Development* which describes how Ms Felicity Heffernan prioritised facilitating financial advantage to others over her duties to the State.

Between 2016 and 2018 Ms Heffernan was the Director, Legal and Commercial Division in the department now known as the Department of Primary Industries and Regional Development (DPIRD).

As a senior public servant and a lawyer, Ms Heffernan ought to have epitomised honesty and integrity and acted in DPIRD's best interest, not least because she was in a position of trust and given great autonomy.

Instead she dishonestly brought about situations where significant, unauthorised payments were paid to two individuals by preparing false letters of engagement.

One matter involved Dr Howard Carr, an expert in plant intellectual property whom DPIRD employed from time-to-time. Another involved the (now former) Chief Executive Officer of the Potato Marketing Board, Mr Peter Evans.


Ms Heffernan's activities included a payment arrangement using an international law firm, Herbert Smith Freehills (HSF), as an intermediary to continue engaging Dr Carr whose employment had expired. This was to circumvent the requirements of a public sector recruitment freeze. Although purportedly engaged by HSF as an expert, Dr Carr, in fact, just continued the same work as before.


Later, to enable Dr Carr to continue to be paid, Ms Heffernan falsified a letter of engagement, purportedly from HSF, and backdated it. Dr Carr signed and backdated the letter at the direction of Ms Heffernan.

In 2016, the State Government decided to abolish the Potato Marketing Board and allocated \$1.2m for the abolition process. Employees whose contract of employment continued beyond the 31 December 2016 cut-off date were to be transferred to another government department – and DPIRD was the obvious destination.

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That should have been the pathway for Mr Evans. Instead, Ms Heffernan and Mr Evans brought about a situation where he was, in effect, paid a full redundancy of close to \$400,000. He was then immediately hired as a consultant to assist DPIRD in ongoing litigation between the State and entities associated with Mr Tony Galati at a cost of almost \$100,000.

It is significant that State Cabinet had refused a request from the Potato Marketing Board for an additional \$450,000 to assist with the litigation.

To facilitate the additional consultancy payment to Mr Evans, Ms Heffernan prepared a false letter of engagement from law firm Kott Gunning, which knew nothing of the letter and did not authorise it.

The Commission has formed an opinion of serious misconduct in relation to Ms Heffernan's actions and recommended an appropriate authority or independent agency consider whether to commence prosecution.

None of the three people at the centre of this investigation is now a public officer. Ms Heffernan resigned from her role during the Department's broader disciplinary investigation in mid-2018. Mr Evans' employment ceased in 2017.

The Commission all too often sees public officers resign without consequence during a disciplinary process. Occasionally, this has led to these officers being employed in other parts of the public sector without the earlier matters being resolved.

There is a significant misconduct risk without a central database of allegations and details of whether or not they have been resolved. The Public Sector Commission might give consideration to this matter.

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