

**INQUIRY INTO THE ADEQUACY OF THE LEGISLATIVE FRAMEWORK
FOR THE INDEPENDENT BROAD-BASED ANTI-CORRUPTION
COMMISSION**

Organisation: Dr Adam Masters, Transnational Research Institute on Corruption,
ANU

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14 July 2025

Dr Tim Read MP
Chair, Integrity and Oversight Committee
Parliament of Victoria

**Re: Submission to the Inquiry into the Adequacy of the Legislative Framework for the
Independent Broad-based Anti-corruption Commission (IBAC)**

Dear Dr Read,

Thank you for the invitation to make a submission to the Integrity and Oversight Committee's inquiry into the legislative framework of the IBAC. As you may be aware, the Transnational Research Institute on Corruption (TRIC) has provided contracted research to the IBAC on a few occasions since its inception. In this instance, the following commentary does not draw on legal scholarship, rather my experience of researching and teaching about corruption for more than a decade.

Your request included a number of questions. Each is addressed in turn.

1. whether the definition of 'corrupt conduct' in the Independent Broad-based Anti-corruption Commission Act 2011 (Vic) ('the Act') should be amended to include other forms of misconduct;

Our research demonstrated the Victorian public's perspective on what is corruption differs vastly from the realities of the legislative framework.¹ This perception v. reality provides a perpetual need to ask 'what is corruption?' and 'are the definitions broad enough?'. Inclusion of other forms of misconduct would need to be accompanied by a need to increase in resources for the IBAC. While resourcing is not within the scope of the question, it is a reality that cannot be ignored.

The resourcing issue resulting from an expanded scope was noted in the *Formal Review into Victorian Government Bodies' Engagement with Construction Companies and Construction Unions* (Wilson Review)² in response to the submission to that review by the Centre for Public Integrity.³ The experience more broadly in trying to legislate and regulate organised crime out of the construction sector can result in bureaucratic inertia. New York experienced this with multiple agencies requiring reams of paperwork from contractors that construction effectively came to a

¹ Adam Masters and Adam Graycar, 'Media Reporting of Corruption: Policy Implications' (2015) 64 *Crime Law and Social Change* 153

² Greg Wilson, 'Final Report' (2024) <<https://www.vic.gov.au/formal-review-construction-companies-and-construction-unions>>

³ Catherine Williams and Mahalia Daniels, 'Submission to the Formal Review into Victorian Government Bodies' Engagement with Construction Companies and Construction Unions', *The Centre for Public Integrity* (Sydney), 26 September 2024 <<https://publicintegrity.org.au/wp-content/uploads/2025/04/Submission-to-Wilson-Review-into-Victorias-Construction-Sector.pdf>>

standstill. The third water tunnel in New York commenced in 1970, portions came into service in 1998 and 2013 and the remaining sections are scheduled for completion in 2032.⁴

The outsourcing of government activities leaves a significant gap in corruption prevention. In effect, corruption is also outsourced. There are at least three models that describe outsourced corruption:

1. *the power of the state is outsourced, and then abused by a private party entrusted with that power.*
2. *A powerful figure uses outsourcing as a form of patronage*
3. *agents deliberately engaged by government to act in a corrupt manner on the state's behalf.*⁵

The first model best describes the sub-contractors and labour hire firms used by organised crime and corrupted CFMEU officials to benefit from infrastructure projects with poor public oversight. Including these type of actions in a broader definition may provide additional investigative muscle to controlling the union corruption and criminality that has occurred. However, this also creates an overlap with the Commonwealth. Politically, the Commonwealth has had an on again, off again approach to controlling corruption in the construction sector. This is a politically loaded issue, that has resulted in serious misconduct going over-policed or under-policed. Similar was seen in Victoria when jurisdictional overlap between local, state and federal governments saw human trafficking and sexual servitude go under the radar as each jurisdiction deferred to the other.⁶ Expanding the IBAC powers in this respect could easily see each level of governance differing to the other due to the associated complexities and politics.

2. whether the threshold for IBAC to investigate alleged corrupt conduct should be amended;

This may be required, but there are two questions that would need answering.

First, would the change make a substantive difference? To determine whether there are cases which could/should have been investigated by the IBAC that were rejected due to the threshold issues, a careful comparative analysis of the IBAC data is needed against another integrity agency which would model any proposed change. It is possible such an analysis has been carried out by the IBAC already. The data for such analysis is not publicly available for independent analysis to answer this question.

