

UNDER

THE INQUIRIES ACT 2013

IN THE MATTER OF

A GOVERNMENT INQUIRY INTO
OPERATION BURNHAM AND
RELATED MATTERS

MEMORANDUM OF COUNSEL FOR THE CROWN

25 March 2019

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MAY IT PLEASE THE INQUIRY:

1. In Ruling Number 1, the Inquiry confirmed the procedural protocol for review of classified information / claims to withhold information from disclosure. This procedure involves three steps:
 - 1.1 Identification and assessment of the claimed grounds for non-disclosure;
 - 1.2 Consultation with the relevant agency or agencies concerning claims; and
 - 1.3 Referral of matters to the Inquiry.
2. The Inquiry identified a collection of Cabinet documents (Cabinet papers, Cabinet minutes etc.) as the first tranche of documents to undergo the classification review process. The reviewers, Mr Keith and Mr Johnstone, and the relevant Crown agencies have consulted, and have agreed to the public disclosure of a large portion of these documents. Pursuant to the convention set out in chapter 8.134 of the Cabinet Manual, the Leader of the Opposition has also been consulted and has agreed to the public disclosure of this material.
3. There is a small number of remaining points of disagreement between the relevant Crown agencies and the reviewers. The scope of disagreement is limited, but it remains possible that the Inquiry may seek submissions and issue a ruling at a later stage.
4. In the meantime, however, in the interests of ensuring the most relevant information is disclosed prior to the public hearing scheduled for 4 – 5 April 2019, the Inquiry and the relevant Crown agencies have agreed that the documents should be disclosed, as presently redacted. The redacted documents are annexed to this memorandum.

5. The relevant Crown agencies and the reviewers continue to review the classification of documents produced to the Inquiry, pursuant to the protocol. It is expected that substantial further information will be declassified for disclosure to other core participants and the public in the course of the Inquiry.

25 March 2019



Aaron Martin / Ian Auld
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