

**ASIO Submission to the Independent National Security Legislation Monitor
2017 Statutory Deadlines Review**

ASIO welcomes the opportunity to provide to you in writing the answers to the questions posed in your letter of 18 April 2017.

1) Further to the protocol for declaring an area in a foreign country where a listed terrorist organisation is engaging in a hostile activity under the *Criminal Code Act 1995*, how operationally does ASIO coordinate and collect the relevant information and intelligence from key agencies and generate a statement of reasons nominating an area for declaration?

ASIO Response:

- In line with the Protocol for declaring an area in a foreign country where a listed terrorist organisation is engaging in a hostile activity under the Criminal Code Act 1995, the National Threat Assessment Centre (NTAC) will consider all information available to it, and when relevant seek additional information and assessment from domestic and international government and intelligence liaison partners through longstanding communication channels, and provide advice in the form of a Statement of Reasons to the Attorney-General's Department.
- The Attorney-General's Department will provide the advice to the Attorney-General for consideration. The Attorney-General will then provide the advice to the Minister for Foreign Affairs for consideration.
- The Centre for Counter-Terrorism Coordination (CCTC) is responsible for the identification of an area that may be suitable for declaration and tasking of key agencies.

a) Is the communication by ASIO to DFAT only by the Statement of Reasons nomination?

ASIO Response:

- The communication of the final case is provided to DFAT in the form of the Statement of Reasons. It is however; worth noting that inter-agency discussions may take place as required throughout the development of the Statement of Reasons.
- The CCTC coordinates the whole-of-government declaration process. It convenes and chairs inter-agency meetings throughout this process as required. ASIO and DFAT participate in those meetings.

- b) In that DFAT has the lead role in providing support to the Foreign Minister in relation to the declaration of an area, does ASIO have further involvement beyond the statement of reason nomination in the support to the Minister for Foreign Affairs in relation to the declaration of an area pursuant to s.119.3?**

ASIO Response:

- ASIO participates in inter-agency meetings with DFAT and others as required during the whole-of-government declaration process. This includes supporting DFAT as required to brief the Minister for Foreign Affairs, and supporting the Department in answering questions that may be raised by the Minister.

- 2) To what extent does ASIO receive and coordinate information from other agencies for the purposes of the investigation of a s 119.2 offence?**

ASIO Response:

- The Australian Federal Police is the lead agency on the investigation and prosecution of a s 119.2 offence.
- ASIO does not play an active role in the preparation of prosecutorial briefs. However, under Section 18 (3)(a) of the ASIO Act, ASIO can communicate information to police where the information relates, or appears to relate, to the commission, or intended commission, of an indictable offence.
- ASIO routinely works with law enforcement partners as part of its investigatory work and has established information sharing mechanisms. Some of this information may be used in eventual prosecutions of s 119.2 offences.