



28 June 2019

Hon Sir Terence Arnold QC  
Rt Hon Sir Geoffrey Palmer QC  
He Uiuinga i a Inquiry into Operation Burnham  
PO Box 12008  
Wellington 6011

Dear Sir Terence and Sir Geoffrey

**Review of classified/withheld material: Operation-related documents**

1. In accordance with our appointment and instruction under the *Inquiry Procedural protocol for review of classified information / claims to withhold information from disclosure* and further to our discussion last week, we have now concluded work on a further group of documents concerning NZDF operations. The first part of that group has now been provided to the Inquiry in redacted form and the second part is to be provided imminently.
2. Following paragraphs [5](a), [5](b) and [8] of the *Protocol*, we have identified and assessed claims to non-disclosure made in respect of parts of these documents in consultation with relevant Crown agencies.
  - 2.1. We have accepted claims to withhold parts of these documents on the basis that disclosure would prejudice interests protected by the Evidence Act 2006 and that that prejudice was not outweighed by the public interest, for the specific reasons set out below.
  - 2.2. Where it is possible to summarise the content of the redacted passages, we have agreed upon summaries.
3. The reasons for the accepted claims against disclosure are as follows:
  - 3.1. Parts of several documents are taken from or refer to the procedures and/or detailed military arrangements of other countries and/or international organizations, which would cause prejudice to international relations and the provision of information in confidence if disclosed without those countries' consent.

- 3.2. Some of those parts and also other passages in these documents concern the detail of military and/or intelligence-gathering procedures and practices still in use, so far as those are:
  - 3.2.1. Not in the public domain; and
  - 3.2.2. Of a kind that, if made public, would prejudice national security and/or the safety of personnel.
- 3.3. Last, we have agreed to withholding of the names and other details of some individuals, which would unduly prejudice those individuals' privacy and in some cases safety if disclosed, and of references to operations and personnel outside the scope of the Inquiry.
4. Further, and as discussed with you earlier this week:
  - 4.1. We are working through several further groups of documents and have taken further steps to refine and accelerate the process of working through documents sought to be released.
  - 4.2. We are also continuing to pursue a small number of outstanding documents from earlier groups, such as those subject to possible claims of or related to legal privilege, which have required some additional time to resolve. At this point, we do not consider it necessary to seek rulings from the Inquiry but will do so if the need becomes apparent.

Yours sincerely



Ben Keith / David Johnstone  
Specialist advisors