



14 September 2016

Answer to Question on Notice – Andrew Tink AM

Question taken on notice at the Committee's public hearing regarding the Review of the Inspector's Report to the Premier: Inspector's Review of the ICAC on 9 September 2016.

Question

The CHAIR: There is potentially no merits review in respect of findings of fact by the ICAC and certainly there is no merits review where it does not proceed to a criminal prosecution. The report is issued and there is a finding. Save for errors of law or other matters which are set out in the Independent Commission Against Corruption Act there is no review of that decision. Part of the issue that is often raised is that because there is no merits review the person of interest does not get an opportunity to respond formally to the allegation made against them. They may have made a submission in reply to the potential finding by the ICAC. Should we be adopting a process where the submission of the person of interest should be included in the Commissioner's report?

Mr TINK: Is this going to recommendation 15?

The CHAIR: Yes. Rather than an exoneration protocol that might be criticised on the basis that it does not afford an opportunity to the person who does not get a criminal prosecution and their findings stand, there be a process where, at the election of the person of interest, their submission is published in response to the allegation as part of the report by the Commission?

Answer

I have grave reservations about including in an ICAC report, a response from a person who has been adversely named. In my view, it is akin to allowing a disaffected litigant to add a personal dissent from the adverse finding of a judge, at the end of a judgment.