

[2023] FWC 2423 [Note: An appeal pursuant to s.604 (C2023/7793) was lodged against this decision - refer to Full Bench decision dated 7 May 2024 [\[2024\] FWC FB 255](#) for result of appeal.]



DECISION

Fair Work Act 2009

s.789FC - Application for an order to stop bullying

Application by Lulu Lisa Liang-Godber

(SO2023/90)

COMMISSIONER HUNT

BRISBANE, 24 NOVEMBER 2023

Application for an FWC order to stop bullying – applicant in a volunteer role – alleged bullying by Commonwealth employees employed by a Federal Department – unfounded allegations of racism – three persons named – one instance of unreasonable behaviour by one person named – application dismissed.

[1] On 22 February 2023, Ms Lulu Lisa Liang-Godber made an application to the Fair Work Commission (the Commission) under s.789FC of the *Fair Work Act 2009* (the Act), seeking an order to stop bullying.

[2] Ms Liang-Godber is the Chair of Regional Development Australia Brisbane Incorporated T/A RDAB (RDAB), having been appointed on 1 January 2021. The appointment will conclude on 30 June 2025. It is a voluntary position.

[3] Ms Liang-Godber named three persons in her application for orders to stop bullying (collectively, the Persons Named). The Persons Named are:

- Ms Sarah Nattey, Assistant Secretary;
- Mr Richard Hay, Director of the RDA Program Management Section; and
- Ms Kylie Westaway, Assistant Director RDA Program.

[4] All the Persons Named are employed by the Commonwealth of Australia represented by the Department of Infrastructure, Transport, Regional Development, Communication and the Arts (the Department). Ms Liang-Godber is not an employee of the Department.

[5] Ms Liang-Godber seeks a remedy in response to alleged workplace bullying pursuant to Part 6-4B of the Act. It is not in dispute that Ms Liang-Godber is an eligible worker to bring a claim under this jurisdiction.

[6] Directions were issued for the filing of evidence and submissions, and the matter was listed for hearing on 17 May 2023 by video using Microsoft Teams. Ms Liang-Godber was granted leave to be represented by Ms Gemma Adams of GLR Law. The Department and

Persons Named were granted leave to be represented by Mr Matthew Minucci of Counsel, instructed by Mr Paul Vane-Tempest and Ms Elisa D'Andrea of Ashurst.

[7] I granted leave for the parties to be represented on account of the complexity of the matter, particularly the relationship between the parties. I was satisfied that granting leave would assist with the efficiency of the matter being heard, and that it was sufficiently complex to warrant representation.

Background

[8] RDAB is an association incorporated in Queensland under the *Associations Incorporation Act 1981* (Qld) and operates in accordance with its Rules (the RDAB Rules). RDAB is part of a network of Regional Development Australia Committees.

[9] Regional Development Australia (RDA) is an Australian Government initiative that brings together all levels of government to enhance the development of regions in Australia. The RDA is a national network of committees comprised of local leaders and stakeholders, intended to facilitate and support economic development and communication throughout regional Australia.

[10] Each RDA is an incorporated, not-for-profit community-based organisation (except in Victoria where the Committees are not incorporated). Committee members are made up of volunteers drawn from the particular region in which the RDA operates.

[11] The RDA network is funded by the Commonwealth (and in some jurisdictions in conjunction with state and territory governments). Each RDA is a party to a 2021-25 Funding Agreement with the Commonwealth. Those funding agreements contain a range of outcomes that Committees are required to work towards in their regions, and performance indicators that must be addressed by RDAs when reporting on their performance and delivery outcomes.

[12] The Department's role is to assist the RDA network and monitor the expenditure of Australian Government funding and Committee performance. The Department also provides administrative and operational support.

[13] The RDAB receives funding from the Commonwealth pursuant to a funding agreement to:

- facilitate regional economic development outcomes, investment, jobs and local procurement;
- promote greater regional awareness of an engagement with Australian Government policies, grant programs and research;
- improve Commonwealth regional policy-making by providing intelligence and evidence based advice to the Australian Government on regional development issues; and

- co-ordinate the development of a strategic regional plan, or work with suitable existing regional plans that will align with the Commonwealth's regional priorities.

[14] The position of Chair of an RDA Board is defined by the Department on the RDA website as follows:

“This position (the Chair) is responsible for leading the Committee. The Chair has overall responsibility for setting strategic direction and ensuring that objectives and outcomes are achieved. They will have a hands on role and be active in facilitating economic development opportunities for the region. The Chair also has overall responsibility for ensuring the Committee is well governed. The minister with responsibility for regional development appoints Chairs, in consultation with state, territory and local government counterparts where appropriate.”

[15] Ms Nattey is the Assistant Secretary, Local Government, Regional Intelligence and Data Branch in the Department. Ms Nattey oversees the team that administers the funding arrangements between the Commonwealth and RDA Committees and oversees compliance with these arrangements.

[16] Mr Hay is the Director of the RDA Program Management section. In this role, Mr Hay has contact with RDA Committees. Mr Hay reports to Ms Nattey.

[17] The position of the Director of RDA and Assistant Secretary is, according to Ms Liang-Godber, part of the management team on behalf of the Australian Government defined by the Department *Better Practice Guide of RDA (July 2022)* as follows:

“The Australian Government Minister with responsibility for the RDA program may be jointly responsible for government support of the network with state and territory counterparts. Chair appointments are made by the Australian Government.

The Department assists the network and monitors both the expenditure of Australian Government funding and Committee performance. It does this to help Committees achieve their goals within the Australian Government's announced policy intentions and in accordance with the obligations set out in the Charter and in the funding agreement. The Department strategically develops and reviews the national governance framework for the network, promotes the network to other government agencies, assesses Committee outcomes and strategies, and distributes key messages. The Department also provides some administrative and operational support to Committees, including providing advice about sound governance practices, and managing the funding agreement.”

[18] The Honourable Kristy McBain MP is the Minister for Regional Development, Local Government and Territories, with responsibility for the RDA Program.

[19] Ms Westaway's substantive role is an APS 6 RDA Liaison Officer for South-East Queensland. Ms Westaway is responsible for six RDAs including RDAB. She reports to Mr Hay.

[20] The relationship between Ms Liang-Godber and the Persons Named is that the Persons Named liaise with Ms Liang-Godber, and other Committee Members and staff of RDAB, in their capacity as employees of the Department.

Relevant Legislation

[21] A worker who reasonably believes that he or she has been bullied at work may apply to the Commission for an order to stop bullying. Section 789FC of the Act provides:

“789FC Application for an FWC order to stop bullying

(1) A worker who reasonably believes that he or she has been bullied at work may apply to the FWC for an order under section 789FF.

(2) For the purposes of this Part, *worker* has the same meaning as in the *Work Health and Safety Act 2011*, but does not include a member of the Defence Force.

Note: Broadly, for the purposes of the *Work Health and Safety Act 2011*, a worker is an individual who performs work in any capacity, including as an employee, a contractor, a subcontractor, an outworker, an apprentice, a trainee, a student gaining work experience or a volunteer.

(3) The application must be accompanied by any fee prescribed by the regulations.

(4) The regulations may prescribe:

(a) a fee for making an application to the FWC under this section; and

(b) a method for indexing the fee; and

(c) the circumstances in which all or part of the fee may be waived or refunded.”

[22] Section 789FD of the Act sets out when a worker has been bullied at work, as below:

“789FD When is a worker bullied at work?

(1) A worker is bullied at work if:

(a) while the worker is at work in a constitutionally-covered business:

(i) an individual; or

(ii) a group of individuals;

repeatedly behaves unreasonably towards the worker, or a group of workers of which the worker is a member; and

(b) that behaviour creates a risk to health and safety.

(2) To avoid doubt, subsection (1) does not apply to reasonable management action carried out in a reasonable manner.

(3) If a person conducts a business or undertaking (within the meaning of the Work Health and Safety Act 2011) and either:

(a) the person is:

(i) a constitutional corporation; or

(ii) the Commonwealth; or

(iii) a Commonwealth authority; or

(iv) a body corporate incorporated in a Territory; or

(b) the business or undertaking is conducted principally in a Territory or Commonwealth place;

then the business or undertaking is a constitutionally-covered business.”

[23] The circumstances in which the Commission may make orders to stop bullying are set out in s.789FF of the Act, as produced below:

“789FF FWC may make orders to stop bullying

(1) If:

(a) a worker has made an application under section 789FC; and

(b) the FWC is satisfied that:

(i) the worker has been bullied at work by an individual or a group of individuals; and

(ii) there is a risk that the worker will continue to be bullied at work by the individual or group;

then the FWC may make any order it considers appropriate (other than an order requiring payment of a pecuniary amount) to prevent the worker from being bullied at work by the individual or group.

(2) In considering the terms of an order, the FWC must take into account:

(a) if the FWC is aware of any final or interim outcomes arising out of an investigation into the matter that is being, or has been, undertaken by another person or body—those outcomes; and

- (b) if the FWC is aware of any procedure available to the worker to resolve grievances or disputes—that procedure; and
- (c) if the FWC is aware of any final or interim outcomes arising out of any procedure available to the worker to resolve grievances or disputes—those outcomes; and
- (d) any matters that the FWC considers relevant.”

Earlier stop bullying application

[24] Ms Liang-Godber made an earlier stop bullying application to the Commission in late 2022. That application was in respect of Ms Robin Roberts, the Deputy Chair of RDAB, and Mr Shaun Conroy, the Executive Director of RDAB.

