

Under the Inquiries Act 2013

In the matter of a Government Inquiry into Operation Burnham and Related
Matters

STATEMENT OF EVIDENCE OF DR WAYNE DANIEL MAPP QSO

4 April 2019

K I E L Y | T H O M P S O N | C A I S L E Y

BARRISTERS AND SOLICITORS P O BOX 7359 Auckland 1141 Tel 64 9 366 5111 Fax 64 9 303 0338

P T Kiely (kiely@ktc.co.nz)

ALSO AT WELLINGTON

84396 - Dr Wayne Mapp - 4 April Hearing - Final

Introduction

1. My full name is Wayne Daniel Mapp.
2. I served as a Member of Parliament for the North Shore from 1996 to 2011. I retired as an MP following the 2011 general election.
3. During my time in Parliament I was a member of Cabinet during the first term of the John Key National-led government. I served as Minister of Defence from 19 November 2008 to 30 November 2011.
4. Prior to becoming an MP, I was an Associate Professor of Commercial Law at the University of Auckland. My teaching included lectures in aspects of international law at the Law School.
5. I studied law as an undergraduate at the University of Auckland. I then received a LLM from the University of Toronto and a PhD in International Law from the University of Cambridge in 1988.
6. Prior to becoming an MP, I was a reservist officer in the New Zealand Army specialising in military intelligence.
7. In preparing to give this evidence to the First Module of the Inquiry, I have been guided by the Minutes issued by the Inquiry describing the scope of matters to be addressed. I have had, in the last two weeks, access to some classified documents. Some Cabinet Papers have recently also been made publicly available. I have not seen files from my time as Minister of Defence which, presumably, are now held by Ministerial Services. If there are any matters of detail the Inquiry would wish me to address at a later time, I would be pleased to do this.

The Inquiry

8. I am very pleased to appear today to assist the Inquiry in its important task. I have always believed that once the allegations about possible civilian casualties in Afghanistan had been made, those allegations should be investigated. See, for example, the New Zealand Herald article entitled *"Hit & Run: Former Defence Minister Wayne Mapp calls for further SAS investigation: 'We owe it to ourselves to find out'"* dated 30 March 2017.

9. I welcome the Inquiry because I believe it is the right forum to find out what happened in Afghanistan and during Operation Burnham.
10. The men and women of the New Zealand Defence Force (NZDF) have a well-deserved reputation for being a moral force who strive to uphold New Zealand values. I believe the Inquiry will serve their interests by providing an independent review of Operation Burnham.
11. From the establishment of ISAF, the NZDF had been assisting the Afghan people and their attempts to rebuild their society after so many years of devastating conflict. By 2009, this role had evolved to focus on developing stable and accountable institutions including the Afghan Armed Forces and Police. It was in support of this role that New Zealand deployed our armed services to Afghanistan.

The September 11 Attacks

12. New Zealand's military involvement in Afghanistan has its genesis in the Al Qaeda attacks of September 11, 2001. I begin here because the decision to redeploy the SAS in 2009 needs to be understood in the context of that attack, the global response to the attack and New Zealand's response which, by 2009, had included two deployments of the SAS to Afghanistan. It is also important to keep in mind the legal basis for New Zealand's response.

The United Nations Response

13. On 12 September 2001, the United Nations Security Council, unanimously passed Resolution 1368 in response to the attacks. The preamble of this resolution recognised the inherent right of states to individual and collective self-defence in accordance with the Charter of the United Nations. Clause 1 stated the attack was a threat to international peace and security, while Clause 3 called upon all states to work together to bring the perpetrators and supporters of the terrorist attacks to justice. It also said that all those who supported the terrorists or harboured them would be held accountable.
14. Clause 5 of the Resolution concluded by reaffirming that all necessary steps should be taken to combat all forms of terrorism.

15. Subsequently, the United Nations Security Council passed Resolution 1386 on 20 December 2001. This resolution provided the mandate for the International Security Assistance Force (ISAF) to deploy to Afghanistan to provide security and to assist in the reconstruction of the country under the new government in Afghanistan that replaced the Taliban.
16. The Resolution called on states to contribute personnel, equipment and resources to assist ISAF in its task.

