

UNDER

THE INQUIRIES ACT 2013

IN THE MATTER

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

**Memorandum for New Zealand Defence Force on the production of material to the
Inquiry**

14 December 2018

Solicitor acting:

JENNY CATRAN

Crown Law

PO Box 2858

Wellington 6140

Tel: 04 472 1719

jenny.catran@crownlaw.govt.nz

Counsel acting:

PAUL RADICH QC

Clifton Chambers

PO Box 10731

Wellington 6140

Tel: 04 974 5951

paul.radich@cliftonchambers.co.nz

1. In paragraph 10(e) of Minute No 6, the Inquiry ordered the NZDF to file memoranda on Friday 14 December 2018, Friday 18 January 2019 and Friday 18 February 2019 advising progress in relation to the production of material, including material requiring the consent of overseas parties.
2. At the hearing on 21 and 22 November 2018, the NZDF advised the Inquiry that it had identified approximately 17,400 items within the scope of the Inquiry's Terms of Reference, sourced from both the NZDF and from other parties, including overseas partners. It advised that, of those items, 324 had been provided to the Inquiry.
3. Since the hearing, the NZDF has doubled the number of people in the research team of its Special Inquiry Office to better enable the provision of material to the Inquiry in accordance with its directions. The work of the members of that team involves the identification of material from physical and electronic sources throughout the NZDF and the assessment of that material for potential relevance to the Inquiry's Terms of Reference.
4. Since the hearing, the NZDF has located another 1,221 items, mainly e-mails, meaning that it has had around 18,621 items to examine for relevance. It is probable that items will continue to be added to the data holding as any additional archive sources are discovered.
5. As at 14 December 2018, 15,070 items have yet to be examined. This represents a reduction of 3,551 items to be reviewed. The NZDF has now provided 350 items to the Inquiry, of which 17 (including two sets of video footage) have required the consent of the United States.
6. The rate of progress by NZDF is not linear and future progress is difficult to predict based solely upon the progress to date. The reduction from 18,621 to 15,070 items since 21 November 2018 represents significant progress (around a 20% reduction) towards the completion date of 28 February 2019. However, items are now being examined in chronological order from early-2001 to mid-2018. Items that have been examined since 21 November 2018 are from the January 2000 to August 2008 period and have had a high not-in-scope discard rate.

7. To date, the NZDF's research process has been constructed to focus on items for the three operations identified in the 'Scope of the Inquiry' section in the Terms of Reference which relate to Objectives Burnham, Nova ('the return operation to Tirgiran valley') and Yamaha (Qari Miraj). In paragraph 12 of Minute No 6, the Inquiry has ordered the NZDF to provide details of all NZSAS members and associated personnel who participated in three further operations, relating to Alawuddin and Qari Musa in May 2011 and Abdulllah Kalta in November 2012. It is not yet known how much material the NZDF will need to review to ensure that items that are relevant to those operations have been identified and examined also.



Paul Radich QC
Counsel for New Zealand Defence Force
14 December 2018