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# **REPORT OF THE EXPERT REVIEW GROUP**

Review to consider whether the New Zealand Defence Force's organisational structure and record-keeping and retrieval processes are in accordance with international best practice and sufficient to remove or reduce the possibility of the failings identified by the Government Inquiry into Operation Burnham and Related Matters

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# EXECUTIVE SUMMARY

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## Context and scope

The Government Inquiry into Operation Burnham and Related Matters (the Inquiry) recommended that the Minister of Defence establish an expert review group to consider whether the organisational structure and record-keeping and retrieval processes of the New Zealand Defence Force (NZDF) are in accordance with international best practice and sufficient to remove or reduce the possibility of the failings identified by the Inquiry reoccurring.<sup>1</sup>

This report contains the Expert Review Group's findings and recommendations on four key areas, based on the issues identified in the Inquiry report and the terms of reference set by Cabinet:

- legislative and working arrangements between the NZDF, the Ministry of Defence and other government agencies on complex operational deployments (*Part One: Policy and Military Integration*, from page 22)
- the structure, function and purpose of Headquarters NZDF (HQNZDF) (*Part Two: Headquarters New Zealand Defence Force*, from page 43)
- the role, culture and structure of New Zealand's Special Forces (*Part Three: New Zealand's Special Forces*, from page 57)
- the NZDF's information management systems and practices and the flow of defence knowledge to the Minister of Defence (*Part Four: Information Management and Flow of Defence Knowledge*, from page 66).

The NZDF engages in a variety of military activities of varying scale and complexity, both domestically and overseas. For the purpose of this report, we have focused on **complex deployments**, which typically take place overseas<sup>2</sup> and in a coalition setting not exclusively under New Zealand's command and control. They usually take place in high-threat situations and impact on national or international security interests. Operational security, information access and knowledge management are not straightforward in such deployments. The mission of the New Zealand Special Air Service (NZSAS) in Afghanistan and of the New Zealand Provincial Reconstruction Team in Bamyán Province were both deployments that were complex by nature and extended in duration; Operation Burnham was a complex operation. Our findings and recommendations focus on such complex deployments because, in our view, they require high levels of transparency, scrutiny and assurance.

Further, with the character of conflict and warfare continuing to shift and evolve, our recommendations are intended to assist New Zealand's defence agencies in navigating both current and near future operating environments. This applies particularly to information systems and knowledge management, which we see as two separate, but clearly related, areas of focus.<sup>3</sup>

It has been difficult to identify specific benchmarks or measures of international best practice to appraise the NZDF's record-keeping and retrieval processes and organisational structure. Nevertheless, examples provided by New Zealand's international defence partners we engaged with are useful comparators in assessing current policies, practices and processes. They also provided new initiatives to consider for the future.

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1 Sir Terence Arnold and Sir Geoffrey Palmer *Report of the Government Inquiry into Operation Burnham and Related Matters* Government Inquiry into Operation Burnham and Related Matters (2020) <https://operationburnham.inquiry.govt.nz/inquiry-report/>.

2 In military terms, overseas deployments are also referred to as 'expeditionary' deployments – we use this term later in the report.

3 Complex NZDF deployments generate a heavy flow of information, including data, which is subjected to validation and verification processes at multiple levels before it is seen as sufficiently proven and reliable to be given in advice to the Minister as 'Defence knowledge'. This knowledge then becomes the basis for ministerial decision-making and is used for parliamentary and public accountability purposes. The systems that carry, organise, preserve and retrieve information are the essential underpinning of robust knowledge creation and dissemination.

It is clear that the NZDF and Ministry of Defence are taking the Inquiry's findings seriously. Throughout the report, we note changes that have already been made or are in train that either fully or partially address the issues identified by the Inquiry and in the Expert Review Group's terms of reference. These changes include implementing an integrated process for developing joint advice on deployment mandates and implementing revised command, control and accountability arrangements for the NZSAS delivered by the establishment of the Special Operations Component New Zealand at Headquarters Joint Forces New Zealand. A business case has been developed, but is not yet approved, for a new programme to improve how information is managed throughout the NZDF; this too is a step in the right direction.

These changes are encouraging. However, more work needs to be done to reduce the likelihood that the failings identified by the Inquiry are repeated. This report contains nine recommendations that capture where, in the Expert Review Group's assessment, there are still significant gaps. The recommendations are collated after this summary (pages 14–15) as well as distributed throughout this report.

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## Overarching themes

Three overarching themes cut across our findings and recommendations. These themes relate to social licence, democratic oversight and transparency.

### IMPORTANCE OF SOCIAL LICENCE

Throughout the review process, we kept coming back to the importance of the social licence between the NZDF and those it serves. Social licence gives the NZDF permission to operate and is contingent on establishing and maintaining the trust and confidence of Ministers, Parliament and, by extension, the New Zealand public.

Strengthening ministerial and public trust and confidence in the NZDF is a key focus for NZDF leadership in the aftermath of Operation Burnham.<sup>4</sup> It has been challenging for the NZDF as a whole, but particularly for the NZSAS. Social licence comes with expectations of transparency and visibility, which can be difficult in the context of Special Forces<sup>5</sup> given they are often required to operate covertly. Our recommendations aim to improve understanding of the NZSAS's contribution to New Zealand's national security objectives while enabling sufficient oversight and visibility of NZSAS activities for senior Defence<sup>6</sup> leaders, Ministers and other government stakeholders.

Social licence is explored in more detail in the *Context* and *Part Three: New Zealand's Special Forces*.

### STRONG LINK BETWEEN SOCIAL LICENCE AND DEMOCRATIC OVERSIGHT OF THE MILITARY

We identified a strong link between social licence and the constitutional principle of democratic oversight of the military, which is exercised by the government of the day principally through the Minister of Defence. This concept was referred to as 'civilian control' in the Inquiry's report.

A central focus for the Expert Review Group has been considering improvements to systems, processes, practices and structures, as well as to attitudes and behaviours, that will help provide the Minister of Defence with sufficient visibility and understanding of the NZDF's activities to carry out democratic oversight of the military effectively and fulfil their accountability obligations to Parliament and the New Zealand public. These improvements include:

- strengthening arrangements for joint participation and decision-making between the NZDF and Ministry of Defence so the Minister of Defence is fully aware of policy interests as well as operational matters (*Part One: Policy and Military Integration*)

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4 "Operation Burnham report: NZDF 'deeply sorry' for misleading Ministers and public" *Radio New Zealand* (31 July 2020) <https://www.rnz.co.nz/news/national/422439/operation-burnham-report-nzdf-deeply-sorry-for-misleading-ministers-and-public> (accessed 20 May 2021).

5 'Special Forces' are combat forces selected and trained to special levels for the conduct of strategic, and when required, operational and tactical level operations. Within New Zealand Special Operations Forces as a whole, badged members of the NZSAS are considered 'Special Forces'.

6 'Defence' is used throughout this report to refer to the New Zealand Defence Force and Ministry of Defence collectively.

- reviewing the suitability of HQNZDF in terms of supporting the Chief of the Defence Force (CDF) and the Secretary of Defence (Secretary) in their roles as principal advisers to the Minister of Defence (*Part Two: Headquarters New Zealand Defence Force*)
- modifying the NZDF's information and knowledge management structure, systems and practices so information and knowledge on complex deployments is accurate, timely and robust – enabling democratic oversight requires timely and robust flows of knowledge within and beyond the NZDF for coherent strategic decision-making about complex operations (*Part Four: Information Management and Flow of Defence Knowledge*).

## APPROPRIATE TRANSPARENCY OF MILITARY ACTIVITIES

Upholding appropriate transparency of military activities is a critical enabler for building and maintaining a social licence to operate. As outlined above, knowing and understanding the NZDF's operational activities where these have potentially significant governmental impacts is central to the Minister of Defence's ability to properly exercise democratic oversight.

We acknowledge the importance of protecting certain information and knowledge in a military environment. In some cases, doing so is literally a matter of life and death for military personnel. Our findings and recommendations are intended to assist the NZDF in taking a more systematic, critical and considered approach to protecting operational information of high political and public interest for security reasons. This approach includes carefully considering who 'needs to know' in the circumstances. For complex deployments (including compartmented operations or activities),<sup>7</sup> the CDF, Secretary and Minister of Defence will almost always need to know.

Overall, we found that modern demands for greater transparency and assurance around defence activities require behaviours and attitudes that are not risk averse to the disclosure of information to the right people at the right time.

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## Summary of findings and recommendations

Next, we discuss our findings and recommendations for each of Parts One to Four.

### PART ONE: POLICY AND MILITARY INTEGRATION

#### WHAT WE FOUND

The Defence Act 1990 allows for significant flexibility and personal discretion both in how individual Ministers of Defence exercise democratic oversight and how the CDF and Secretary – the Minister's principal military and civilian advisers – work together in advising the Minister on defence matters.

The Act imposes broad consultation obligations on the Secretary and CDF within a framework of providing complementary yet contestable advice to the Minister. The Act states they are to consult with each other before advising the Minister on any "major matters of defence policy".<sup>8</sup> Practical cooperation between the CDF and Secretary on matters relating to complex operational deployments is good.

The NZDF and Ministry of Defence have well-established joint working arrangements for the mandate development phase of what we have termed the 'deployment lifecycle' that appear to work well, although the two agencies have not formally agreed roles and responsibilities.

The Secretary and their policy officials are largely excluded from the subsequent planning and execution phases of the deployment lifecycle and generally do not have a role in advising Ministers on complex deployments outside mandate development or renewal processes. This exclusion appears to be driven by the thinking of some NZDF personnel that policy functions should not be involved in 'operational' matters. In our view, this is erroneous; policy needs to be grounded in reality.

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<sup>7</sup> A military operation or activity is said to be 'compartmented' when it requires more stringent levels of security than other classified activities. For compartmented operations or activities, the number of people who have access to knowledge about the operation is highly controlled on a strict 'need to know' basis.

<sup>8</sup> Section 31(1) of the Defence Act 1990.

Complex operational deployments take place in a dynamic environment where the situation on the ground and policy context in New Zealand continue to evolve. It is vital the Minister of Defence is made aware of both policy and military considerations to provide assurance that they have the information and advice required to properly exercise democratic oversight.

Incorporating policy perspectives throughout the deployment can also assist those in the military chain of command responsible for tactical and operational decisions to navigate and interpret changes in the policy and operational environments once the mandate has been agreed.

Moreover, the evaluation phase of the deployment lifecycle is not formally embedded or institutionalised in processes and practices by the Ministry of Defence or NZDF. Measuring and assessing whether a complex deployment is meeting or has met the Government's strategic objectives should be included as part of the Cabinet mandate.

The NZDF has introduced further checks and balances around sensitive operations since Operation Burnham. However, a lack of policy input into the management of the significant risks associated with these types of complex operations remains.

There is also no official NZDF policy or process specifically on compartmentalisation. We encourage the NZDF to finalise, as soon as possible, a Defence Force Instruction that codifies the criteria for determining when an operation should be compartmentalised and the policies and processes applied to such deployments.

New Zealand is out of step with international partners we spoke to in terms of having a policy adviser (POLAD) function that can be deployed to provide policy advice and input to deployed military commanders and feed knowledge back to the strategic centre.<sup>9</sup> The Ministry of Defence needs to be better equipped to perform the POLAD function, including by developing a broader knowledge of military strategic thinking – namely, the translation of policy into military effects.

