

**CHARLES CHRISTIAN PORTER**

and

**AUSTRALIAN BROADCASTING CORPORATION**

and

**LOUISE MILLIGAN**



**DEED OF SETTLEMENT & RELEASE**

## DEED OF SETTLEMENT & RELEASE

This Deed is made the 31 day of May 2021

**PARTIES:** **Charles Christian Porter**, c/o Company Giles, 111 Elizabeth St Sydney NSW 2000 ("**Mr Porter**").

**AND:** **Australian Broadcasting Corporation**, ABN: 52 429 278 345, of 700 Harris Street, Ultimo, New South Wales 2007 (the "**ABC**").

**AND:** **Louise Milligan**, c/o ABC Legal, 700 Harris Street, Ultimo, New South Wales 2007 ("**Ms Milligan**").

### RECITALS:

- A. On or about 26 February 2021 at 5.40pm, the ABC published an article titled 'Scott Morrison, senators and AFP told of historical rape allegation against Cabinet Minister' at the following URL: <https://www.abc.net.au/news/2021-02-26/pm-senators-afp-told-historical-rape-allegation-cabinet-minister/13197248>.
- B. On or about 26 February 2021, the following changes were made to the article:
  - (i) at 6pm and 6.18pm on 26 February 2021, references to 'allegations' were changed to 'allegation';
  - (ii) at 6.21pm, a reference to 'the incident' was changed to 'her death';
  - (iii) at 6.45pm, a reference to Senator Wong making a statement to police was changed to her having contacted police to offer her assistance;
  - (iv) at 6.56pm, a reference to Four Corners having contacted the Prime Minister's office for comment was replaced with the comment made by the Prime Minister's office; and
  - (v) other minor typographical corrections were made.
- C. The publications recited in Recitals A to B above (which are continuous online publications from the time they were first uploaded), will be referred to in this Deed as the "**Publications**".
- D. Mr Porter has brought proceedings against the ABC and Ms Milligan in the Federal Court of Australia (proceeding number NSD206/2021), in which it is alleged that the Publications are defamatory of Mr Porter (the "**Proceeding**"). The ABC and Ms Milligan deny any liability to Mr Porter in respect of the Publications.
- E. The ABC and Ms Milligan filed a Defence in the Proceeding on 4 May 2021. Mr Porter filed a Reply on 4 May 2021.
- F. On 14 May 2021, the Court made an interim suppression order in relation to Schedules 1, 2 and 3 of the Defence, and paragraphs 2(ii) to (pp) and 8 of the Reply.
- G. The parties have agreed, without admission of liability, to settle the Proceeding on the terms and conditions set out in this Deed.



s 47F

s 47F

**OPERATIVE PROVISIONS:****1. Definitions and Interpretation**

- 1.1 In the interpretation of this Deed, unless inconsistent with the subject or context, each of the expressions defined in Part 1 of Schedule 1 shall have the meaning there assigned to it and the provisions of Part 2 of Schedule 1 shall apply.

**2. Publication of Statement**

- 2.1 Within twenty-four (24) hours of the execution of this Deed by Mr Porter, the ABC will publish a statement in the form set out in Schedule 2 to this Deed:
- (i) on the ABC's Corrections and Clarifications page of its website at [www.abc.net.au/corrections](http://www.abc.net.au/corrections) and
  - (ii) as an Editor's Note to be permanently attached to the current version of the Publication, which is on the webpage referred to at Recital A above.

**3. Consent Orders**

- 3.1 The parties will file Consent Orders in the Proceedings in the form set out at Schedule 3 to this Deed by email on 31 May 2021.

**4. Release**

- 4.1 With effect on and from the execution of this Deed, Mr Porter releases absolutely and forever discharges Ms Milligan and the ABC and its current and former officers, employees and agents from any and all existing and future Claims wherever, whenever and however arising, known or unknown, which arise out of, are incidental to, or are in any way connected with, the Proceeding or the Publications, or any republication of all or part of the Publications in any medium, including by way of a transcript.

**5. Bar To Proceedings**

- 5.1 The parties agree and acknowledge that this Deed may be pleaded as an absolute bar to any claim or proceedings in any Court or Tribunal if the claim or proceedings is, or is related to, a cause or causes of action released or discharged or intended to be released or discharged under the terms of this Deed.

