

[REDACTED]
[REDACTED]
[REDACTED]
Subject:

[REDACTED]
[REDACTED]
[REDACTED]
Independent Review of the Integrity Commission Act 2009

Attachments:

[REDACTED]

I refer to the Independent Review of the Integrity Commission Act 2009 and wish to comment as follows:

I consider it is vital that Tasmania has a fully funded and functioning Independent Anti-Corruption Commission with proper investigative powers. However, my experience of the Integrity Commission to date has highlighted severe shortcomings in the current model which I detailed in my submission into the Three Year Review of the Integrity Commission Act 2009 by email on 16 January 2014.

The Joint Standing Committee on Integrity declined to publish my submission and it appears that the Committee has failed to take the matters raised by me into account in its Final Report.

<http://www.parliament.tas.gov.au/ctee/Joint/Integrity.htm>

The matters I raised in my submission comprised:

- 1.0 Impairment of Integrity Commission as a result of opening claims that there is no history of corruption in Tasmania
- 2.0 Evidence of Integrity Commission's Failings
 - 2.1 Gunns Pulp Mill Assessment Process
 - 2.2 Forestry Tasmania Conversion of Native Forest to Plantations after 1 June 2007
 - 2.3 Forestry Tasmania mis-use of TCFA Funds
 - 2.4 Gunns Pulp Mill "Substantial Commencement"
 - 2.5 Legislative Council Select Committee on Tasmanian Forests Agreement Bill
 - 2.6 Ta Ann Tasmania Wood Supply Contracts
 - 2.7 Role of Parliamentary Standards Commissioner
- 3.0 Proposed Improvements to Integrity Commission Act

When I enquired why my submission was not published I received a letter dated 22 October 2014 from the Chair of the Joint Standing Committee on Integrity, Ivan Dean MLC, outlining the following reasons why a submission may not be published without being specific:

- *That the submission makes allegations that reflect adversely on a person or body (e.g. where allegations are made against third parties in the submission); or*
- *That the submission is not relevant or does not address the terms of reference; or*
- *That the person making the submission requests that it remain confidential; or*
- *Where there are legal requirements for information contained in the submission to remain confidential; or*

- *Where the Committee determines in all the circumstances that it is not appropriate to publish a submission.*

I can only conclude that my submission was not published because it contained evidence which did not fit the Committee's agenda. In particular, [REDACTED] has been a long-time outspoken supporter of Gunns Pulp Mill which I consider to have been assessed in breach of due process as detailed in my submission.

This is of particular concern as the Invitation for Submissions makes it clear that unauthorised submissions are not protected by parliamentary privilege:

"Submissions become Committee documents. Persons making submissions must not release them without the approval of the Committee. Submissions are protected by parliamentary privilege but the unauthorised release of them is not."

<http://www.parliament.tas.gov.au/ctee/Joint/Media/Advertisement.pdf>

I requested the release of my submission so that I could include it here but have now been informed by the Chair that *"As the Committee has accepted your submission, the submission is now a committee document"*.

As a result of my experiences to date, I unfortunately have little confidence in either the Integrity Commission or the Joint Standing Committee on Integrity which appears to be driven by politically motivated self-interest.

I am particularly concerned about the following main issues:

1. The Integrity Commission's unexplained failure to recommend to the Premier that a Commission of Inquiry be established in accordance with clause 35.1 (d) of the Integrity Commission Act 2009 to investigate substantive complaints and publicly reported concerns regarding Gunns Pulp Mill Assessment Process.
2. The Integrity Commission's failure to investigate any of the forestry related matters which I have referred to it such as the ongoing issue of publicly verified unsustainable long-term wood supply contracts agreed by Forestry Tasmania and Ta Ann Tasmania in 2006 [REDACTED].
3. The exclusion of politicians from scrutiny due to legislation which states that *"misconduct"* as defined by s. 4(1) of the Integrity Commission Act 2009 *"does not include conduct, or an attempt to engage in conduct, by a public officer in connection with a proceeding in Parliament"*. I consider this to be a loophole exploited by politicians legislating in matters where they have a clear conflict of interest such as in relation to Gunns Pulp Mill and the Tasmanian Forest Agreement.
This has been compounded by the Upper House's failure to implement a Code of Conduct despite being recommended by the Integrity Commission in its *"Codes of Conduct"* report dated June 2011.
4. The role of the Parliamentary Standards Commissioner which lacks transparency and accountability.
5. The Integrity Commission's lack of power to intervene to prevent situations such as the failure of the Director of the EPA to prevent the commencement of earthworks to Gunns Pulp Mill without a valid permit.

I would therefore recommend that the Integrity Commission Act is remodelled upon the far more effective NSW Independent Commission Against Corruption which defines its commitment to independence and accountability on its website as follows:

"To operate as Parliament intended and to ensure community confidence is maintained, the ICAC is both independent and accountable.

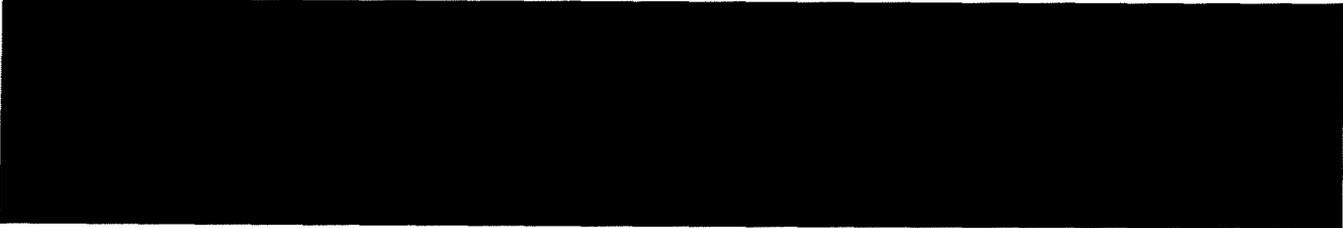
The ICAC is independent in that its operations, including investigations, are not subject to the direction of politicians, bureaucrats, any political party, or the government. Unlike most other publicly funded

organisations, the ICAC is not responsible to a Government Minister. This independence is essential for the public to have confidence that the ICAC is not biased or subject to the dictates of the government of the day.

Under the ICAC Act and other legislation, the ICAC is given special powers, which in some respects exceed those given to the police, to perform its investigative functions.

The ICAC Act confers significant powers and discretion on the Commissioner and ICAC staff. Given these extensive powers, it is important that there is a comprehensive accountability framework in place to ensure the ICAC's powers are not abused and that it meets its legislative responsibilities. There are a number of accountability mechanisms in place as well as reporting requirements, the ICAC's Code of Conduct, service commitment and freedom of information provisions."

<http://www.icac.nsw.gov.au/about-the-icac/independence-accountability>



Regards

Malcolm Mars MRICS
Chartered Quantity Surveyor

