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To <sup>s 22</sup>  
Legal and Investigations Group

Prepared by <sup>s 22</sup>  
Phone

*Handwritten signature*  
<sup>s 22</sup>

Date 25 January 2013

*1 Annex  
with  
your*

Title	Internal Independent IB Audit of the Sydney Evidence Room – Final Audit Report November 2012
Cluster	Corporate and Network
Group	Legal and Investigations
Branch	Investigations
File	AD12/000811
Audit Officer	<sup>s 22</sup>
Date of Original Audit	30/1/2012 – 3/2/2012
Office	Sydney – Lv10 255 Elizabeth Street Sydney NSW
Responsible Officer	<sup>s 22</sup>

*Documentary*  
<sup>s 22</sup>

*25 JAN 12*

**OUTCOME OF THE FINAL OUTSTANDING ISSUES FROM THE ADDENDUM REPORT OF MARCH 2012**

- i. The <sup>s 22</sup> is satisfied that; documents provided by IB NSW post the March 2012 follow-up activity appear to satisfy the conclusion (all-be-it with some minor qualifications) that all evidentiary holdings in the IB NSW should now be fully reconciled, accounted for and able to have continuity established post March 2011 in any future quality assurance or judicial activity. Minor qualifications to finalise this are:
  - o The *Transfer of Evidence Record* for <sup>s 47G</sup> dated 16 May 2012<sup>1</sup> should be amended and initialled by the NSW IB Exhibit Registrar to read <sup>s 47F</sup> and, <sup>s 47F</sup>
  - o The *Attachment A to* <sup>s 47G</sup> dated 16 May 2012<sup>2</sup> should be amended and initialled by the NSW IB Exhibit Registrar to read <sup>s 47G</sup> <sup>s 47G</sup> ; and,
- ii. The <sup>s 22</sup> is satisfied that any (perceived or otherwise) practice of ‘choking’ open an ER door has been strictly discouraged by mandatory policy contained within the revised IB Investigations Manual<sup>3</sup>.

<sup>1</sup> Refer AD12/000811 Folio# 93:1 labelled S J03  
<sup>2</sup> Refer AD12/000811 Folio# 94:1 labelled S J03  
<sup>3</sup> Refer discussion with <sup>s 22</sup>

- iii. The s 22 is satisfied that; the s 22 is currently liaising with appropriate departmental areas in order to have the IB NSW Evidence Room (IB NSW ER) appropriately audited for physical security compliance (a residual matter that can be monitored by the s 22), and, that as per advice received by the s 22, appropriate sign-in/sign-out procedures are now enforced in the IB NSW ER. This residual issue will be finalised if the following occurs:
  - o The s 22 continues to undertake all reasonable efforts in order to have the IB NSW ER appropriately audited for physical security compliance.
- iv. The s 22 maintains an 'open' finding regarding whether or not a key was used and/or known to have existed regarding the IB NSW ER. This finding is based on the material before the s 22 simply coming down to a 'he said, she said' position from current and previous IB personnel as well as conflicting/unclear records from other departmental property related areas.
- v. The s 22 is satisfied if the above are actioned, no further formal audit related activity associated with these particular circumstances is warranted and file AD12/000811 should be closed.

**BACKGROUND**

- 1. For a detailed background summary, relevant documents, associated findings and recommendations leading up to this Final Audit Report, please refer to DEEWR TRIM File AD12/000811 and all its associated folios.

**FINAL REPORT ACTIVITIES**

**16 May 2012 - Return of Remaining Business Records**

- 2. On 25 September 2012, s 22 provided an email and associated attachments<sup>4</sup> in response to the IB BM email dated 29 August 2012. Attached to s 22 email was a group of documents titled 'Return property receipt - s 47G s 47F s 47G, s 47F'. The s 22 noted this attachment contained a copy of a *Transfer of Evidence Record*, a copy of a letter from an author named as s 47F dated 8 November 2008 as well as a two page document titled 'Attachment A to s 47G s 47G'.
- 3. The s 22 noted the *Transfer of Evidence Record* indicated the receivers address (s 47F s 47F) as being either s 47F ' or s 47F [emphasis added]. The Audit Officer noted these two variations of the address did not appear to exist in Cabramatta NSW<sup>6</sup>.
- 4. Further examination revealed s 47F address had previously been provided to IB by s 47F in an email to s 47F dated 4 November 2010, with that address being reported as s 47F [emphasis added].

<sup>4</sup> Refer AD12/000811 Folio# 87:1 – 96:1.  
<sup>5</sup> Above at [2].  
<sup>6</sup> Refer AD12/000811 Folio# 98:1.  
<sup>7</sup> Refer AD12/000811 Folio# 91:1 labelled s 002.