Second, would there be increased funding as part of the change? Any Alteration to the threshold for IBAC to investigate alleged corruption would require increased resourcing to give meaning to the change. A review of any of the IBAC's Annual Reports will show the number of investigations is a small fraction of the number of referrals. This is replicated in anti-corruption agencies across the country.⁷

⁴ For a full analysis of the bureaucratic inertia in New York see Frank Anechiarico and James B. Jacobs, *The Pursuit of Absolute Integrity: How Corruption Control Makes Government Ineffective* (University of Chicago Press, 1996) In this, they pointed to Tunnel No.3 as a key example. The tunnel remains incomplete and even further delayed nearly three decades later, a brief timeline can be found here *New York City water tunnel No.3* (2025) author <https://en.wikipedia.org/wiki/New_York_City_Water_Tunnel_No._3>

⁵ Adam Masters, 'Outsourcing corruption' in Carole Jurkiewicz (ed), *Global Corruption & Ethics Management: Transforming Theory into Action* (Rowman & Littlefield, 2020) 34

⁶ Adam Masters and Adam Graycar, 'A new Victorian era: Getting crime out of commercial sex' in Benoit Leclerc and Ernesto Savona (eds), *Crime prevention in the 21st century: Insightful approaches for crime prevention initiatives* (Springer, 2017) 293

⁷ For an example of how triaging occurs, see Adam Masters and Adam Graycar, 'Making Corruption Disappear in Local Government' (2016) 18(1) *Public Integrity* 42

3. *Whether the criteria in the Act for IBAC to hold public hearings should be amended;*

The criteria for public hearings should be amended. Several comparisons that have been made between the number of public examinations by the NSW Independent Commission Against Corruption (NSW ICAC) and Victorian IBAC over similar timeframes.⁸ The disparity is due largely to the legal test in Victoria requiring exceptional circumstances as a factor in determining whether an examination is public.⁹ A recent review of the IBAC website shows only 10 operations which involved public examinations.¹⁰

A shift to more public examinations would not necessarily create the resourcing issues highlighted in other changes as private examinations are already part of the investigative toolkit. Any change to live-stream public examinations as done by the NSW ICAC would be relatively cheap as recording infrastructure and hearing facilities exist.

4. *whether the information-security and confidentiality provisions in the Act and IBAC's systems and practices are robust and fit-for-purpose; and,*

The following is a reflection on systems and practices, rather than the provisions of the Act.

Information security and confidentiality are critical to the effectiveness of the IBAC. Whether any system to ensure such is effective, robust and fit-for-purpose is a proper question, especially given the rapid uptake of artificial intelligence – particularly by hackers. A data breach could cause immeasurable harm to the lives and reputations of those who have reported corruption, or are under investigation by the IBAC or other Victorian authorities.

There is an emerging issue which needs consideration by the IBAC – the cyber-security implications of developments in quantum computing. Recent research in public administration points to rapid developments in quantum information sciences that have outpaced predictions.¹¹ The so-called “Q-Day” or “Y2Q” is the term for the date when quantum computing can overcome the existing cryptography on which cybersecurity relies upon.¹² Moloney et al. have two papers under review (see references below) which point to several key areas of concern regarding preparedness for the advantages and threats that will come with widespread quantum computing:

1. *Quantum computers pose a threat to a country's national and economic security if policymakers are not proactive in protecting a country's cybersecurity.*
2. *Quantum computers may require policymakers to be quantum literate, to consider shorten their deliberative time.*
3. *Countries with quantum capacity gaps will require developmental policy interventions to encourage their quantum readiness.*¹⁰

⁸ See for example The Australia Institute, 'Victoria's watchdog losing teeth' (2018) <<https://australiainstitute.org.au/wp-content/uploads/2020/12/P506-Victorias-watchdog-losing-teeth.pdf>> and

The Centre for Public Integrity, 'Public hearings shine light on corruption: Sunlight is the best disinfectant' (The Centre for Public Integrity,, 2022) <<https://apo.org.au/sites/default/files/resource-files/2022-04/apo-nid317635.pdf>>

⁹ S.117.1.a *Independent Broad-based Anti-corruption Commission Act 2011* (Vic).

¹⁰ <https://www.ibac.vic.gov.au/ibac-examinations>

¹¹ Kim Moloney and Saif Al-Kuwari, 'Public Policy Considerations of Quantum Computing' (under review) (revised and resubmitted) *Science and Public Policy*

¹² Kim Moloney, Saif Al-Kuwari and Abdullah Ali Abbasi, 'Quantum computing, quantum capacity, and quantum divides' (under review) (revised and resubmitted) *Public Administration Review*

Some of the issues surrounding quantum computing are far beyond the scope of the IBAC in an operational or administrative sense. However, the IBAC – like all public authorities – will need to take the above on-board.¹³

Further comment on these provisions is a technical and resourcing issue beyond the scope of TRIC to comment on in detail.

5. any other issue in the Act that may unreasonably limit IBAC's ability to identify, investigate and expose corrupt conduct.

The IBAC has extensive powers to investigate corruption. Existing limitations align with established controls on the examination powers in similar agencies nationally and internationally. Due care, as per this inquiry, is needed to ensure that changes do not bring about unforeseen consequences. Other than the matters discussed in the answers to questions 1 through 4, there is nothing further to contribute in answer to this question.

[REDACTED] I hope the above is useful for the work of the Integrity Oversight Committee.

Regards

[REDACTED]

Adam Masters

¹³ See the *National Quantum Strategy* <<https://www.industry.gov.au/publications/national-quantum-strategy>>