

As spokesperson for the Greens on Justice and the establishment of the IBAC

I have identified a range of problems with the establishment of the Victorian IBAC. The most significant issue is that the definition of 'corrupt conduct' as outlined in section 3A of the act is extremely limited. Paragraphs (a) to (e) -- list certain behaviours that warrant the label 'corrupt conduct', but only if that conduct leads to a 'relevant offence', which is defined as: (a) an indictable offence against an Act; or (b) any of the following common law offences committed in Victoria -- (i) attempt to pervert the course of justice; (ii) bribery of a public official; (iii) perverting the course of justice ...

The Greens would amend the act to define corrupt conduct along the lines of the definition in s8 of the NSW ICAC Act:

I have also raised concerns that if IBAC determines that a particular conduct is likely to lead to an indictable offence, it is difficult to understand why that matter would not then be referred to the police, because it is the police who are empowered to conduct investigations and charge people with indictable offences.

Another basic flaw is that under the act, IBAC must only investigate 'serious corrupt conduct' and there is no definition of 'serious corrupt conduct'.

This begs the question of how the IBAC will be able to establish whether or

not something is or is not 'serious corrupt conduct' if it is not able to conduct some sort of initial investigation.

The IBAC act should also be clear as to whether investigations of prior conduct are also limited to 'serious corrupt conduct'

Given the concern with the limited jurisdiction for IBAC which will hamper the ability of IBAC to investigate corruption, I sought amendments in Parliament whereby:

- in the exercise of its functions, the IBAC must regard the protection of the public interest and the prevention of breaches of the public trust as its paramount concerns and
- In the exercise of its functions, the IBAC, as far as is practicable --
 - (a) is to direct its attention to serious corrupt conduct and systemic corrupt conduct; and
 - (b) is to take into account the responsibility and role of any other public authorities or any public officials have in the prevention of corrupt conduct'.

These mirror sections from the NSW ICAC legislation in ensuring IBAC would focus on serious conduct but would not exclude it for investigating other

matters if it is satisfied it is in the public interest to do so or may believe it may uncover more serious matters. The Greens would amend the IBAC act with the same amendments.

There are many other problems with the way in which the Victorian IBAC regime is being set up including how the IBAC legislation interacts with the Whistleblowers Protection Act 2001, the need for a separate body to investigate police corruption, and various flaws in the legislation relating to the examination process, and the appointment of the Commissioner.

Greg Barber has also introduced a private members bill to deal with serious misconduct by members of parliament. The Members of Parliament (Serious Misconduct) Amendment Bill 2011 will help to ensure corruption does not rear its head in Parliament by increasing the threat of imprisonment or serious penalties. The indictable offence created by this Bill is rigidly based upon the common law offence of ~~misconduct in public office~~ The Crime and Misconduct Commission in Queensland, with the support of the Director of Public Prosecutions recommended such an offence be put into statute. This Bill used the same recommendations as the basis for the elements of the offence. The offence carries a level six maximum penalty of five years imprisonment, 600 penalty units (\$73,284 this financial year) or both.

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