

UNDER THE

Inquiries Act 2013

IN THE MATTER OF

a Government Inquiry into Operation Burnham and related matters

**MEMORANDUM OF COUNSEL FOR FORMER RESIDENTS OF KHAK
KHUDAY DAD AND NAIK IN REPLY TO CORRESPONDENCE FROM
INQUIRY AND MINUTE 15**

Dated 22 May 2019

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- 1 This memorandum is filed further to Minute 15 of the Inquiry and the Secretariat's letter of 2 May 2019. We have been taking instructions since the receipt of this correspondence.
- 2 With respect to our clients' contact details, our instructions are that our clients do not wish to engage directly with the Inquiry in the absence of counsel. They have had previous negative interactions with Westerners, and are understandably concerned both about security and about the nature of any such contact. Our instructions are accordingly not to provide their direct contact details at this time. As previously advised in our memorandum of 20 December 2018, very few of our clients have the ability to be directly contacted.
- 3 With respect to our clients' locations, we have confirmed with our agent that the majority reside in different villages within [redacted] Of the others, four are located in [redacted] one in [redacted] one in [redacted] and one [redacted] has passed away.
- 4 The requested affidavits are enclosed. Counsel note that these were prepared under significant time pressure for the purpose of the High Court proceeding in 2017 and at a time when funding had yet to be approved. Those making affidavits were requested to draft (with the assistance of a literate person) brief statements regarding the events in question, which were then formatted into affidavits and translated. The factual details were not further checked, as at that stage it was not the facts of Operation Burnham which were in issue, but rather the fact that there had been allegations, which (it was argued) triggered the State's duty to investigate.
- 5 With regards to the matters raised in Minute 10, counsel respectfully advise that we do not have any funding to complete any work requested by the Inquiry¹. With the exception of the interim grant allocated for participation in Module 1, counsel have not been funded since the conclusion of the procedural hearing in November 2018, including in relation to the various tranches of disclosure, minutes and memoranda which have been published since then and attendances with our

¹ The recently proposed grant of funding which has been the subject of recent correspondence with the Department of Internal Affairs was only for public hearings and would not have covered this work.

clients and our agent/interpreter. Counsel are not simply not in a position to incur further expense on behalf of the Inquiry or to undertake work which is not remunerated.

Dated this 22nd day of May 2019

A handwritten signature in black ink, appearing to read 'D A Manning'.

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D A Manning / S H Lamain
Counsel for the Villagers