5. Nothing provided to the s 22 suggested identification was requested or sighted from the recipient of the items which would have caused the s 22 to place a different address to that known as the previous reference to the recipients' (s 47F) place of residence.
6. The s 22 noted 'Attachment A to s 47G' which was attached to s 22 email of 25 September 2012. The header of this document cited s 47G and the s 22 noted that s 47G was an IB investigation associated with an unrelated Victorian matter.
7. The s 22 is satisfied the material listed in the document relate to the s 47G business records property seizure. The correct CAS number that should be listed on this document is s 47G.
8. The s 22 is satisfied the CAS number referenced on the *Transfer of Evidence Record* (ToR) dated 16 May 2012<sup>9</sup> should be amended and initialled by the s 22 to read s 47F; with reference to the amendment being made to DEEWR TRIM File AD12/000811 Folio 93:1<sup>10</sup>. This amended document should then be uploaded onto the CIMS running sheet for s 47G.
9. The s 22 is satisfied the address listed on the *Attachment A to s 47G* dated 16 May 2012<sup>11</sup> should be amended and initialled by the s 22 to read s 47G; with reference to the amendment being made to DEEWR TRIM File AD12/000811 Folio 94:1<sup>12</sup>. This amended document should then be uploaded onto the CIMS running sheet for s 47G.

### Reconciliation of Seized Computer Equipment

10. s 22 email of 25 September 2012 reports, amongst other things<sup>13</sup>,

*A copy of a Receipt for Computer Evidence was found that showed 14 computer related items were transferred from s 22 to a s 22 of DEST for forensic examination at 11:35 hrs on 1 March 2006. (In addition to this, a signed, handwritten field book entry from s 22 dated 1 March 2006, specifically lists and indicates the above property was stored in the office of then s 22; s 22, at the DEWR Sydney Central Building. At this time, the NSW IB team had no capacity to store exhibits, as they were collocated in mainstream DEWR offices. Ad hoc arrangements were in place to store property with Centrelink at the Liverpool office, and the Ernst and Young offices, on George Street, Sydney. I have not been able to locate paper work relating to movements of these exhibits to and from s 22 office.*

11. The s 22 noted here that the "... signed, handwritten field book entry [of] s 22 dated 1 March 2006, specifically list[ing] ... the above property was stored in the office of then s 22; s 22; at the DEWR Sydney Central Building" has not been sighted.

<sup>8</sup> Refer AD12/000811 Folio# 94:1 labelled S 004.

<sup>9</sup> Above at [2].

<sup>10</sup> Labelled S 003

<sup>11</sup> Above at [2].

<sup>12</sup> Labelled S 004.

<sup>13</sup> Note: this is not the entire extract of the email, however sections reproduced are in context with entire material; some formatting has been adjusted.

12. s 22 correspondence of 25 September 2012 goes on to state<sup>14</sup>,

*A copy of a hand written file note constructed by DEWR IB Officer s 22 on 3 March 2006 was also found that detailed the return of a seized laptop computer (s 47G – Exhibit number s 47G to its ‘owner’. The Audit Team noted here that the record relating to this items return do not indicate identification was requested (and recorded) of the receiving person’s bona fides. (It is my belief that the remaining IT related items as listed above, were also returned to the lawful owner at this time, or soon after, by s 22 in March 2006, in accordance with the requirements of the day. I am not able to confirm this with the ER of the time, as she left the department some time ago. I have contacted the AFP and they have advised that they do not have the exhibits as listed above, nor do they have specific advice regarding their disposal or return. I have contacted s 22 (now with DIAC) who handled the IT imaging for DEWR at this time as we had no in house IT capacity, and he advises that they were returned to IB as per the receipt noted in s 22 report). [bold emphasis added by s 22 ]*

13. Included in the 25 September 2012 email from s 22 was an attachment<sup>15</sup> which provided an email ‘trail’ correspondence from the owner of the seized electronic material; s 47F. This email correspondence (dated 7 September 2012) detailed confirmation from the sender that all material seized had been returned via a third party (s 47F ) and that there were no outstanding items to be returned.

14. As this correspondence did not specifically itemise or reference electronic material, the s 22 s 22 contacted s 47F (and s 47F ) via the email addresses provided in the 25 September 2012 attachment.

15. On 27 September 2012 a response from the s 47F email address was received<sup>16</sup> by the s 22 which acknowledged receipt of all the seized items (including computers).

16. The s 22 notes here that no response has been received from the s 47F email address.

17. On the face of the material supplied to the s 22 , and contained in DEEWR file AD12/000811, it is reasonable for IB NSW to assert in its records that the computer equipment was returned to the owner via a third party at some point after 3 March 2006.

18. It is further reasonable for IB NSW to assert in its records that all remaining exhibits from the property seized under warrant in March 2006 is confirmed as being returned in September 2012, with a confirmation of all evidence returning occurring via the s 47F email address and associated ToE Record<sup>17</sup> signed by an s 47F on 16 May 2012.

19. The s 22 still places an ‘open’ finding against the NSW ER records, as questions still remain as to how the exhibit records (ie the Exhibit Register Books which were all located during the January 2012 initial audit) relating to some of the seized electronic items reflected the items being ‘on hand’ after March 2011 (ie as at 16 June 2011, and considering previously documented observations regarding NSW IB ER QAR/AGIS compliance pre March 2011)<sup>18</sup>.

