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Minister for Social Inclusion and Equality

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Minister for Trade, Industry and Investment

Member for Kurrajong

Mrs Giulia Jones MLA
Chair
Standing Committee on Justice and Community Safety
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601
By email: committees@parliament.act.gov.au

Dear Chair

I am writing in response to *Scrutiny Report 25 on the draft Integrity Commission Bill 2018* released on 23 November 2018.

I appreciate that the Standing Committee on Justice and Community Safety in its capacity as Scrutiny Committee expeditiously considered the draft Integrity Commission Bill 2018. In response to the issues raised by the Committee, I provide the following comments in relation to amendments for the Integrity Commission Bill 2018.

The Committee proposed placing reasonable restrictions on the use of preliminary inquiry notices to reduce any potential limitation of rights under the *Human Rights Act 2004*. Amendments have been made to the Bill at clause 90 accordingly. In addition, the Committee proposed to remove the requirement for immediate attendance in relation to a preliminary inquiry notice. This amendment has also been made to the Bill. These issues are consistent with the 2017 Select Committee which recommended the Commission have the power to conduct preliminary inquiries that do not include the use of coercive powers.¹

The Committee also proposed making confidentiality notices for preliminary inquiries available to protect the safety or reputation of a person or the fair trial of a person who has been, or may be, charged with an offence in the same terms as confidentiality notices for investigations (clause 79(1)(b) and (c) of draft Bill). This amendment has been incorporated into the Bill.

The Commission has discretion to prohibit some disclosures where it would prejudice an investigation, the safety or reputation of a person, or the fair trial of a person who has been or may be charged with an offence. The Committee proposed further consideration be given to amending

¹ *Inquiry into an Independent Integrity Commission*, Select Committee on an Independent Integrity Commission, October 2017, p. 208.

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the draft Bill, or the draft explanatory statement, to make it clear that it is not intended the Commission can act incompatibly with human rights in the exercise of these discretions. The Explanatory Statement has been amended to make it clear that it is not intended that the Commission can act incompatibly with human rights in the exercise of these discretions.

The Committee noted there is no express provision for comments in annual reports by the Commission or special reports or annual reports of the Inspector which may prejudice an individual. The Committee proposed that it be explicitly stated that all public reports of the Commission or Inspector address the rules of natural justice and procedural fairness. It is useful to note that in conducting examinations, the Bill already provides for the Commission to comply with the rules of natural justice and procedural fairness which would flow onto relevant reporting of the examination. In addition, the Bill provides for the Commission and the Inspector to not include in their reports information contrary to the public interest, particularly the disclosure of information which may unreasonably infringe on an individual's right to privacy and reputation, or any other right under the *Human Rights Act 2004*.

The Committee also suggested that consideration be given to enhancing the protection of persons who may be affected by publication of reports under the Act to require the Commission to communicate to those affected prior to publication of the report. Amendments have been made to the Bill to address this suggestion.

I hope that these responses address the matters raised in Scrutiny Report 25.

Thank you for considering the Bill to allow the Government to introduce the Bill in the Assembly on 27 November 2018 as planned.

Yours sincerely

Andrew Barr MLA
Chief Minister