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Mr Andrew Hastie MP
Chair, Parliamentary Joint Committee on Intelligence and Security
Parliament House
CANBERRA ACT 2600

By email: pjcis@aph.gov.au

Dear Chair

Clarification of evidence – Home Affairs & Integrity Agencies Legislation Amendment Bill

In response to one of your questions during the public hearing of 7 February (at 12:54:44) I stated that the *Inspector-General of Intelligence and Security Act 1986 (IGIS Act)* as originally enacted contained no provision for the Inspector-General to be directed by any Minister. I now provide the following clarification. Section 9 of the *IGIS Act*, as originally enacted in 1986, contained the following provision (emphasis added):

The Prime Minister may request the Inspector-General to inquire into a matter relating to an agency and, where such a request is made, the Inspector-General *shall inquire into that matter* if inquiring into that matter is within the functions of the Inspector-General referred to in section 8 (whether those functions may be performed following a request by a Minister or otherwise).

Section 9 was amended by the *National Security Legislation Amendment Act 2010*. These amendments extended the agencies and matters that may be the subject of inquiry. They also replaced the word ‘shall’ in the original enactment with ‘must’. I note the possible construction of the word ‘shall’ in the original enactment of section 9 as requiring the Inspector-General to comply with a request made by the Prime Minister, although this construction is not beyond doubt. This clarification does not detract from the substantive point made in my evidence, that I have no concern about the conferral of a power of direction upon the Prime Minister alone.

Yours sincerely

Margaret Stone
Inspector-General

7 February 2018

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