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11 March 2024

By Email: info@nswfreedomofinformation.net

Telina Webb
NSW Freedom of Information
PO Box 8030
Marks Point NSW 2280

Not for publication

Dear Ms Webb

Goulburn Mulwaree Council – Your defamatory posts on NSW Freedom of Information website

We act for the Goulburn Mulwaree Council.

1. We refer to the following “media releases” posted on the website nswfreedomofinformation.net (**Website**):
 - 1.1 Goulburn-Mulwaree Shire Council First to Receive Multiple Community Awards as a Stand-Out NSW Government Agency, dated 13 March 2023;
 - 1.2 Local Council Manager Governance Exposed Acting to Simultaneously Breach State Records Act & Privacy Legislation When Colluding with Agencies Against Oblivious Member of the Public, dated 25 July 2023;
 - 1.3 Goulburn-Mulwaree Shire Council Continues to Procrastinate Valid Access Applications by Unethically Imposing Inapplicable Advance Deposits, dated 24 November 2023,(together, the **Articles**).
- 1.4 We also refer to our firm’s letter to you dated 31 March 2023.
- 1.5 We note that you are listed as the “site administrator” of the Website, such that you have the ultimate control and responsibility over, and liability for, the content of the website including the Articles.
- 1.6 Each of the Articles includes content that is factually incorrect, misleading and highly defamatory of Maria Timothy and Amanda Keegan, employees of our client. We set out the below by way of example only.
2. **Goulburn-Mulwaree Shire Council First to Receive Multiple Community Awards as a Stand-Out NSW Government Agency, dated 13 March 2023**
 - 2.1 This Article contains the statement that Ms Timothy acted “*in contempt of the NCAT*” by failing to attend a NCAT case conference on 13 March 2023. As set out in our firm’s letter dated 31 March 2023, Ms Timothy attempted to appear at the case conference, however did not have the correct listing details.

Interstate offices
Canberra Melbourne

2.2 Consequently, these serious accusations of contempt are completely unwarranted and are highly defamatory of Ms Timothy. We note that you have not complied with our firm's previous demand that you remove this Article.

3. Local Council Manager Governance Exposed Acting to Simultaneously Breach State Records Act & Privacy Legislation When Colluding with Agencies Against Oblivious Member of the Public, dated 25 July 2023

3.1 This Article alleges that Ms Timothy:

3.1.1 Breached the *State Records Act 1998* (NSW) by:

- (a) failing to keep accurate minutes of a meeting where she was required to do so; and
- (b) unlawfully sharing the personal information of Mr Allan Powell.

3.2 The Article suggests that the above was "*inadvertently confirm[ed]*" by the decision of NCAT in *Webb v Goulburn-Mulwaree Shire Council* [2023] NSWCATAD 194 (**NCAT Decision**).

3.3 The Article contains several further comments about Ms Timothy, including that she:

3.3.1 "*has no hesitation in breaching the legislation, abusing her position, and actually working with other agencies to do that*"; and

3.3.2 "*collude[ed] [with Deborah Ferguson and William Warne] to the detriment of the public and breaching fundamental legislation*".

3.4 The above statements are factually incorrect. The NCAT Decision made no findings regarding Ms Timothy's conduct, inadvertently or otherwise. On the contrary, the Tribunal expressly stated at paragraph 33 that it "*is not empowered under the GIPA Act to review the Council's record keeping processes or to determine whether there has been compliance with its record management policy*".

3.5 The contents of this Article are highly defamatory of Ms Timothy, amongst others.

3.6 Further:

3.6.1 the way that this Article has been written clearly implies that Ms Timothy was contacted in relation to the Article for comment, which is patently untrue; and

3.6.2 this Article lists Ms Timothy's and Ms Keegan's direct phone numbers, along with the direct phone number of several other employees of other NSW Councils, which are not publicly available, as contact information.

3.7 Such conduct is extremely inappropriate and highly distressing to Ms Timothy. We note that the Commonwealth Government is in the process of preparing legislation to criminalise such conduct, referred to as "doxxing".


4. Goulburn-Mulwaree Shire Council Continues to Procrastinate Valid Access Applications by Unethically Imposing Inapplicable Advance Deposits, dated 24 November 2023

4.1 This Article states that Ms Timothy took actions to "*deliberately breach the public's privacy*" and that she "*had no hesitation in breaching ... legislation*". It is apparent that these references are to the same factual circumstances as the 25 July 2023 Article. For the reasons set out at paragraphs 3.1 to 3.7 above, these statements are again plainly factually incorrect and highly defamatory.

- 4.2 Further, the Article contains the imputation that Ms Amanda Keagan invoked personal discretion in requiring that you pay an advance deposit to our client in respect of a GIPA access application, on the basis that she has a “dislike” for you.
- 4.3 Leaving aside questions of statutory interpretation, it should be obvious that individuals do not exercise such discretion, and that decisions as to whether to require an advance deposit are made at a policy level by our client. As such, the imputation that Ms Keegan invoked personal discretion to require that you make an advance payment in respect of your GIPA access application is factually incorrect and highly defamatory of Ms Keegan.
- 4.4 Further, the Article contains several derogatory comments about our client’s employees and their academic capabilities. Obviously, such comments are highly inappropriate and defamatory.
- 4.5 Finally, the Article lists Ms Keegan’s and Ms Timothy’s direct phone numbers, which are not publicly available, as contact information. This is extremely inappropriate and highly distressing to Ms Keegan and Ms Timothy. We again note that the Commonwealth Government is in the process of preparing legislation to criminalise such conduct, referred to as “doxxing”.
5. **Demand**
 - 5.1 Our client demands that you:
 - 5.1.1 immediately remove the Articles from the Website;
 - 5.1.2 undertake in writing to immediately cease and desist from posting, or allowing to be posted, or publishing any further media releases or other content that is false, misleading and/or defamatory towards Ms Timothy, Ms Keegan or any other employees of our client, whether on the Website or otherwise; and
 - 5.1.3 pay our client the amount of \$1,039.10 in respect of its legal costs to date in dealing with this issue.
 - 5.2 We require that you comply with the above demand by no later than **4pm on 25 March 2024**, and confirm that you have done so by email to norman.lucas@maddocks.com.au. Should your client fail to comply with the above demand, it will be required to take additional steps and incur further legal costs, and will therefore require you to pay a higher amount in respect of its legal costs.
 - 5.3 The defamatory allegations contained in the Articles are highly distressing to Ms Timothy and Ms Keegan and their publication is causing them ongoing harm. Consequently, Ms Timothy and Ms Keegan are entitled to damages from you.
 - 5.4 Should the above demand not be complied with, our client, Ms Timothy and Ms Keegan reserve their rights to take any further steps necessary to seek appropriate relief, including obtaining damages from you.

Please note that this letter is a Concerns Notice for the purposes of the Defamation Act 2005.

Yours faithfully



Norman Lucas
Partner