[25] On 13 February 2023, I dismissed Ms Liang-Godber’s application¹ on account of Ms Roberts resigning her volunteer position with the RDAB effective 4 February 2023, and Mr Conroy resigning his employment with RDAB effective 3 February 2023. I determined that there was no risk to Ms Liang-Godber of being bullied by Ms Roberts or Mr Conroy and dismissed her application pursuant to s.587(1)(c) of the Act as there was no reasonable prospect of success.

[26] In dismissing Ms Liang-Godber’s application, it was not necessary for the Commission to have determined if she had, in fact, been bullied by Ms Roberts or Mr Conroy.

[27] In this present application, Ms Liang-Godber makes references to how she considers the Persons Named let her down or acted inappropriately in respect of her bullying complaints against Ms Roberts and Mr Conroy. She considers that the Persons Named were close to Ms Roberts and Mr Conroy, and on account of them being Caucasian, and Ms Liang-Godber being Chinese, she considers that she was treated differently and unfairly.

Earlier financial corruption and misconduct allegation

[28] In 2021, Ms Liang-Godber made an allegation about Ms Margaret Blade, the then CEO of RDAB. Ms Liang-Godber requested assistance for RDAB to investigate Ms Blade. A law firm was engaged to conduct an investigation, which it did by provision of a report in June 2021.

[29] Later in 2021, the Department conducted an audit in respect of Ms Blade’s spending and frequent flyer point accruals, together with a bullying complaint made by Ms Blade against Ms Liang-Godber. The summary of findings of the audit was provided to Ms Liang-Godber in February 2022. The findings largely require Ms Blade to pass on her frequent flyer points accrual to RDAB, and in respect of Ms Liang-Godber, found that some action may have constituted bullying of Ms Blade, including repeated emailing of Ms Blade while she was on leave. A recommendation was made for new and existing staff and Committee members of RDAB to undertake training.

Ministerial correspondence

[30] In material filed by Ms Liang-Godber, the Minister has twice communicated to her (on 8 December 2022 and 13 February 2023) that she was proposing to remove Ms Liang-Godber from the membership of RDAB in accordance with Rule 18(1) of the RDAB Rules on the basis of the Minister's preliminary view that she has lost confidence in Ms Liang-Godber's ability to carry out her role as Chair.

[31] On each occasion, the Minister invited Ms Liang-Godber to provide a response to the concerns raised by the Minister in each of the letters.

[32] On 31 January 2023, in respect of the first communication dated 8 December 2022, the communication was sent on behalf of the Minister to advise that she had deferred her decision pending the Commission's determination of Ms Liang-Godber's stop bullying application filed in November 2022, which was scheduled to be heard before me on 16 February 2023.

[33] The Commission is not privy to any determination (if any) made by the Minister in respect of the 13 February 2023 communication other than to note that Ms Liang-Godber has not been removed as Chair by the Minister.

Ms Liang-Godber's present application

[34] In Ms Liang-Godber's Form F72 application, lodged on 22 February 2023, she stated the following under question 12 "*How were you bullied or sexually harassed (or both)?*":

•• **Excluding/suspending me from attending the business meetings with the Minister without appropriate authority and ground**

16 Nov 2022: Richard Hay emailed to request me to withdraw from the Minister meeting I was invited.

18 Feb 2023: Sarah Nattey excluded me from the Minister meeting email invitation list.

• **Sarah Nattey demanded me to stand down as Chair by usurping the Minister's power without appropriate authority and ground.**

3 Feb 2023: Sarah Nattey called to bully me to stand aside as Chair of RDA Brisbane without any authority and ground and refused to write down her request to me when I asked her to write it down for clarification.

• **Repeatedly and purposely to exclude me from the business communications and discussions only communicate with other members.**

Since 27 Oct 2022 to today, I was completely excluded by Kylie Westaway for all the business discussion and emails. Ms Westaway has been happy to communicate with other members/ staff of RDA Brisbane. Since 27 Oct 2022 to today, I was restricted

not to contact any staff in Department of RDA. There is no such restrictions on other members / staff of RDA network.

- **Repeatedly negligence by ignoring my emails to all of them when I raised workplace safety concerns and seek their management actions to stop the bully and misconducts. Instead, they supported and encouraged the bully misconduct making me suffer over a long period time.**

Since 27 Oct 2022, All the people named refused to respond my emails raising serious concerns on business governance and operation by a former Board member bullying me.

Their ignorance and negligence failed their duty of care has created unsafe workplace for me to work and suffered being bullied for a long time worse from 27 Oct 2022. The former Board member quoted the Department of RDA had supported her conduct of bullying me.

- **All the people named has used their personal preference and interest to make decisions on public funding matters directly bullied and humiliated me in the public and damaged my professional reputation.**

14 Feb 2022, I was singled out by Sarah Nattey at a Senate Inquiry to tell the public of all the RDA network nationally, I was the only one under bully investigation funded by Department of RDA. The bully claim was never substantiated. As a result of her advise, some people started to circulate the video from the Senate inquiry and transcript to spread the rumours damaging my professional reputation.

Both Kylie Westaway and Richard Hay also have contributed to the information provided to Sarah Nattey at the Inquiry.

- Richard Hay interfered and manipulated the taxpayer's funded Audit by instructing the Auditors how to ask questions leading them to make a ground to help a former staff of RDA Brisbane who was under financial misconducts investigation to return. The former staff was said to well connected with the staff in Department of RDA. Mr Hay then refused to release the Audit report but wrote a personal summery without facts targeting and bullying me.
- Richard Hay directly involved in and supported a few former RDA Brisbane Board members and staff to bully me by setting up a new bank account to receive the Commonwealth Fund with intention to block me as Chair to access and manage the financial matters of RDA Brisbane. I am responsible for the financial matters of the organisation. The bank account application was thereafter rejected by the Bank.
- Deprive my rights of being served due process and Prejudice of Fairness with intention to deprive my RDA membership benefit by misleading the Minister to use her power to threat me on my RDA membership without ground.

- Both Sarah Nattey and Richard Hay constantly provided me very short notice as short as 2 days to respond to important matters without taking into account I am only the volunteer. Their conducts have interrupted my normal work schedule.
- All the people named made my job as Chair of RDA Brisbane very difficult and challenging.

Example: In Jan 2023, all of them interfered a major projects RDAB has in place called Capital City Expo by advising the former Executive Director to cancel/postpone the projects without any discussion with me resulted large amount of funding of RDA Brisbane being wasted and lost sponsorships. Their recommendation and conducts have damaged the RDA Brisbane business very badly. Sarah Nattey further advised the Minister to accuse me not to focus on the work. I was accused and held liable for the bad business decisions made between the respondents and the former RDA Brisbane staff without my knowledge as I was purposely excluded by all of them for participating business discussions.

- I was treated differently from other RDA members and suffer the discrimination and bully.

For example, a former staff complained against me and former Deputy Chair of RDA Brisbane at the same time as we both involved in a decision to investigate her financial misconducts. Mr Hay, Ms Westaway and Ms Nattey decided to interfere the RDAB internal workplace investigation by taking over the investigation by launching a formal audit targeting me even the claim was considered not substantiated. Mr Hay decided not to investigate against the former Deputy Chair stating she was complained because she was just doing her job. I was served different treatment in this case.

Second example: I raised a concern on former staff had done racist comments on me and sought the Department of RDA to take actions to protect me. Mr Hay emailed me to advise it was not his department concern but refer me back to RDA Brisbane Board to deal with it.

His selective involvement of matters showed he was only interested in the matters against me showing no interest for my request for protection. He failed his duty of care and breached the Better Practice Guide of RDA to provide fairness to all members.”

[35] In response to question 13 of the Form F72, Ms Liang-Godber submitted that the impacts as described above create a risk to her health and safety. In particular, the impacts include, but are not limited to:

- Becoming considerably more anxious and distressed;
- Having trouble sleeping;
- Damage to her business reputation, affecting her ability to apply for other Director or Board positions; and

- Exposure to unsafe conditions of work over a lengthy time.

[36] Ms Liang-Godber confirmed that the Department has a bullying or sexual harassment policy or procedure for handling grievances or disputes, and is of the view that the Department has not followed the policy or procedure to deal with her complaint. The reasons for this are stipulated in full below:

“There has no progress after nearly three months since my formal complaints against Mr. Hay was accepted by the Conduct and Performance Division of Department of RDA on 28th November 2022.

Conduct and Performance Division of Department of RDA advised me that their policy and procedure grant them an option that they don’t have to inform me their decision on their investigation on my complaint.

Mr. Hay has continued to manage the RDA program and made decisions on RDA Brisbane and myself despite having conflict of interest as my complaints remains unsolved.”

Ms Liang-Godber’s witness statement

Allegations against Mr Hay

[37] Ms Liang-Godber states that she has faced an ongoing and deeply rooted animosity from Mr Hay that goes beyond mere professional disagreement. She believes that Mr Hay’s views are based upon Mr Hay’s political, cultural and racial prejudices against her as Ms Liang-Godber is of Chinese heritage and she is supportive of international trade and commerce.

Alleged racial discrimination

[38] Ms Liang-Godber considers that Mr Hay has engaged in racial discrimination against her. Under the heading of racial discrimination, Ms Liang-Godber made a number of allegations, the first being:

- Mr Hay interfered with her personal social media with the intention of intimidating and enforcing his own political view on Ms Liang-Godber by demanding twice that she delete a LinkedIn Post. Ms Liang-Godber considers the post was a sharing of a journalist’s article discussing ‘racists targeting Chinese and the trade war between Australia and China’.

