



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref:JEgc

23 July 2015

The Hon. Murray Gleeson AC
Chair
Independent Panel – Review of the Jurisdiction
of the Independent Commission Against Corruption
GPO Box 5341
Sydney NSW 2001

Dear Mr Gleeson,

Review of the Jurisdiction of the Independent Commission Against Corruption

Thank you for the opportunity to provide a submission to the Independent Panel review of the jurisdiction of the Independent Commission Against Corruption ("ICAC").

The Law Society of New South Wales strongly supports the rule of law as the foundation of civilised society, and the protection of fundamental rights and freedoms for all members of the community. Any intrusion on fundamental rights must reflect an appropriate balance between the public interest objectives to be achieved, and the broader interests of the community in being protected from unwarranted intrusions on their civil liberties.

The Law Society notes that ICAC is an independent body established to (among other things) investigate, expose and prevent corruption involving or affecting public authorities and public officials. The Law Society recognises the importance of ICAC in protecting the rule of law, in particular by ensuring that no person is above the law.

The Law Society does not express a view as to the appropriate scope of ICAC's jurisdiction to investigate corrupt conduct. However, there are sound policy reasons for placing appropriate limits on ICAC's jurisdiction, including:

- ICAC was not established to investigate crime generally, and it is not necessary or appropriate that it duplicate the functions of the NSW Police Force in relation to offences that are generally unrelated to corruption in public administration; and
- ICAC has extraordinary powers that override a number of fundamental rights and principles, such as the privilege against self-incrimination and the right to silence. It is important to place reasonable limits on the circumstances in which such powers may be exercised to protect the community against unwarranted intrusions on their civil liberties.

Finally, the Law Society notes the importance of procedural fairness in the conduct of investigations, and public inquiries; and the need to be mindful of the impact that public hearings can have on the reputations of those called to give evidence, or about whom evidence is given.

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Thank you for giving the Law Society of New South Wales the opportunity to comment on this issue. The Law Society would welcome an opportunity to engage in any further consultations on this issue.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John F Eades". The signature is fluid and cursive, with a large, sweeping initial "J" that loops back under the rest of the name.

John F Eades
President