

## **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.