[39] One of Ms Liang-Godber’s posts was made on LinkedIn on 12 October 2021 and reads, together with a picture of Senator Pauline Hanson:

“A luxury car dealer owner said to me he didn’t like what’s happening in Australia now with all the anti China politics made him sick.

He was born in a regional Queensland town and built his fortune by selling many luxury cars to local customers many are migrants from China. He respected many of his customers working hard in Australia and enjoy life best way then can.

He said what's happening now reminded him Pauline Hanson in late 1990's. This conversation has also reminded me I was in UQ St Lucia Campus one day in late 1990's and saw my friend Julie was a very talented PhD Economics student from China was crying and stressed. What happened to her was shocking. Someone followed One Nation threw eggs on her car and put a hand written note on her apartment saying "Go back to your country or we will rape you..."

I took her to the local police station and reported this incident but the officer on duty said he couldn't do much because it was only a threat, nothing physical yet.

I asked the officer if anything preventive measures he could put in place to help the Chinese students feel safe. He said that was politician's job not his.

Living in Brisbane for more than two decades, I never have to worry about if I should concern being a migrant from China. Life has been fantastic and very satisfying in Brisbane. I have many friends born in Australia and they are all professional and friendly. I chose Brisbane not Sydney to settle because people here are more positive and happier.

In 2021, I took a role help overseeing some government funding. For the first time ever, I have experienced a few people employed and paid by Commonwealth money made nasty racist comments during working hours on the work paid phone they would like to plot some actions make me feel being threatened and not welcomed in Australia.

Their conversations were as if Australia is only their country not mine. Just because they have blond hair migrating from Europe while me with dark hair from China doesn't grant them any privilege or priority on their ownership of Australia.

Keep in mind at all official meetings, we all have to acknowledge the traditional land owner in Australia is the indigenous people, not the European migrants arriving in Australia earlier than Asian.

The Right extremist in public sectors are influencing badly on some narrow minded people in Australia who are lack of vision and no respect to other Australian citizens.

Australia was divided by Pauline Hanson led One Nation in the late 1990's and no one appreciated it. She lost her election and came back with different political view seemed to be harmless.

Australia is now clearly divided by the Right Extremists once again. The next election will show if that is what the country want.

I believe in Karma. When one is not kind to other people, she or he will be the ultimate loser."

[40] Mr Hay notes within his witness statement that he telephoned Ms Liang-Godber on 15 October 2021, with a file note reflecting the conversation he had with her:

“I called Lisa Liang, Chair of RDA Brisbane this morning to discuss the following from her posts below:

References to employees funded by the Commonwealth acting inappropriately by making racist comments, and the likelihood of this being able to be attributed to RDA Brisbane

References to the public sector and a political party (One Nation) noting the requirement that RDA Brisbane remain apolitical and constructive in commentary, and that broad references to the public sector may be attributed to all parts of Government.

In summary, Lisa’s responses were:

It was a private post

Lengthy comments were made regarding concerns about racism in Australia and some interactions that Lisa had that involved potentially racist acts (I noted there was no place for racist/discriminatory actions)

Lisa will remove the references to the public sector from the post

She will not change her views about one nation and feels that she is entitled to make these comments

The references to employees did not name staff personally and therefore they were reasonable

She and the Board had concerns that the department’s independent audit was instigated at the CEO’s request and would therefore result in action against the Chair – I noted the independent, fact based nature of the audit and that our objective was to find a positive way forward for RDA Brisbane....”

[41] Ms Liang-Godber made other LinkedIn posts, relevantly:

“Australian government need to have one voice authorised by the relevant department such as PM office or Foreign Affairs.

Right now, anyone in government saying whatever they want through media is not right tactics for the sake of Australian business particularly for the farming industry who want to sell produce to China.

If Australian government really wants a war, then everyone in the country need to seriously prepare for it.

If no war has been authorised, then stop stirring the mud to put dirt on this peaceful paradise country.

BTW, What’s the benefit for Australia in general to have war with China as if Australia could win?”

[42] Ms Liang-Godber’s evidence is that Mr Hay persistently bullied her and discriminated against her by demanding she delete her comments, asserting she was “against the Australian Government’s position”. She asserts that Mr Hay began following her on social media to

monitor her. She asserts that Mr Hay seemed to follow her, but not other RDAB members or other RDA chairs. She did not provide any evidence that Mr Hay follows her on social media.

[43] Ms Liang-Godber stated that a former employee, Ms Blade, whom she described as a Caucasian woman, was on good terms with Mr Hay. When allegations were made in respect of her, she considers that Mr Hay authorised an expensive audit to target Ms Liang-Godber, where auditors asked her many inappropriate questions. Ms Liang-Godber asserted that Mr Hay had not only usurped the Department's authority, but he had also caused substantial Commonwealth funds to be spent investigating her, which she says was to discriminate and bully her to support his personal dislike of her.

[44] Ms Liang-Godber states, without evidence that Ms Blade had instructed a third party to make threats against her and slander her. She considers that Mr Hay did not provide to her a safe workplace. Ms Liang-Godber made a report to the police.

[45] She considers that when Ms Blade made complaints about her, together with Ms Roberts, Mr Hay supported Ms Roberts. She notes that Ms Roberts is Caucasian.

[46] Ms Liang-Godber raised concerns with Mr Hay in respect of allegedly racist comments made to her by Ms Blade and another former employee. Her evidence is that Mr Hay emailed her to say that she should raise the matter with the RDAB Board. She considers that she was not provided with a safe workplace. It is noted that evidence of the allegedly racist comments was not provided to the Commission.

[47] Ms Liang-Godber states that requests to speak with Mr Hay were met with a request from him to put any request in writing by email. She considers that other Department staff and Mr Hay are happy to take phone calls from other RDAB members and staff, without any restrictions. She notes that she is the only person with Chinese heritage within RDAB.

[48] Ms Liang-Godber complained about Mr Hay to the Department on 28 November 2022.

Allegations regarding usurping the Minister's power

[49] By late 2022, the RDAB Committee was in turmoil (my phrase). Some of the other RDAB Committee members, including Ms Roberts as Deputy Chair were unwilling to work with Ms Liang-Godber. The Committee (excluding Ms Liang-Godber) made a request of the Minister to remove her as Chair. The Committee was excluding her as Chair.

[50] Ms Liang-Godber was invited, along with all other RDA Chairs, Deputy Chairs and Executive Officers to a post-budget briefing with the Minister scheduled for 18 November 2022. Ms Liang-Godber was looking forward to it. She notes that she is the only Chair of Chinese heritage.

[51] On 16 November 2022, Mr Hay sent her the following email:

“Good afternoon Lisa.

We have been advised by the RDA Brisbane Committee that you have been requested not to carry out any duties as Chair of the RDA Brisbane Committee at this time, while the complaint which involves you is being considered.

We therefore respectfully and kindly request that you withdraw your registration for the briefing session with Minister McBain, which is scheduled to be held on Friday 18 November from 11am – 12:30pm AEDT.

A summary of the outcomes of the briefing will be provided to RDAs following the session.”

[52] Ms Liang-Godber responded in writing the same day, seeking clarification with respect to the request not to attend the Minister’s briefing. She referenced what she described as a ‘secretive, invalid’ Board meeting of the RDAB. She asked:

“...Can you please confirm your below request of me withdrawing from this meeting with Minister means you are on behalf of Department RDA have agreed and accepted the 27th Oct secretive invalid Board meeting of RDAB?”

[53] Mr Hay responded as follows:

“...My earlier advice was based on high level information regarding the status of your role that was provided to us by the Board. It is your decision as to whether you feel it is appropriate to attend the briefing on Friday....”

[54] Ms Liang-Godber states that she found it humiliating, felt discriminated against and felt bullied by Mr Hay’s request. She considers that when Mr Hay referred to ‘high level advice’ the decision must have come from the Minister’s office as only the Minister has the authority to suspend her. Ms Liang-Godber did not attend the briefing as she felt she would not be welcomed by the Minister. She considers that she could have provided her valuable inputs to support the Minister during the brief.

[55] Ms Liang-Godber later challenged Mr Hay in respect of his request that she not attend the briefing. On 23 November 2022, Mr Hay sent the following email to her:

“Hi Lisa

Thanks for your email.

Our request in relation to the Minister’s briefing was provided based on advice from the Board that you were required not to undertake activities at that time.

The advice from the Board was accepted at face value.

We also further noted that it was your decision as to whether you felt it was appropriate to attend the briefing.”

Allegations of excluding Ms Liang-Godber from discussing RDAB financial matters

[56] Additionally, Ms Liang-Godber claimed that Ms Roberts and Mr Conroy were both involved in a conspiracy in November 2022 by setting up another bank account to receive the Commonwealth Funding without her knowledge, as Chair.

[57] Ms Liang-Godber explains that the Chair has the financial delegation and holds the financial responsibility for the funding. She considers that Mr Hay had been in discussion with RDAB Board members and staff to set up new bank accounts with the intention of blocking Ms Liang-Godber's access and to hide information from her.

[58] She considers that Mr Hay's actions potentially could have exposed her to financial and legal risks to which she had no knowledge of.

[59] She states that the proposed new bank account application was rejected by the relevant bank as it did not have appropriate authority of the Chair.

[60] Ms Liang-Godber submits that Mr Hay could have stopped Ms Roberts and Mr Conroy setting up the bank accounts, but was complicit with them.

[61] Ms Liang-Godber notes that during a telephone conference before me on 12 January 2023 in the earlier stop bullying application, I had informed the parties of my preliminary view, having read the RDAB Rules during the conference, that only the Minister appeared to have the authority to suspend or terminate the Chair. I later issued a decision on 17 January 2023 in [\[2023\] FWC 108](#) discussing the issue of the apparent suspension of Ms Liang-Godber at the time.