Some senior deployed NZDF personnel may not be fully prepared to identify policy risks and sensitivities related to complex deployments. This is problematic as they are responsible for reporting back to New Zealand on events and incidents that have a high political and public interest. While there have been some improvements to training and development on policy considerations, these are not systematised.

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9 As we were finalising this report in late August 2021, a Ministry of Defence staff member was deployed as a POLAD to Operation Kōkako (the NZDF deployment supporting the international non-combatant evacuation from Afghanistan). We were told the POLAD's role was to support the commander through the course of the deployment to ensure decisions were taken and operations conducted in alignment with New Zealand Government policy and strategic interests.

## WHAT WE RECOMMEND

We recommend the Minister of Defence **direct the Secretary and CDF to strengthen integration** between the NZDF and Ministry of Defence throughout the deployment lifecycle.

As part of this direction, we recommend making it clear in the CDF's terms of reference and the Secretary's performance expectations that the statutory term **"major matters of defence policy" includes complex military operations that impact on national or international security**.

We do not propose a need for immediate legislative change to implement the integrated arrangements envisaged in this report. However, we note the Act is now over 30 years old and may need a refresh in the medium term. We encourage making the Vice Chief of Defence Force (VCDF) the statutory deputy of the CDF as part of any refresh of the Act.

At the working level, we recommend the VCDF and Deputy Secretary Defence Policy and Planning jointly lead the **development of a documented, integrated lifecycle for complex operational deployments**. This document should set out clear accountabilities and participation rights across the mandate development, planning, execution and evaluation phases and be consulted on with other national security agencies.

Recognising that government agencies outside Defence provide valuable input on broader national security and foreign policy considerations relevant to complex operational deployments, we recommend the Secretary and CDF, together with the Ministry of Foreign Affairs and Trade and the Department of the Prime Minister and Cabinet, take the lead on **institutionalising the use of senior reference groups for complex and extended deployments** to strengthen interagency cooperation and knowledge sharing across relevant government agencies throughout the deployment lifecycle.

Mechanisms for monitoring and evaluating achievement against New Zealand's strategic objectives for complex operational deployments need to be strengthened and formalised. We recommend the Secretary and CDF work together to ensure **measures of success are included in advice to Cabinet on the mandate for these types of deployments**. We also recommend **post-deployment reviews** are put in place to evaluate performance against these measures.

We appreciate the need for security restrictions for compartmented operations. However, given many of these operations involve significant reputational risk to the Government, we recommend **expanding the membership of the Strategic Risk Assessment Board**, a risk management and assurance function for sensitive operations or activities, to include a senior Ministry of Defence representative and other national security agency representatives as appropriate.

In line with international practice, we recommend the Secretary work with the CDF to **build a new POLAD capability** to both support senior military personnel on the ground and improve channels of communication back to Wellington and the Minister for complex deployments. Further thought needs to be put into reporting lines, accountabilities and skill sets required for this function. We envisage other national security agencies could be involved in growing this capability.

Senior NZDF personnel and those identified as high-potential personnel should be given more awareness of and exposure to the broader policy context through a **structured training and development programme**.

Finally, we recommend the NZDF and Ministry of Defence identify opportunities to **test integrated working arrangements**.

## PART TWO: HEADQUARTERS NZDF

### WHAT WE FOUND

Strategic military thinking at HQNZDF needs to be strengthened, including having functions in place to plan and monitor activities in the context of military and broader national security priorities.

The Office of Chief of Defence Force (OCDF) has evolved in a piecemeal fashion and could be better configured to support the CDF and VCDF on both strategic military and corporate matters.

The Chief of Staff does not have adequate support to undertake significant line management responsibilities when they also hold de facto responsibility for the flow and fidelity of information to the CDF, VCDF and Minister of Defence.

Defence Public Affairs (DPA), NZDF's communications unit, needs to rebalance its priorities from a predominant focus on protecting and enhancing the NZDF's reputation to advancing transparency in its communications. To do so effectively, DPA needs to have a clear mandate from senior leadership that is promulgated and understood across the NZDF more widely.

Current communications processes are not stress-tested for high tempo environments. DPA should be involved in future opportunities to test the resilience of its processes. Codifying the process and risk owners for drafting, approving and promulgating formal NZDF communications will also increase resilience of the process when it is put under greater pressure come higher tempo operational activity.

Changes in behaviours and attitudes towards legal advice by senior military commanders since Operation Burnham mean NZDF lawyers are kept sufficiently informed of operational decision-making and activities. However, not all critical reporting and accountability processes have been formally documented. We encourage the NZDF to do so.

### WHAT WE RECOMMEND

We recommend the CDF, in consultation with the Secretary, **review the suitability of particular elements of HQNZDF for the future**, focusing on three areas.

Firstly, to ensure HQNZDF has sufficient depth to meet current and future national security challenges, we recommend the CDF and Secretary **establish an integrated strategic military and policy function that provides for the end-to-end strategic management of operations**. This function would include several staff officer positions, including from Special Forces. Alongside the recommendations in *Part One: Policy and Military Integration*, the strategic military and policy function would help to deliver greater integration between NZDF and the Ministry of Defence on complex operational deployments. Standing up this function will require investment in the training and development of NZDF personnel and Ministry staff so they become better skilled at military strategic thinking. We consider the VCDF and Deputy Secretary Defence Policy and Planning should provide stewardship of this function.

Secondly, the OCDF plays a vital role in supporting the CDF and, by extension, the Minister of Defence and their office. For the OCDF to operate more effectively as a resilient and cohesive entity, we recommend **a comprehensive reconsideration of the OCDF's purpose, functional priorities, structure and configuration**. This is needed to enable **prioritisation of its core functions** – namely, those related to the CDF's operational and strategic responsibilities and external accountabilities for democratic oversight.

Lastly, the development of a new public affairs strategy for the NZDF is a positive step, yet it can be improved to address the issues with NZDF communications we identified. We recommend the CDF direct that **NZDF Public Affairs Strategy 25 be revised to reflect key accountability relationships and position NZDF communications to meet contemporary accountability and transparency expectations**.

## PART THREE: NEW ZEALAND'S SPECIAL FORCES

### WHAT WE FOUND

The NZSAS is a highly skilled and internationally respected part of NZDF and an important strategic military capability for New Zealand.

The establishment of the Special Operations Component New Zealand at Headquarters Joint Forces New Zealand has improved command and control arrangements and visibility of NZSAS activities. However, it has created greater distance between the NZSAS and the strategic military centre, HQNZDF. The current structure has not been tested in a high tempo environment.

The NZSAS needs to look both inwards to continue to absorb lessons from the Inquiry and this report and outwards to become more integrated with the wider NZDF and national security sector. The NZDF should continue to invest in training and development for future NZSAS leaders and high-potential personnel that provides them with an awareness of the broader government context.

NZSAS personnel also require (and have) strong and present leadership and well-understood values. In a complex operating environment, individual and collective boundaries and limitations can be pushed to the brink. Collectively reinforcing both the NZSAS tenets and NZDF values must continue to be a steadfast responsibility of NZSAS and NZDF leadership now and into the future to maintain standards of good behaviour. Ongoing attention must be paid to the 'tone at the top' set by commanders of the NZSAS and senior ranks.

Deployed personnel need to be well supported by NZDF leadership (including the Senior National Officer in-country where Regular Forces are also deployed) and have access to integrated policy and military advice.

### WHAT WE RECOMMEND

The CDF must ensure steps continue to be taken to integrate the NZSAS into the wider NZDF and national security sector.

To do so, we recommend **integrating one or more Special Operations staff officer roles into the strategic military and policy function** (see the recommendation for *Part Two: Headquarters New Zealand Defence Force*). This role will enable appropriate transparency, oversight, assurance and strategic awareness of Special Operations by strengthening the NZSAS's connection with the strategic centre, including with the Ministry of Defence.

We also recommend the CDF, in consultation with the Secretary, facilitate a **broader discussion with other New Zealand defence, security and foreign affairs agencies about the role of the NZSAS** in modern warfare and national security and its contribution to government priorities now and in the future. The *Special Operations Component New Zealand Plan 2020–2025: Nationally Integrated Special Operations* (draft) could be used to facilitate this discussion.

It is important the NZDF takes a proactive approach to developing NZSAS leadership capability for the future and regularly monitors the leadership climate created by NZSAS leaders. **Current commanders and high-potential personnel need to be provided with opportunities to develop political acumen and a better understanding of the wider government authorising environment.** In particular, current and future leaders need to understand policy advice processes, the importance of democratic oversight and how to develop networks across the national security sector.

## **PART FOUR: INFORMATION MANAGEMENT AND FLOW OF DEFENCE KNOWLEDGE**

### **WHAT WE FOUND**

No clear benchmark or measure of international practice exists for record-keeping and retrieval processes. New Zealand's defence partners we spoke to also find managing information and knowledge challenging, particularly in a coalition setting. Therefore, we identified six principles for effective information and knowledge management in a military context, and these principles form the basis of our assessment. These principles are set out in Part Four, pages 68–69.

The NZDF is well aware of the importance of information and knowledge management, and a collective desire exists to improve how things are done in the wake of the Inquiry.

NZDF information is stored across multiple systems, networks and locations at all classification levels. The lack of a central database or repository has created significant barriers to information retrieval.

NZDF personnel are not well supported to manage information and knowledge effectively. Processes, policies and guidance are impenetrable and applied inconsistently across the organisation.

We were made aware of long-standing vacancies in specialist information management roles across the NZDF. Furthermore, unlike several of New Zealand's defence partners, New Zealand does not routinely deploy dedicated information management personnel, even for complex and extended operational deployments.

The NZDF's information technology infrastructure provides significant challenges for the military context where personnel are required to work across multiple locations and at different security classifications. Systems need to be interoperable with New Zealand's defence partners, including in a coalition environment.

Sufficient resources have not been allocated to deal with extensive holdings of legacy information, including classified paper files.

A risk exists that information and knowledge could be subordinated to technology and systems under current leadership and accountability arrangements. The Chief Information Officer – rather than the Chief Data Officer – is the Senior Responsible Owner for the Information Management Programme, despite the programme being more focused on data and information than on technology and systems. The Chief Data Officer reports to the Chief Information Officer under current arrangements.

A lack of clear and consistent guidance on sharing information and knowledge outside the NZDF has contributed to a culture of persistent over-classification.

While processes are in place for transferring operational knowledge of public and political interest through multiple layers of command to the Minister of Defence, knowledge flows ultimately depend on individuals making the right decisions based on the guidance and instructions provided to them. To mitigate the risk that important information could be lost or misinterpreted, there needs to be formal, top-down accountability for the end-to-end fidelity and flow of this type of defence knowledge as it moves through the tactical, operational and strategic levels of decision-making.

## WHAT WE RECOMMEND

The Expert Review Group endorses the proposals to address issues with fragmentation, people capability and information technology systems through current NZDF change programmes dealing with improvements to information management and upgrades to existing technology. We note the implementation of these programmes is subject to Cabinet approval.

To improve the management of the NZDF's stored information beyond what is proposed in the draft business case for the Information Management Programme, we recommend the CDF take responsibility for:

- **defining and identifying NZDF's high-interest and high-value information**<sup>10</sup> and the records needed to support defence interests across all systems and locations, including for legacy information
- **prioritising the appraisal, declassification and/or disposal** (as appropriate) of high-interest and high-value information.

