

in the matter of the Inquiry into Operation Burnham

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**MEMORANDUM OF COUNSEL FOR JON STEPHENSON**

14 December 2018

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## MEMORANDUM OF COUNSEL FOR JON STEPHENSON

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### MAY IT PLEASE THE INQUIRY

1. This memorandum responds to Minute No. 6 of the Inquiry and in particular the order made at paragraph [23(b)] of that Minute (**order**).

#### **Extension of time**

2. Due to a combination of logistical and security issues, Mr Stephenson has been unable to obtain the input from his sources necessary to respond to the order in the time available. He wishes to reiterate his commitment to assisting the Inquiry and respectfully requests an extension of time for responding to the order to Friday 21 December 2018.

#### **Scope of the order**

3. The order requires Mr Stephenson to provide to the inquiry the names and contact details of his "sources". The scope of the term is potentially broad.
4. In the course of researching and writing *Hit and Run* and subsequently, Mr Stephenson has communicated with a number of people. Requiring Mr Stephenson to contact and provide the contact details of each person would be a complicated and time-consuming exercise, which may ultimately not be of significant assistance to the Inquiry.
5. Mr Stephenson is presently getting input from those sources which, in his assessment, may be able to assist the Inquiry in carrying out its terms of reference. It is submitted this approach is consistent with the Inquiry's obligations to conduct itself in an efficient and cost-effective manner.<sup>1</sup>
6. If this approach is inconsistent with the intended scope of the order, we would be grateful for an indication from the Inquiry to this effect.

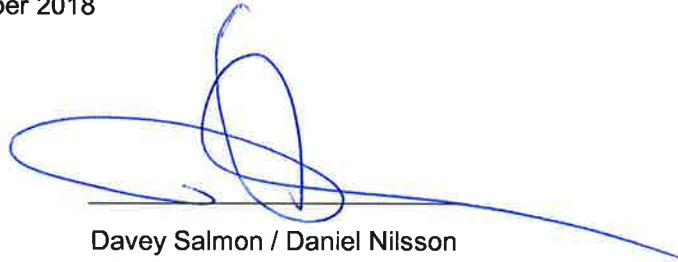
#### **Source confidentiality**

7. As the Inquiry has noted, s 27 of the Inquiries Act 2013 preserves a number of immunities and privileges. These include confidentiality of journalists' sources in s 68 of the Evidence Act 2006.
8. Mr Stephenson will likely assert a privilege under s 68 in relation to the names and contact details of some sources in response to the order. At this stage this issue is raised generally so that the Inquiry is aware a process will need to be put in place to address the objections. Counsel are open to engaging in a dialogue with the Inquiry, Counsel Assisting, and other core participants regarding the form that process should take.

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<sup>1</sup> Inquiries Act 2013, ss 3(1)(c) and 14(2)(b).

Dated 14 December 2018

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Davey Salmon / Daniel Nilsson  
Counsel for Jon Stephenson