[62] Ms Liang-Godber considers that Mr Hay aligned himself with the former RDAB Committee members and staff, who she notes are Caucasian. She considers that his actions constituted discrimination and bullying.

Allegations against Ms Nattey

[63] Ms Liang-Godber notes that Ms Nattey has been Assistant Secretary of the RDA since at least Ms Liang-Godber commenced. Ms Nattey is also the Advisor to the Minister.

[64] Ms Liang-Godber senses that Ms Nattey has no interest to communicate with her, evidenced by either ignoring her emails or requests for work clarification. She considers that she takes sides against her whenever the opportunity becomes available.

[65] To support her claim, Ms Liang-Godber states that she has emailed Ms Nattey on many occasions since 1 January 2021, yet she has only responded to her once, on 8 December 2022. She has had one direct phone conversation on 2 February 2023. She considers that Ms Nattey has a deeply rooted animosity towards her for an obvious reason that Ms Liang-Godber is of Chinese heritage.

[66] Ms Liang-Godber considers that Ms Nattey became involved and influenced the Minister to write to her on 8 December 2022, outlining concerns the Minister held and her

consideration of removing Ms Liang-Godber as Chair. She considers it was apparent that Ms Nattey had provided unsubstantiated information to the Minister.

[67] Ms Liang-Godber states that the Minister's letter was not only emailed to her, it was posted to the RDAB office in Brisbane and opened by Mr Conroy and subsequently circulated to RDAB Committee members who then were of the view that the Minister was going to terminate her office.

[68] Ms Liang-Godber notes that on 2 February 2023, Ms Nattey telephoned her with the call lasting 32 minutes. She states that Ms Nattey was aggressive and used a forceful tone, asking her to stand down as Chair. Ms Liang-Godber said to her that there weren't any grounds for her to stand down. Ms Liang-Godber concludes that Ms Nattey favours RDAB Committee members who are Caucasian and was discriminating against her because of her Chinese heritage.

[69] Discussions were held between the two women about the RDA's Better Practice Guide, with Ms Nattey asserting that Ms Liang-Godber should stand down while allegations about her were being investigated. Ms Nattey stated that she had sought legal advice.

[70] Ms Liang-Godber requested Ms Nattey write to her to request she stand down to ensure it was clear, in writing, that it was her decision or request. Ms Nattey stated that she would not write to her as she did not have legal knowledge or authority to stand her down.

[71] Ms Liang-Godber alleged that on 17 February 2023, Ms Nattey sent an invitation for all RDA Chairs to attend an online meeting with the Minister but purposely excluded Ms Liang-Godber from her mailing list. Ms Liang-Godber did not receive the invitation directly from Ms Nattey, and only found out about the meeting after it was forwarded to her by the RDAB office email account.

[72] On 31 January 2023, Mr Conroy informed Ms Liang-Godber that the Minister was not attending the Capital City Expo in Brisbane. Mr Conroy stated that Ms Nattey had recommended the event be postponed. Ms Nattey had not sought Ms Liang-Godber's views or consulted with her on this important event which resulted in a \$27,000 deposit being forfeited.

[73] In respect of the letter issued to Ms Liang-Godber by the Minister on 13 February 2023, a response was sought by 15 February 2023. Ms Liang-Godber noted that she is a volunteer and does not have an obligation to address RDAB matters on a daily basis. She is of the view that Ms Nattey was involved in the Minister issuing the letter to her and she was not afforded procedural fairness.

[74] Ms Liang-Godber alleges that Ms Nattey has instructed the Department staff not to communicate with her, and has requested that she only email the general RDA email and not any individual departmental staff emails. She considers that the instruction only applies to her and not to other RDAB Board members or staff.

[75] Ms Liang-Godber wrote to Ms Nattey while the dispute with other Board members was in full swing in December 2022. She notes that Ms Nattey did not provide a substantive response to her email inquiry.

[76] Ms Liang-Godber considers that her reputation was damaged by Ms Nattey when she appeared before the Australian Parliament House Senate Inquiry in 2022. She considers that Ms Nattey answered the relevant Senator's question in respect of bullying when the RDAB was referred to. It is noted that Ms Liang-Godber's name was not referenced during the Inquiry despite her having made assertions that it was.

[77] Ms Liang-Godber asserts that Ms Nattey took the opportunity to use taxpayers money, of over \$33,000, to investigate Ms Liang-Godber, but never released the report.

[78] She considers that as a result of Ms Nattey's answers, and the circulation of the transcript by former staff, her business reputation has been damaged. Ms Liang-Godber raised her concerns with Ms Westaway on the phone as to why Ms Nattey can answer every question about RDAB so well but couldn't answer the question for other RDAs. Ms Westaway said they knew RDA Brisbane would be singled out to be questioned and Ms Nattey was well-prepared for the answers.

Allegations against Ms Westaway

[79] Ms Westaway is a central point of contact between each individual RDA and the Department. Ms Liang-Godber considers that Ms Westaway and a previous employee were close colleagues. It is noted Ms Liang-Godber does not name this "previous colleague", and Ms Westaway believes this is in reference to Ms Margaret Blade. Ms Liang-Godber considers that Ms Westaway's demeanour and professionalism was so poor that she refused to respond to emails from Ms Liang-Godber.

[80] Ms Liang-Godber asserts that Ms Westaway effectively treated Ms Roberts as a defactor Chair. Ms Liang-Godber cites a number of emails sent by Ms Westaway between 24 November 2022 and 5 January 2023 where she excluded Ms Liang-Godber.

[81] She made allegations that Ms Westaway assisted to funnel a payment to Mr Conroy which she says she has reported to the police.

Evidence given during the hearing

[82] In oral evidence given during the hearing, Ms Liang-Godber said that she considered she was treated differently by the Department, its staff, and particularly Mr Hay, because, she says, of her Chinese heritage.

[83] Ms Liang-Godber agreed she sought advice to conduct an investigation in May 2021 in relation to the spending of Ms Blade, former CEO of RDAB. On 13 June 2021, Ms Blade made a written complaint about Ms Liang-Godber, alleging she had been bullied by her. On 15 June 2021, a meeting was called in Canberra while a conference was being convened. It was put to Ms Liang-Godber in cross-examination that she volunteered to leave the meeting while Ms Blade's complaint was being discussed due to a potential conflict of interest. Ms Liang-Godber stated that Mr Hay had told her to leave the meeting and she complied. She agreed in answering my question that it was fair and reasonable for her to be asked to leave the meeting.²

[84] Ms Liang-Godber was referred to the RDA Better Practice Guide, and particularly clause 5.9 which reads as follows, noting that the 2021 version is produced below:

“5.9 Public comment

With respect to activities funded by the Australian Government, state or territory or local governments, the Committee should not make any statements or give any undertaking that could be interpreted as committing the Australian Government Minister or relevant state or territory minister or the Australian Government, state or territory or local governments to a particular action or expenditure. This position should be made very clear in any negotiations which the Committee, its members, employees or representatives undertake with any company, form or other body, or member of the public.

Whilst it is recognised that members as members of the community have the right to make public comment and enter into public debate on political and social issues, care must be taken not to convey the impression that such comment is an official comment made in their capacity as a member or employee.

If it is not possible for the member or employee to make it clear that they are speaking personally, it may be appropriate not to make any public comment.

While constructive criticism of the operations of Committees and the Department is welcome, it is inappropriate for such criticism to be reflected in press releases, public documents or statements. The utmost care should also be taken to ensure public comments cannot be misinterpreted. The Chair is responsible for channelling matters relating to the operations of Committees and the Department to the state, territory or Australian Government Ministers and/or senior employees of the Department.”

[85] Clause 8.2 of the RDA Better Practice Guide includes the following:

“...Committee members and employees should also take care when they are speaking on behalf of the Committee to uphold its status as an apolitical organisation that is not aligned with any particular political party. The conduct of operations of Committees should remain politically neutral at all times, and be undertaken in an impartial and professional manner.”

[86] Ms Liang-Godber agreed she made the relevant posts on her LinkedIn page. She was taken to her LinkedIn profile which shows that she is the Chair of RDAB. She answered that is her title, not her position. She said that the posts included “personal view only” but that the printed copies of her posts do not show this.

[87] She agreed that Mr Hay called her on or around 21 May 2021 to discuss the first post. Her evidence is that Mr Hay asked her to delete the post, which she later did. It was put to her that Mr Hay did not tell her to delete the post, to which she answered, “I think he did.”³

[88] Ms Liang-Godber said that Mr Hay had asked her to remove the post, saying, “Because you are against Australian Government position”. She replied, “Australian Government position is anti-China.”

[89] In respect of the post, dated 12 October 2021 at [39], Ms Liang-Godber said to Mr Hay, when he called her on 15 October 2021, that because she did not name the employees who she claimed were racist towards her, there could be no defamation from her point of view.

[90] She stated in oral evidence that she removed the post because Mr Hay held authority for funding of RDA and she felt pressure from him to do so.

[91] For the first time in evidence, Ms Liang-Godber said that Mr Hay had said that she shouldn’t be critical about One Nation as they are aligned with the coalition Government. I asked Ms Liang-Godber why this evidence had not been in her written witness statement; she said she didn’t realise the conversation would be so critical.