<sup>14</sup> Ibid.

<sup>15</sup> Above at [7].

<sup>16</sup> Refer AD12/000811 Folio# 86:1.

<sup>17</sup> Above at [3].

<sup>18</sup> Refer AD12/000811 Folio# 38:1 [at 153]; records indicate items were signed back into IB NSW ER on 16 June 2006 [refer NSW ER Book 1, p.0084]; In regard to QAR and AGIS compliance, refer Folio# 44:1 [at 192].

**Associated NSW IB Evidence Room Considerations**

s 47G

- 20. On 19 October 2012 the s 22 received an email from s 22 regarding the discovery of previously reported (to AFP from previous IB NSW ER) missing exhibits relating to s 47G. Attached to this correspondence was an updated AFP Evidence Seizure Notice (s 47G) advising that exhibits held by IB NSW which were previously reported as missing in, or around, March 2011, had been located and the AFP notified.
- 21. The s 22 notes there is no material before it to outline how these exhibits were recorded, audited, stored etc prior to March 2011. Further, there is no material before the s 22 to outline where the exhibits were finally 'located'.
- 22. That being observed, as the matter is currently before the CDPP for BoE assessment, and, there are outstanding requisition requests from the CDPP<sup>20</sup>, and, it is possible the matter (and the question of evidence continuity) may go before the courts, it is inappropriate for the s 22 to comment further at this time regarding this particular group of exhibits pre March 2011.

**IB NSW Evidence Room Physical Security**

- 23. In an email from the s 22 to DEEWR's s 22 <sup>21</sup> outstanding physical queries stemming from the initial January 2012 audit findings were queried. The following information relates to subsequent activities associated with those queries.

Water Damage

- 24. In relation to the previously observed water damage to the internal ceiling of the IB NSW ER, s 22 provided an email advising that the Property and Environment Team have confirmed no current leak had been detected in the NSW IB ER<sup>22</sup>.

NSW IB ER Access

- 25. The s 22 notes in the body of the information provided by s 22 <sup>23</sup> on 26 October 2012, the following was reported:

*I have spoken with s 22, Property and Environment Team / Work Environment Branch and advised that there's no leak in the vault, although we are not able to ascertain who fixed it or when as the comings and goings at that time were pretty high because there were building works occurring next door at the same time with work men coming in and at constantly [sic] for a few months. [s 22 underline added]*

<sup>19</sup> Refer AD12/000811 Folio# 83:1.

<sup>20</sup> N.B. s 47G CIMS case note dated 15 October 2012 accessed by s 22 on 6 November 2012.

<sup>21</sup> Refer AD12/000811 Folio# 78:1.

<sup>22</sup> Refer AD12/000811 Folio# 77:1.

<sup>23</sup> Ibid; Note: this is not the entire extract of the email, however sections reproduced are in context with entire material; some formatting has been adjusted.

- 26. The s 22 notes the absence of any 'sign-in – sign-out' register for the NSW IB ER during its January 2012 initial activities. The circumstances and observations surrounding the absence of such a record have been extensively canvassed in previous audit reports associated with the 2012 NSW IB ER audit<sup>24</sup>; file AD12/000811 relates.
- 27. The email of 26 October 2012 appears to indicate the possibility of a period of authorised (or unauthorised) access to the NSW IB and its associated ER without the availability of any record to show who entered the secure area/room, for what purpose, the period of any 'works', as well as any escort by IB personnel.
- 28. The s 22 notes ongoing email correspondence (September 2012 – December 2012) between s 22 and associated departmental property areas regarding IB NSW ER physical security compliance<sup>25</sup>.
- 29. On the basis of the material contained in the above 26 October 2012 email, the audits previous findings, observations, queries and recommendations regarding the NSW IB ER access and evidentiary continuity pre March 2011, the s 22 maintains an 'open' finding in regard to NSW IB ER integrity pre March 2011.

**RECOMMENDATIONS**

- 30. It is recommended that you;
  - i. Note the contents of this final report;
  - ii. Request IB NSW disclose to the Commonwealth Director of Public Prosecutions (CDPP) evidentiary anomalies associated with s 47G (currently under NSW CDPP BoE assessment) with a view to any impact that may have on the BoE's viability; and,
  - iii. Agree that file AD12/000811 and all its associated audit activities be closed.

**FINAL REPORT COMPRISING OF 6 PAGES SUBMITTED BY AND ENDORSED;**

DEEWR

25 January 2013

Agree / Not Agree s 22

s 22

DEEWR

25 January 2013

<sup>24</sup> Refer, for example, AD12/000811 Folio# 27:1 [at 98]; Folio# 41:1 [at 169]; Folio# 52:1 [at 225]; Folio# 53:1 [at 227]; Folio# 54:1 [at Finding 7]; Folio# 55:1 [at 5-6]; Folio 56:1 [at 14-16]; Folio# 61:1 [at 2(iii)]; Folio 64:1 [at 19]; Folio 65:1 [at 24].

<sup>25</sup> Refer AD12/000811 Folio# 116:1-117:1.