

UNDER

THE INQUIRIES ACT 2013

IN THE MATTER OF

**A GOVERNMENT INQUIRY INTO
OPERATION BURNHAM AND
RELATED MATTERS**

Date of Minute: Friday 11 October 2019

MINUTE No 21 OF INQUIRY

[1] The Attorney-General, Hon David Parker, has advised that the Inquiry's reporting date has been extended by three months, to 31 March 2020. As signalled in our previous Progress Reports, we have experienced delays that have contributed to the need for this short extension. In this Minute, the Inquiry sets out how it intends to proceed, given that extension.

[2] Once the resumed hearing on the "cover-up" allegations is completed, core participants will, as previously indicated, have the opportunity to make written submissions on the issues covered in the hearing. We indicated at the outset of the hearing that we would extend the usual two-week period to three weeks. However, because there has been a break of several weeks in the hearing, during which core participants will have had the opportunity to consider the transcript of evidence and documentary material from the first part of the hearing, we propose to reinstate the two-week period for written submissions. Accordingly, any written submissions on the issues covered in the hearing should be filed with the Inquiry by 5pm on Friday 1 November 2019.

[3] Following that, the Inquiry intends to proceed as follows. It will consider the further submissions and will complete the process of hearing evidence and reviewing documents. It will then produce a draft report. Our intention is to prepare the draft in a way that will enable the final report to be publicly released. The draft report will be provided to core participants sometime during the week

beginning Monday 9 December 2019, on a strictly confidential basis. The purpose of this is to enable core participants to consider the draft and to comment on any aspect of it that they consider requires comment, whether from a natural justice perspective or otherwise.

[4] Any submissions on the draft report should be in writing and filed with the Inquiry by 5pm on Wednesday 22 January 2020. The Inquiry will then hold two private hearings – one with NZDF (incorporating other Crown agencies, if necessary) and the other with non-Crown core participants, at which they can speak to their written submissions. The Inquiry has set aside Monday 27 to Wednesday 29 January 2020 for the NZDF hearing and Thursday 30 and Friday 31 January 2020 for the non-Crown core participants' hearing.

[5] Having considered the written and oral submissions received, made any necessary further inquiries and undertaken any additional consultation considered necessary, the Inquiry will finalise its report and submit it to the Attorney-General by 31 March 2020.

[6] As will be apparent, this process differs from that foreshadowed in Minute No 11. However, given the way the Inquiry has developed, it seems to us to be the most efficient and effective way of proceeding, and to provide the best means for allowing all core participants an opportunity for meaningful comment on the draft report. As well, it will allow the Inquiry to meet any remaining natural justice obligations to core participants.

[7] To explain this further, we considered whether there was value in core participants being able to file comprehensive closing submissions of a “wrap-up” character. Our assessment is that such submissions would not be helpful to us at this stage, nor would their preparation be an efficient use of the core participants' time and resources. The Inquiry has now been underway for well over a year. Some issues have dropped away; others have emerged or taken greater prominence. In those circumstances, we thought it best to give the parties a draft report which recorded our provisional views. Core participants will then be able to focus on those matters in the draft that concern them. In that way, we will obtain the most

benefit from core participants' submissions, and core participants will have the opportunity to respond to anything in respect of which natural justice issues may arise.



Sir Terence Arnold QC



Sir Geoffrey Palmer QC

Participants:

Mr Radich QC for New Zealand Defence Force

Mr Salmon for Mr Stephenson

Mr Geiringer for Mr Hager