**6. Costs of Deed**

- 6.1 The parties agree that each party will bear their own costs (including legal and any stamp duty costs) of and incidental to the preparation, negotiation and execution of this Deed.

**7. Mediation Costs**

- 7.1 The ABC will pay to Company Giles the sum of \$100,000 in respect of mediation and related costs.
- 7.2 The quantum paid by the ABC pursuant to clause 7.1 above will remain confidential and will not be disclosed by the parties, their agent(s), or their representative(s), either directly or indirectly, other than:
- (a) to the extent required by law;



Australian  
Broadcasting  
Corporation

s 47F

s 47F

- (b) if disclosed by the ABC in response to a request from a House or a Committee of the Parliament of the Commonwealth or to the Minister, his or her advisers or department;
- (c) for the purposes of receiving professional legal or accounting advice; or
- (d) for the purpose of giving effect to or enforcing this deed.

7.3 The parties will not disclose that a payment was made other than to describe it as payment of mediation costs by the ABC.

## 8. Warranties

- 8.1 Each person signing this Deed as attorney for any party by so doing warrants to the other parties that as at the date of execution by them they have not received any notice or information of the revocation of the power of attorney appointing them.
- 8.2 Each person signing this Deed as an authorised officer or agent of any party by so doing warrants to the other parties that as at the date of execution by them, they have the full authority to execute this Deed on behalf of that party.
- 8.3 Each party warrants that, prior to signing this Deed, that party was afforded the opportunity to obtain independent legal or financial advice regarding the execution of this Deed.

## 9. Jurisdiction

- 9.1 This Deed is subject to, and shall be governed by, the laws of the State of New South Wales.
- 9.2 The parties irrevocably submit to the jurisdiction of the Courts of Sydney in New South Wales in relation to any dispute that may arise concerning the contents of this Deed.

## 10. General Provisions

### 10.1 Enurement

This Deed shall be binding upon the parties and their respective successors and permitted assigns and shall enure to their benefit.

### 10.2 Variations

No variation, modification or waiver of any provision in this Deed, nor consent to any departure by any party from any such provision, shall in any event be of any effect unless the same shall be in writing signed by the parties, or in the case of a waiver by the party giving it, and then any such variation, modification, waiver or consent shall be effective only to the extent to or for which it may be made or given.

### 10.3 Waivers

No failure, delay, relaxation or indulgence on the part of any party in exercising any power or right conferred upon such party in terms of this Deed shall operate as a waiver of such power or right nor shall any single or partial exercise of any such power or right nor any single failure to do so, preclude any other or future exercise thereof, or the exercise of any other power or right under this Deed.

### 10.4 Further Assurances

Each party to this Deed shall do, sign and execute all deeds, schedules, acts, documents and things as may reasonably be required by the other parties so as to carry out and give



Australian  
Broadcasting  
Corporation

s 47F

s 47F

effect to the terms and intentions of this Deed effectively and to perfect, protect and preserve the rights of the other parties hereunder whether before or after completion.

#### 10.5 Liabilities

If any party consists of more than one person then the liability of those persons in all respects under this Deed shall be a joint liability of all those persons and a liability of each of those persons severally.

#### 10.6 Severability

If it is held by a Court of competent jurisdiction that:-

- (a) any part of this Deed is void, voidable, illegal or unenforceable; or
- (b) this Deed would be void, voidable, illegal or unenforceable unless any part of this Deed were severed from this Deed,

that part shall be severed from and shall not affect the continued operation of the rest of this Deed unless to do so would change the underlying principal commercial purposes of this Deed.

#### 10.7 Entire agreement

This Deed constitutes the sole and entire agreement between the parties relating in any way to the subject matter hereof and no oral or written warranties, representations, guarantees or other terms or conditions of any nature not contained in this Deed shall be of any force unless they have been reduced to writing and executed by all parties and are expressed to be in modification of this Deed.

#### 10.8 Counterparts

This Deed may be signed in any number of counterparts with the same effect as if the signatures to each counterpart were upon the same instrument.



