

## Crime and Corruption (Restoring Reporting Powers) Amendment Bill 2025

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<b>Submitted by:</b>	Office of the Parliamentary Crime and Corruption Commissioner
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11 March 2025

Justice, Integrity and  
Community Safety Committee  
Parliament House  
Cnr George and Alice Streets  
BRISBANE QLD 4000

Via email: [JICSC@parliament.qld.gov.au](mailto:JICSC@parliament.qld.gov.au)

Dear Committee,

### **Re: Crime and Corruption (Restoring Reporting Powers) Amendment Bill 2025**

I refer to your correspondence of 21 February 2025 inviting submissions on the Crime and Corruption (Restoring Reporting Powers) Amendment Bill 2025. I am supportive of the intent of the Bill in ensuring the Crime and Corruption Commission (CCC) has the power to report on corruption risks in the State and its corruption investigations including particular corruption complaints. I only wish to briefly address some concerns with the wording in some of the proposed amendments.

#### **Clause 7 – Insertion of new of s.48B – Limitation on commission’s findings, recommendations and statements**

I have no concern with s.48B(1)(a) and (1)(b)(i). The CCC has never had the power to make findings or statements (before an official finding by the appropriate decision-maker) that a person has engaged in corruption. Nor has the CCC been permitted to make a finding, recommendation or statement that a person should be prosecuted or be subject to disciplinary action. Rather, if the CCC investigates a complaint and decides that prosecution proceedings or disciplinary action should be considered, it may report under s.49 of the *Crime and Corruption Act 2001* (the Act) to the appropriate authority for the purposes of any prosecution or disciplinary proceedings the authority considers warranted. That remains the case under the proposed amendments.

I have some concern with s.48B(1)(b)(ii) which states that the CCC must not make any finding, recommendation or statement that prosecution proceedings or disciplinary action should be considered in relation to a person. Obviously this subsection does not apply to a report under s.49 because those reports are made in circumstances where the CCC decides that prosecution proceedings or disciplinary action should be considered. The exception in s.48B(2)(a) recognises this.

I agree that the CCC must not make findings, however, if the CCC has concluded that prosecution proceedings or disciplinary action should be considered and has reported on the matter to the appropriate authority under s.49, the CCC should not be prevented from stating that fact either in a report or in a public statement. The CCC may consider it necessary to provide this information in an investigation report or public statement to assure the public that the corruption complaint has been fully investigated with the s.49 report being the end result insofar as the CCC’s involvement.

Indeed, proposed s.48B(3)(b) recognises this and declares that subsection (1) does not prevent the CCC from making a factual statement indicating that it has reported on a corruption investigation under division 5 - which includes s.49 reports. The CCC making a factual statement that it has reported on a corruption investigation under division 5, effectively amounts to a statement that it has

investigated a complaint and decided that prosecution proceedings or disciplinary action should be considered. It seems to me that s.48B(3)(b) is, in practical effect, at odds with s.48B(1)(b)(ii).

In regards to s.48B(1)(c), I accept that the CCC should not make any finding or statement that there is evidence supporting the start of proceedings against a person. That goes much further than a statement that the CCC has reported to an authority that proceedings against a person should be considered. However, I query whether it is necessary that the CCC be precluded from making a statement that there is insufficient evidence supporting the start of proceedings against a person. The CCC has made such statements in previous reports. I am aware of statements to that effect having been welcomed by subject officers on a number of occasions.

### **Clause 15 – Insertion of new s.65A – Public Statements**

Section 65A(3) provides that a public statement must not include any recommendations in relation to a corruption matter other than a recommendation included in a corruption report “*that has been tabled in the Legislative Assembly, or published, under s.69.*” (I will refer later to some concerns with the quoted wording in another context.)