The Initial New Zealand Response

17. On the morning of the attacks in New York and Washington DC there was a profound sense of shock in New Zealand. That afternoon Parliament convened and Acting Prime Minister, Jim Anderton, spoke for the nation. All parliamentarians knew as a result of his statement that New Zealand would be deploying troops in support of an international coalition to respond to this act of terrorism which was without parallel.

18. The Acting Prime Minister said:

“The Government is shocked and outraged at the callous killing of so many innocent civilians. New Zealanders share the despair and terrible loss that the whole of the civilised world feels at the loss, potentially, at the very least, of thousands of lives.

...

As the nation gathered round radios and televisions and tried to make sense of this, I believe that a shared determination has grown: a determination felt by all decent people that the perpetrators of this violence must be brought swiftly to justice. The international community must work together to find everyone who made this happen, and see that they are punished. New Zealand will stand with all other democratic countries to do whatever is necessary to prevent and remove threats to peace, and the devastating scourge of terrorism.” (12 September 2001)

595 NZPD 11615

19. New Zealand Prime Minister Helen Clark wrote to United States President George W. Bush after the attacks stating that New Zealand would help in any way it could.
20. On 26 September 2001 New Zealand Foreign Minister Phil Goff met with United States Deputy Secretary of State Richard Armitage in Washington DC.
21. During that meeting Mr Goff offered New Zealand's *"unequivocal support for the global campaign which will be necessary to secure the world against future terrorist attacks."* (New Zealand Government Press Release *"Goff Meets Armitage in Washington"*, 26 September 2001).
22. Mr Goff also advised Secretary Armitage that New Zealand's support would involve *"diplomatic and political measures (including the immediate strengthening of legislation targeting terrorist activities) ongoing intelligence support and, if necessary, military support involving deployment of special forces."*
23. The government proposed a parliamentary resolution on Wednesday October 3, 2001 to support the decision to deploy the SAS. The parliamentary resolution was supported by all political parties, with the exception of the Green Party.
24. During the debate on the motion Prime Minister Clark said:

"The offer by the Government to deploy the SAS is significant, and I assure the House that any offer to deploy New Zealand's crack troops--- which is what the SAS are---is not an offer that is made lightly. It is an offer that is made because the New Zealand Government and, we believe, the New Zealand people are not neutral about terrorism. They want to see something done, and they want to see their country be part of that effort.

...

It is important that SAS troops know that they would go with the support of this Parliament and the people of New Zealand behind them." (3 October 2001) 595 NZPD 11996-11997

25. The SAS first arrived in Afghanistan on December 11, 2001. They were part of a multinational unit, Task Force K-Bar, which was commanded by the United States Special Forces Command. Task Force K-Bar had Special Forces from the United States, Australia, Canada, Denmark, Germany, Norway, and Turkey, as well as New Zealand.
26. The SAS were deployed in Afghanistan through to 2002. Prime Minister Clark indicated publically that the SAS were involved in “direct action missions” against both Al Qaeda and the Taliban.
27. The second deployment of the SAS to Afghanistan was for two rotations of 6 months in 2004 and 2005. The SAS was deployed in the south of Afghanistan around Khandahar. Prime Minister Clark again indicated that the SAS would be involved in “direct action missions”.
28. The Clark government also deployed a Defence Force Provincial Reconstruction Team (PRT) to Bamyan province in 2003. The PRT remained in Bamyan for 10 years covering 21 rotations.
29. The PRT performed significant work in Bamyan province and made huge gains. A substantial amount of civil reconstruction, not just the physical infrastructure, but also the institutions of government, particularly police and justice was carried out. The majority of the people of Bamyan province saw the benefits of the PRT and were well disposed toward the PRT.
30. All of this background informs the decision made by Cabinet in 2009. In 2009, the Cabinet was aware that the SAS had been successfully deployed to Afghanistan in the past on two occasions. It could therefore be done again if Cabinet judged it the right thing to do.
31. The Cabinet was also aware that the former Labour-led government had taken this step. There was therefore a strong element of bipartisanship in supporting the effort in Afghanistan and employing the SAS to do so. It was hugely important to us that the Clark Labour government has already taken this step.
32. I had also taken particular note of the statements made by Prime Minister Clark that the SAS were deployed to undertake “direct action” missions, and that there would not be any publicity about the missions that the SAS

carried out unless there were SAS casualties. The principal exception to that rule was when Corporal Willie Apiata was awarded the Victoria Cross of New Zealand.

