

**UNDER**

**THE INQUIRIES ACT 2013**

**IN THE MATTER OF**

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

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**MEMORANDUM BY THE HON DR WAYNE MAPP**

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**May it please the Inquiry:**

1. Dr Mapp was, at material times, the Minister of Defence.
2. Dr Mapp has, through Counsel, previously made contact with Counsel Assisting the Inquiry to indicate his interest. This Memorandum is a formal entry of appearance by Dr Mapp.
3. Dr Mapp has seen the Minute No. 4 of Inquiry dated 14 September 2018. This Memorandum addresses procedural issues raised in the Minute.
4. Dr Mapp understands that the three areas of Inquiry that may involve him are:
  - a. Rules of Engagement;
  - b. Knowledge of and authorisation of Operation Burnham;
  - c. Reporting of the Operation.

**Rules of Engagement**

5. Dr Mapp was involved in authorising the Rules of Engagement under which the NZ Defence Force operated in Afghanistan.
6. Dr Mapp received advice from NZDF in respect of the rules of engagement and approved them.
7. To some extent, the Rules of Engagement speak for themselves. If Dr Mapp can assist the Inquiry by giving evidence or making submissions, he will be pleased to do so.
8. To the extent that the Inquiry wishes to hear from Dr Mapp in respect of advice that he received from NZDF and from Ministers and other officials, some material may be classified.

## **The Operation**

9. Dr Mapp was present in Afghanistan when Operation Burnham occurred.
10. However, this visit was coincidental. Dr Mapp accepted that the operation should proceed but he was not required to authorise the operation. That occurred pursuant to the ISAF/NATO Chain of Command and Rules of Engagement.
11. Dr Mapp knew of Operation Burnham from meetings before and after the Operation took place. He was not present at any of the places from which Operation Burnham was conducted or commanded while the Operation was taking place.
12. There is little relevant evidence Dr Mapp can give about the conduct of the Operation. To the extent that the Inquiry may wish to hear from Dr Mapp about the Operation, much of what he could say may be classified.
13. Dr Mapp will be able to give evidence of his personal knowledge of the Operation, and any discussion he had with the then Prime Minister, the Rt Hon John Key. Dr Mapp and the Prime Minister discussed the nature of the operation. The discussion was a high level briefing, and was for the purpose of informing the Prime Minister about the operation and its scope.

## **Reporting of the Operation**

14. Subsequent to the Operation, from time to time Dr Mapp was informed about inquiries into the operation. He also obtained advice from NZDF to answer public or parliamentary questions. The formal advice he received is documented. His answers will have been recorded.

## **Inquiry Procedure**

15. Dr Mapp supports the Inquiry doing its work in an inquisitorial way.
16. Dr Mapp believes the boundaries between what is classified and what is not classified will be difficult to maintain, and it will be impractical for the Inquiry to seek to undertake part of its work in public, and the remainder of its work in private.

17. Dr Mapp supports witnesses being interviewed by the Inquiry. Having regard to the matters being considered by the Inquiry, Dr Mapp believes control over classified information and some reasonable order in respect of testing of evidence can be best assured by the process he supports.
18. Dr Mapp will prepare an initial brief of his intended evidence.
19. Dr Mapp is aware of the provisions of Section 14 of the Inquiries Act 2013.
20. Dr Mapp relies on the Inquiry to ensure that if it proposes to make a finding about him that is adverse, the Inquiry must ensure that he is aware of matters on which the proposed finding is based, and has had an opportunity to respond on those matters.
21. However, Dr Mapp is content for his interests to be protected by the Inquiry by it interviewing other witnesses, and by itself informing Dr Mapp of any matter on which a response is required from him, and giving him an opportunity to respond.
22. Dr Mapp understands that if any evidence he gives may affect another person, then the Inquiry will protect the interests of that person by giving them an opportunity to respond to anything Dr Mapp may have said.
23. Dr Mapp will need to receive from the Inquiry some advice about the scope of matters on which it wishes to hear from him. He will also need sufficient time to prepare for any interview, and to obtain copies of relevant documents.
24. To the extent that Core Participants or other interested parties present documents to the Inquiry which are public, Dr Mapp asks that he receive copies of them.

Dated this 14 day of October 2018.

  
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B D Gray QC  
Counsel for the Hon Dr Wayne Mapp