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ATTORNEY GENERAL

Our Ref: 67- 03033

Ms Margaret Quirk, MLA
Chair
Joint Standing Committee on the Corruption and Crime Commission
Parliament of Western Australia
Parliament House
PERTH.WA 6000

Dear Chair

**JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION
REPORT NO. 2 SEPTEMBER 2017: *THE ABILITY OF THE CORRUPTION AND CRIME
COMMISSION TO CHARGE AND PROSECUTE***

In *A v Maughan [2016] WASCA 128* the Court of Appeal found that the Corruption and Crime Commission (CCC), contrary to its long held view, had no legal authority to prosecute for offences which were identified in the course of its investigations but which did not arise under its own enabling legislation.

As a result of that decision, arrangements were put in place to ensure that prosecution of offences identified in such investigations are dealt with by those with authority to prosecute. In most cases, the CCC will refer a brief to the State Solicitor who will assess the brief and, where appropriate, both charge and prosecute. Where the charge or charges relates to an indictable offence or offences, the State Solicitor may refer the prosecution to the Director of Prosecutions for prosecution.

The Joint Standing Committee on the CCC conducted an inquiry into the issue of whether the *Corruption Crime and Misconduct Act 2003 (WA)* should be amended so as to give the Commission the power to charge and prosecute for offences identified in the course of its investigations which were not offences under its own Act.

The Joint Standing Committee, in its Report No. 2 (**Report**) which was tabled in in both Houses in September 2017, made 42 findings and 2 recommendations. The most important of the findings is Finding No. 48, which is:

No compelling case has been presently made out to justify empowering the Corruption and Crime Commission to either commence or conduct prosecutions.

Given that finding, the Joint Standing Committee has recommended that the issue be reviewed after the current arrangements have been in place for a period of time sufficient to allow consideration to be given to their effectiveness. The specific recommendations were:

1. *The CCC include a specific update on the efficiency and effectiveness of arrangements with the State Solicitor for the commencement and conduct of prosecutions in its annual report.*
2. *That the AG undertake a review into the efficiency and effectiveness of the commencement and conduct of prosecutions arising from the CCC investigations and table a report on that review within 12 months of the tabling of the CCC's Annual report for 2016 -2017.*

The Government notes however your agreement that the review referred to in recommendation 2 be undertaken within 12 months of the tabling of the CCC's Annual Report for 2017-2018.

The Government thanks the Joint Standing Committee on the Corruption and Crime Commission for its Report. The Government is grateful for the significant work undertaken by the Committee.

The Government notes the findings and the recommendations set out in the Report. The Attorney General will undertake the review proposed in recommendation 2 within 12 months of the tabling of the CCC's Annual Report for 2017-2018.

The Government notes for the Joint Standing Committee's information, that since the arrangements referred to above were put in place following the decision in *A v Maughan* there have only been 3 matters referred to the State Solicitor's Office for prosecution from the CCC. The first of those has been finalised, in respect of the second it is expected that a prosecution notice will be issued shortly and in the case of the third, received by the State Solicitor's Office only very recently, the prosecution brief is in now in the course of being assessed

Yours sincerely



Hon. John Quigley MLA
ATTORNEY GENERAL

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