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INSPECTOR-GENERAL OF THE AUSTRALIAN DEFENCE FORCE

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Ms Lyn Beverley

Committee Secretary

Senate Foreign Affairs, Defence and Trade Legislation Committee

PO Box 6100

Parliament House

Canberra ACT 2600

By email: fadt.sen@aph.gov.au

Dear Ms Beverley

**SUBMISSION ON DEFENCE LEGISLATION AMENDMENT (DISCIPLINE REFORM)
BILL 2021**

I refer to your letter of 1 September 2021 inviting me to make a submission in relation to the Defence Legislation Amendment (Discipline Reform) Bill 2021.

My office was consulted on the Bill's development and I am very supportive of its aims to make aspects of the Australian Defence Force's summary discipline system simpler to understand and easier, particularly for laypersons, to use. The proposed amendments to the *Defence Force Discipline Act 1982* will enhance the overall fairness and efficiency of discipline in the Australian Defence Force.

If made law, the Bill will expand the Discipline Infringement Scheme and remove Subordinate Summary Authorities. Currently, the most common lapses of behaviour are beyond a Discipline Officer's jurisdiction and can only be dealt with by a Subordinate Summary Authority, or higher. The proposed changes will permit such common lapses to be dealt with by Discipline Officers under the Infringement Scheme unless the alleged wrongdoer elects otherwise. This should enhance timeliness without compromising overall fairness. Indeed, in one important area, the checks and balances in the Defence Force Discipline Act will be enhanced. An additional safeguard will require commanding officers to review Senior Discipline Officer proceedings. This should ensure consistency and fairness of discipline outcomes.

My office conducts military justice performance audits of Australian Defence Force units and we regularly hear from personnel that they trust the existing Discipline Infringement Scheme. I anticipate the revised Scheme will receive similar endorsement by those who are directly affected by it. The proposed reform will result in a system that is easier to understand and use, leading to confidence in dealing with and responding to discipline issues.

The Bill also proposes a new disciplinary offence concerning cyber bullying. This proposal has been subject of cautious comment by the Parliamentary Joint Committee on Human Rights, the Senate Standing Committee for the Scrutiny of Bills and the 2020 Annual Report of the Judge Advocate General of the Australian Defence Force. Given the Australian

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Defence Force's predominantly digitally-literate, young adult demography, mechanisms to allow lower level cyber bullying offending to be tried summarily are desirable. Should the proposed offence be made law, it will be administered in a system that has protections for members charged with an offence, including automatic review and appeal mechanisms, and oversight not only by the Judge Advocate General but also by my Office.

Yours sincerely

JM Gaynor CSC
Inspector-General of the Australian Defence Force

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16 September 2021

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