[92] I asked Ms Liang-Godber whether her references to employees “paid by Commonwealth money” with blonde hair would likely be offended by her remarks that they are racist and make nasty, racist comments during working hours on the work phone? She said that she didn’t identify herself as the Chair of RDAB in the post, nor did she identify or name any person. She considers that she did not say anything inappropriate in the post.⁴

[93] Ms Liang-Godber agreed that when she emailed Mr Hay in November 2022 to make a complaint about fellow RDAB Committee members, Mr Hay invited her to put her complaint in writing, and invited her to call if she nominated a time that suits. She said in evidence that she was a bit reluctant to call him and considered that other members weren’t asked to put concerns in writing. She suggested that Mr Hay was a ‘typical public servant’ by requesting she put her concern in writing, but then offered up a phone call to ‘cover himself’.⁵

[94] In respect of her conversation with Ms Nattey on 2 February 2023, Ms Liang-Godber agreed that Ms Nattey said to her that she, and other members of RDAB should stand aside from the Committee while allegations are made, pursuant to the Better Practice Guide. She denied asking Ms Nattey if she is a lawyer. She claimed that instead, she said, “*You maybe need to seeking a second opinion for your legal advice.*” Ms Liang-Godber said to Ms Nattey, “*If you don’t have the authority, why you calling me?*”

[95] In answering questions from me, Ms Liang-Godber agreed that the RDAB Rules provide for the Minister to suspend or remove the Chair without a right of appeal.⁶

Orders sought

[96] Ms Liang-Godber seeks the following Orders:

- Each of the Persons Named to provide a formal apology;
- Each of the Persons Named be ordered to stop the types of behaviour alleged;

- The Department ensure, by way of monitoring conduct, sensitivity training, policy retraining, or other measures deemed reasonable by the Commission, that the Persons Named and any other employees, no longer engage in workplace bullying of Ms Liang-Godber;
- The Department review its anti-bullying and workplace complaint processes to ensure they are effective and accessible;
- The Department ensure that the Persons Named and any other employees, engage with and cooperate with Ms Liang-Godber to allow all parties to move forward and to perform their various duties in a normal manner; and
- The Department reverse or otherwise nullify any disciplinary action currently underway against Ms Liang-Godber.

Ms Liang-Godber's Submissions

[97] With regards to the LinkedIn posts made by Ms Liang-Godber, she put the following for consideration:

- there is no express obligation for individual members to be apolitical in their personal capacities;
- there is express approval in the policy to empower members to engage in public political debate, which is conceivably likely as most members of such committees are fairly public figures in business, academia, or the community;
- The policy is clearly not designed to muzzle the right of members to engage in public debate on political and social issues, which is again expressly permitted even if it may be at odds with government positions;
- Instead, the policy clearly establishes a narrow scope – it does not seek to avoid any connection between personal statements and the RDA, but only to moderate formal comments made in an official capacity on behalf of the RDA itself;
- It is unreasonable to suggest that casual social media posts of the sort made by Ms Liang-Godber are capable of being construed as being official policy or press statements on behalf of the RDA;
- Ms Liang-Godber therefore maintained that the ongoing acts of censorship and moderation on the part of Mr Hay were not supported by the policy and were therefore unreasonable;
- Ms Liang-Godber also highlighted that in several email annexures as provided in Mr Hay's own witness statement, Mr Hay can be seen to express sentiments that suggest his actions were politically motivated, and appear to follow the former staff members request to censor Ms Liang-Godber; and

- This includes statements such as, "...may be attributed to all parts of Government", and his forwarding of his concerns from others that Ms Liang-Godber was "...expressing political and anti-Australian Government sentiment..."

[98] Ms Liang-Godber's submissions have all been taken into consideration but won't be repeated in this decision.

Evidence of Mr Hay

[99] Mr Hay is employed by the Commonwealth in the Department as the Director of RDA Program Management Section, Regional Development and Local Government Division. The Department provides funding to 53 RDA Committees. Mr Hay's role involves managing the funding agreements that the Department has with the RDA's.

[100] On 19 May 2021, he received an email from Ms Liang-Godber seeking advice regarding suspected misconduct by Ms Blade, the then Chief Executive Officer and Director of RDAB. Two consultants, including lawyers were engaged. On 13 June 2021, Ms Blade made a written complaint about Ms Liang-Godber, alleging that she had bullied and harassed her.

[101] A meeting was held on 15 June 2021, as I understand it, in Canberra, for which Ms Liang-Godber was welcome for the first part, but then agreed with Ms Roberts' request to leave the meeting when the matters raised about her were being discussed.

[102] It was determined that an independent third-party review would be conducted into the allegations about Ms Blade and Ms Liang-Godber. Ms Roberts became the conduit between RDAB and the Department given the matters involved Ms Liang-Godber.

[103] Mr Hay denied having any connection with Ms Blade other than dealings with her when administrating funding agreements with RDAB.

[104] With many personnel away, and having regard to the Department's right to conduct an audit, an audit was commissioned. Ms Liang-Godber was invited to participate in the audit.

[105] In May 2021, the Department was made aware of Ms Liang-Godber's first LinkedIn post. Mr Hay called her on 21 May 2021 to draw her attention to the post and the fact that she could be identified as the Chair of RDAB. He reminded her of the RDA Better Practice Guide. He denies he said to her that her post was counter to the Australian Government's position.

[106] On 15 October 2021, Mr Hay again called Ms Liang-Godber to discuss her LinkedIn post. He made a detailed file note at [40]. He denies that he requested she remove her post or having a position counter to government policy. He states that he has never followed her on social media, and he does not engage with social media.

[107] On 17 September 2021, Ms Liang-Godber emailed Mr Hay to raise a concern regarding allegedly racist comments and conduct by Ms Blade and another RDAB employee. Mr Hay responded that it was appropriate the complaint was dealt with internally within RDAB in accordance with its grievance procedure. He stated that Ms Liang-Godber never provided particulars of the alleged racist comments to the Department.

[108] Mr Hay states that all of his interactions with Ms Liang-Godber had been free of racial prejudice. He denies avoiding telephone calls made by her or in verbal conversations. He denies treating Ms Liang-Godber differently to Ms Roberts on account of the fact that Ms Roberts is Caucasian.

[109] Since 30 November 2022 he has been directed by the Department not to engage further on any matters related to RDAB following Ms Liang-Godber's complaint about him on 28 November 2022.

[110] On 16 January 2023, Ms Liang-Godber sent Mr Hay an email. He did not respond as he is following the direction given to him not to engage in matters relating to RDAB.

[111] With respect to the request for Ms Liang-Godber to withdraw her registration for the Minister's briefing in November 2022, Mr Hay notes that he wrote to her to advise it was ultimately her decision to make.

[112] In November 2022, Mr Hay was made aware that Ms Liang-Godber was unwilling to authorise payments from the RDAB bank account. The RDAB Committee raised concerns that RDAB would not be able to meet its legal and financial obligations. Mr Hay says that the Department and RDAB explored options of opening a new bank account, to which the Department would make payments into. It was considered by the Department to be an urgent and serious matter.

[113] On 28 February 2023, Mr Hay was informed by the Department's Conduct and Performance Team that it had determined that Ms Liang-Godber's 28 November 2022 complaint against him had been investigated, with none of the allegations substantiated. The complaints subject to this application were also considered, with the Conduct and Performance Team informing him on 31 March 2023 that none of the allegations were found to be substantiated.

Evidence given during the hearing

[114] In evidence given during the hearing, Mr Hay agreed that he was familiar with the RDAB Rules and the RDA Better Practice Guide.

[115] He explained that the RDA Better Practice Guide covers 53 RDA's with varying legislative requirements. He stated that the various RDA's have varying rules of association and state legislation to consider.

[116] Mr Hay said that he understands 'stand down' would mean to resign and 'stand aside' would mean to temporarily remove one from the duties of the position.⁷ Having reviewed both the RDAB Rules and the RDA Better Practice Guide during the hearing, Mr Hay said that the RDAB Rules provide an express decision of the Minister to suspend or terminate, whereas the Better Practice Guide is the Department requesting that the Chair stand aside.

[117] In respect of the meeting of 15 June 2021, Mr Hay stated that it was Ms Roberts who requested Ms Liang-Godber leave the meeting with the potential conflict was to be discussed, not him. He stated that she agreed to leave when requested.

[118] In cross-examination, Mr Hay was asked why Ms Liang-Godber was requested to leave the meeting of 15 June 2021. He answered that it was left with RDAB, and he didn't think it was unusual to exclude Ms Liang-Godber from the decision given the conflict of interest that existed.

[119] Mr Hay stated in cross-examination that he took every phone call Ms Liang-Godber made to him up until late November 2022 when he was directed to cease working on RDAB related matters.

[120] In answering questions from me, Mr Hay stated he had a standing direction not to deal with any RDAB matters. Dr Emmi Mikedakis is the person now tasked with dealing with all RDAB matters. Dr Mikedakis is employed at the same level as Mr Hay.

[121] Mr Hay stated that if he were to deal with Ms Liang-Godber going forward, he would conduct himself in the same way he considers he always has, in a respectful, polite and cordial manner with reference to the facts that are put in front of the Department and with reference to the relevant material he has to deal with all RDA program management matters.

[122] He stated that her cultural heritage does not cause him any issues. If he was permitted to take her calls, he would do so and he would try and assist her with matters on which she was calling.

Evidence of Ms Nattey

[123] Ms Nattey is employed by the Commonwealth in the Department in the position of Assistant Secretary, Local Government, Regional Intelligence and Data Branch. She has been an Australian Public Service employee for 21 years.

[124] Ms Nattey has limited day-to-day involvement with the 53 RDA Committees. Her involvement is limited to facilitating meetings on behalf of the Minister, usually online briefings via videoconference. Between August 2021 and April 2022, the meetings were held fortnightly. Since May 2022, the meetings have occurred on 16 August 2022, 18 November 2022 and 17 February 2023. She acts as the facilitator of the meetings, and facilitates questions being asked of, and answered by the Minister.

