



Mr Robert Bradshaw PSM  
Director, Policy Coordination  
Solicitor for the Northern Territory  
Department of the Attorney-General and Justice  
GPO Box 1722, Darwin NT 0801

26 July 2017

Dear Mr Bradshaw,

### **Independent Commissioner Against Corruption Bill 2017**

Thank you for email and accompanying letter of 14 July 2017 providing an opportunity to comment on the recently released *Independent Commissioner Against Corruption Bill 2017* (the Bill).

In relation to the proposed legislation and specifically in response to the matters identified in your email, I offer the following comments.

The Bill proposes the Appointment of an Inspector (Section 131) and includes that a function of the Inspector is to evaluate the Independent Commissioner Against Corruption (ICAC)'s performance and report on that evaluation (Section 132(a)). I note that provision is not inconsistent with similar legislation applicable in other Australian jurisdictions. Section 133 of the Bill proposes that the Inspector must evaluate the performance of the ICAC for a financial year and must consider whether the ICAC and members of ICAC staff acted within power and in compliance with the Act and any other relevant Acts of subordinate legislation, Section 133(2)(a). The *Audit Act* presently provides the Auditor-General with the mandate to audit "performance management systems" which is distinct from a mandate to audit "performance" in the context of efficiency and effectiveness. Consequently, there does not appear to be an overlap between the role of the Inspector and the Auditor-General.

I note your email also suggests I consider how Section 23(2) of the Bill would apply to the Auditor-General in that "if an Auditor-General is accused of "improper conduct" who might the ICAC refer for investigation (of) improper conduct that is of a lower level than "corrupt" conduct". Section 4 of the Bill defines the Auditor-General as one of a number of statutory officers and others considered to be an independent entity. Given that the Bill enables the Commissioner to refer matters to any of the referral entities listed in Section 23(2), it would be a matter for the Commissioner to determine, based on the nature of the alleged improper conduct, who the appropriate referral entity may be in a circumstance such as that suggested in your email. Whilst not specifically mentioned in the Bill, it would appear that the Auditor-General may also be a referral entity for the Commissioner's purposes in accordance with the definition included in Section 23(2) "the holder of an office established under an Act who is appointed by the Administrator or a Minister".

I acknowledge that I was consulted during the drafting of the Bill and make no further comment in relation to the content of the Bill.

Thank you for the opportunity to comment.

Yours sincerely,



Julie Crisp  
Auditor-General for the Northern Territory