We also recommend the CDF **reconsider the balance of leadership, accountabilities and responsibilities between the Chief Information Officer and Chief Data Officer**. It is important these arrangements properly reflect the importance of information and knowledge as organisational assets.

To provide greater assurance around defence knowledge flows and their integrity, we recommend the CDF directs the **VCDF be given overall accountability and responsibility for the end-to-end stewardship of the flow and fidelity of operational knowledge of public and political interest across the NZDF**. To do so, the VCDF may want to draw on the information and knowledge management principles set out on pages 68–69 of this report.

Finally, we recommend the Commander Joint Forces New Zealand<sup>11</sup> identify opportunities to test information management systems and practices and knowledge flow. Exercise scenarios and the like should focus on situations that require the transfer of operational knowledge that is likely to be of public and political interest across multiple classifications and locations.

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## Implementation

The recommendations in this report are mutually reinforcing and should be implemented as a package to reduce the likelihood that the risks identified by the Inquiry reoccur. We considered how prescriptive we should be in recommending an approach to implementation, including on timeframes and individual responsibility for delivery. We are mindful that our recommendations involve the NZDF and Ministry of Defence changing how they work, both individually and in partnership. To ensure the intended outcomes of the recommendations are sustainable and fit for purpose, with strong organisational ownership, implementation must be jointly led by NZDF and Ministry senior leadership and developed with input from subject-matter experts from both agencies. We note some recommendations may have resource implications.

To provide assurance to Ministers, we suggest progress in implementing the recommendations be reviewed and reported to the Minister of Defence by 30 June 2023.

Finally, we want to acknowledge that even the best structures, leadership, processes, behaviours and attitudes cannot eliminate the risk that something will go wrong or be missed. The changes made to date and those proposed should help, but when several unlikely events align, problems can and will occur. Managing such problems requires Defence to have a culture that has embedded a strong commitment to enabling democratic oversight, upholding appropriate levels of transparency, and building and maintaining the trust and confidence of the government of the day and the public of New Zealand.

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<sup>10</sup> This is defined in *Part Four: Information Management and Flow of Defence Knowledge*, under Principle 4 on page 69.

<sup>11</sup> The Commander Joint Forces New Zealand commands Headquarters Joint Forces New Zealand and is the appointed operational commander of joint, combined (international) and single Service deployed operations.

# RECOMMENDATIONS

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**Recommendation 1:** We recommend the Minister of Defence direct the Secretary of Defence and Chief of Defence Force to strengthen integration between the NZDF and Ministry of Defence throughout the deployment lifecycle and at all levels of both organisations. As part of this direction, the Chief of Defence Force's terms of reference and the Secretary of Defence's performance expectations should state that the statutory term "major matters of defence policy" includes complex military operations that impact on national or international security.

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**Recommendation 2:** We recommend the NZDF and Ministry of Defence strengthen integration throughout the deployment lifecycle and at all levels of both organisations. In particular, we recommend:

- 2.1** the Vice Chief of Defence Force and Deputy Secretary Policy and Planning, in consultation with other national security agencies, develop and document an integrated deployment lifecycle with clear accountabilities and participation rights for NZDF and the Ministry of Defence across the whole deployment
  - 2.2** the Secretary of Defence and Chief of Defence Force, together with the Ministry of Foreign Affairs and Trade and the Department of the Prime Minister and Cabinet, institutionalise the use of senior reference groups for complex and extended deployments to strengthen interagency cooperation and knowledge sharing across relevant government agencies throughout the deployment lifecycle
  - 2.3** the Secretary of Defence and Chief of Defence Force:
    - work together to ensure measures of success are included in advice to Cabinet on the mandate for complex operational deployments
    - put in place post-deployment reviews to evaluate performance against these measures
  - 2.4** the Chief of Defence Force ensure a senior Ministry of Defence representative is appointed to the Strategic Risk Assessment Board and representatives of other national security agencies as appropriate.
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**Recommendation 3:** We recommend the Secretary of Defence and Chief of Defence Force work together to develop the capability required to embed the integrated deployment lifecycle. In particular, we recommend the:

- 3.1** Secretary of Defence work with the Chief of Defence Force to build a policy adviser (POLAD) capability, including agreeing clear accountabilities, reporting lines and required skill sets. Other national security agencies could be involved in growing this capability
  - 3.2** Chief of Defence Force mandate exposure to the broader policy context as part of a structured training and development programme for NZDF future leaders, including through secondments to other government agencies, the Office of the Minister of Defence and the Office of Chief of Defence Force
  - 3.3** Commander Joint Forces New Zealand, NZDF Strategic Commitments and Engagements Branch and Ministry of Defence identify opportunities to test the effectiveness of integrated working arrangements, including the POLAD function.
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**Recommendation 4:** We recommend the Chief of Defence Force, in consultation with the Secretary of Defence, review the suitability of particular elements of Headquarters NZDF for the future. As part of this review, we recommend the Chief of Defence Force:

- 4.1 establish with the Secretary of Defence an integrated strategic military and policy function that provides for the end-to-end strategic management of operations
- 4.2 reduce the span of control of the Office of Chief of Defence Force and prioritise its core functions, including those related to the Chief of Defence Force's operational and strategic responsibilities and external accountabilities for democratic oversight
- 4.3 direct that *NZDF Public Affairs Strategy 25* be revised to reflect key accountability relationships and position NZDF communications to meet contemporary accountability and transparency expectations.

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**Recommendation 5:** We recommend the Chief of Defence Force ensure that steps continue to be taken to integrate the New Zealand Special Air Service (NZSAS) into the wider NZDF and national security sector. In particular, we recommend the Chief of Defence Force:

- 5.1 integrate one or more Special Operations staff officer roles into the strategic military and policy function (see Recommendation 4) to enable appropriate transparency, oversight, assurance and strategic awareness of Special Operations
- 5.2 facilitate, in consultation with the Secretary of Defence, a broader discussion with other New Zealand defence, security and foreign affairs agencies about the role of the NZSAS in modern warfare and national security and its contribution to government priorities now and in the future
- 5.3 take a strategic and proactive approach to developing NZSAS leadership capability for the future and regularly monitor the leadership climate created by NZSAS leaders; in particular, by providing current commanders and high-potential personnel with opportunities to develop political acumen and a better understanding of the wider government authorising environment, including policy advice processes, the importance of democratic oversight and how to develop networks across the national security sector.

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**Recommendation 6:** We recommend the Chief of Defence Force improve the management of stored information by:

- 6.1 defining and identifying NZDF's high-interest and high-value information and the records needed to support defence interests across all systems and locations (including legacy information)
- 6.2 prioritising the appraisal, declassification and disposal (as appropriate) of high-interest and high-value information.

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**Recommendation 7:** We recommend the Chief of Defence Force reconsider the balance of leadership, accountabilities and responsibilities between the Chief Information Officer and Chief Data Officer to ensure they properly reflect the importance of information and knowledge.

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**Recommendation 8:** We recommend the Chief of Defence Force direct the Vice Chief of Defence Force be given overall accountability and responsibility for the end-to-end stewardship of the flow and fidelity of operational knowledge of public and political interest across the NZDF. The information and knowledge management principles set out in this report (pages 68–69) are intended to aid the VCDF in exercising this stewardship role.

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**Recommendation 9:** We recommend the Commander Joint Forces New Zealand identify opportunities to test information management systems and practices and knowledge flow, focusing on scenarios requiring the transfer of operational knowledge that is likely to be of public and political interest across multiple classifications and locations.

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# CONTEXT

In this part, we outline the background to and purpose of this report and explain contextual issues relevant to the development of our findings and recommendations.

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## 1. Operation Burnham

- 1.1 Operation Burnham was undertaken in Afghanistan on 21–22 August 2010. It involved the New Zealand Special Air Service (NZSAS) and other nations' forces operating as part of the International Security Assistance Force. It aimed to capture two insurgent leaders thought to have participated in an attack on a New Zealand provincial reconstruction team on 3 August 2010.
- 1.2 In their 2017 book *Hit & Run: The New Zealand SAS in Afghanistan and the meaning of honour*, Nicky Hager and Jon Stephenson questioned the conduct of New Zealand Defence Force (NZDF) personnel during both Operation Burnham and its aftermath.<sup>12</sup>
- 1.3 Most relevant to this report is Hager and Stephenson's accusation that the NZDF did not investigate the reports of civilian casualties and damage to civilian property following Operation Burnham, rather it tried to cover up what had happened. From 2010 to 2017, the NZDF and the Ministers of Defence consistently and publicly stated that reports of civilian casualties had been investigated and were "baseless" or "unfounded".<sup>13</sup>
- 1.4 *Hit & Run* also prompted the Inspector-General of Intelligence and Security to conduct their own inquiry into the roles of the Government Communications Security Bureau and New Zealand Security Intelligence Service in providing support to New Zealand military deployments in Afghanistan from 2009 to 2013.<sup>14</sup> The first section of the Inspector-General's inquiry report looks at the role of the Government Communications Security Bureau and New Zealand Security Intelligence Service in supporting the NZSAS on Operation Burnham.

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## 2. Inquiry into Operation Burnham and establishment of the Expert Review Group

- 2.1 In April 2018, the Government announced an inquiry into Operation Burnham and related matters (the Inquiry). The Inquiry's report was released in July 2020.<sup>15</sup>
- 2.2 The Inquiry found no evidence to support the allegation that the NZSAS unlawfully killed civilians during the operation nor evidence that there was an organised strategy to cover up possible civilian casualties by others involved in the operation. However, it did find there were significant shortcomings in the way the NZDF dealt with these issues in the aftermath of the operation, resulting in a series of incorrect statements in briefings to Ministers and public releases between 2010 and 2017. These events are summarised as follows.

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12 Nicky Hager and Jon Stephenson *Hit & Run: The New Zealand SAS in Afghanistan and the meaning of honour* Potton & Burton (2017).

13 Arnold and Palmer, above n 1, at page 27.

14 Inspector-General of Intelligence and Security (Madeleine Laracy) *Report of Inquiry into the Role of the GCSB and the NZSIS in Relation to Certain Specific Events in Afghanistan: Public report* Office of the Inspector-General of Intelligence and Security (2020) <https://www.igis.govt.nz/assets/Inquiries/Inquiry-into-events-in-Afghanistan.pdf>.

15 See the summary of findings and recommendations in Sir Terence Arnold and Sir Geoffrey Palmer *Report of the Government Inquiry into Operation Burnham and Related Matters* (2020) at pages 20–33, <https://www.igis.govt.nz/assets/Inquiries/Inquiry-into-events-in-Afghanistan.pdf>.

