



Robyn LAMBLEY MLA
Independent Member
for **ARALUEN**



Department of the Attorney-General and Justice
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Dear Sir / Madam,

RE: Submission to the Public Consultation into the Independent Commission Against Corruption (ICAC) Bill 2017

As a Member of Parliament of the Northern Territory Legislative Assembly since 2010, I commend the Northern Territory Government in preparing this draft Bill in a timely manner as promised.

This Bill has not been introduced to the Northern Territory Parliament

The draft Independent Commission Against Corruption Bill 2017 was released for Public Consultation on the 28th June 2017.

The Parliamentary convention is to introduce legislation to Parliament and then put the Bill out for Public Consultation. The subject of this Public Consultation is a draft Bill which has not yet been introduced or presented in any form to the Northern Territory Parliament. It is difficult to understand the full rationale for this decision. But I would assume that one reason would be to try and circumvent the time taken to publicly consult on the final ICAC Bill.

This has been a Government slow to operate, initiate and respond. I am not surprised that they now feel compelled to push this ICAC legislation through with speed, but it is essential that proper process be respected. It is absolutely essential for the public to have adequate time and information to properly scrutinise Bills, whether they be a draft Bill or a final Bill.

Not allowing the Northern Territory Parliament to peruse or analyse this draft Bill prior to Public Consultation, impedes the democratic process.

As a Member of Parliament I was not notified of the existence of this draft Bill, not provided a copy of the draft Bill and was not provided any additional information to explain or describe the Bill which is usually provided. The public would be in the same position. This makes the task of anyone providing constructive feedback and analysis more difficult.

This is not an “urgent” Bill

At the very earliest the final Independent Commission Against Corruption Bill 2017 will be introduced to Parliament in the August 2017 sittings. The Bill must sit on the Parliament notice paper for 30 days before it is debated in Parliament. This Bill does not meet the criteria for “urgent” therefore the earliest this Bill will be passed through Parliament is in the October 2017 sittings of the Northern Territory Parliament, given that there are no sittings of the Northern Territory Parliament in September.

The Public Consultations

A round of Public Consultations on the draft ICAC Bill (see Annexure 1) commenced in the Northern Territory on 3rd July 2017. The first Public Consultation was held in Katherine on this date. This was just 5 days and only 3 working days after the draft Bill was publicly released. Not surprisingly, it was reported that only 10 people attended this Public Consultation in Katherine (this included Government officials).

The Alice Springs Public Consultation for the draft ICAC Bill was held on the 6th July 2017, the day before the Alice Springs Show. The timing of this consultation was disturbing. The Public Consultation held at the Alice Springs Town Council, was scheduled for 10am, the exact same time of the NAIDOC week march in Alice Springs which ended at the Alice Springs Town Council. No thought was given to how this Public Consultation clashed with a major community event held at the same time and at the same venue.

I submitted formal Written Questions to the Northern Territory Attorney General asking for the exact number of people that attended all the Public Consultations for this draft ICAC Bill. I requested that these figures exclude all Government staff and officials. The answers to these Written Questions were supplied to me today (see annexure 2) but the figures do not exclude government officials as I requested. You will note that only 7 people attended the Alice Springs public consultation.

Overall I believe the Public Consultations were rushed and poorly timed in some cases. Thus, people were unable to participate and contribute in an informed and meaningful way to this process. Public Consultation on this important Bill is vital and I would strongly recommend that the next round of Public Consultations for the final Bill allow for fair and informed participation.

[Question: Will the final Independent Commission Against Corruption Bill 2017 go out for another round of Public Consultation?](#)

The Report of the Anti-corruption, Integrity and Misconduct Commission Inquiry 2016

In May 2016 the Honourable Brian Martin AO QC provided a copy of his "Final Report into Anti-corruption, Integrity and Misconduct Commission Inquiry 2016". This included 52 recommendations. I was informed through a Written Question lodged to the Government in May 2017 that the Government has adopted 50 out of the 52 recommendations (see Annexure 3)

The Government has not adopted the 2 recommendations pertaining to the engagement of an interstate commissioner on a part-time basis.

[Question: Exactly why does the Government object to these 2 recommendations?](#)

Funding

The issue of funding for a Northern Territory Independent Commission Against Corruption must be considered.

