



22 July 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: JPEL and related documents**

1. Further to previous advice in respect of other tranches of documents, and in accordance with our appointment and instruction under the Inquiry's *Procedural protocol for review of classified information / claims to withhold information from disclosure*, we provide this advice in respect of a tranche of documents broadly related to the Joint Prioritized Effects List (JPEL) of the International Security Assistance Force (ISAF).
2. In short, we have reached agreement with relevant Crown agencies under paragraphs [5](a), [5](b) and [8] of the *Protocol* that, subject to redaction and where possible the provision of summaries ("gists") of redacted parts, the documents of this tranche may be published.
3. As with previous tranches, we have accepted claims to redaction, mitigated by gisting where possible, for the following reasons:
  - 3.1. A number of documents and parts of documents replicate or refer to the substance of procedures and/or detailed military arrangements of other countries and/or international organizations, provided to the New Zealand government in confidence; that have not been previously released; and in respect of which those countries/organizations have not given their consent. We consider for those reasons that disclosure would cause prejudice to international relations and the provision of information in confidence if disclosed.
  - 3.2. Some of those parts and also other passages in this set of documents concern the detail of military and/or intelligence-gathering procedures and practices or – as with some detail of personnel numbers and related information – reflect those procedures/practices that are:

- 3.2.1. Still in use by the NZDF or others;
  - 3.2.2. Not in the public domain or open to reasonable inference; and
  - 3.2.3. Of a kind that, if made public, would prejudice national security and/or the safety of personnel.
- 3.3. Some parts of documents contain intelligence information obtained by undisclosed and sensitive means and/or sources, where disclosure of the information would disclose, or would materially risk disclosing, those means/sources and so prejudice national security; international relations; and/or safety. In some instances, it has been possible to convey much of the content without such prejudicial disclosure; in others, we have accepted that it is necessary to withhold the relevant passage altogether.
- 3.4. 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.
- 3.5. We have also agreed to redaction of references to operations, personnel and other matters outside the scope of the Inquiry.
4. We recommend that the documents be made publicly available in line with our assessment.

Yours sincerely



Ben Keith / David Johnstone  
Specialist advisors