

# Outline of Submissions to the Inspector of the National Anti- Corruption Commission (21 October 2024)

## Introduction and summary

1. This is Part 2 of the response of the Commissioner to the Inspector's request for submissions about the Draft Report dated 3 September 2024. It is intended to be read with, and uses terms defined in, Part 1 of the response provided on 8 October 2024 (the **Part 1 Submissions**). It addresses further detail concerning the proposed recommendation in the Draft Report. Further submissions about publication of the Final Report and its proposed attachments are provided separately.

## The proposed recommendation

2. As foreshadowed in the Part 1 Submissions, the Commission has now decided, without awaiting finalisation of the Inspector's investigation, to have its decision under s 41 to take no further action in respect of the Robodebt Royal Commission referrals reconsidered under s 41(5) of the *National Anti-Corruption Act 2022* (Cth) (**the Act**) by an appropriate independent person.
3. The preferred and likely mechanism for this involves the appointment of an appropriate independent person as a temporary staff member at the SES level to exercise delegated decision-making power under s 41(5), pursuant to s 276(1)(b) of the Act. The appointment would be on terms that the Commissioner did not propose to give any direction under s 276(6).
4. The Commission is in the course of sourcing an appropriate eminent independent person who is prepared to be engaged as a temporary SES staff member to undertake this function, of seeking the approval of the Australian Public Service Commissioner (whose approval is necessary for the engagement of a temporary SES officer) to this course, and of making the necessary resourcing arrangements to support the independent appointment.

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5. If the course of appointing an independent person to act as a delegate proves to be impossible, then the Commission will engage such a person as a consultant, under s 263. This course is not preferred, but is an alternative means by which reconsideration by an eminent independent person could be procured, if delegation proves impractical.
6. The Commission will inform the Inspector when the arrangements referred to above have been put into place.