STAFF-IN-CONFIDENCE
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Record of Discussion between VCDF - VADM R.E. Shalders AO, CSC, RAN and MAJGEN R.A. Powell AM (rtd): 1100 hours on 26 August 2004

VADM Shalders advised MAJGEN Powell that a record of discussion would be prepared for the Minister for Defence.

MAJGEN Powell noted that he had not and would not choose to come forward with information relating to Mr Scrafton's statement in his letter to *The Australian* on 16 August. He did not see that he had anything to divulge in relation to the terms of reference of his inquiry, nor did he believe that this process was in Defence's interests. Given that Defence had chosen now to ask him these questions, he would answer with complete honesty.

MAJGEN Powell recalled interviewing Mr Scrafton in the course of his inquiry into the interception and boarding of SIEV IV by HMAS Adelaide, but could not recall the date. He had made no record of his conversation with Mr Scrafton, either during or after the interview, and could not recall whether Commander Noonan was present during the interview. While Commander Noonan had been present as a notetaker at most interviews, MAJGEN Powell recalled that he had been excluded from at least one or two sensitive interviews. Had he been present, it is likely he would have made some notes. MAJGEN Powell could not recall if anyone else had been present at the meeting but thought it unlikely. He could not recall whether or not he discussed any aspects of his interview with Mr Scrafton with any other inquiry staff, or with Ms Bryant.

MAJGEN Powell recollected that Mr Scrafton had not provided him with a written statement, although he believed Mr Scrafton had undertaken to do so. He had approached the interview with Mr Scrafton on the same basis as all others: that there would be no attribution of comments to individuals. He had used the interview process to gain his own insights into the environment in which this matter unfolded and to provide individuals with the opportunity to discuss issues or points of detail not covered by his scoping questions or their written statements. MAJGEN Powell could not recall any discussion with Mr Scrafton about attribution of comments, nor any reference by Mr Scrafton to his responsibilities under the MOPS Act. He could not recall any specific ground rules or undertakings such as agreement to "off the record" comments between him and Mr Scrafton.

MAJGEN Powell confirmed that he had read Mr Scrafton's letter, published in *The Australian* on 16August. It had reminded him that Mr Scrafton had mentioned that he had spoken to the PM on numerous occasions when he was working for Mr Reith regarding the veracity of the information passed by Defence to the Defence Minister's office. MAJGEN Powell could not recall the exact focus of these conversations, only that Mr Scrafton recounted that the calls had taken place and that they had made it evident that there was no substance to the earlier claims that children had been thrown overboard. MAJGEN Powell deduced that the Prime Minister should have been in no doubt that the claims had no basis. On the details outlined in Mr Scrafton's letter in *The Australian*, MAJGEN Powell could not recall whether Mr Scrafton discussed the inconclusive nature of the video tape, that the photographs related to the 8 October sinking and not to children being thrown overboard on 7 October, or the ONA report. Mr Scrafton's statement that no one in Defence with whom he was dealing still

believed any children had been thrown overboard accorded with MAJGEN Powell's recollection that Mr Scrafton said he had told the Prime Minister that there was no substance to the claims that children had been thrown overboard.

MAJGEN Powell could not recall discussion of any detail of what transpired within the Defence Minister's office, and saw that as less significant given his Terms of Reference. He did not reflect Mr Scrafton's statements about what the Prime Minister knew in relation to the truth of the children overboard claim in his report because the report covered only information that was relevant to the effectiveness of the tactical, operational and strategic levels of the Defence organisation. He did not see it as his responsibility, or indeed within his authority, to report to CDF on alleged conversations that had taken place between ministerial staff and other government ministers (in particular the Prime Minister) and their staffs. It was MAJGEN Powell's recollection that the informal discussions he had conducted with Mr Scrafton contributed to his finding that the Defence Minister's office had been advised orally that, by 11 October, Defence had concluded that at no time had a child been thrown from SIEV IV.

MAJGEN Powell did not recall talking to anyone formally during the course of his inquiry about the matters mentioned by Mr Scrafton. He believed he might have given CDF an informal (oral) progress report on his inquiry but could not recall this in any depth, and could not recall whether or not he advised CDF or Secretary Hawke of Mr Scrafton's account of his conversations with the Prime Minister. He noted that this was not to say he had not done so. MAJGEN Powell spoke informally with Secretary Hawke who indicated he had nothing to contribute to the inquiry. Dr Hawke was not among those whom CDF had nominated to MAJGEN Powell as witnesses.

MAJGEN Powell was very clear that the CDF had seen the report as being focused on Defence, reporting to him on Australian Defence Organisation matters. CDF had instructed him, for example, that he was not to conduct collective interviews with the parallel process in the Department of the Prime Minister and Cabinet being lead by Jennifer Bryant.

On being invited to offer any other relevant information, MAJGEN Powell advised that he had nothing else to say which would add value to this process.

Notetaker: Stephanie Foster

I agree that this summary reflects the matters discussed on 26 August 2004 with VCDF.

R.A. POWELL, AM
MAJGEN Rtd
26 August 2004