

VICTORIAN INSPECTORATE

8 May 2024

Committee Secretariat
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
Canberra ACT 2600

By email: pjcis@aph.gov.au

Dear Committee Secretariat

Review of the Crimes and Other Legislation Amendment (Omnibus No. 1) Bill 2024

Thank you for your email of 11 April 2024 inviting the Victorian Inspectorate (VI) to make a submission to the review of the Crimes and Other Legislation Amendment (Omnibus No. 1) Bill 2024.

The VI's submission is limited to the amendments to the information-sharing provisions in the *Telecommunications (Interception and Access) Act 1979* (TIA Act) (Cth) to enhance the ability of state-based oversight bodies for integrity agencies to receive interception information and interception warrant information from agencies within their jurisdictions (as it relates to the VI's functions).

The VI has a broad statutory role to monitor IBAC's compliance with the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (IBAC Act) and other laws and to assess the effectiveness and appropriateness of its policies and procedures.

The VI is of the view that these amendments are important and necessary to remedy limitations on how the VI may receive or use lawfully intercepted information (LII) and interception warrant information (IWI) for this broader role.

Currently, the TIA Act expressly provides for the VI to receive LII or IWI for two different purposes:

- the VI's inspections of the Independent Broad-based Anti-corruption Commission (IBAC) and Victoria Police where functions have been conferred by the *Telecommunications (Interception) (State Provisions) Act 1988* (Vic)
- an investigation into IBAC or IBAC personnel, or a report about such an investigation, that is being conducted under the *Victorian Inspectorate Act 2011* (Vic).

There is, however, less legislative clarity within the TIA Act on whether the VI may receive or use information that contains or is derived from LII or IWI for the purpose of the VI's broader oversight function of monitoring IBAC's compliance with the IBAC Act and other laws. For example, when IBAC exercises its power to issue a summons in relation to an investigation, it provides the VI with a report setting out the reasons for the exercise of this power. Should the basis for issuing the

summons be founded on information derived from LII or IWI under Part 2-5 of the TIA Act, it may not be expressly covered by a *permitted purpose* under the TIA Act. Given that dealing with LII or IWI in contravention of section 63 of the TIA Act constitutes an offence under section 105, the VI considers that legislative amendment is required to put beyond doubt the purposes for which we can receive LII or IWI.

The proposed amendments to the definition of *permitted purpose* in section 5(1) of the TIA Act, as well as the proposed amendments in clause 157(2) of Schedule 1 of the TIA Act, would expressly enable the VI to receive LII and IWI for purposes connected to the functions set out in section 11(2)(a)-(f) of the VI Act.

The VI welcomes the opportunity to expand on this submission.

Yours sincerely

A solid black rectangular box redacting the signature of Eamonn Moran.

Eamonn Moran PSM KC
Inspector