- An erroneous communication from the NZSAS Senior National Officer in Kabul to the Director of Special Operations in Wellington misrepresented the findings of the International Security Assistance Force Incident Assessment Team that investigated the reports of civilian casualties.
  - The misrepresented findings were accepted without question by the Senior National Officer's superiors despite being contradicted by other information available to the NZDF.
  - Even once the error was discovered, the NZDF initially failed to adequately correct its earlier incorrect statements and advice to the Minister of Defence.
  - The NZDF continued to repeat its incorrect statements publicly and to Ministers. The Inquiry found this was due to failures both of organisational structure and systems, including the failure to keep proper records and inadequate information storage and retrieval processes, and of culture.
- 2.3 The Inquiry made four recommendations. Recommendation 1 was that the Minister of Defence establish an expert review group to enable the Minister to "satisfy him or herself that NZDF's (a) organisational structure and (b) record-keeping and retrieval processes are in accordance with international best practice and are sufficient to remove or reduce the possibility of organisational and administrative failings of the type identified in [the Inquiry's] report".<sup>16</sup>
- 2.4 Cabinet approved the terms of reference for the Expert Review Group in October 2020.<sup>17</sup> The terms of reference proposed a two-phase approach. This report constitutes the outcome of the first phase, which is to consider matters contained in Recommendation 1 of the Inquiry. After Phase 1, the Minister of Defence will consider whether to seek Cabinet agreement for Phase 2, which would look at broader NZDF organisational matters. The terms of reference are set out in *Appendix A*.
- 2.5 The other recommendations in the Inquiry's report are not in scope of the Expert Review Group's work. For the record, Recommendations 2 to 4 of the Inquiry are summarised below with information about their implementation.
- Establish, by legislation, an office of Independent Inspector-General of Defence to provide independent and external oversight of the NZDF. The Ministry of Defence is developing policy proposals for Cabinet consideration.
  - Promulgate a Defence Force Order setting out on how allegations of civilian casualties should be dealt with both in theatre and at Headquarters NZDF. The Chief of Defence Force (CDF) issued *Defence Force Order 35: New Zealand Defence Force Response to Civilian Harm* on 21 January 2021.<sup>18</sup>
  - Develop and promulgate effective detention policies and procedures for a) people detained by New Zealand forces in operations overseas, b) people detained in operations overseas where New Zealand forces are involved with the forces of another country, and c) the treatment of allegations that detainees in either category have been mistreated or tortured in detention, including by New Zealand personnel. The Ministry of Foreign Affairs and Trade is leading the work to implement this recommendation.

<sup>16</sup> Arnold and Palmer, above n 1, at page 33.

<sup>17</sup> Cabinet Minute CAB-20-MIN-0458 refers. Available from <https://www.defence.govt.nz/assets/publication/file/Appointment-of-Expert-Review-Group.pdf>.

<sup>18</sup> NZDF *Defence Force Order 35 New Zealand Defence Force Response to Civilian Harm* (2021) [www.nzdf.mil.nz/assets/publication/dfo\\_35.pdf](http://www.nzdf.mil.nz/assets/publication/dfo_35.pdf) (accessed 19 June 2021).

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### 3. Reputational impacts

- 3.1 In his statement announcing the release of the Inquiry's report, the Attorney-General noted that while *Hit & Run* was right in some important respects, it also contained many errors.<sup>19</sup> In particular, the book impugned the integrity and professionalism of NZSAS personnel on the ground during Operation Burnham.<sup>20</sup> The Inquiry found their actions were professional and lawful.
- 3.2 During our interviews and visits, personnel often spoke about the reputational impacts that Operation Burnham and its aftermath have had on the NZSAS in particular, but also the wider NZDF. Some personnel felt the events had unfairly called into question the NZDF's operational effectiveness when many of the issues raised in the Inquiry were instead failures of leadership. We agree with the Inquiry that the failures identified were not simply failures on the part of individuals. They can also be attributed to organisational structures and systems and to culture.<sup>21</sup>

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### 4. Expert Review Group's purpose and approach

- 4.1 The Inquiry found the NZDF's failure to provide full, timely and accurate advice to Ministers over several years following Operation Burnham undermined the constitutional principles of civilian control of the military and ministerial accountability to Parliament.<sup>22</sup> Inquiry report authors Sir Terence Arnold and Sir Geoffrey Palmer questioned whether the NZDF's culture, organisational structure and systems leave it vulnerable to repeating the failings described.<sup>23</sup>
- 4.2 The purpose of this report is to provide the Minister of Defence with an assessment of the extent to which the changes made by the NZDF since Operation Burnham, together with the improvements we recommend, will reduce the likelihood that the failings identified by the Inquiry will be repeated.
- 4.3 We looked at written rules, regulations, policies and procedures and interviewed people relevant to the review topics identified in the Expert Review Group terms of reference. Our approach is explained in *Appendix B: Acknowledgements and Methodology*.
- 4.4 It is important to note that while the improvements to structures, systems, processes, behaviours and attitudes recommended in this report are intended to minimise the risk that the events of Operation Burnham and its aftermath will happen again, this risk can never be eliminated. Military organisations like the NZDF have many rules and regulations governing the actions of personnel but ultimately rely on people making the right decisions based on the guidance and instructions provided to them. This becomes especially complex when applying lethal force at scale, which is by nature multifaceted and unpredictable.

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19 Attorney-General (Hon David Parker) "Operation Burnham report released" (31 July 2020) <https://www.beehive.govt.nz/release/operation-burnham-report-released> (accessed 17 May 2021).

20 Attorney-General, above n 19.

21 Arnold and Palmer, above n 1, at page 284.

22 Arnold and Palmer, above n 1, at page 28.

23 Arnold and Palmer, above n 1, at page 285.

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## 5. Timing considerations and an overview of the future threat environment

- 5.1 This report comes at a time when the NZDF's overseas deployment tempo is lower than it has been for two decades. Several NZDF officers we spoke to caveated their assessment of whether changes implemented since 2010 – such as the establishment of the Special Operations Component New Zealand at Headquarters Joint Forces New Zealand – had been successful, as these changes had not yet been tested in a high tempo or complex coalition environment, as was the case in Afghanistan.
- 5.2 Furthermore, the character of conflict is changing. The future geostrategic and geopolitical environment is likely to involve increased competition and confrontation between states and political systems, rapid technological change, and transnational challenges such as climate change, biosecurity risks, terrorism and organised crime. These changes will increasingly blur traditional distinctions between peace and war, home and away, state and non-state, and virtual and physical. Information and technology are no longer just enablers for military organisations but can be used as weapons in their own right through misinformation and disinformation campaigns, cyber-crime or state-sponsored cyber-attacks. Operations will likely be carried out closer to home as the cyber and intelligence domains gain more prominence.
- 5.3 New Zealand needs to be ready to anticipate and respond to both an increase in the tempo of operations and the rise of new challenges that could occur within its borders and near region. We developed our findings and recommendations with this in mind. We further explore the implications of the changing role of information and technology in the context of modern military operations in *Part Four: Information Management and Flow of Defence Knowledge*.

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## 6. International comparisons

- 6.1 In addition to the valuable input we received from our two international advisers, we also obtained information from defence agencies in Australia, Canada, the Netherlands, Singapore and the United Kingdom on their organisational structure and record-keeping and retrieval processes.
- 6.2 These partners told us that managing knowledge effectively in complex military environments is challenging. Furthermore, increasing the visibility and oversight of Special Forces activities are significant challenges for many militaries, especially considering that Special Forces have traditionally been seen as having extensive secrecy requirements for operations. The increasing use of Special Forces to achieve strategic goals and the rising public and political pressure for more transparency around security and intelligence activities means many democratic nations are seeking greater oversight and assurance of what their Special Forces do.

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## 7. Social licence and the pressure for greater transparency

### SOCIAL LICENCE

- 7.1 Establishing and maintaining the trust and confidence of Ministers, Parliament and the public is critical for militaries in a liberal democracy. To exist and carry out activities in the interests of New Zealand, the NZDF requires explicit permission from Ministers who are ultimately accountable to Parliament and the people of New Zealand. Public opinion both shapes and is shaped by the political parameters placed around defence activities, and together they form the social licence that allows the NZDF to operate.
- 7.2 While the NZDF regularly polls as one of the most trusted government organisations in New Zealand,<sup>24</sup> the aftermath of Operation Burnham and the Inquiry created some sense of public discomfort about the NZSAS's expeditionary mode of employment.<sup>25</sup> New Zealand's Special Operations capabilities include the Counter Terrorism Group and Explosive Ordnance Disposal Task Unit, which are often employed domestically in support of New Zealand Police, but it is the NZSAS's role as a combat force that can contribute to coalition operations that has the highest public profile. We were told members of the public still think the NZSAS unlawfully killed civilians during Operation Burnham, despite the Inquiry finding that NZDF personnel on the ground acted lawfully and professionally.
- 7.3 Moving on from Operation Burnham and its aftermath will involve reinforcing the social licence between the NZDF (in particular, the NZSAS) and the people it serves. Strengthening and maintaining trust, confidence and credibility will require the NZDF to have a heightened awareness and understanding of government and ministerial thinking and policy parameters throughout the lifecycle of an operational deployment and for policy advice to be integrated into decision-making at the tactical, operational and strategic levels. It will also require NZDF to address shortcomings in its record-keeping and retrieval processes as identified by the Inquiry. It will mean making adjustments that help to ensure the CDF, Secretary of Defence and Minister of Defence have sufficient visibility of NZDF activities to enable democratic oversight to be carried out.

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24 For example, the NZDF was second in the 2020 Colmar Brunton Public Sector Reputation Index and 10th in 2019: Colmar Brunton *Public Sector Reputation Index 2020* (no date) <https://static.colmarbrunton.co.nz/wp-content/uploads/2019/05/Public-Sector-Reputation-Index-2020.pdf> and Colmar Brunton *Public Sector Reputation Index 2019* (no date) <http://static.colmarbrunton.co.nz/wp-content/uploads/2019/05/Public-Sector-Reputation-Index-2019-Report-FINAL.pdf>.

25 For example, Bryce Edwards "Hit and run inquiry: Reactions throw doubt over trust in New Zealand military" *Radio New Zealand* (4 August 2020) <https://www.rnz.co.nz/news/on-the-inside/422712/hit-and-run-inquiry-reactions-throw-doubt-over-trustin-new-zealand-military> (accessed 28 April 2021).

## PRESSURE FOR GREATER TRANSPARENCY OF SECURITY ACTIVITIES

- 7.4 For defence and security agencies in New Zealand and other democratic nations across the world, balancing the principles of 'need to know' (predicated on preserving operational safety and security) and 'no surprises' (predicated on ensuring the Minister has appropriate visibility of significant matters within their portfolio responsibilities) is increasingly important.<sup>26</sup> To reduce the likelihood that the failings identified by the Inquiry are repeated, striking an appropriate balance between these principles must be actively managed.
- 7.5 As mentioned above, public and political pressure for greater transparency of military and intelligence activities has intensified over the last few years. Broad-brush references to national security concerns no longer provide an automatic justification for withholding information and knowledge. Yet there are often legitimate reasons for secrecy, and sometimes, protecting information and knowledge is literally a matter of life and death for military personnel. For the NZDF, reconciling these tensions has been exacerbated by behaviours and practices across the organisation in respect of need-to-know information. Need-to-know doesn't necessarily mean only one or two people know. It means the **right** people know.
- 7.6 A shift towards greater transparency can be a daunting prospect for defence and security organisations, including the NZDF, that are used to, at least partially, operating in a world that is not readily visible to the public. Many of the senior NZDF leaders we spoke to acknowledged the importance of transparency in terms of gaining and maintaining the trust and confidence of Ministers. While this is encouraging, enduring change requires concrete action. Ministers' trust and confidence can be sustained only if there is high assurance that knowledge, which is essential to democratic oversight, is being properly managed at the strategic level, as well as at the operational and tactical levels. Implementing the proposed modifications to the NZDF's organisational structure and information and knowledge management systems and practices, combined with a strong commitment to advancing transparency from all Defence leaders, should eventually lead to lasting behavioural change.