As discussed above in relation to s.48B(1)(b)(ii), if the CCC has concluded that prosecution proceedings or disciplinary action should be considered and has reported on the matter to the appropriate authority under s.49, the CCC should not be precluded from stating that fact either in a report or in a public statement. Proposed s.65A(3) also seems to be at odds with s.48B(3)(b) which declares that s.48B(1) does not prevent the CCC making a factual statement to indicate that it has reported on a corruption investigation pursuant under s.49 – effectively stating that it has investigated a complaint, decided that prosecution proceedings or disciplinary action should be considered and reported on the investigation to the relevant authority.

### **Clause 18 – Amendment of s.69 – Commission reports to be tabled**

This clause makes amendments to s.69 of the Act – firstly by omitting subsections (1) and (2). Subsections (1) and (2) specify the CCC reports to which the tabling provisions apply and don’t apply, namely: a report on a public hearing, a research report or other report that the parliamentary committee directs be given to the Speaker, but not the commission’s annual report, reports under ss.49 or 65 or reports to which s.66 applies. Having defined the reports to which the section applies, ss.(3) then states that “*A commission report, signed by the chairperson, **must** be given to...*” the Committee Chair, the Speaker and the Minister.

My concern is that when subsections (1) and (2) are omitted and s.69 commences with the above words, it is open to conclude that **every** commission report signed by the Chairperson must be tabled or published under s.69. It was only a passage in the Department’s briefing paper that confirmed my understanding that the intent of the Bill was that the decision to table reports rests with the CCC. Any possible uncertainty might perhaps be addressed by changing “*must*” to “*may*” in proposed s.69(1) (presently s.69(3)).

### **Clauses 19 and 21 – Insertion of new s.69B and s.69D and Omission of s.71A**

Section 71A of the Act presently provides that procedural fairness must be afforded to a person if the CCC proposes to make an adverse comment about the person in a report to be tabled in the Legislative Assembly, **or published to the public**.

Clause 21 of the proposed amendments omits s.71A and clause 19 inserts s.69B in apparent substitution. However the obligation to afford procedural fairness under s.69B is stated to apply if the commission proposes to make an adverse comment about a person in “*a commission report required to be tabled in the Legislative Assembly, or published, under section 69*” or a public statement.

Commission reports can be **tabled** under s.69 and, if the Speaker receives the report when the Legislative Assembly is not sitting, the Speaker must deliver the report to the Clerk of the



Parliament who must authorise the report to be **published**. A report published in these circumstances is taken, for all purposes, to have been tabled in and published by order of the Legislative Assembly. So commission reports may be tabled or published under s.69 but “*tabled*” essentially covers both.

The wording of proposed s.69B is capable of being construed as imposing the obligation to afford procedural fairness only in relation to reports tabled or published under s.69 and not to reports under s.64 or s.64A which are not tabled. It is not clear that that is what is intended however. The briefing paper states that the Bill enhances and clarifies the scope of procedural fairness.

Section 64A(2) lists the matters the CCC must consider before making a report under s.64(1) – including, if a person’s identity is readily apparent, matters which might impact on the person. These matters do not amount to affording procedural fairness though.

However, s.64A(2) contemplates that making a decision about reporting on a corruption matter under s.64(1) includes the preparation of “*prescribed content*” for the report. Section 64A(5) defines prescribed content for a report to include “*a fair statement of a person’s submission that must be included in the report under s.69B(5) or 69D(4).*” Those are the procedural fairness submissions.

If it is intended that the obligation to afford procedural fairness applies to reports under s.69 and also to reports under ss.64 and 64A, proposed s.69B might be expressed to apply to “*(a) a commission report to be tabled in the Legislative Assembly under section 69 or published.*” This is similar to the wording in s.71A. Also note that the word “*required*” is not necessary as the CCC will not be **required** to table reports in the Legislative Assembly pursuant to the proposed amendments. The only requirements are on the Speaker and, in certain circumstances, the Clerk after the report is received.

Similarly, s.69D(1) might also be expressed to apply if the CCC proposes to include identifying information about a person in “*(a) a commission report to be tabled in the Legislative Assembly under section 69 or published.*”

Yours faithfully,



Mitchell Kunde  
**Acting Parliamentary Crime  
and Corruption Commissioner**