



Mike Baird MP

Premier of NSW

Minister for Western Sydney

MEDIA RELEASE

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ZERO TOLERANCE FOR CORRUPTION IN NSW

All past corruption findings by the Independent Commission Against Corruption will be validated by urgent legislation as part of the Government's response to the decision of the High Court in *ICAC v Cunneen*, NSW Premier Mike Baird announced today.

"We will not tolerate corruption in this State, end of story," Mr Baird said. "All previous findings of corruption by ICAC should, and will, stand -- and we will introduce a Bill to that effect immediately.

"While the High Court's recent decision raises important questions about the ICAC's jurisdiction for the future, it should not provide those who have done the wrong thing in the past with a loophole. We need a strong ICAC, and we will have one."

In addition to confirming past ICAC findings, the Government will commission an immediate review to consider the High Court's decision, and to make recommendations regarding the appropriate scope for ICAC's jurisdiction going forward.

Mr Baird announced a distinguished legal panel will review ICAC's powers and report back to the Government by 10 July 2015, so that a second Bill, if deemed necessary, can be introduced later this year.

The independent panel of experts will be chaired by the former Chief Justice of the High Court, the Hon Murray Gleeson AC QC, and will include Mr Bruce McClintock SC, who conducted a review of the ICAC Act in 2005.

The review (terms of reference attached) will consider:

- The appropriate scope for ICAC's jurisdiction;
- Any legislative measures necessary to provide ICAC with the powers it needs to expose serious and/or systemic corruption; and
- Whether any limits or enhancements should be applied to those powers.

Among other consultations, the review will consider a report by the Inspector of ICAC that will include: an assessment of ICAC's exercise of jurisdiction in relevant past and current investigations; whether ICAC's powers are consistent with justice and fairness; and the extent to which ICAC's investigations have led to prosecutions and convictions.

Past actions by ICAC in its current investigations will also be validated by the proposed legislation. It will then be a matter for ICAC to decide whether to proceed to complete those investigations under its current jurisdiction (as determined by the High Court) or to delay those investigations until the review is completed.

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REVIEW OF THE ICAC: *ICAC v CUNNEEN* [2015] HCA 14

DRAFT TERMS OF REFERENCE FOR THE INDEPENDENT PANEL

The Independent Commission Against Corruption (ICAC) was established by the NSW Government in 1989. The ICAC's principal functions are set out in the *Independent Commission Against Corruption Act 1988*.

Ensuring that the ICAC has the powers and resources required to fulfil its functions is a priority for the NSW Government.

In light of the decision of the High Court of Australia in *ICAC v Cunneen* [2015] HCA 14, the Panel is commissioned to consider, and report to the Premier by 10 July 2015 on:

- the appropriate scope for the ICAC's jurisdiction,
- any legislative measures required to provide the ICAC with the appropriate powers to prevent, investigate and expose serious corrupt conduct and/or systemic corrupt conduct involving, or affecting, public authorities and/or public officials, and
- whether any limits or enhancements, substantive or procedural, should be applied to the exercise of the ICAC's powers,

taking into account:

1. the jurisdiction, responsibilities and roles of other public authorities and/or public officials in the prevention, detection, investigation, determination, exposure and prosecution of corrupt conduct, and
2. the report of the Inspector of the ICAC which will include consideration of:
 - a. the conduct of past and current investigations of the ICAC,
 - b. whether the ICAC's powers, and its exercise of its powers, are consistent with principles of justice and fairness,
 - c. the extent to which ICAC investigations give rise to prosecution and conviction, and
 - d. whether any limits or enhancements, substantive or procedural, should be applied to the exercise of the ICAC's powers.

Targeted consultation will be conducted at the Panel's discretion to inform its review, and will include consultation with the ICAC, the Inspector of the ICAC, the Director of Public Prosecutions, the Solicitor-General, the Crime Commission, NSW Police and the Police Integrity Commission.