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## 8. Over-reliance on relationships

- 8.1 We observed good relationships within and between NZDF and Ministry of Defence personnel in all the areas we reviewed. These relationships are essential for any organisation to function effectively. However, we found current working relationships between these two defence agencies on operational deployments is largely based on selective collaboration instead of documented and hard-wired integration. Selective collaboration is vulnerable to being undermined by dominant personalities. We consider hard-wired systems and processes are especially important in the NZDF where personnel are frequently rotated.
- 8.2 Defence's over-reliance on personalities and relationships when it comes to operational deployments is a theme we return to multiple times during this report. We have identified where we think key relationships need to be codified or existing documents need to be updated.

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26 The 'no surprises' principle is described in Cabinet Office *Cabinet Manual 2017* Department of the Prime Minister and Cabinet (2017) at paragraph 3.22(a) on page 45, <https://dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf>.

**PART ONE:**

# **POLICY AND MILITARY INTEGRATION**



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# 1. Overview

- 1.1 Democratic oversight<sup>27</sup> of the military is an essential component of New Zealand's constitutional arrangements exercised by the government of the day through its Ministers and Parliament. It is not exercised by public servants, who can, however, play a valuable role in providing Ministers with contestable advice and keeping them appropriately informed.<sup>28</sup> Democratic oversight is key to safeguarding democratic accountability, ensuring compliance with domestic and international law, and mitigating the risk that uncontrolled armed forces can present to democracy.
- 1.2 The report of the Government Inquiry into Operation Burnham and Related Matters (the Inquiry) quotes former Minister of Defence Hon Dr Wayne Mapp, who pointed out that the Minister of Defence's role in operational matters is not clearly defined in the Defence Act 1990, which allows for flexibility in how different Ministers exercise democratic oversight.<sup>29</sup> While it has been the practice of most Ministers not to intervene in operational or tactical decisions – as these fall within the command responsibilities of the Chief of Defence Force (CDF) rather than the Minister's power of control – the Inquiry authors concluded that Ministers retain the power to intervene where an operation is in danger of breaching or undermining its mandate granted by Cabinet.<sup>30</sup>
- 1.3 In considering the matters addressed in this part, our thinking was influenced by an opinion prepared for us by the Crown Law Office.<sup>31</sup> That opinion states that navigating the grey area between 'strategic' and 'operational' decisions is crucial for the Minister of Defence to exercise democratic oversight of military activities effectively. To do so, the Minister needs to be properly informed in a timely manner by both the Secretary of Defence (the Secretary) as their principal civilian adviser and the CDF as their principal military adviser. The Secretary must have timely access to sufficient knowledge about relevant operations to appropriately advise the Minister. Under current arrangements – where the Secretary and their officials' role and involvement significantly decrease following the approval of the mandate – a risk exists that this will not always be the case. In our view, greater integration between the NZDF and the Ministry of Defence before, during and after complex deployments will enable both the CDF and Secretary to better fulfil their statutory functions and should result in more robust advice provided to the Minister of Defence. A truly complementary partnership between the CDF and Secretary and, critically, between their respective organisations, will help to ensure that the Minister of Defence has sufficient visibility and understanding of the NZDF's activities where these have potentially significant governmental impacts and that the Minister is able to properly exercise democratic oversight and accountability obligations to Parliament and the New Zealand public.

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27 We have used 'democratic oversight' rather than 'civilian control', the latter of which was used in the Inquiry's report to describe this concept. We agree with the Crown Law Office's assessment that 'democratic oversight' better reflects that oversight of the military is exercised by democratically elected representatives rather than civil servants, and enables better differentiation with the role of the Secretary of Defence as principal civilian adviser to the Minister.

28 Sir Terence Arnold and Sir Geoffrey Palmer *Report of the Government Inquiry into Operation Burnham and Related Matters* Government Inquiry into Operation Burnham and Related Matters (2020), at page 55, <https://operationburnham.inquiry.govt.nz/inquiry-report/>, quoting and agreeing with D K Hunn *Review of Accountabilities and Structural Arrangements between the Ministry of Defence and the New Zealand Defence Force* (2002), at paragraphs 2.7–2.9, <https://www.defence.govt.nz/assets/Uploads/a42faba2fa/hunn-review.pdf>.

29 Arnold and Palmer, above n 28, quoting the evidence of Hon Dr Mapp, at page 55.

30 Arnold and Palmer, above n 28, at page 60.

31 Crown Law Office *Role of the Ministry of Defence in Advising the Minister and Cabinet on Operational Deployments* (2021). Available from the Ministry of Defence's website under *Publications*.

- 1.4 Our discussions with international defence partners reinforced our finding that greater integration of military and policy advice would also be beneficial for operational effectiveness. The modern approach to democratic oversight assumes the purpose of the military is to further relevant government objectives.<sup>32</sup> As such, military operations of all types must always accord with policy. In the context of complex operational deployments, this is about more than advising the Government on the mandate at the commencement of an operation. As a deployment progresses, policy advice is required to manage changes to both the situation on the ground and the context in New Zealand. Equally, for the military to carry out its tasks effectively, policy must be fully aware of military opportunities and constraints. Integrating NZDF and Ministry of Defence perspectives throughout the deployment lifecycle is not just about providing greater levels of assurance around military operations, but also recognising that combining policy and military inputs in the authorisation, planning, execution and evaluation of a deployment will ultimately produce better outcomes.
- 1.5 This part is in three sections.
- Section A considers the legislative and constitutional framework governing the relationships between the Minister of Defence, CDF and Secretary and their respective organisations.
  - Section B explores the working relationship between Headquarters NZDF (HQNZDF), Headquarters Joint Forces New Zealand (HQJFNZ) and the Ministry of Defence during the mandate development, planning, execution and evaluation phases of a complex operational deployment. We refer to these phases collectively as the 'deployment lifecycle'.
  - Section C looks at the capability required for the NZDF and Ministry of Defence to develop and embed an integrated policy and military system.
- 1.6 In developing our recommendations and findings for this part, we considered whether significant structural changes to the Ministry and NZDF were required to support better policy and military integration. Ultimately, we decided that such changes would have implications for the machinery of government, which were not in scope for Phase 1 of this review but could be considered in Phase 2 should Cabinet agree to commence that phase. We noted that integration between the Ministry and NZDF had been achieved for the procurement of military capabilities within current legislative arrangements.

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32 Crown Law Office, above n 31, at page 7.

# SECTION A: LEGISLATIVE AND CONSTITUTIONAL FRAMEWORK

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## 2. Roles of the Minister of Defence, Secretary of Defence and Chief of Defence Force

- 2.1 The Expert Review Group terms of reference tasked us with looking at the extent to which the Defence Act 1990 does or should reflect a role for the Ministry of Defence, working alongside the NZDF, in advising the Minister of Defence and Cabinet on operational deployments. To answer this question, it is helpful to first examine the roles of the Minister of Defence, the Secretary and the CDF under the Act and the intersections between them.
- 2.2 We note that New Zealand military power is derived from a combination of legislation and the prerogative power, but we have focused on the Act as per the terms of reference.

### MINISTER OF DEFENCE'S ROLE

- 2.3 Section 7 of the Defence Act 1990 sets out the Minister's power of control of the NZDF, which is exercised through the CDF. As mentioned above, the power of control is not the same as the power of command. The CDF commands the Armed Forces under the Act through the Chiefs of Service.<sup>33</sup> The Crown Law Office's opinion is that distinguishing between **control** and **command** in this context "reinforces the general principle that the minister should not intervene in NZDF's day-to-day operations, but does not alter the constitutional principle of ministerial responsibility for the operation of the NZDF".<sup>34</sup> The power of control is to be exercised for the purposes of political control by the government of the day as per the ordinary principles of responsible government. Political control includes setting defence priorities, requesting approvals from Parliament for budget appropriation and from Cabinet for deployments, and setting the CDF's terms of reference.<sup>35</sup> The Prime Minister signs off on the rules of engagement for any operational deployment. We note this is a matter of practice rather than legal obligation.

### CHIEF OF DEFENCE FORCE'S AND SECRETARY OF DEFENCE'S ROLES AND THE INTERSECTIONS BETWEEN THEM

- 2.4 The Defence Act 1990 sets out a framework where the Secretary and CDF have separate accountabilities but complementary roles in advising the Minister of Defence, following consultation with one another. The CDF is the Minister's "principal military adviser" and as such has command of the Armed Forces.<sup>36</sup> The Secretary has neither the power of control nor command. The Secretary is the "principal civilian adviser" on defence matters to the Minister of Defence and other Ministers.<sup>37</sup> What a principal civilian adviser is or does is not defined in statute. The Secretary is given several other discrete functions under the Act: to formulate advice on defence policy and prepare defence assessments (in consultation with CDF), procure major military equipment, and arrange audits and assessments of defence functions.<sup>38</sup> Both the CDF and Secretary are responsible to the Minister of Defence for the operation of their respective organisations and the performance of their organisation's duties, functions and powers.<sup>39</sup>

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33 Section 8(3) of the Defence Act 1990.

34 Crown Law Office, above n 31, at page 8.

35 The terms of reference for the CDF are set by the Minister of Defence under section 25(2) of the Defence Act 1990.

36 Sections 25(1)(a) and 8(3) of the Defence Act 1990.

37 Section 24(2)(a) of the Defence Act 1990.

38 Section 24(2) of the Defence Act 1990.

39 For the Secretary of Defence, these obligations are derived from the Public Service Act 2020. For the CDF, they are derived from section 25(1)(b) of the Defence Act 1990.

2.5 The consultation obligations imposed on the Secretary and CDF are broad and situated within a framework of providing complementary yet contestable advice to the Minister. The Act states they are to consult with each other before advising the Minister on any “major matters of defence policy”.<sup>40</sup> However, the Act is silent on whether the Secretary’s advice function can or should be exercised on operational matters, even where operational matters may notionally constitute major matters of defence policy. The Minister can require consultation between the CDF and Secretary on any advice from either of them,<sup>41</sup> and the Act empowers the Secretary and CDF to request the Minister to make such a direction.<sup>42</sup> Professor Matthew Palmer described this as a “blunt and haphazard instrument”.<sup>43</sup>

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### 3. Gaps and issues

- 3.1 The statutory framework governing consultation and cooperation between the CDF and Secretary leaves much to the discretion of the two officeholders, including what constitutes “major matters of defence policy”. We observed a good level of cooperation and consultation between the current CDF and Secretary. Most advice to the Minister of Defence is jointly submitted, including submissions on deployments. The Secretary told us he had good visibility of deployments through attending a weekly operations brief, but acknowledged if the tempo of operations were to increase, he would require more regular briefings and information to properly fulfil his statutory function as principal civilian adviser to the Minister.
- 3.2 In our view, joint decision-making and information sharing on operational deployments cannot begin and end with the CDF and Secretary. It must also filter into their respective organisations. At the working level, established practices are in place for jointly developing the mandate for a deployment. However, the Ministry of Defence’s role and participation rights significantly decrease during the planning and execution and the evaluation phases. This is not optimal in terms of enabling the robust flow of integrated advice on complex operations and constitutes a risk to the proper exercise of democratic oversight. At present, it is possible the Minister may not be made fully aware of policy interests as well as operational matters. Furthermore, without equal and systematic access to knowledge by both the CDF and Secretary, the advice to the Minister may not be complete. To address this issue, the Minister needs to create certainty about the meaning and scope of the statutory term “major matters of defence policy” and set clear standards of service performance around these matters. We expand on this point in our conclusions and recommendations.