National's Defence Policy

33. Following the election of 2008, there was a change of government from being Labour led to being National led. I was appointed Minister of Defence.

National's View in Opposition

34. While in opposition, National had carefully considered its wider foreign affairs and defence strategy including how Afghanistan fitted into this wider strategy.
35. National had endorsed the idea that the PRT was undertaking a modern form of peacekeeping and that this was a central role for the New Zealand military. Reinforcing New Zealand's peacekeeping role and contribution to peacekeeping throughout the world was important to me and to National.
36. National had also twice endorsed the deployment of the SAS to Afghanistan. In doing this we supported the view that New Zealand had a duty, along with other nations, to deal with the sources of international terrorism. New Zealanders spread around the world can be victims of terrorist attacks. We felt that it was right to contribute to preventing those attacks where we were able. This was an important factor in the decision to redeploy.
37. The redeployment of the SAS would also show that New Zealand took its role in the world seriously. New Zealand would not just leave it to others to take on the potentially difficult military roles within international coalitions.

Defence White Paper

38. As part of our campaign promises in 2008, National committed to undertake a comprehensive defence review. I led that process during 2009 and 2010. The review was published as a White Paper in November

2010. The White Paper was the first Defence White Paper the government had published in 13 years.

39. The White Paper is important because it reflected aspects of our thinking which we had developed in opposition and, more importantly, was being developed at the same time as the government was considering the re-deployment of the SAS to Afghanistan. In my view, the re-deployment to Afghanistan fits with the goals of the White Paper.

40. The White Paper anticipated the circumstances when use of military force could be appropriate. Although every situation is different, the White Paper suggested that the use of military force could occur when there was direct threat to New Zealand and/or Australia, or in the Pacific. Deployment could also occur if requested or mandated by the UN.

41. The White Paper further stated at paragraph 2.7 that:

“It also seems likely that ad hoc coalitions prepared to use force will arise in the future, and that New Zealand might be asked to contribute. The possible scale and nature of such a contribution would depend on our assessment of the merits; the extent to which New Zealand’s interests were directly involved; the international legality; the conditions on the ground; and whether we would be acting in the company of like-minded states.”

42. The White Paper noted that it was in New Zealand’s strong national interest to support a *“rules-based international order”*. The White Paper recognised at 2.14 that there were *“obligations associated with belonging to this rules-based international order, including being willing to play a constructive role in preventing or resolving conflict.”*

43. This would mean that New Zealand would (at 2.15) support *“collective security, participating in peacekeeping and stabilisation activities, and working alongside others in various multilateral and plurilateral settings to limit the risks of terrorism and proliferation.”*

44. To meet these objectives, the White Paper set out the tasks that the NZDF should be able to perform. One of those roles was to contribute to international peace and security. There would, of course, always be limits

on the size of that contribution given the fact that New Zealand is a small nation.

45. The White Paper noted at 4.26 that our contribution may extend to a combat role where that was appropriate. Equally important would be contributing to peacekeeping missions and building up defence linkages through assignment of defence attachés, formal military-to-military talks and participation in bilateral and multilateral exercises.
46. Overall, my view of the White Paper is that it reinforced that the NZDF must be capable of performing a wide range of missions to support New Zealand's strategic interests. Those missions could, in the right circumstances, include combat roles but equally important were peacekeeping missions.
47. We wanted to retain an effective combat capability which would be necessary to participate in international coalitions (including peacekeeping tasks) and maintain international linkages. Those linkages were vital to New Zealand's long term interests and support of the rules-based international order.
48. Underlying the White Paper was that New Zealand needed to play an appropriate defence role for its size. We wanted to play a proportionate part in supporting the rules-based international order. We should not do more than our fair share; but we should not do less either.
49. Finally, the White Paper reflected and reinforced what is in my view a broad bipartisan consensus about what our role in the world should be. The NZDF should have the capability to take both combat roles and peacekeeping roles when necessary as part of international coalitions to support the rules-based international order.