[125] Ms Nattey has briefed the Minister on the operation of RDAB.

[126] From 25 November 2022, the following complaints were made regarding the conduct of RDAB Committee members:

- 25 November 2022 – the RDAB Committee (excluding Ms Liang-Godber) wrote to the Minister asking the Minister to exercise her powers to remove Ms Liang-Godber from her role as Chair as a result of the Committee making findings of misconduct;

- 22 December 2022 – in a response to correspondence from the Minister, Ms Liang-Godber attached a number of allegations against Ms Roberts and Mr Conroy; and
- 12 January 2023 – Ms Liang-Godber’s representative wrote to the Minister indicating that she had made an application to the Commission in respect of Ms Roberts and Mr Conroy and requested the Minister defer any decision to remove Ms Liang-Godber from her role as Chair until the application was resolved.

[127] On 31 January 2023, Dr Mikedakis, acting in Ms Nattey’s role while she was on leave, wrote an email to all RDAB Committee members advising the Minister would defer her consideration until the Commission had made a determination, and reminded members of the obligation in the Better Practice Guide to stand aside from the Committee if allegations of misconduct had been made against them.

[128] The Department received advice that all RDAB Committee members (other than Ms Liang-Godber) then resigned and Mr Conroy resigned his paid employment.

[129] On 2 February 2023, Ms Nattey telephoned Ms Liang-Godber as the Department had not received a response from her. Mr Hay had been directed by Ms Nattey not to have any involvement with RDAB matters. Ms Nattey recounts the conversation to the following effect:

- “Ms Nattey:** Hello Lisa. I’m Sarah Nattey from the Department. I have been on leave. I am calling you to follow up on the email sent by Dr Mikedakis on 31 January. This advice applies to you as Chair, as well as to the other Board members, and I would ask that you consider that advice. I note that the Better Practice Guide states that if allegations are made against the Chair, Deputy Chair or a member, the member must immediately stand aside from the Committee.
- Ms Liang-Godber:** I have seen the email, but I don’t think the email applies to me.
- Ms Nattey:** My view is that the advice provided by Dr Mikedakis and the obligations in the BPG apply to you as Chair, not just to the Deputy Chair and other Board members where there are allegations of misconduct.
- Ms Liang-Godber:** Are you a lawyer?
- Ms Nattey:** No, I’m not.
- Ms Liang-Godber:** Then you have can’t tell me how to act and you have no authority to stand me down.
- Ms Nattey:** I agree that I don’t have the authority to require you to stand down, however I am asking you to consider the advice from 31 January.

- Ms Liang-Godber:** I have referred the email to my lawyer, and my lawyer doesn't think it applies to me.
- Ms Nattey:** The Department has also sought legal advice given the current state of the Board (with allegations having been made against multiple Board members).
- Ms Liang-Godber:** If the Minister wants to sack me, she will need to provide reasonable grounds.
- Ms Nattey:** I understand. That is the Minister's decision. I am not here to tell the Minister what to think or to discuss that with you.
- Ms Liang-Godber:** If I stand aside, then no-one can make payments to suppliers or staff.
- Ms Nattey:** I hear and understand your concerns, but this is ultimately a matter for RDA Brisbane.
- Ms Liang-Godber:** Lots of people want to join the RDA Brisbane Board, including the former Treasurer, William. A new staff member will be commencing on Monday as an administrative assistant.
- Ms Nattey:** That may be the case, but I am asking you to consider the guidance and the email of 31 January.
- Ms Liang-Godber:** I am still upset that you singled me out at the Senate Inquiry.
- Ms Nattey:** That is not the case, I was asked the question and I was required to respond."

[130] Ms Nattey's evidence is that at no time did she demand that Ms Liang-Godber stand down. She said that she remained calm and respectful during the call.

[131] In late November 2022, Ms Liang-Godber made a complaint about Mr Hay. Ms Nattey forwarded the complaint to the Department's Code of Conduct team. Ms Nattey removed Mr Hay from RDAB matters, consistent with the Department's ordinary approach.

[132] Ms Nattey chose not to respond to Ms Liang-Godber's 8 December 2022 email given that it related to internal RDAB matters relating to payments, and on account of her earlier application to the Commission in respect of Ms Roberts and Mr Conroy. She denies that she has conducted a sustained campaign of neglect and ostracism against Ms Liang-Godber.

[133] On 28 March 2023, Ms Nattey was informed by the Department's Conduct and Performance Team that it had conducted a preliminary investigation into Ms Liang-Godber's 16 February 2023 complaint against her, together with the matters the subject of this application. Ms Nattey was advised that the allegations were not substantiated.

Evidence given during the hearing

[134] In evidence given during the hearing, Ms Nattey stated that the RDA team's email account is monitored several times per day by Mr Hay's team.

[135] Ms Nattey stated that during the 2 February 2023 phone call with Ms Liang-Godber, she asked her to consider the advice in the email of 31 January 2023, and encouraged her to consider the obligations under the RDA Better Practice Guide.

[136] In answering questions from me in respect of the RDAB Rules and the Better Practice Guide, Ms Nattey stated she had not been alerted to there being a potential contradiction. Nobody had raised that with her until I asked questions of her during the hearing.

[137] I asked Ms Nattey if she considers that the RDA Better Practice Guide requires a Chair to stand down, to which she answered, "Yes, I do."⁸

Evidence of Ms Westaway

[138] Ms Westaway is employed by the Commonwealth in the Department in the position of APS Level 6 Liaison Officer, RDA Program Management Section, Regional Development, Local Government and Regional Recovery Division. In the role, Ms Westaway is responsible for managing funding agreements by liaising with six RDA Committees in South-East Queensland, including RDAB. She has worked in the Department for 16 years.

[139] She has been in an acting EL1 Level since August 2022, responsible for all 12 RDA Committees in Queensland and the Northern Territory.

[140] Until 28 November 2022, she corresponded with Ms Liang-Godber as and where necessary to support the RDAB operations. She has spoken to Ms Liang-Godber by telephone on approximately three occasions and has met her twice.

[141] Ms Westaway denies that she was a close colleague of Ms Blade, as asserted by Ms Liang-Godber. She stated that when Ms Blade was employed by RDAB, she had dealt with Ms Blade professionally and appropriately.

[142] On 28 November 2022, Mr Hay directed Ms Westaway not to deal with or respond to emails from Ms Liang-Godber or matters relating to her. She was informed those matters would be managed by the Assistant Secretary. She has forwarded any matters relating to Ms Liang-Godber to the Assistant Secretary but continued to manage the Department's arrangements with RDAB.

[143] Ms Westaway rejects Ms Liang-Godber's assertion that she pretended Ms Liang-Godber didn't exist and treated Ms Roberts as the de facto Chair. Ms Westaway stated she responded to all relevant emails.

Evidence given during the hearing

[144] Ms Westaway agrees she did not liaise with Ms Liang-Godber prior to the 28 November 2022 direction in respect of the RDAB Committee's desire to open a new bank account.

Submissions of the Department and the Persons Named

[145] The Department and Persons Named press for the application to be dismissed.

[146] In respect of the conversations Mr Hay had with Ms Liang-Godber in relation to the social media posts made by Ms Liang-Godber, it was submitted that Mr Hay's account be accepted. The allegation made by Ms Liang-Godber during the hearing about the One Nation connection was not put to Mr Hay in cross-examination.

[147] In respect of the 2 February 2023 telephone call by Ms Nattey to Ms Liang-Godber, it was submitted that Ms Nattey was not cross-examined in respect of Ms Liang-Godber's assertions that Ms Nattey had engaged in verbal abuse, intimidation, coercion, threats and veiled demands.

[148] It was submitted that if Ms Nattey had been incorrect about the application of the RDA Better Practice Guide, it could only be considered unreasonable in the context of an application to stop bullying if she knew that her advice was flawed but persisted in providing it to Ms Liang-Godber anyway.

[149] It was submitted that there is no evidence that any of the allegations made by Ms Liang-Godber caused a risk to her health and safety.

[150] It was submitted that the allegations made by Ms Liang-Godber alleging racism are scandalous, entirely without foundation and had no reasonable prospects of success. It was submitted that they should never have been made.

[151] It was never put to any of the witnesses during cross-examination that they were behaving in a manner towards Ms Liang-Godber that was, or could be perceived as racist or motivated by political bias, nor can this be borne out in any of the documentary evidence in the matter.

[152] It was noted that I had questioned Ms Adams whether she would make submissions that the Persons Named were not being truthful when they denied being racist to Ms Liang-Godber, to which Ms Adams answered "No." The Respondent submitted that the allegations of racism must fail.

Ms Liang-Godber's reply submissions

[153] Reply submissions dated 26 June 2023 were filed and have been considered.

Final Submissions

[154] The final submissions filed by Ms Liang-Godber on 8 June 2023, and her reply final submissions filed on 26 June have been considered. Considerations have also been made to the Department and Persons Named's final submissions filed on 16 June 2023.

Consideration

Findings in respect of Mr Hay

[155] Ms Liang-Godber chose to make vile and offensive social media posts, particularly the post in October 2021 where she stated the following:

“...In 2021, I took a role help overseeing some government funding. For the first time ever, I have experienced a few people employed and paid by Commonwealth money made nasty racist comments during working hours on the work paid phone they would like to plot some actions make me feel being threatened and not welcomed in Australia.