The Northern Territory has a tiny, shrinking population of approximately 245,000 people. The current funding allocation to the NT ICAC is \$3m from this financial year ongoing. The Government has stated that the NT ICAC will be fully operational in 2018. The potential for this budget to blow out is enormous. It is not hard to envisage that the initial demand for ICAC investigations will exceed to the ability of this Commission to respond.

It is essential that the budget for the NTICAC does not exceed the allocation.

Questions:

- How has the amount of \$3m been decided as the budget for the new Northern Territory Independent Commission Against Corruption and what is the breakdown of this budget?
- If demand for the ICAC exceeds the \$3m capacity, will the Government be prepared to provide additional funding?

A full review and restructure of all the Northern Territory Complaints mechanisms

With the impending establishment of a NT ICAC it is time the Government undertook a full review of all the complaints mechanisms in the Northern Territory. It is time to rationalise all the Northern Territory Government bodies that deal with complaints and the enormous resources allocated to them.

Those NTG services that need to be rationalised are:

- ❖ Ombudsman
- ❖ Health Complaints Commissioner
- ❖ Anti-discrimination
- ❖ Consumer Affairs
- ❖ Public Interest Disclosures

Such a small jurisdiction as the Northern Territory does not need all of these services plus an Independent Commission Against Corruption.

Questions:

- Are there plans to review and rationalise the existing NTG complaints structures, in lieu of the establishment of a NT Independent Commission Against Corruption?
- What is the total annual cost of operating the following NT Government services: Ombudsman, Health Complaints Commissioner, Anti-discrimination, Consumer Affairs and the Public Interest Disclosure office?

A matter of true independence

I question whether anyone who lives, works, socialises and have investments in the Northern Territory can be truly Independent in matters brought before Northern Territory Independent Commission Against Corruption.

In recent controversies within the Northern Territory Public Service (eg.the Kamitsis / McRoberts controversy) the Government had enormously difficulty finding a suitably qualified person(s) in the Northern Territory to undertake the necessary investigations, who had not socialised or worked with the key players, and therefore did not have a potential conflict of interest.

Questions:

- How can the Northern Territory Government assure the complete Independence of the operation of the Northern Territory Independent Commission Against Corruption?
- How can the Northern Territory Government ensure that there is a complete separation between the Government and the Independent Commission Against Corruption?
- If the Northern Territory government has chosen not to adopt the 2 recommendations from the Martin "Inquiry into Anti-corruption, Integrity and Misconduct Commission" pertaining to the employment of a part-time interstate Commissioner, then how can the Independent Commission Against Corruption ensure that this separation and Independence is in place?

Conclusion


I have always supported the establishment of an Independent Commission Against Corruption in the Northern Territory.

But I do have some reservations.

I question whether there is a need for a population of 245,000 to have a fully functional and funded Northern Territory based Independent Commission Against Corruption. I think greater consideration should have been given to out-sourcing this function or setting up a Northern Territory branch of an existing Independent Commission Against Corruption from another state. This is of course fraught with legal problems, but not insurmountable.

I see the smallness of the Northern Territory being a problem in the closeness of ICAC staff to "persons of interest" in cases under investigation. We all work, socialise, are related to and know each other in the NT. The separation does not exist.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robyn Lambley', with a small dot at the end.

ROBYN LAMBLEY MLA
Member for Araluen

26 July 2017

Annexure 1 – Public Information Sessions Schedule

Annexure 2 – Written Question no. 115 NT ICAC Information Sessions

Annexure 3 – Written Question no. 89 Independent Commission against Corruption

Annexure 1 – Public Information Sessions Schedule

<https://justice.nt.gov.au/attorney-general-and-justice/law/icac-bill>

Public Consultation

The Northern Territory Government is seeking public feedback on draft legislation to establish an Independent Commission against Corruption (ICAC). The ICAC will be responsible for restoring and enhancing the integrity and transparency of public administration in the Northern Territory.

The main role of the ICAC is to investigate and deal with allegations of corruption in public administration, including by investigating matters to refer for prosecution.

