



**Nick McKim MP**  
Greens Leader  
Member for Franklin  
**Tasmanian Greens**

28 February 2014

## **Tasmanian Greens response to the Tasmanians for Transparency 12-Point Plan for Honest Government in Tasmania State Election Questionnaire**

Dear Tasmanians for Transparency,

Thank you for the opportunity to respond to your *12 Point Plan for Honest Government in Tasmania*. I am making this response on behalf of all Tasmanian Greens' MPs and candidates, as we found the electronic survey model does not provide for our detailed and considered response, which we believe your 12 Point Plan deserves (there appears to be an automatic word limit in the "Other" option).

Therefore, please accept our written response, which we have submitted in this format in good faith, in place of submitting our contribution via the web survey mechanism.

In overview, the Greens believe the establishment of many – and potentially worthy – oversight bodies needs to be considered in the context of a limited state budget.

The challenge and opportunity is to ensure our current oversight and transparency bodies are appropriately structured to meet community expectations, provide confidence in our democratic and oversight institutions, and have sufficient powers to fulfil their roles.

### **Point 1: Establish an Independent Commission Against Corruption that is transparent, and properly resourced, structured, and empowered, and based on a proven model, to replace the Tasmanian Integrity Commission.**

The Greens have already released an election policy commitment to reform the powers of the Integrity Commission: [Giving the Integrity Commission Teeth](#)

The Integrity Commission is due to have its three yearly review. While the Joint standing parliamentary Committee on Integrity commenced this review in January this year, the proroguing of Parliament has interrupted that process. The Greens have publicly committed to ensuring that review is reinstated as a matter of urgency on the resumption of Parliament.

The Greens will move to legislate to provide the Integrity Commission with increased investigatory powers, and the capacity to instigate its own motions of investigation. The Commission also needs enhanced coercive powers, with the ability to compel witnesses to answer questions and produce information, which is consistent with the powers vested in anti-corruption bodies around Australia.

1 of 4



These, and warrant powers, are needed during the initial assessment stage of the Commission's process, not only during the investigation stage. It is also important that the CEO of the Commission has the capacity to recommend a commission of inquiry be held during the course of an inquiry, instead of having to wait until that investigation is complete.

We will also ensure the comprehensive three year review, interrupted by the election campaign, will be completed, including the holding of public hearings, which will allow the public and other agencies the opportunity to make further suggestions for improvement.

**Point 2: Introduce stronger, workable and usable protections for whistleblowers and compensation provisions for any person harmed by the actions of government.**

Yes, we support stronger protections for whistleblowers. We support compensation provisions, and would commission a review of the current Act to determine the most effective way of delivering them.

**Point 3: Establish an independent Office for Witness and Whistleblower Protection.**

We support this function and would consult widely with stakeholders and other independent oversight bodies to determine the best structure for delivery.

**Point 4: Establish a Commission of Inquiry into the Sue Neill-Fraser and Barry Greenberry cases, and any allegations of misconduct in the Justice Department.**

These are two very different cases, while "any allegations of misconduct in the Justice Department" is incredibly vague and broad.

While the Greens support transparency and accountability, we also support the principle of the presumption of innocence and fair right of reply. Without further information about what these "...allegations of misconduct in the Justice Department" may be it would be irresponsible to commit to any specific course of action.

The Greens recognise that there is considerable community disquiet regarding the case of Sue Neill-Fraser. As we did when successfully establishing the 2000 Commission of Inquiry into the Police Shooting of Joseph Gilewicz, we'd support an independent expert assessment of the evidence and concerns of a miscarriage of justice, and to then advise government should it warrant a Commission of Inquiry (this was the Stephen Estcourt investigation in the Gilewicz context).

Barry Greenberry – In January this year it was announced that the parliamentary Public Accounts Committee would investigate the matter. This may recommend further investigation either through the Integrity Commission or another mode such as the Commission of Inquiry process.

**Point 5: Establish a Criminal Justice Reform Taskforce to review recommendations made by a Commission of Inquiry into the Sue Neill-Fraser case, to expedite the urgent reforms necessary to the criminal justice system.**

This appears double-handling. Any Commission of Inquiry reports to the Governor and the Parliament, the Parliament will then be the appropriate body to act on any recommendations

made. We would hope the parliament of the day would do so judiciously, but it is illogical to set up yet another Taskforce for the following reasons:

- a) Appears to 'second-guess' the Commission of Inquiry
- b) Builds in extra delays and prevents the parliament taking swift action if it was of a mind to do so
- c) Appears to be based on a misapprehension that the taskforce can act on any reforms – Under the Westminster system, the parliament and/or the Minister has to be the decision maker.

**Point 6: Introduce legislation for greater transparency and accountability for Tasmania Police, including online public access of the Tasmania Police Manual, and necessary amendments to the Police Service Act 2003, section 93.**

Agree that the current provisions requiring the publication of the Tasmania Police Manual must be implemented, including reinstating the Manual on the website (as it had been recently until its review in 2012).

**Point 7: Mandate the independence of the Environment Protection Authority and Workplace Standards Tasmania as offices accountable to the parliament of Tasmania.**

Yes – support.

**Point 8: Legislate for mandatory publication of: all reports by companies and consultants provided to government under compliance obligations of statutory regulatory bodies, such as exist in other jurisdictions; and all documentation concerning commercial dealings with government.**

We would need to see more detail around this proposal to ensure that relevant privacy provisions are not breached.

**Point 9: Amend Right to Information legislation, and the Archives Act and review the discretionary powers of the Ombudsman on deemed refusals in RTI applications.**

Agree to reviewing the *Ombudsman Act 1978* and role regarding discretionary powers in relation to the RTI applications.

The *Right to Information Act 2009* and *Archives Act 1983* would need to be reviewed in order to ascertain how they may need to be amended.

**Point 10: Establish an independent Public Interest Advocacy Centre, to replace the Environmental Defenders Office, liaising with an Independent Police Complaints Advocate and Prison Inspector.**

It is Greens' policy to establish an independent Prisons Inspectorate, and it is our understanding that legislation is currently being drafted for this.

We do not support the abolishment of the Environmental Defenders Office – which has a specific public interest mandate, just as we would not support the abolishment of the Community Legal Centres or the Women's Legal Centre. These are specialised areas of genuine public interest,

which provide for specialised assistance and advocacy, and which complement each other along the legal profession spectrum. Their autonomy and capacity should be strengthened, rather than weakened as this proposal could render.

**Point 11: Undertake a comprehensive overhaul of State Executive Service positions, and powers, accountability and tenure within Tasmania's oversight agencies and government departments, including the Office of the Director of Public Prosecutions.**

While it is considered best practice for oversight bodies senior executive positions to be reviewed periodically to ensure they still meet modern community expectations, it is unclear what in particular this question is seeking to address.

In principle we support periodic review conducted with all proper due process and fairness to all parties, but there needs to be clear goals and terms of reference for such reviews.

**Point 12: Inclusion of ethics and responsible citizenship in the schools' curricula.**

The Greens support the concept, but this is being addressed through the phased introduction of the Australian curriculum.

Once again, on behalf of the Tasmanian Greens, thank you for this opportunity.

Yours sincerely,

A handwritten signature in black ink, reading "Nick McKim". The signature is written in a cursive, flowing style.

**Nick McKim MP  
Greens Leader  
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