Defence Relationships

50. The White Paper recognised that international partnerships and maintaining those partnerships was vital to New Zealand's security. The Paper stated at paragraph 2.17:

“New Zealand's security is also enhanced by maintaining a variety of international linkages, including bilateral relationships with like-minded

states. Such relationships help to reinforce shared international norms and amplify New Zealand's reach and influence. They thus benefit New Zealand. But they also bring with them expectations, including being willing to play our part to advance shared security objectives."

51. As part of our international linkages, National was keen to have an improved relationship with the United States. An improved defence relationship would be an integral part of improving the overall relationship with the United States.
52. Part of my role as opposition spokesperson on defence was to keep regular contact with defence attaches in the relevant embassies. I also undertook overseas visits to build international relationships that would be central when in government. As a result of meeting United States Deputy Secretary of State Richard Armitage in 2004, I knew how highly the United States valued New Zealand's SAS contributions in Afghanistan in 2001 to 2002 and 2004 to 2005.
53. We saw an opportunity to improve the bilateral relationship with the election of Barack Obama in November 2008. This meant that from January 2009, there would be a new United States government dealing with a new National lead government in New Zealand.
54. During 2008, while in opposition, Murray McCully and I considered the prospect of redeploying the SAS to Afghanistan should National form government after the 2008 election.
55. This consideration was informed by the clear campaign promises that Senator Obama was making throughout his 2008 presidential election campaign. Mr Obama's view was that United States forces needed to be withdrawn from Iraq as quickly as possible while at the same time increased US and coalition forces should be deployed to Afghanistan. Mr Obama's view was that the war in Afghanistan had been neglected.
56. I kept myself abreast of statements by Senator Obama during the 2008 United States presidential election campaign. For example, on 15 July 2008, Senator Obama gave a major foreign policy speech called "*A New Strategy for a New World*". (<https://my.ofa.us/page/content/newstrategy>, accessed 1 April 2019)

57. In the speech Mr Obama set out his plan to end the war in Iraq quickly and re-focus efforts on the war in Afghanistan. He said that as president he would:

“make the fight against al Qaeda and the Taliban the top priority that it should be. This is a war that we have to win.

I will send at least two additional combat brigades to Afghanistan, and use this commitment to seek greater contributions - with fewer restrictions - from NATO allies. I will focus on training Afghan security forces and supporting an Afghan judiciary, with more resources and incentives for American officers who perform these missions. Just as we succeeded in the Cold War by supporting allies who could sustain their own security, we must realize that the 21st century's frontlines are not only on the field of battle - they are found in the training exercise near Kabul, in the police station in Kandahar, and in the rule of law in Herat.”

58. Given this policy position, it was apparent to me that the new National government would be requested to provide additional support in Afghanistan. Afghanistan would be a top priority for the new American administration.
59. While National had made no final decision about how it would respond when the request came, we certainly understood the importance of the request.

The Request to Redeploy

60. The decision by the New Zealand government to redeploy the SAS to Afghanistan in 2009 was part and parcel of the countries represented in ISAF agreeing to an overall increase of troops deployed to Afghanistan. This increase was a response to the military situation becoming more difficult in Afghanistan.
61. During 2009 and 2010, the United States increased its forces in Afghanistan by an additional 30,000 troops. The other ISAF nations were encouraged to follow suit, so that it could be said that the whole of the ISAF coalition would be seen to be acting in concert.

62. Within a few weeks of the election, the deployment of the SAS was being officially discussed, both within government and within Defence. The possibility of a redeployment was widely discussed. For example, on 2 March 2009, Prime Minister Key commented that New Zealand would consider any request to increase our military commitment once it came and "*read[ing] the tea leaves*" it was likely that President Obama would ask NATO countries for an increased contribution. (New Zealand Herald "*NZ will consider boosting Afghan force if asked, says Key*", 2 March 2009)
63. On a visit to my office in early 2009, the United States Embassy Chief of Mission asked if the SAS could be deployed to Kabul to take over from the Norwegian Special Forces who were about to complete their mission.
64. This was not a formal request but the United States government wanted to be given an indication whether such a request would be welcome. I indicated that it was appropriate for such a request to be made.
65. In March 2009 the Commander of ISAF United States General David McKiernan officially requested the redeployment of the SAS in a communication to the New Zealand Chief of Defence Force, Lt General Mateparae. General McKiernan confirmed that under his request the SAS would take over from the Norwegian Special Forces in Kabul.
66. At around the same time, requests were made at a political level.
67. The first part of this process was a phone call between myself and the United States Secretary of Defense, Robert Gates. During that call, Secretary Gates expressed his admiration for the work that the SAS had previously undertaken in Afghanistan. He asked if New Zealand could redeploy the SAS to Afghanistan as part of the troop increase that was being undertaken by all ISAF nations.
68. I was also advised that President Obama would be telephoning Prime Minister Key in relation to the same matter. I advised the Prime Minister that he should expect a telephone call from President Obama in the next three days in relation to New Zealand deploying the SAS to Afghanistan. I noted that there was a strong expectation that New Zealand would do so given the number of public statements that had already been made by the New Zealand government in that regard.