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### 4. Conclusions and recommendations

- 4.1 Returning to the question posed in the Expert Review Group terms of reference, the Defence Act 1990 does not explicitly mandate roles for the Ministry of Defence and NZDF in advising the Minister of Defence and Cabinet on operational deployments. It provides a broad outline of the CDF and Secretary’s respective roles and establishes a framework for an equal partnership between them, but allows for a lot of flexibility in how they work together to advise the Minister on defence matters.
- 4.2 The Crown Law Office’s view is that the structural separation of two equal advisers along ‘military’ and ‘civilian’ lines along with the consultation provisions in the Act, indicates Parliament intended for the Minister to be provided with contestable and balanced advice that reflects a range of points of view.<sup>44</sup> This includes advice on establishing the mandate for a deployment (where the Ministry’s role working alongside the NZDF to provide

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40 Section 31(1) of the Defence Act 1990.

41 Section 31(2) of the Defence Act 1990.

42 Section 31(3) of the Defence Act 1990.

43 Matthew Palmer “Legal analysis of New Zealand’s defence legislation” in Hunn, above n 28, Annex F, quoted at paragraph 73 of the Inquiry Report, above n 28.

44 Crown Law Office, above n 31, at page 2.

advice to the Minister and Cabinet is already well established) and also where an operation risks breaching or undermining its mandate; in other words, during the execution phase of the deployment lifecycle.<sup>45</sup> In our view, it also extends to the evaluation phase, which we expand on in paragraph 5.23.

- 4.3 While a good level of practical cooperation occurs between the CDF and Secretary on operational matters, most of these arrangements are not codified. We do not propose any immediate legislative change in the areas we have examined. The current Secretary and CDF both cautioned against being overly prescriptive in the Act about how they should work together. They felt such prescription could have a negative impact on their relationship, which will always be slightly different depending on the individuals filling each role. We agree with the Crown Law Office's opinion that the lack of specificity in the legislation could be addressed through policy and governance decisions. We note, however, it has now been over 30 years since the Act came into force. Particularly as the global security environment continues to evolve, we expect changes to the Act may be required in the medium term.
- 4.4 To ensure the Minister receives more comprehensive briefings from both principal advisers on all matters, we recommend that the Minister of Defence direct the Secretary and CDF to strengthen integration between the NZDF and Ministry throughout the deployment lifecycle and at all levels of both organisations. Integration in this context means meaningful participation by both the NZDF and Ministry of Defence in decision-making before, during and after an operation. This should be made clear in the CDF's terms of reference set by the Minister and in the Secretary's performance expectations set by the Public Service Commissioner. While not prescribed in the Act, we consider it would be beneficial for the Minister to formulate terms of reference or a letter of expectation for the Secretary too.
- 4.5 We also recommend the Minister use the terms of reference and/or performance expectations to set out what they understand to be the "major matters of defence policy" that must be consulted between the CDF and Secretary under section 31(1) of the Defence Act 1990. The Minister, in stating this definition as a general guiding principle common to both sets of documents, may also specify the particulars of the type of operation or situation it would apply to. In our view, complex military operations that impact on national or international security interests are within the scope of the term. These operations include those the NZSAS conducts across all of its modes of employment, but particularly deployments in a coalition setting.

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**Recommendation 1:** We recommend the Minister of Defence direct the Secretary of Defence and Chief of Defence Force to strengthen integration between the NZDF and Ministry of Defence throughout the deployment lifecycle and at all levels of both organisations. As part of this direction, the Chief of Defence Force's terms of reference and the Secretary of Defence's performance expectations should state that the statutory term "major matters of defence policy" includes complex military operations that impact on national or international security.

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- 4.6 Mechanisms for achieving greater integration in practice are contained in the following parts of this report. These parts include Recommendation 2 (develop and document an integrated deployment lifecycle), Recommendation 3 (build capability to develop and embed an integrated policy and military system and culture, including building a policy adviser function) and Recommendation 4 (establish an integrated strategic military and policy function).
- 4.7 Finally, we note that while the CDF and the Chiefs of Service are issued warrants for their positions as mandated by the Defence Act 1990, the Vice Chief of Defence Force (VCDF) is not included in this process. This report recommends the VCDF is given additional responsibilities and accountabilities, namely for developing and documenting an integrated deployment lifecycle and providing stewardship of the flow and fidelity of operational knowledge of public and political interest across the NZDF.
- 4.8 Furthermore, the 2010 Defence White Paper proposed making the VCDF the statutory deputy of the CDF to ensure continuity in command of the NZDF, but this proposal has never been implemented.<sup>46</sup> We encourage rectification of this matter if the Act is amended in the future.

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<sup>45</sup> Crown Law Office, above n 31, at page 13.

<sup>46</sup> Ministry of Defence *Defence White Paper 2010* (2010) [www.defence.govt.nz/publications/publication/defence-white-paper-2010-november](http://www.defence.govt.nz/publications/publication/defence-white-paper-2010-november).

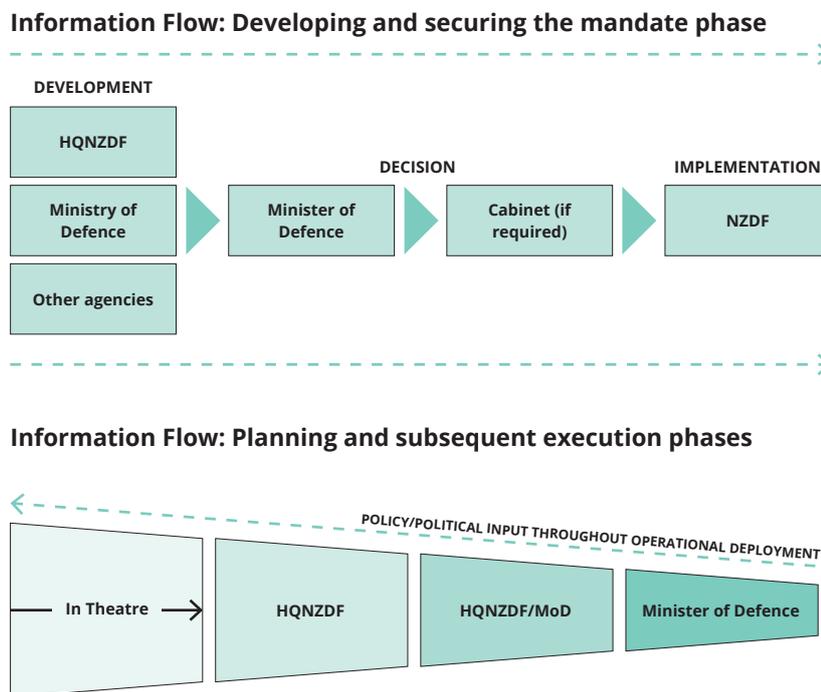
# SECTION B: WORKING RELATIONSHIPS BETWEEN HEADQUARTERS NZDF, HEADQUARTERS JOINT FORCES NEW ZEALAND AND MINISTRY OF DEFENCE

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## 5. Current working arrangements on operational deployments

- 5.1 The Expert Review Group terms of reference tasked us with considering the nature of the working relationship between HQNZDF, HQJFNZ and the Ministry of Defence for operational deployments. We found limited guidance that articulates distinct roles and responsibilities for NZDF, the Ministry of Defence and other key agencies such as the Ministry of Foreign Affairs and Trade (MFAT) in developing advice to the Government on operational deployments. Therefore, current arrangements are largely derived from precedent and practice and are heavily influenced by interpersonal relationships at the senior and working levels.
- 5.2 We heard and read about four key phases that describe the lifecycle of a complex deployment, which is the focus of this report:
- developing and securing the mandate
  - planning (including for compartmented operations)
  - execution (including for compartmented operations)
  - evaluation.
- 5.3 Given our conclusion in the previous section that the Minister – and the CDF and Secretary as their principal advisers – needs sufficient oversight of the NZDF's activities throughout the whole deployment lifecycle to properly exercise democratic oversight, we looked at current levels of engagement and information sharing between the defence agencies across these four phases.
- 5.4 As illustrated in Figure 1, the level of integration between NZDF and the Ministry of Defence in the advice provided to the Government on deployments decreases significantly from the mandate development phase to the planning and execution phase. A gap appears to exist around the monitoring and evaluation of a deployment at the strategic level with neither agency assuming consistent responsibility for this role. We explore these issues from paragraph 5.23. Next, we set out the current arrangements for each phase.

Figure 1: Information flow between the NZDF and Ministry of Defence



Note: HQNZDF = Headquarters New Zealand Defence Force, MOD = Ministry of Defence, NZDF = New Zealand Defence Force, HQJFNZ = Headquarters Joint Forces New Zealand.

## DEVELOPING AND SECURING THE MANDATE

- 5.5 The format of advice on operational deployment mandates and the intended audience (that is, the Minister of Defence, other Ministers or Cabinet) is predicated on existing authorisations or guidance in Cabinet minutes that the Ministry of Defence and NZDF are in the process of collating and codifying. Generally, all operational deployments that are not in support of other New Zealand government agencies<sup>47</sup> or that are outside the Pacific region<sup>48</sup> must be approved by Cabinet unless Cabinet has delegated that authority to Ministers with Power to Act.
- 5.6 The current agreed process for developing joint advice on deployment mandates is relatively new and did not exist when Operation Burnham took place in 2010. In interviews and presentations, people from across both organisations consistently referenced the 'should we, could we, will we?' model that designates specific roles and responsibilities across the NZDF and Ministry of Defence.
- 5.7 **Should we?** The Ministry of Defence's International Branch takes the lead on scoping strategic considerations, including New Zealand's defence and foreign policy interests and broader national security interests, in close consultation with MFAT and the NZDF. The Ministry of Defence also coordinates input from other agencies, typically the Department of the Prime Minister and Cabinet and The Treasury, as well as the New Zealand intelligence community. At this stage, Ministry of Defence and NZDF personnel from both HQNZDF and HQJFNZ agree a deployment paper plan with input from MFAT in consultation with the Office of the Minister of Defence, which formalises the milestone schedule for reporting to Cabinet and proposes draft recommendations. This plan is shared with the Office of the Minister of Defence to test the proposed advice, which is then used as the basis for consultation with other Ministers' offices.

47 Memorandums of understanding exist with several other government agencies to facilitate NZDF support. Domestic operations are conducted in accordance with these memorandums or standing contingency plans (Joint Service Plans) issued under the authority of CDF that detail how NZDF will support other government agencies in extreme events.

48 Routine Pacific operations are also conducted in accordance with established memorandums of understanding (for example, maritime surveillance operations in the Pacific and Southern Ocean in support of New Zealand Customs or the Ministry for Primary Industries) or Joint Service Plans within current authorisations.

