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UNDER

THE INQUIRIES ACT 2013

IN THE MATTER

**A GOVERNMENT INQUIRY INTO OPERATION
BURNHAM AND RELATED MATTERS**

MEMORANDUM OF COUNSEL FOR THE CROWN

14 December 2018

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MAY IT PLEASE THE INQUIRY:

1. This memorandum is filed on behalf of the Department of the Prime Minister and Cabinet (DPMC), the Government Communications Security Bureau (GCSB) and the New Zealand Security Intelligence Service (NZSIS). It is submitted to fulfil the order in paragraph 20(e) of Minute No. 6 of the Inquiry, which provided:

In relation to any material which requires the consent of overseas partners for release, a confidential memorandum is to be filed by, or on behalf of, each agency describing what steps they have taken to obtain consent and, if consent has not already been obtained, when it is likely to be obtained. This is to be done by, at the latest, 5pm on Friday 14 December 2018.

DPMC material

2. DPMC holds a small amount of material that requires the consent of overseas partners for release. That DPMC material is derived from information supplied to DPMC by other New Zealand Government agencies that those agencies require the consent of overseas partners to release to the Inquiry.
3. DPMC itself will not seek the consent of overseas partners to release this material to the Inquiry. Instead, other New Zealand Government agencies will seek the consent of overseas partners to release the underlying information to the Inquiry. Once that consent is obtained, DPMC will be in a position to release its material to the Inquiry.

GCSB and NZSIS material

4. GCSB and NZSIS have advised relevant overseas partner agencies of the Inquiry and that GCSB and NZSIS are likely to seek the consent of those agencies to release material to the Inquiry.
5. GCSB and NZSIS have not yet sought, nor obtained, the consent of any overseas partner agencies to the release of any material to the Inquiry. GCSB and NZSIS are awaiting the decision of the Inquiry in Ruling No 1 before seeking the consent of any overseas partner agency to release material to the

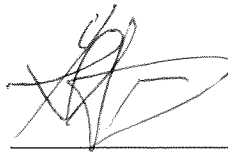
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Inquiry. GCSB and NZSIS assess that overseas partner agencies will be unable to decide whether to grant consent for GCSB or NZSIS to release material to the Inquiry while the decision of the Inquiry expected in Ruling No 1 is outstanding.

6. Once the Inquiry has issued Ruling No 1, GCSB and NZSIS will promptly act to obtain the consent of overseas partners for the release of material to the Inquiry. Requests for such consent are likely to occur on an iterative basis as GCSB and NZSIS continue to identify material relevant to the Inquiry through searches for such material.
7. GCSB and NZSIS cannot currently provide the Inquiry with any estimate for how long it will take to obtain the consent of overseas partner agencies to release all material to the Inquiry. GCSB and NZSIS will ensure overseas partner agencies are aware of the importance of this information to the Inquiry, and encourage those agencies to act with appropriate urgency.
8. GCSB and NZSIS will regularly update the Inquiry about progress towards obtaining the consent of partner agencies through the Inquiry's Manager, Secretariat.

14 December 2018



Aaron Martin / Ian Auld
Counsel for the Crown

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