



## LEGISLATIVE ASSEMBLY

Standing Committee on Parliamentary Privilege and Ethics

### Adequacy of current procedures to protect parliamentary privilege (law enforcement and investigative bodies)

#### Terms of Reference

- (1) That the Standing Committee on Parliamentary Privilege and Ethics conduct an inquiry into the adequacy of current procedures to protect parliamentary privilege in circumstances where law enforcement and investigative bodies seek to use coercive, intrusive or covert investigatory powers.
- (2) The Committee's particular focus should be the operation of the agreements currently in place with the Independent Commission Against Corruption (ICAC), as they pertain to the Legislative Assembly, including:
  - a. the 2009 Memorandum of Understanding (MoU) on search warrants between the Commissioner of the ICAC, the President of the Legislative Council and the Speaker of the Legislative Assembly and the revisions proposed but not adopted in 2014; and
  - b. the protocol currently observed in relation to notices to produce information under section 22 of the Independent Commission Against Corruption Act 1988 ('section 22 notices');with a view to developing appropriate revised arrangements.
- (3) Without limiting the matters that the Committee should take into account in considering the appropriate revised arrangements between the Chief Commissioner of the ICAC and the Speaker of the Legislative Assembly, the Committee should pay specific regard to:
  - a. the ICAC's powers in relation to search warrants; section 22 notices; and the power to summon witnesses and take evidence under section 35 of the Independent Commission Against Corruption Act 1988;
  - b. any new powers of the ICAC under the Law Enforcement (Powers and Responsibilities) Act 2002 to seek digital evidence access orders alongside search warrants, which enable the ICAC to issue a direction to a person requiring that person to provide assistance to unlock a digital device connected to the search warrant in a given case;
  - c. whether protocols and a memorandum of understanding remain appropriate mechanisms to protect parliamentary privilege given the scope of the ICAC's statutory powers to compel the production of material for its investigations and modern investigative techniques;
  - d. any search warrant protocols of relevance to the Legislative Assembly, as recommended in the reports of the Legislative Council's Privileges Committee entitled: 'Execution of search warrants by the Australian Federal Police', dated 13



## LEGISLATIVE ASSEMBLY

October 2020; 'Report No. 2', dated 18 November 2020; 'Report No. 3', dated 16 November 2022; and 'Report No. 4' dated 2 March 2023; and

- e. the recommendations made by the Standing Committee on Parliamentary Privilege and Ethics in the 57th Parliament for an interim protocol, as reported in 'Further Interim Report: Parliamentary Privilege and the use of investigatory and intrusive powers', Report 5/57 – February 2023.

(4) In conducting its inquiry the Committee should consider any other related matter.