- 5.8 **Could we?** The NZDF's Strategic Commitments and Engagements (SCE) Branch is primarily responsible for coordinating consolidated advice from across the NZDF on whether the deployment is achievable given the nature of the mission and existing operational commitments. This includes working directly with HQJFNZ to understand the NZDF's ability to conduct the proposed operation.
- 5.9 **Will we?** The Ministry of Defence's International Branch drafts the Cabinet paper in consultation with MFAT and the NZDF, with officials' advice signed off by the Secretary, CDF and MFAT's Deputy Chief Executive. The paper is usually presented to a Cabinet committee and Cabinet jointly by the Ministers of Foreign Affairs and Defence. The committee, and subsequently Cabinet, considers the recommendations and decides whether the deployment will go ahead and with any caveats.
- 5.10 Table 1 is from the Ministry of Defence's *Guidelines for Writing Deployment Papers* and is used by the Ministry, the NZDF and other agencies in developing deployment advice.<sup>49</sup>

Table 1: *Guidelines for writing deployment advice*

STAGE	CONSIDERATIONS	LEAD
<b>Should we?</b>	<p>Is it in our broader national security interests to deploy?</p> <p>What are the defence and foreign policy considerations?</p> <p>Is it consistent with international and domestic law?</p> <p>What are the threats and can they be managed?</p>	<p>Ministry of Defence and Strategic Commitments and Engagements Branch (NZDF)</p> <p>Ministry of Foreign Affairs and Trade (if joint)</p> <p>Department of the Prime Minister and Cabinet (if required)</p>
<b>Could we?</b>	<p>Does the NZDF have the capabilities?</p> <p>What is the impact on other outputs?</p> <p>Can we sustain the capability for the duration of the operation?</p> <p>What is the impact on contingency plans?</p> <p>Are we still able to meet our responsibilities within the Pacific?</p> <p>Would we be able to maintain concurrency and sustain operations?</p>	<p>Strategic Commitments and Engagements Branch (NZDF), Headquarters Joint Forces New Zealand</p>
<b>Will we?</b>	<p>Officials make recommendations</p> <p>Cabinet (or Ministers) decides</p>	<p>Cabinet</p>

49 Ministry of Defence *Guidelines for Writing Deployment Papers* (2020).

## PLANNING AND EXECUTION

### PLANNING: RULES OF ENGAGEMENT, THE CDF AND OPERATIONAL DIRECTIVES

- 5.11 Once Cabinet has authorised the mandate for a deployment, the NZDF will use this authority to plan and execute the mission. A CDF Operational Directive is issued to HQJFNZ containing mission objectives, tasks, operational security requirements and threat assessment, planning guidance, and public affairs, logistics and legal instructions. In some cases, the directive will also include specific reporting requirements.
- 5.12 The rules of engagement will also be issued as an order from the CDF. Rules of engagement are developed by NZDF Defence Legal Services staff and other relevant personnel based at HQJFNZ and are endorsed by the Minister of Defence and approved by the Prime Minister. They direct the NZDF as to when its personnel may or may not use force against people or property and detail the authorised level of any such force. Not all operations require rules of engagement; they are issued in circumstances where it is envisaged that members of the NZDF may need to use force, whether the situation amounts to armed conflict or not. While rules of engagement are often operation-specific, sometimes a standard self-defence rules of engagement card is sufficient. Any military commander operating under a standard self-defence rules of engagement card may request amendments to the extant rules in accordance with the relevant doctrine, for instance in response to perceived deficiencies in the rules or due to changes in the operational situation. The Prime Minister must also approve amendments.
- 5.13 In addition to the law, rules of engagement are also influenced by national policy, political and diplomatic factors, and operational considerations. While the current New Zealand Defence Doctrine on rules of engagement<sup>50</sup> does not refer to engaging with MFAT and the Ministry of Defence, we understand NZDF lawyers have engaged with these groups on policy considerations for recent rules of engagement. Defence Legal Services advised us that the next iteration of the Defence Doctrine will include consultation with MFAT and the Ministry of Defence as a requirement. We support this development.
- 5.14 The Commander Joint Forces New Zealand uses the CDF Operational Directive to develop and issue the Command Directive to the Senior National Officer, who is the senior deployed commander. The Command Directive is generally accompanied by a series of operational orders and instructions. These documents set out both routine and extraordinary reporting procedures and usually include a requirement to report to HQJFNZ any matters that could generate public attention. Commanders are also required to file a Critical Incident Notification in respect of certain matters if they occur. One of the criteria for sending such a notification is any incident, accident, event or activity likely to generate political interest.
- 5.15 In the past, reporting requirements were fairly standard across all operations. However, a recent Cabinet paper on an NZDF deployment mandated joint NZDF–Ministry of Defence weekly reporting to Ministers and relevant agencies. As a result, the reporting requirements for that deployment are much more detailed than those in other directives we reviewed. This provides a useful model for future complex operational deployments as to how reporting requirements could be configured. We reflect on current reporting procedures and proposed improvements in greater detail in *Part Four: Information Management and Flow of Defence Knowledge*.

### EXECUTION: MAINTAINING SITUATIONAL AWARENESS DURING THE DEPLOYMENT

- 5.16 Personnel at HQJFNZ receive regular reports out of theatre during the execution of a mission in accordance with the formal procedures outlined above, including a weekly situation report from the Senior National Officer. The Commander Joint Forces and the CDF are briefed from these reports throughout the week. For urgent and critical matters, a 24/7 enabled watch centre at HQJFNZ links theatre to the Commander Joint Forces and CDF so anything of note can be immediately reported.

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50 NZDF *Rules of Engagement NZDDP – 06.1* (New Zealand Defence Doctrine Publication, 2020) <https://operationburnham.inquiry.govt.nz/assets/IOB-Files/3.-NZDDP-06.1-pdf-2010-Doctrine-Redacted.pdf> (accessed 13 April 2021).

- 5.17 Senior officers at HQJFNZ also maintain awareness of the operational environment through regular, informal engagement with the Senior National Officer. The extent of this engagement is dependent on the individuals involved but could, for example, include the Senior National Officer having a monthly phone call with the relevant Component Commander<sup>51</sup> or emailing HQJFNZ following a meeting with a coalition counterpart. In some cases, the knowledge from these engagements will be passed to HQNZDF for consideration and discussion at the strategic military level (for example, as part of the CDF's weekly Operations Brief or provided to SCE Branch).
- 5.18 Ministry of Defence officials are made aware of information such as numbers of personnel deployed, rotations and changes in the security environment during a deployment's execution phase through their attendance at the CDF weekly Operations Brief and regular meetings with SCE Branch and HQJFNZ. Information on operational deployments is also collated and disseminated across both the NZDF and the Ministry of Defence in the form of a weekly report to the Minister. For some deployments in the Middle East, for example, Ministry staff also receive updates relevant to the operating environment from MFAT officials based overseas. These interactions are entirely relationship-based.
- 5.19 In the past, security sector officials at tiers 2 and 3 convened senior reference group meetings to discuss New Zealand's deployments. These meetings have no foundation documents or formal terms of reference, but we understand they were first convened during New Zealand's deployment to Afghanistan and evolved to cover defence deployments in the Middle East more broadly. The meetings provided an opportunity for senior officials from the NZDF, the Ministry of Defence, MFAT, the Department of the Prime Minister and Cabinet and the intelligence community to share updates and discuss the latest developments, including potential changes to the operating or policy context. We were told that in lieu of senior reference group meetings at present, the Ministry of Defence regularly convenes interagency meetings with tier 2 officials to discuss and agree significant advice on certain deployments or groups of deployments when developing advice to Cabinet on mandate renewals. We understand these meetings serve a similar purpose to senior reference group meetings. We were also told the Ministry of Defence proposed to revive the more formal senior reference group meetings in respect of complex deployments, but that the proposal has not yet been taken further. We understand the NZDF supports the proposal to re-establish senior reference groups.
- 5.20 Traditionally, Ministry of Defence staff have had no direct communication with the Senior National Officer and limited interaction with HQJFNZ. However, we note staff from the Ministry of Defence's International Branch, alongside SCE Branch, briefed outgoing NZDF personnel as part of their pre-deployment training earlier in the year, and in the last few years they have been invited to attend Senior National Officer briefings on their return from deployment. We understand Ministry staff do not receive the Senior National Officers' weekly reports despite requesting them. Our view is that the Ministry should be given access to these reports by HQJFNZ or SCE Branch.

## PLANNING AND EXECUTION OF SENSITIVE OPERATIONS

- 5.21 Since the events of Operation Burnham and its aftermath, the NZDF has introduced a two-stage risk management process centering on the Operational Risk Assessment Board (ORAB) and Strategic Risk Assessment Board (SRAB) to provide better checks and balances around sensitive operations. The two boards consider the operational, reputational and national security risks of the operation as a whole, including whether any information needs to be compartmented as a risk mitigation measure. Other national security agencies sit on ORAB, including MFAT, but it has no Ministry of Defence representative. No agencies external to the NZDF have representatives that sit on the SRAB. We note that the ORAB and SRAB process for sensitive operations is at an early stage of maturity, so is evolving. Given the current low tempo of operations, it has not been used extensively.

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51 The respective Maritime, Land, Air and Special Operations Component Commanders are the principal advisors to the Commander Joint Forces New Zealand on the employment of maritime, land, air and Special Forces capabilities. Each Component Commander commands assigned forces, including contributing personnel to overseas operations when required.

5.22 We understand that there is no official NZDF policy or process specifically about how the compartmentalisation of certain deployments is determined and what policies and processes are applied to these deployments. Compartmentalisation is used when a military operation or activity requires more stringent levels of security than other classified activities. For compartmented operations or activities, the number of people who have access to knowledge about the operation is highly controlled. Each sub-compartment is individually determined and risk-assessed so a breach of one will not compromise the others. We note the NZDF's intention to develop a Defence Force Instruction to detail principles, accountabilities and responsibilities for the determination, authorisation and management of compartmented activities. We support the development of this instruction, and our views on what should be included in it are in the conclusions to this section.

## EVALUATION

5.23 In contrast to the specific roles and responsibilities designated to the NZDF and Ministry of Defence across the 'should we, could we, will we?' model, there does not appear to be a consistent or formalised process around measuring and assessing whether the deployment is meeting or has met the government's strategic objectives, even for a complex and extended deployment (the 'did we?'). 'Hot washes'<sup>52</sup> immediately after operations and after-action reports<sup>53</sup> help to determine how a deployment is performing at an operational level. A team at HQJFNZ is responsible for continuous improvement, and some reviews are performed. However, we believe more regular, structured and strategic reflection on lessons learned following complex operational deployments is needed, including an assessment of whether New Zealand achieved its main objectives. Such assessments would require measures of success to be defined during mandate development.

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## 6. Gaps and issues

- 6.1 We found four main gaps and issues in relation to the working relationships between HQNZDF, HQJFNZ and the Ministry of Defence.
- Joint working arrangements during mandate development work well but overly rely on personal relationships.
  - Policy input is limited to the mandate development phase.
  - HQJFNZ would benefit from greater connectivity with the strategic level of decision-making.
  - A lack of clarity exists around advice and the measurement of deployment performance and delivery of deployment outcomes.

### **JOINT WORKING ARRANGEMENTS DURING MANDATE DEVELOPMENT WORK WELL BUT OVERLY RELY ON PERSONAL RELATIONSHIPS**

6.2 We observed that both the NZDF and Ministry of Defence appear to have a clear sense of their respective roles during the mandate development phase. Some interviewees reflected on the existence of healthy friction and robust engagement throughout the process. For the most part, it appeared that the two agencies work in partnership to produce advice to the Government on the deployment mandate that reflects both military and policy considerations. This accords with the framework set out in the Defence Act 1990.

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52 We were told that a 'hot wash' is essentially a quick download of an operation as soon as it is completed.

