

UNDER

THE INQUIRIES ACT 2013

IN THE MATTER OF

A GOVERNMENT INQUIRY INTO
OPERATION BURNHAM AND
RELATED MATTERS

MEMORANDUM OF COUNSEL FOR THE CROWN

20 June 2019

CROWN LAW
TE TARI TURE O TE KARAUNA
PO Box 2858
WELLINGTON 6140
Tel: 04 472 1719
Fax: 04 473 3482

Contact Person:
Aaron Martin / Ian Auld

MAY IT PLEASE THE INQUIRY:

1. As indicated in the memoranda of counsel for the Crown, dated 5 December 2018 and 21 March 2019, the New Zealand Defence Force (**NZDF**) holds material relevant to the Terms of Reference of the Inquiry, which is subject to the control of the United States Government and the North Atlantic Treaty Organisation (**NATO**). The Ministry of Foreign Affairs and Trade (**MFAT**) has been liaising with the United States Government and NATO to request consent for the Inquiry to access this material.
2. The United States Government provided consent for the Inquiry to have access to a first tranche of material in December 2018. Following a subsequent request in respect of further material, listed in Appendix 1, the United States Government has now confirmed its consent for the Inquiry to be provided access to this material.
3. NATO also provided consent for the Inquiry to have access to a first tranche of material in December 2018. Following a subsequent request in respect of further material, listed in Appendix 2, NATO has now confirmed its consent for the Inquiry to be provided access to this material. We note that there is one document that cannot currently be provided to the Inquiry as it is subject to the consent of another originator. Consent is being sought from that originator as a matter of urgency.
4. As with the tranches of material referred to in our memoranda of 5 December 2018, in respect of the material from the US Government, and 21 March 2019, in respect of the material from NATO, the material listed in Appendices 1 and 2 has been provided to the New Zealand Government by the United States Government and NATO on the basis of confidence. The consent from the United States Government and NATO to provide the Inquiry access to the material is based on an understanding that the material will be handled in accordance with the Government's Protective Security Requirements, and in-line with the process outlined in Ruling number 1.

5. We will provide a further memorandum, including the exchange of correspondence setting out the terms of the consent from NATO and the US Government in due course.

20 June 2019



Aaron Martin / Ian Auld
Counsel for the Crown