69. I understand that President Obama did phone Prime Minister Key, although I was not present during the call.

Taking Over From Norway

70. ISAF wanted continuity with existing troop rotations, so that there would not be any gaps in respect of essential operations. We agreed with ISAF command that the SAS would replace the Norwegian Special Forces in Kabul who had been mentoring the Afghan Police Crisis Response Unit (CRU) for some time.
71. Replacing the Norwegians and providing security in Kabul seemed to us to be a worthwhile task and one the SAS would perform very effectively. We thought there was significant value in the SAS mentoring the CRU and upskilling the Afghan military. This role reflected the overall ISAF goal of increasing capability for the Afghans leading to the reduction (and ultimately elimination) of ISAF forces in Afghanistan. We also considered that the role in Kabul may be less risky than operations carried out in remote areas of Afghanistan as had been the case with respect to earlier deployments of the SAS.
72. In the weeks and months leading up to the Cabinet decision to approve the redeployment, the SAS and NZDF Headquarters worked to prepare for the mission on the basis it would be approved. This was necessary because the timeframe to redeployment was short with the Norwegians ending their mission in August 2009.
73. The SAS sent liaison officers to United States Central Command to make the necessary logistical and planning arrangements including addressing the issue of how the SAS would be transported to Afghanistan.
74. The NZDF also sent a reconnaissance team to Afghanistan in mid-June 2009 to liaise with the Norwegians and to report on whether a redeployment would be logistically possible. This team reported back that the redeployment was achievable within acceptable parameters.
75. The deployment of the SAS was to be for 18 months, to be done as three rotations of six months. After the completion of the 18 month deployment,

it was expected that the Norwegian Special Forces would replace the New Zealand SAS.

76. The SAS were to be under operational command of ISAF Special Forces Command. The ISAF Special Forces Command was under the direct command of the Commander ISAF.
77. ISAF Special Forces Command would direct the SAS to carry out their specific operations within the Kabul area.
78. However, as the 3 July 2009 Cabinet Paper confirms, the New Zealand Chief of Defence Force "*would retain full command of all NZDF personnel posted or attached as part of this deployment.*" This command would be exercised through the senior SAS officer on the ground.
79. Rules of Engagement (ROE) were developed so that the SAS could carry out its operations within the law.
80. The SAS would be primarily based in Kabul, however, it could be deployed elsewhere in Afghanistan if needed and approved by the Chief of Defence Force.
81. The mission for the SAS was to provide reconnaissance in Kabul and adjacent areas, and to locate insurgents and Improvised Explosive Device networks.
82. In addition, the SAS would mentor the CRU. This involved training the CRU and accompanying the CRU on their operations. Specialist support for these operations was provided by the SAS. This was a particularly important role as the aim was to increase the ability of the CRU over time so that the involvement of international forces could be wound down.
83. The SAS could take direct action against insurgent networks to support ISAF and the Afghanistan government.
84. The SAS also had the mission of supporting NZDF elements in Afghanistan including the PRT in Bamyan province. This role involved sharing of intelligence and providing tactical advice.

