

## From the Office of the CEO

Our ref: [REDACTED]

Your ref: [REDACTED]

1 April 2022

The Honourable Tony Fitzgerald AC QC,  
Chairperson and Commissioner &  
The Honourable Alan Wilson QC,  
Commissioner  
Commission of Inquiry relating to the Crime and Corruption Commission  
State Law Building  
50 Ann Street  
Brisbane QLD 4001

Via email: [submissions@cccinqury.qld.gov.au](mailto:submissions@cccinqury.qld.gov.au)

Dear Commissioner Fitzgerald AC QC and Commissioner Wilson QC

### Call for submissions to the Commission of Inquiry into specific matters relating to the Crime and Corruption Commission

I refer to your letter received on 2 March 2022 inviting the Independent Broad-based Anti-corruption Commission ('IBAC') to provide information to the Commission of Inquiry relating to the Crime and Corruption Commission.

By way of assistance, I have addressed the matters which were identified in your letter as being of particular interest below.

#### Use of seconded police officers

IBAC does not, as a matter of practice, second Victorian police officers to a role in IBAC. IBAC may conduct coordinated investigations with law enforcement agencies, however doing so does not permit police officers to perform any duty or function of IBAC that is not otherwise authorised under IBAC's governing legislation, the *Independent Broad-based Anti-corruption Commission Act 2011 (Vic)* ('IBAC Act').

#### Expertise, qualifications, and training of investigators

In order to exercise the investigative functions, duties or powers of IBAC, sworn IBAC officers must first be appointed as 'authorised officers' for the purposes of the IBAC Act. Section 81 of

the IBAC Act requires that IBAC must not appoint an authorised officer unless IBAC is satisfied that the candidate is suitably qualified or trained to perform the functions and exercise the powers of an authorised officer for the purposes of the IBAC Act.

To be considered suitably qualified IBAC would ordinarily require an authorised officer to have a background in a law enforcement agency of a similar or equivalent nature to IBAC, although there is no stipulated minimum requirements in terms of prior experience, qualifications or training.

In addition to being suitably qualified, prior to being appointed as an authorised officer, IBAC requires that candidates complete internal training on the scope of the powers of authorised officers.

### **Decisions to commence prosecutions**

IBAC's power to commence proceedings is contained in ss 189 and 190 of the IBAC Act. These provisions provide that IBAC may bring proceedings for any offence under the IBAC Act (for example, making a false or misleading statement) or for any offence in relation to any matter arising out of an investigation conducted by IBAC.

Decisions to commence prosecutions are guided by IBAC's internal *Prosecutions Procedure* and relevant aspects of the *Policy of the Director of Public Prosecutions for Victoria*.

Any decision by IBAC to commence a prosecution must also take into account the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, *Victim's Charter Act 2006 (Vic)* and Victoria's Model Litigant Guidelines.

### **Referrals to the Office of Public Prosecutions ('OPP')**

At the conclusion of an investigation, if IBAC considers that an indictable offence may have been committed, advice will in most cases be sought from the OPP on the appropriateness of charges. If charges for indictable offences are filed, the OPP will take over the conduct of the prosecution between the filing of charges by IBAC and the first hearing of the matter.

IBAC may, on occasion, request that the OPP take over the conduct of the prosecution of summary charges filed by IBAC. However, in practice, summary offences are ordinarily prosecuted by IBAC officers.

The power of IBAC to refer any matter to the Director of Public Prosecutions to prosecute or provide IBAC with advice is contained in ss 74 and 75 of the IBAC Act. The procedure for referrals is governed by a protocol agreed between IBAC and the OPP.

### **Harm mitigation**

IBAC takes the welfare of affected parties very seriously and has numerous policies and procedures in place to minimise inappropriate impacts which may arise in the course of investigations or hearings. These policies and procedures are reviewed on an ongoing basis, noting one is currently being conducted.

IBAC uses a risk-based approach to managing the welfare of affected parties. Depending on the needs of affected parties, IBAC may provide welfare support, including:

Access to counselling services from the time a summons is served;

A professional counsellor and a private room available onsite during examinations where a high welfare risk has been identified; and

An IBAC witness welfare officer on hand to help witnesses access professional support services during examinations where a high welfare risk has been identified.

Anyone summonsed to appear at an IBAC examination is sent information advising them of these support arrangements. IBAC's *Welfare Management for IBAC Investigations Policy* is also publicly available on IBAC's website.

### **Independent oversight of IBAC**

Independent oversight of the IBAC is provided by the Victorian Inspectorate ('VI'). The VI monitors IBAC's compliance with the IBAC Act and other laws, including in its exercise of coercive powers, and assesses the effectiveness and appropriateness of the policies and procedures of IBAC which relate to the legality and propriety of IBAC's activities. The VI also receives and assesses complaints about the conduct of IBAC and IBAC personnel.

The VI's oversight role was established by the *Victorian Inspectorate Act 2011 (Vic)* and is also provided for in the IBAC Act. The IBAC Act requires IBAC to report to the VI on numerous areas, such as the issuing of confidentiality notices and witness summonses, arrest warrants, and complaints received about IBAC officers.

Further independent oversight of IBAC is also provided by the Integrity and Oversight Committee of parliament ('IOC'), established by the *Parliamentary Committees Act 2003 (Vic)*. The IOC monitors and reviews the performance of IBAC and examines the reports published by IBAC. The IOC reports to parliament in relation to IBAC's performance of its duties and functions.

Additional independent oversight in relation to IBAC's use of covert investigation techniques is also provided by a range of bodies including Victoria's Public Interest Monitor and the Commonwealth Ombudsman.

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Yours sincerely

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**Glenn Ockerby**  
Acting Chief Executive Officer