Public Information Sessions

Public information sessions will be held in the main regional centres across the Territory. The information sessions will highlight key points of the draft legislation and subject matter experts will be available to answer any questions you have. Public information sessions will be held at:

Date	Region	Time	Venue
Monday 3 July	Katherine	1.00pm	1 st Floor Conference Room Government Centre, First Street, Katherine
Wednesday 5 July	Tennant Creek	10.00am	1 st Floor Conference Room Government House, Peko Road, Tennant Creek
Thursday 6 July	Alice Springs	10.00am	Andy McNeil Room, Alice Springs Town Council 93 Todd Street, Alice Springs
Monday 10 July	Darwin	1.00pm	Territory Conference Room, Development House 76 The Esplanade, Darwin
Wednesday 12 July	Nhulunbuy	10.30am	Conference Room Level 1, 8 Franklyn Street, Nhulunbuy.
Saturday 15 July	Extra Session - Darwin Rural Area	10.30am	Taminmin Community Library 70 Challoner Circuit, Humpty Doo
Saturday 15 July	Palmerston	12.30pm	Rydgies Palmerston Conference Room: Palm B, Level 1 15 Maluka Drive, Palmerston

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

WRITTEN QUESTION

Mrs Lambley to the Attorney-General and Minister for Justice:

NT ICAC Information Sessions

How many people attended the public information sessions for a NT ICAC (excluding Government officials and public servants) in:

1. Katherine

General session: 10 attendees (excluding presenters). Some of the attendees were public servants however attendees were not asked to identify the capacity in which they attended.

2. Tennant Creek

General session: 10 attendees (excluding presenters). Some of the attendees were public servants however attendees were not asked to identify the capacity in which they attended.

3. Alice Springs

General session: 7 attendees (excluding presenters). Some of the attendees were public servants however attendees were not asked to identify the capacity in which they attended.

Legal profession session: 8 attendees (excluding presenters). None of the attendees appeared to be public servants.

4. Darwin

General session: approximately 40 attendees (excluding presenters). Some of the attendees were public servants however attendees were not asked to identify the capacity in which they attended.

Legal profession session: approximately 40 attendees (excluding presenters). There were a number of government lawyers who attended.

5. Nhulunbuy

Public session: 1 attendee (excluding presenters). The attendee was an electorate officer.

6. Darwin Rural Area

Humpty Doo session: 11 attendees (excluding presenters). Some of the attendees were public servants however attendees were not asked to identify the capacity in which they attended.

Palmerston session: 8 attendees (excluding presenters). Some of the attendees were public servants however attendees were not asked to identify the capacity in which they attended.

No. 89

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

WRITTEN QUESTION

Mrs Lambley to the Chief Minister

Independent Commission against Corruption

1. What progress has been made to implement the 52 recommendations contained in the Honourable Brian Martin AO QC's report into the establishment of an Independent anti-corruption body in the Northern Territory provided in May 2016?
2. Which recommendations have been fully implemented?
3. Which recommendations have commenced implementation?
4. Which recommendations have not yet commenced implementation?
5. Which recommendations will not be implemented?
6. Who is responsible for implementing the recommendations from this report?
7. What work is currently being undertaken to implement the recommendations?
8. What is the budget allocation for the establishment of an Independent anti-corruption body in the NT?
9. When will the Independent anti-corruption body in the NT be fully operational?
10. When will Territorians be able to refer matters to the Independent anti-corruption body?

Answer:

1. In October 2016, Government announced in-principle support for 50 of the 52 recommendations made in the Hon Brian Martin AO QC's report. As Government intends that the Commissioner is to be based in the Northern Territory, the two recommendations to engage an interstate Commissioner on a part-time basis were not adopted.

An exposure draft Bill is available for public comment. This will be followed by community consultations in major regional centres. Government will aim to introduce the bill in the second half of 2017.

It is planned that that the Commission will be operational in 2018.

2. Refer to the answer at question 1.
3. Refer to the answer at question 1.
4. Refer to the answer at question 1.
5. Refer to the answer at question 1.
6. The Department of the Attorney-General and Justice and the Department of the Chief Minister.
7. Refer to the answer at question 1.
8. Government provided an ongoing \$3 million from 2017-18 to operate and establish the Commission.
9. It is planned that the Commission will be operational in 2018.
10. It is planned that the Commission will be operational in 2018.