85. Finally, the SAS provided close protection parties for visiting senior officers and Ministers and hostage rescue.

ISAF

86. As I have noted, the SAS would be under the operational command of ISAF.
87. ISAF was constituted under UN Security Council Resolution 1386. This resolution provided the mandate to ISAF to operate. It also provided the legal justification for the New Zealand government to deploy forces to Afghanistan. In October each year the United Nations has renewed the mandate for ISAF through Security Council resolution.
88. In February 2009 I attended the NATO/ISAF Defence Ministers' conference in Cracow, Poland. Such meetings were held every six months and were important conferences at which each nation contributing to ISAF was able to make a statement setting out its views and have bilateral meetings with key partners. In particular these bilateral meetings were with NATO Secretary-General Anders Fogh Rasmussen, Defence Minister Wardak of Afghanistan and Commanders of ISAF who successively were Generals McKiernan, McChrystal, Petraeus and Allen.
89. Subsequently, I attended further meetings in Brussels (June 2009), Istanbul (February 2010), Brussels (June 2010), Bratislava (January 2011) and Brussels (June 2011).
90. At the Brussels meeting in June 2009, the prospect of the SAS replacing the Norwegian Special Forces in Kabul was discussed on the margins of the meeting.
91. The ISAF mission comprised two interrelated parts. One part was a combat role to provide security and stability for the Afghan government. The other was building co-operation between ISAF and local communities and the Afghan government. ISAF needed forces from countries around the world for both tasks. In New Zealand's case, the SAS had in the past been part of the combat role and the PRT was contributing to the rebuilding of Afghan society.

92. It was an essential objective of ISAF to increase the capability of Afghan forces so they could ultimately take over the task of providing security in their country. Mentoring of Afghan Security Forces was a key part of this objective so that Afghan forces could take more and more responsibility which is why mentoring of the CRU was an essential part of the SAS mission.
93. At meetings of the Defence Ministers, when I spoke on behalf of New Zealand, I emphasised that the goal of the ISAF mission should be to deal with the risks of terrorism, to build the institutions of civil governance, and to enable the reconciliation of political factions within Afghanistan, including the moderate elements of the Taliban.
94. ISAF also needed to focus the role of defence forces to minimise the risk to the Afghan population. My concerns were shared by other ministers especially from European NATO countries and by Australia.
95. At the Defence Ministers' meetings, I was seated beside the Norwegian Minister of Defence. I particularly discussed Afghanistan issues with Minister Grete Faremo. Our discussions covered how our two countries, both being similar-sized, saw our role in NATO/ISAF. This was both in terms of peace-keeping and the deployment of Special Forces especially since the SAS were replacing the Norwegian Special Forces in Kabul. We also discussed the development of civil society in Afghanistan and our mutual concerns over the treatment of detainees.

The Decision-Making Process

96. The most important defence decisions, including deployments to Afghanistan, were made by the Cabinet. In the case of the redeployment of the SAS in 2009, the Cabinet was advised by a sub-committee of the Cabinet.
97. The decision to redeploy the SAS took place in tandem with the Cabinet considering New Zealand's overall commitment to Afghanistan.
98. New Zealand's commitment, including to the PRT, was to expire on 30 September 2009. The new government therefore had to decide if that commitment should be extended.

99. In February 2009 the Cabinet agreed to extend New Zealand's effort in Afghanistan, including the deployment of the PRT team, to 30 September 2010.
100. To inform the Cabinet in making this decision, I, along with Minister McCully, had prepared a paper. The paper recommended extension of the New Zealand commitment to September 2010 but also a review of our efforts. The paper noted that New Zealand had received frequent requests to contribute more including the deployment of Special Forces.
101. While this review was ongoing the Cabinet also had to consider redeployment of the SAS given the requests identified above.
102. Following President's Obama's phone call, the actual decision to redeploy the SAS took some time to be formally made. During this period of time the NZDF was preparing for the possibility of the SAS deployment. The Ministry of Defence was supporting NZDF's preparations. I was liaising with Minister McCully, the Prime Minister and the NZDF.
103. The decision to deploy the SAS was informed by key officials through regular briefings, most of which were oral. These key officials were the Chief of the Defence Force, Lt General Mateparae, the Secretary of Defence, John McKinnon, the Secretary of Foreign Affairs and Trade, Simon Murdoch and the Chief Executive of the Department of Prime Minister and Cabinet, Maarten Weavers.
104. During discussion with these key officials, I do remember some limited discussion on intelligence capabilities. I recall that intelligence officers from SIS and from GCSB were to support the mission.
105. However, for the most part, intelligence for the SAS would be provided by ISAF HQ. The SAS would see and use the intelligence provided by ISAF and would contribute to the intelligence gathering network through ISAF.
106. I received a briefing from the NZDF on the possible options for redeployment of the SAS. Replacing the Norwegians as per General McKiernan's request, was seen as the best option for the reasons I have explained. This option was briefed to the Prime Minister and Minister McCully on 8 June 2009. I was also present at this briefing.