Their conversations were as if Australia is only their country not mine. Just because they have blond hair migrating from Europe while me with dark hair from China doesn't grant them any privilege or priority on their ownership of Australia.

Keep in mind at all official meetings, we all have to acknowledge the traditional land owner in Australia is the indigenous people, not the European migrants arriving in Australia earlier than Asian.

The Right extremist in public sectors are influencing badly on some narrow minded people in Australia who are lack of vision and no respect to other Australian citizens....”

[156] Ms Liang-Godber is most certainly discussing her perceived experience at RDAB, having commenced as Chair of RDAB in 2021. She has never offered up any other explanation for where she says she experienced this alleged racism. At no stage did she provide evidence of her allegations in October 2021, yet felt entitled to post on social media scandalous accusations against Commonwealth employees. The fact that she does not name the alleged racist employees does not make her post acceptable or less defamatory than it is.

[157] If Ms Liang-Godber had been referring to her experiences in her own industry for which I understand she runs successful businesses, there would be no need for the Department, through Mr Hay, to express concern. The outrageous statements made by Ms Liang-Godber on a professional social networking site, quite rightly caught the attention of the Department.

[158] Ms Liang-Godber's failure to see how damaging her public accusations against the Department and Commonwealth employees is astonishing. It shows an abhorrent lack of respect for those with whom she works.

[159] I accept Mr Hay's evidence that he did not demand she remove the posts, but requested she reflect on her posts. His file note was made contemporaneously and evidences that Ms

Liang-Godber reflected on Mr Hay's commentary to her and chose a course of action for herself, determining which parts of the post she would edit.

[160] Ms Liang-Godber's self-serving evidence given in 2023 is simply not plausible. Her evidence given orally during the hearing that Mr Hay linked support of One Nation to the political desire of the then Coalition Government was shocking and entirely unacceptable. I consider that it was made up on the spot and reflects incredibly poorly on Ms Liang-Godber's character.

[161] Ms Liang-Godber's other LinkedIn post was somewhat disturbing, calling for preparation for war, if that is what the Australian Government really wants. She further went on to infer that if there was war between Australia and China, China would win such a war.

[162] I accept that Ms Liang-Godber is entitled to express views on social media, however restraint should be shown when she also holds the position that she holds. The above post was not as offensive as the October 2021 post.

[163] I do not accept that Mr Hay demanded she remove any of her posts, but did encourage her to reflect upon each of them. She ultimately made decisions whether to edit her posts.

[164] In respect of the LinkedIn posts and Mr Hay's reaction to them and discussions with Ms Liang-Godber, I do not find that Mr Hay acted unreasonably towards Ms Liang-Godber, nor did his conduct towards her create a risk to health and safety. If Ms Liang-Godber considers that the conduct of the Persons Named has caused damage to her business reputation, affecting her ability to apply for other Director or Board positions, she has not provided any evidence of such. In my view, her own conduct on her social media posts is more than likely a material reason for any aversion to inviting Ms Liang-Godber onto Boards or appointments as a Director.

[165] Ms Liang-Godber's assertion that Mr Hay is inherently racist towards her is an unfair and foul slur on Mr Hay. I have no doubt that Mr Hay has treated Ms Liang-Godber fairly and has not discriminated against her on the basis of her Chinese heritage. No evidence at all was put before the Commission in respect of the allegation, and Mr Hay was not cross-examined in respect of this. Ms Liang-Godber cannot assert that he is racist towards her, provide no evidence of it, then fail to have questions put to him in cross-examination, and then expect a finding from the Commission that Mr Hay is racist towards her.

[166] In respect of Mr Hay's advice to Ms Liang-Godber in September 2021 that the RDAB Committee deal with alleged racist comments made by Ms Blade and another RDAB employee, without Ms Liang-Godber having made specific allegations against the two employees, Mr Hay's communication to her was reasonable in all of the circumstances. Ms Liang-Godber made the broad accusation and never took it further. It is an all too familiar pattern of Ms Liang-Godber, alleging that she has been discriminated against on the basis of her race, but not putting any specific allegations forward.

[167] In respect of the 16 November 2022 email sent by Mr Hay to Ms Liang-Godber, requesting she consider her registration to attend the Minister's online briefing, I accept that Mr Hay should not have sent such an email to Ms Liang-Godber. Mr Hay, it seems, was acting on

the advice of the RDAB Committee, to which I consider was acting beyond its authority in attempting to sideline Ms Liang-Godber at that time.

[168] The RDAB Committee had no authority to suspend or stand Ms Liang-Godber aside from her duties as Chair. Only the Minister has the authority to do so, despite what the RDA Better Practice Guide says and despite what the RDAB Committee believed, or the Department employees believed.

[169] This issue became a contentious issue during the hearing and in submissions filed by the parties following the hearing. The RDA Better Practice Guide has been published for the use of all 53 RDA's. Nothing within the RDA Better Practice Guide can have precedence in respect of rules of any of the RDA's, particularly incorporated associations such as the RDAB. Where there is an inconsistency between the RDA Better Practice Guide and the RDAB Rules, the RDAB Rules shall prevail as a matter of law.

[170] I do not think the Department or RDAB (excluding Ms Liang-Godber) had cognisance of this issue until a telephone conference before me on 12 January 2023 where I raised this very issue with the parties. I called for the RDAB Rules to be provided during the conference and they were. It was as clear as day to me that only the Minister could suspend or terminate Ms Liang-Godber as Chair, and what had been going on since around November 2022, with the RDAB Committee meeting without Ms Liang-Godber was not permitted by the RDAB Rules.

[171] I issued a decision on 17 January 2023 saying as much. I would have thought that the Department would have obtained legal advice in respect of this issue before it permitted Department employees to lean on Ms Liang-Godber to do or not do certain things.

[172] I accept that in November 2022, Mr Hay was acting in ignorance, despite his purported knowledge of the RDAB Rules. I do not find that he intentionally behaved unreasonably towards Ms Liang-Godber when he encouraged her to not attend the meeting. The Act, however, does not require the conduct complained of to be intentionally unreasonable. The test is whether a reasonable person, having regard to the circumstances, may consider the conduct to be unreasonable.

[173] On the basis that Ms Liang-Godber was being inappropriately side-lined from the RDAB Committee in November 2022 without authority of the Minister, Mr Hay's communication to her, as politely as he could put it, that on account of the RDAB Committee asking her to stand aside, she is requested to withdraw her registration to attend the briefing with the Minister was, in my view, unreasonable. I accept Ms Liang-Godber's evidence that she felt humiliated by the request, and Mr Hay's email to her created a risk to health and safety. I do not accept that Mr Hay made the request on the basis of her race.

[174] In respect of the audit conducted by the Department on the RDAB, there is no evidence that Mr Hay authorised the audit, only that he helped develop the scope of the audit. In any event, the audit was necessary on account of the serious accusations made by Ms Liang-Godber against Ms Blade, and Ms Blade's serious accusations of bullying against Ms Liang-Godber.

[175] Ms Liang-Godber has made a fuss with respect to the audit having been undertaken by the Department. The Department may do as it sees fit within its terms of reference. Ms Liang-

Godber's consternation with Ms Nattey having answered questions put to her in a Senate Committee hearing is demonstrative of an irrational perspective of her understanding of the RDAB's place and its relationship with the Department.

[176] Ms Liang-Godber's criticism of Mr Hay's summary of the audit findings is unfair. Mr Hay is entitled, as a Department employee to follow lawful and reasonable directions issued to him. If he is not permitted to release the audit findings to Ms Liang-Godber, and she is entitled to have a summary of them, he did what was required of him. It wasn't put to him in cross-examination that he had made up the summary and it didn't reflect the audit findings. Further, it wasn't put to him in cross-examination that he had proposed inappropriate questions to be put by the auditor to Ms Liang-Godber during the investigation. That the audit findings were that Ms Liang-Godber appeared to have bullied Ms Blade on a limited number of occasions falls squarely at Ms Liang-Godber's feet.

[177] With respect to Mr Hay's involvement in attempting to assist the RDAB Committee (excluding Ms Liang-Godber) to set up a new bank account in November 2022, I accept that Mr Hay was liaising with others within the Department, and this being a novel matter that the Department had not experienced before, was doing his best to ensure the RDAB Committee could meet its financial and legal obligations. I am satisfied that having regard to the circumstances, a reasonable person would not consider Mr Hay's actions to be unreasonable. It is noted that although that path was being pursued, new bank accounts were ultimately not established.

Findings in respect of Ms Nattey

[178] I have already had something to say about Ms Nattey's appearance before the Senate Committee hearing where she answered questions put to her. Having watched a recording of the questions put and answered, and read the transcript, I am satisfied that Ms Nattey conducted herself appropriately. Ms Liang-Godber's criticism of Ms Nattey's conduct in respect of this issue is utterly bewildering.

[179] Ms Liang-Godber claimed that she has emailed Ms Nattey on many occasions over three years, with Ms Nattey largely ignoring her. She provided no evidence of such. In respect of the 8 December 2022 email, I accept Ms Nattey's evidence that she chose not to respond to Ms Liang-Godber in full given the matter was before the Commission. I consider that to be an entirely reasonable thing to do. Ms Liang-Godber's bullying application against Ms Roberts and Mr Conroy was fresh, having made her application to the Commission on 27 November 2022.

[180] Curiously, Ms Liang-Godber asserted that Ms Nattey takes sides against her whenever possible, yet complained that she'd only received the one email from her above, and the one phone call on 2 February 2023. She again cast a slur against a Department employee, accusing Ms Nattey of holding a deeply-rooted animosity against her for an 'obvious' reason on account of Ms Liang-Godber being of Chinese heritage. The slur made by Ms Liang-Godber against Ms Nattey is extraordinarily offensive and unpalatable.