Australian  
Broadcasting  
Corporation

s 47F

s 47F

**Executed as a Deed:**

Signed, sealed and delivered by Charles Christian Porter in the presence of:

s 47F

s 47F

Signature of Charles Christian Porter or an authorised representative

Rebekah Ruth Giles

Name of witness (print)

31 May 2021

Date

Signed, sealed and delivered by the **Australian Broadcasting Corporation** in accordance with the *Australian Broadcasting Corporation Act 1983 (Cth)* by its duly authorised officer in the presence of:

s 47F

s 47F

Signature of witness

Signature of duly authorised officer

CONNIE MARNABUCI

Name of witness (print)

David Anderson

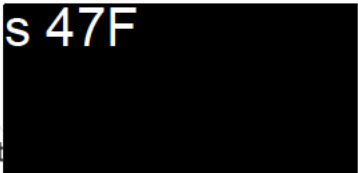
Name of duly authorised officer

31 May 2021

Date



Signed, sealed and delivered by **Louise Milligan** in  
the presence of:

.....  
Signature 

  
Signature of Louise Milligan or an authorised  
representative

*CONNIE CARNAHU*  
.....  
Name of witness (print)

*31 May 2021*  
.....  
Date



## SCHEDULE 1

### Part 1 - Definitions

In this Deed, unless the subject or context is inconsistent, each of the following expressions shall have the meaning assigned to it below:-

<b><i>Claim or claims</i></b>	includes actions, causes of action, claims, complaints, demands, disputes, proceedings and suits.
<b><i>Party or parties</i></b>	a party to this Deed or parties to this Deed.

### Part 2 - Interpretation

In this Deed, headings are for convenience only and shall not affect its interpretation. Except to the extent that the context otherwise requires:-

- (a) reference to any statute or statutory provision shall include any modification or re-enactment of, or any legislative provisions substituted for, and all legislation and statutory instruments issued under such legislation or such provision;
- (b) words denoting the singular shall include the plural and vice versa;
- (c) words denoting individuals shall include corporations, associations, trustees, instrumentalities and partnerships and vice versa;
- (d) words denoting any gender shall include all genders;
- (e) references to Parties, Parts, Clauses, Annexures and Schedules are references to Parties, Parts, Clauses, Annexures and Schedules to this Deed as modified or varied from time to time;
- (f) references to any document, deed or agreement shall include references to such document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (g) references to any party to this Deed or any other document, deed or agreement shall include, in the case of a company, its successors and/or assigns and, in the case of a natural person, his representatives and/or permitted assigns;
- (h) all references to dates and/or times are to the date and/or time in Sydney, New South Wales, Australia;
- (i) all references to "\$" and "dollars" are references to the lawful currency of the Commonwealth of Australia.

**SCHEDULE 2 – EDITOR'S NOTE**

On 26 February 2021, the ABC published an article by Louise Milligan. That article was about a letter to the Prime Minister containing allegations against a senior cabinet minister. Although he was not named, the article was about the Attorney-General Christian Porter.

The ABC did not intend to suggest that Mr Porter had committed the criminal offences alleged. The ABC did not contend that the serious accusations could be substantiated to the applicable legal standard – criminal or civil. However, both parties accept that some readers misinterpreted the article as an accusation of guilt against Mr Porter. That reading, which was not intended by the ABC, is regretted.

**SCHEDULE 3****Order**

No. NSD 206 of 2021

Federal Court of Australia

District Registry: New South Wales

Division: General

**CHARLES CHRISTIAN PORTER**

Applicant

**AUSTRALIAN BROADCASTING CORPORATION and LOUISE MILLIGAN**

Respondents

**BY CONSENT:**

- 1 The proceedings be discontinued.
- 2 No order as to costs.
- 3 The unredacted Defence and unredacted Reply be permanently removed from the Court file.

**THE COURT NOTES:**

- 4 That the First Respondent agrees to the following publication:

*On 26 February 2021, the ABC published an article by Louise Milligan. That article was about a letter to the Prime Minister containing allegations against a senior cabinet minister. Although he was not named, the article was about the Attorney General Christian Porter.*

*The ABC did not intend to suggest that Mr Porter had committed the criminal offences alleged. The ABC did not contend that the serious accusations could be substantiated to the applicable legal standard – criminal or civil. However, both parties accept that some readers misinterpreted the article as an accusation of guilt against Mr Porter. That reading, which was not intended by the ABC, is regretted.*