107. At that meeting we decided to draft a separate paper on the SAS redeployment for the Cabinet to consider.
108. I was responsible for overseeing the drafting of the paper which was prepared within the NZDF and Ministry of Defence as well as other relevant government agencies such as the Ministry of Foreign Affairs. We worked on the paper throughout June 2009.
109. The paper set out in detail the role of the SAS in the proposed redeployment and the preparatory steps that had been taken including assessment of the financial impact of the deployment.
110. On 6 July 2009 Cabinet authorised a special sub-committee of the Cabinet consisting of John Key, Bill English, Murray McCully and myself. This group of ministers was described as the Ministers with Power to Act.
111. This group of Ministers was authorised by Cabinet to take decisions on next steps on a further contribution to ISAF through redeployment of the SAS until the Cabinet met again. Any decisions we reached were subject to endorsement by the full Cabinet.
112. On 10 August 2009 Cabinet decided in principle to extend our commitment to Afghanistan until September 2011. Officials were also directed to develop a roadmap for exiting the PRT in the medium term. This was part of a strategic shift to emphasise development and governance assistance with the lead responsibility for security in Bamyān ultimately transferred to the Afghan National Police.
113. Also on 10 August 2009 Cabinet endorsed the redeployment of the SAS after the Prime Minister had set out the decision of the special committee in an oral briefing to the Cabinet.
114. The Cabinet Minute of Decision noted the redeployment of the SAS would be a positive and high profile contribution to ISAF and the deployment was for a fixed term with a clear exit strategy.
115. After Cabinet had approved the redeployment, I phoned Lt General Mateparae and informed him of the decision. The Minute of Decision would have been distributed to him as well as other relevant agencies.

From there General Mateparae and the Ministry of Defence commenced the process for implementing the decision Cabinet had made.

116. In making the decision to deploy, the possibility of SAS casualties and minimising casualties was a key concern. Obviously, the SAS would encounter dangerous situations. Despite their excellent training and skill, there was always the possibility of injury or death. I canvassed this with the SAS commander who told me that this was accepted as part of their role.
117. There were also domestic political considerations to be considered. As I have stated already, the fact that the Clark government had previously deployed the SAS to Afghanistan was a very significant factor. If a Labour-led government could take this step, then so could a National-led government.
118. I also considered that the New Zealand public would be broadly supportive of this re-deployment. We were re-deploying the SAS to Afghanistan just as the previous Clark government had done. The redeployment would be seen as fulfilling New Zealand's role in helping combat international terrorism.
119. The fact that it was the new Obama administration that was requesting our support was an important factor for us. The new administration was popular in New Zealand and President Obama was personally popular coming after the presidency of George W. Bush. It was politically easier for the government to support a request from President Obama than President Bush given the goodwill associated with President Obama.
120. In my view the decision to re-deploy the SAS to Afghanistan was taken in the broad context of New Zealand's consistent and bipartisan commitment to collective security and support of the rules-based international order. The Clark government had sent the SAS to Afghanistan in the past and there had now been a 4 year break between SAS deployments. It was appropriate that we play our part in contributing to ensure there was a secure environment in Afghanistan to permit that war-torn country to rebuild.