[181] Ms Liang-Godber's assertion that Ms Nattey influenced the Minister to write to her on 8 December 2022 is without foundation. The Minister was free to make her own decision

whether to propose removing her as Chair of the RDAB. The Minister had before her, in coming to her decision to write to Ms Liang-Godber, correspondence from the RDAB Committee (excluding Ms Liang-Godber), requesting her removal. If Ms Nattey provided any advice to the Minister, or a brief, in respect of the first six bullet points within the letter, they appear to me to be factual.

[182] The fact that the 8 December 2022 letter was sent by mail to the RDAB office and opened by Mr Conroy does not fall at the feet of Ms Nattey.

[183] Having regard to the 2 February 2023 telephone call between Ms Nattey and Ms Liang-Godber, it was never put to Ms Nattey in cross-examination that she had been aggressive or used a forceful tone. Having observed Ms Nattey's evidence, including in cross-examination, I prefer Ms Nattey's evidence of the phone call to that of Ms Liang-Godber's. Ms Liang-Godber's conclusions that Ms Nattey prefers RDAB Committee members who are Caucasian and not Chinese is simply one of the reasons.

[184] It is noted that at the time the Minister, through Dr Mikedakis corresponded with Ms Liang-Godber, to advise that the Minister would await the outcome of Ms Liang-Godber's bullying application before the Commission before making a decision whether to remove her as Chair, Ms Nattey was on leave. That is why Dr Mikedakis sent the correspondence dated 31 January 2023. I consider that the correspondence sent by Dr Mikedakis with respect to reciting the RDA Better Practice Guide and the requirement that Ms Liang-Godber (and Ms Roberts) must stand aside was inappropriate, noting what I have said earlier.

[185] I appreciate that not many days passed between the letter being sent and the phone call on 2 February 2023, Ms Nattey having returned from leave on 1 February 2023.

[186] I find that during the phone call, Ms Liang-Godber repeatedly informed Ms Nattey that she did not have any authority to require her to stand-down. I find that Ms Nattey repeatedly stated that she understood that she did not have such authority. Ms Nattey did, however, repeatedly request Ms Liang-Godber have regard to the 31 January 2023 correspondence.

[187] While I find that Ms Nattey was 'leaning' on Ms Liang-Godber to stand-down, by this time, Ms Liang-Godber was emboldened with knowledge that she did not need to. She repeatedly insisted that she did not need to. In my view, Ms Liang-Godber was correct.

[188] Having regard to Ms Nattey's evidence that she considers that Ms Liang-Godber was *obliged* to stand-down, and despite Ms Nattey agreeing she didn't have authority to make Ms Liang-Godber stand down, I do find that Ms Nattey acted unreasonably towards Ms Liang-Godber. While I accept that at this stage, Ms Liang-Godber was fortified in her knowledge that she was correct and the RDAB Rules applied and where there was any inconsistency between the RDAB Rules and the RDA Better Practice Guide, the RDAB Rules prevailed, Ms Nattey ought to have been appraised of this position and not made the phone call to Ms Liang-Godber. Making the phone call to Ms Liang-Godber was unreasonable, and having regard to it being 32 minutes long, adds to the unreasonableness of it and created a risk to her health and safety.

[189] In respect of Ms Liang-Godber's assertion that Ms Nattey purposely excluded her from the invite to attend an online meeting with the Minister on 17 February 2023, Ms Nattey's evidence was as follows:

“The invitation to attend the RDA and Local Govt Association meeting on 17 Feb 2023 was sent out from the Department's 'Update' mailbox. The standard invitation list for these events includes the RDA Brisbane Chair (Ms Liang- Godber) and RDA Brisbane administration email addresses.”

[190] It is not explained why Ms Liang-Godber did not receive the email, and I note that it was a tumultuous time leading up to 17 February 2023, with RDAB Committee members resigning *en masse* and Ms Liang-Godber sending correspondence that the resignations were not lawful because not enough notice was given. There is no evidence before the Commission that Ms Nattey was responsible for removing Ms Liang-Godber from the Department's "Update" mailbox, and it wasn't put to her in cross-examination. As it eventuated, Ms Liang-Godber had advance notice of the meeting.

[191] In respect of the proposed cancellation of the Capital City Expo, Ms Liang-Godber stated that on 31 January 2023, Mr Conroy informed her that the Minister was not attending the Capital City Expo in Brisbane. Ms Liang-Godber suggests that Ms Nattey had made a recommendation without consulting her. Ms Nattey notes that she was on annual leave between 22 December 2022 and 31 January 2023 inclusive and had no involvement in the matter. I accept Ms Nattey's evidence.

[192] Ms Liang-Godber decries being given only two days to respond to the Minister's letter of 13 February 2023 and suggests Ms Nattey was involved. The letter is from the Minister and out of Ms Nattey's responsibility.

[193] I do not find that Ms Nattey has treated Ms Liang-Godber unfairly by instructing her to email the general RDA email and not individual staff members. It is better for all parties if Ms Liang-Godber's emails are centralised given how she feels towards various Department staff. Any inquiries made by Ms Liang-Godber can be given to the correct staff member, noting the current restrictions on Mr Hay and Ms Westaway responding to inquiries.

Findings in respect of Ms Westaway

[194] Ms Westaway has, in my view, been unceremoniously dragged into Ms Liang-Godber's complaint on account of Ms Westaway's administration responsibilities.

[195] Ms Westaway was following instructions from her superiors in November 2022 when machinations were in place to try and create a new bank account for RDAB. Ms Westaway was simply doing her job and would not be able to determine whether, according to the RDAB Rules, it was lawful or appropriate to do so. I consider it is spiteful and vindictive for Ms Liang-Godber to have involved Ms Westaway in this application.

[196] Suggestions that Ms Westaway was nicer to Caucasian RDAB Committee members and employees than to Ms Liang-Godber on account of being Chinese is a reprehensible slur on Ms Westaway which I utterly reject.

Conclusion

[197] In order to make final orders in an anti-bullying application, there are two requirements under s.789FF(b) of the Act. The Commission must first find that Ms Liang-Godber has been bullied at work by an individual or a group of individuals and secondly that there is a risk that she will continue to be bullied at work by the individual or group concerned.

[198] Once these two requirements have been satisfied, s.789FF confers on the Commission a broad, discretionary power to make any order it considers appropriate (other than an order requiring payment of a pecuniary amount) to prevent an employee from being bullied at work.

[199] In *Mac v Bank of Queensland Ltd*,⁹ Hatcher VP (as he was then) provided the following examples of conduct “which one might expect to find in a course of repeated unreasonable behaviour that constituted bullying at work” as including:

“... intimidation, coercion, threats, humiliation, shouting, sarcasm, victimisation, terrorising, singling-out, malicious pranks, physical abuse, verbal abuse, emotional abuse, belittling, bad faith, harassment, conspiracy to harm, ganging-up, isolation, freezing-out, ostracism, innuendo, rumour-mongering, disrespect, mobbing, mocking, victim-blaming and discrimination.”¹⁰

[200] In *Edwards v E S Trading Co (Discounts) Pty Ltd (t/as E & S Kitchen, Bathroom Laundry)*,¹¹ an employee’s genuinely held belief that she was being bullied at work was insufficient to enliven the Commission’s jurisdiction. The conduct must not only be perceived as being bullying, but that belief “must be reasonable in the sense that it is able to be supported or justified on an objective basis.”

[201] I have determined that on one occasion at [173] while Ms Liang-Godber was at work, Mr Hay behaved unreasonably towards her, and that behaviour created a risk to Ms Liang-Godber’s health and safety. There is only one occasion, and therefore I find that Mr Hay has not repeatedly behaved unreasonably towards Ms Liang-Godber. Accordingly, I find that Ms Liang-Godber has not been bullied at work by Mr Hay pursuant to s.789FD(1) of the Act.

[202] I have determined that on one occasion at [188] while Ms Liang-Godber was at work, Ms Nattey behaved unreasonably towards her, and that behaviour created a risk to Ms Liang-Godber’s health and safety. There is only one occasion, and therefore I find that Ms Nattey has not repeatedly behaved unreasonably towards Ms Liang-Godber. Accordingly, I find that Ms Liang-Godber has not been bullied at work by Ms Nattey pursuant to s.789FD(1) of the Act.

[203] I have determined that Ms Westaway never behaved unreasonably towards Ms Liang-Godber.

[204] Because I am not satisfied that Ms Liang-Godber has been bullied at work as alleged, there is no power to make the orders sought, and the application is dismissed. Orders giving effect to this will be issued in conjunction with this decision.



COMMISSIONER

Appearances:

G Adams of GLR Law, for Ms Liang-Godber

M Minucci of counsel, instructed by *P Vane-Tempest* and *E D'Andrea* of Ashurst, for the Commonwealth of Australia represented by the Department of Infrastructure, Transport, Regional Development, Communication and the Arts and the Persons Named.

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Final written submissions:

Applicant 8 June 2023 and 26 June 2023

Respondent 16 June 2023

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¹ [\[2023\] FWC 334](#).

² Transcript 17 May 2023, PN 118.

³ Ibid PN 189.

⁴ Ibid PN 226.

⁵ Ibid PN 263.

⁶ Ibid PN 468.

⁷ Ibid PN 713.

⁸ Ibid PN 632.

⁹ [\[2015\] FWC 744](#).

¹⁰ Ibid at [99].

¹¹ [\[2016\] FWC 8223](#) at [61].