Debate in Parliament

121. The formal announcement was made by Prime Minister Key on 16 August 2009.
122. Following the announcement, the Green Party sought an urgent debate in Parliament on the deployment.
123. The Labour Party, under the leadership of Phil Goff, opposed the deployment of the SAS as did the Green Party.
124. The case for the Government was primarily put by Foreign Affairs Minister, Murray McCully. He stated that: *“As a coalition partner from the beginning in Afghanistan, New Zealand must play its part.”* He noted: *“The government was responding to a formal request from the International Security Assistance Force. Requests to consider further military contributions were also received from coalition partners, including Australia, the UK and the US. We concluded that the SAS was best suited to the campaign being waged in Afghanistan today.”* (18 August 2009) 656 NZPD 5601-5602
125. In my contribution to the debate I said New Zealand wanted *“... a stable Afghanistan, a country that will not threaten or, perhaps more particularly, allow its territory to be used by others who would threaten wider international peace. That is the specific interest that New Zealand has. New Zealand’s current deployments in both the provincial reconstruction team and the deployment of the New Zealand SAS meet those needs. New Zealand’s engagement in Afghanistan requires a contribution to both security and civil reconstruction. The current surge is intended to change the security situation.”* (18 August 2009) 656 NZPD 5610
126. I also emphasised that we were protecting ourselves by dealing with terrorism at its source in Afghanistan. I said: *“We need to recall the principal reason why we first went to Afghanistan: it was September 11, al-Qaeda had its base in Afghanistan, and the Taliban Government of Afghanistan was unwilling to eject al-Qaeda and ensure it was brought to international justice. It was intolerable that a Government should provide a safe haven to terrorists who had perpetrated the worst terrorist incident in history. It is worth recalling that New Zealanders have died in each of the*

al-Qaeda directed and inspired incidents, including September 11, and those in London, Bali, and, most recently, Jakarta. We have a duty to our fellow New Zealanders to deal directly with the sources of terrorism.”
(18 August 2009) 656 NZPD 5609

127. Finally, I emphasised that there was widespread international support for the commitment to Afghanistan. I noted the support of the UN Security Council and the annual resolution passed by the Security Council authorising the ISAF mission. I also referred to President Obama and his renewed focus on Afghanistan. (18 August 2009) 656 NZPD 5609
128. The SAS were deployed operationally to Afghanistan in late August 2009.

Oversight of SAS Operations

129. The deployment of the armed forces in New Zealand or elsewhere is a matter for the royal prerogative as confirmed by section 5 of the Defence Act.
130. As Minister of Defence I had civilian oversight of the armed forces. Section 7 of the Defence Act describes this as a power of control of the NZDF. This power is exercised through the Chief of Defence Force.
131. The Defence Act is couched in general terms to allow a degree of flexibility in how civilian oversight of the Defence Force is exercised. Oversight can be exercised in different ways depending on the needs of the specific deployment and the relationship between the Minister and the Chief of Defence Force.
132. In general terms, oversight occurs through regular briefings which are both oral and written from the Chief of Defence Force and from other senior officers.
133. As I have explained, the SAS were under the day to day operational command of ISAF Special Forces Command. The SAS conducted their operations according to instructions from ISAF and pursuant to the ROE which were authorised by the New Zealand government.
134. I did not approve or select missions for the SAS.

135. I did receive briefings on SAS operations once they had occurred. As the deployment continued, and at my request, these briefings became more extensive.
136. I considered it to be an essential part of my role to be aware of operations in sufficient detail so that I could be satisfied that I was properly fulfilling my oversight responsibility.
137. In part, I was also concerned that I needed to be more aware of what was happening in Afghanistan because SAS operations in Kabul were likely to become more public than had traditionally been the case. I considered that both Members of Parliament and the media would be more likely to ask me about SAS operations because they were often operating in public in Kabul. This was not like previous SAS deployments which were in remote mountainous and desert areas.
138. I therefore needed to be informed of operations after they had occurred so I could be prepared for such questions.
139. It was a coincidence that both myself and the Chief of Defence Force were in Afghanistan when Operation Burnham was carried out. As a result of being in Afghanistan, I was briefed on the operation prior to it being undertaken. I understand the Inquiry will have a separate module on this matter.

Conclusion

140. New Zealand took the decision to redeploy the SAS to Afghanistan after careful thought and deliberation. The decision was made in response to international requests for assistance and as part of New Zealand's broader commitment to Afghanistan. This was in fulfilment of our responsibilities to collective security and to peace-keeping.
141. In Afghanistan these responsibilities were twofold. First, to build the capability of Afghan civil society through the work of the PRT. Second, to build the capability and effectiveness of the Afghan Police Special Forces through the deployment of the SAS who replaced the Norwegian Special Forces in this role.