53 After-action reports are compiled 24 to 48 hours after an operation and sent to HQJFNZ.

6.3 While the process for developing joint advice to the Government on deployment matters has been codified to an extent,<sup>54</sup> the roles and responsibilities of each organisation have not been formally agreed between them. People we spoke to from the relevant teams in the NZDF and Ministry of Defence observed that successful working relationships were largely based on good personal relationships. Without codification, the collaborative working arrangements are at the mercy of individual personalities and could be quickly unwound with changes in key personnel.

## **POLICY INPUT IS LIMITED TO THE MANDATE DEVELOPMENT PHASE**

- 6.4 Ministry of Defence officials are largely excluded from the planning and execution phases of the deployment lifecycle. They rely heavily on leveraging relationships with personnel in HQNZDF to obtain visibility of significant changes to the operational environment that have potential policy implications. Once the mandate has been agreed, the Ministry of Defence does not generally have a role in providing input or advice to Ministers on matters relating to that deployment until – and if – the mandate is reviewed.
- 6.5 People across both organisations told us that the prevailing attitude in the NZDF was resistance to the involvement of policy officials once the mandate had been obtained. This view appeared to be underpinned by perceptions of policy as constraining and likely to slow things down to the detriment of operational effectiveness. Ongoing policy input was also widely seen as unnecessary given the permission space had already been defined in the mandate. The exclusion of policy officials in the planning and execution phases of a deployment was often justified as part of the ‘necessary’ segregation between ‘policy’ and ‘operational’ matters.
- 6.6 We agree it is important that the Ministry of Defence avoids involvement in operational and tactical matters that fall within the CDF’s command responsibilities outlined in the overview to this part (in paragraph 1.2). To us, however, it does not follow that once a mandate has been set the decisions made during the rest of the deployment lifecycle are purely operational. Operational deployments take place in a dynamic environment, where both the situation on the ground and the policy context back in New Zealand are constantly changing and evolving. For extended deployments, in a coalition setting in particular, the mandate cannot, and does not, account for that complexity.
- 6.7 Incorporating policy perspectives throughout the deployment lifecycle is consistent with international practice and can assist those in the military command chain to navigate the shifting permission space, including building trust and confidence with Ministers by ensuring they are properly advised and informed of the policy implications of an operational activity. It also improves diversity of thought, which ultimately strengthens operational decision-making and effectiveness. If implemented correctly, greater integration will provide military personnel with greater operational flexibility, as well as more capacity to focus on the mission at hand.
- 6.8 We were informed the sharing of information and knowledge between the NZDF and government agencies other than the Ministry of Defence with an interest or stake in operational deployments has improved over the past few years. Interviewees from MFAT told us the NZDF now has a better understanding of the implications of operational outcomes on New Zealand’s foreign policy objectives and strategies than it did in the past, and there is greater trust between the two agencies. However, we were also told by senior MFAT staff that information flows (including between NZDF personnel in theatre and MFAT staff posted offshore) are often overly reliant on personal relationships, and getting information about the situation on the ground can be hindered by NZDF’s hierarchical structure. MFAT, NZDF and Ministry of Defence interviewees all spoke positively about the role of senior reference groups (see paragraph 5.19) in bringing together interagency views on strategic issues on a regular basis.

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54 For example, the ‘could we, should we, will we?’ model is set out in Ministry of Defence *Guidelines for Writing Deployment Papers* (2020), and the NZDF doctrine *Joint Operations Planning* (no date) reflects that advice to Cabinet and the Minister at the planning stage will be provided jointly by the CDF and Secretary.

## **HEADQUARTERS JOINT FORCES NEW ZEALAND WOULD BENEFIT FROM GREATER CONNECTIVITY WITH THE STRATEGIC LEVEL OF DECISION-MAKING**

- 6.9 It is vital that personnel at HQJFNZ and senior officers in theatre fully understand the desired strategic effects and outcomes of each mission. This includes understanding policy imperatives, which, as noted above, tend to change and evolve over time. Given the Ministry of Defence's limited role during the planning and execution phases of a deployment, HQJFNZ – and those in theatre – are largely dependent on HQNZDF (usually SCE Branch) to update and advise them on the policy context. We were informed that this was done on an ad hoc basis: there is no formal process for feeding back strategic considerations from HQNZDF to the operational and tactical levels during an extended deployment. We were told the CDF's weekly Operations Brief is tactically focused and that knowledge is passed from HQJFNZ up to HQNZDF but not much is passed back down. Attendees do not usually discuss the strategic implications of the operations briefed. We also note that visits to theatre by Ministers and members of Parliament provide a useful touchpoint for those on the ground to get up to date on government thinking but these visits are infrequent.
- 6.10 We were told in interviews with staff at HQJFNZ and former Senior National Officers that they often feel disconnected from the strategic centre. This issue has been acknowledged by HQNZDF, and we understand SCE Branch is developing an overarching military strategy and governance structure to link strategy to operational outputs. We endorse the intent behind this work and see it as an intermediary step towards introducing a strategic military and policy function in the longer term (see further *Part Two: Headquarters New Zealand Defence Force*). It is vital the strategy and structure are nested within the wider national security context. In undertaking this work, the NZDF and Ministry of Defence should consider the military's role in achieving New Zealand's overarching foreign policy and national security objectives both now and in the future. Planning of NZDF's future activities should be undertaken with these considerations in mind.
- 6.11 In our view, embedding a policy adviser function (whether policy advisers are deployed, based in HQJFNZ, or both) would also help to provide a clearer line of sight from the strategic centre to the operational front and vice versa. We expand on this proposal later in this part.

## **LACK OF CLARITY EXISTS AROUND ADVICE AND MEASUREMENT OF DEPLOYMENT PERFORMANCE AND DELIVERY OF DEPLOYMENT OUTCOMES**

- 6.12 While the NZDF has processes in place at the tactical and operational levels for capturing a record of actions and events, there is also a need to evaluate success against mandated objectives and capture lessons learned in a more strategic and joined-up way. Mandate periods for NZDF complex operational deployments are often relatively short (usually two years) compared with those of New Zealand's coalition partners. A stronger evaluation function together with improved oversight could provide Ministers with the assurance required to consider longer mandate periods.

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## 7. Conclusions and recommendations

- 7.1 New Zealand is out of step with international partners we spoke to in terms of policy and military integration. Our discussions with counterparts in Canada, the United Kingdom, the Netherlands and Australia revealed the benefits of integrating military and policy personnel throughout the deployment lifecycle. Greater integration is not a cure-all solution for preventing the types of issues identified by the Inquiry, but it will certainly help reduce the risk of such issues occurring in the future.
- 7.2 In our view, definitive advantages exist in strengthening arrangements for joint participation and decision-making between the NZDF and Ministry of Defence throughout all phases of the deployment lifecycle, including:
- providing the Minister of Defence with added assurance that they have the information and advice required to properly exercise democratic oversight
  - better aligning operational outputs with strategic objectives through greater integration of military and policy advice at the working level – policy officials are used to operating in an ambiguous context and can support military personnel in navigating and interpreting changes in the policy and operational environments that inevitably occur during a complex and extended deployment in a coalition setting.
- 7.3 Integration of the nature envisaged in this report – rather than the selective collaboration practised by the NZDF and Ministry of Defence on deployment matters currently – requires both organisations’ respective roles and responsibilities to be agreed and documented. This is particularly important given the short military posting cycle and turnover of Ministry staff in key roles. In making our recommendations for more integration between the NZDF and Ministry of Defence, we note the risk of loading transaction costs or compliance burdens onto deployed personnel in frontline positions in the military chain of command. Therefore, there will be a need to exercise restraint in process design and implementation.
- 7.4 For the evaluation phase of the deployment lifecycle, we recommend institutionalising post-deployment reviews for complex, extended deployments to assure Ministers, bring the defence agencies into line with other agencies in terms of monitoring and evaluation practices, and assist in advancing public transparency around NZDF’s deployments. Either the NZDF or Ministry of Defence could lead these reviews, which should reflect the broad variety of perspectives of those involved in the deployment, including those of MFAT officials in Wellington and offshore. To ensure measures of success are made clear in the mandate for the deployment, we propose adding an additional ‘did we?’ step to the ‘should we, can we, will we?’ model for developing advice for Cabinet.
- 7.5 For complex and extended deployments in particular, we recommend institutionalising the use of interagency senior reference groups to provide a regular touchpoint for the relevant agencies to share information and knowledge and seek advice throughout the deployment lifecycle. Having external input will strengthen strategic decision-making on deployments and ensure the broader policy context is considered. These groups should have only a small membership of tier 2 and tier 3 leaders to avoid having too many people involved and adversely impacting on the nature of the conversation.
- 7.6 We understand and acknowledge the need for specific security restrictions for certain operations. However, the Secretary must be given full visibility of sensitive operations to properly fulfil their statutory function, so we recommend a senior member of the Ministry of Defence be appointed to the SRAB. Furthermore, we encourage the NZDF to invite senior representatives of other national security agencies to contribute where an issue has wider security and foreign policy implications. This would help to inform decision-making around sensitive operations by providing challenge and diversity of thought.
- 7.7 We support the development of the Defence Force Instruction to codify the criteria for compartmentalisation and promote consistency of practice. We encourage the NZDF to finalise the instruction as soon as possible. To avoid an entire operation being compartmented unnecessarily, it is important that the criteria in the instruction help identify the elements of an operation that need protection and the harm that would occur if they were not protected.

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**Recommendation 2:** We recommend the NZDF and Ministry of Defence strengthen integration throughout the deployment lifecycle and at all levels of both organisations. In particular, we recommend:

- 2.1** the Vice Chief of Defence Force and Deputy Secretary Policy and Planning, in consultation with other national security agencies, develop and document an integrated deployment lifecycle with clear accountabilities and participation rights for the NZDF and Ministry of Defence across the whole deployment
  - 2.2** the Secretary of Defence and Chief of Defence Force, together with the Ministry of Foreign Affairs and Trade and the Department of the Prime Minister and Cabinet, institutionalise the use of senior reference groups for complex and extended deployments to strengthen interagency cooperation and knowledge sharing across relevant government agencies throughout the deployment lifecycle
  - 2.3** the Secretary of Defence and Chief of Defence Force:
    - work together to ensure measures of success are included in advice to Cabinet on the mandate for complex operational deployments
    - put in place post-deployment reviews to evaluate performance against these measures
  - 2.4** the Chief of Defence Force ensure a senior Ministry of Defence representative is appointed to the Strategic Risk Assessment Board and representatives of other national security agencies as appropriate.
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# SECTION C: EMBEDDING POLICY AND MILITARY INTEGRATION

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## 8. Introduction to capability requirements

- 8.1 Successfully embedding integration will rely on both the NZDF and Ministry of Defence being willing to embrace new ways of working together and develop new capabilities. In this section, we examine the capability required to embed the integrated deployment lifecycle. To do so, we have drawn on lessons from international partners.

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## 9. Developing a policy adviser function

- 9.1 Unlike the international partners we spoke to, New Zealand does not have a designated policy adviser (POLAD) function. POLADs are officials who provide policy advice and input to military commanders at tactical and operational levels and feed knowledge back to the strategic centre. They can be deployed to the operational headquarters or military theatre. There was widespread support for establishing a POLAD function among the NZDF and Ministry of Defence staff we interviewed. However, it was agreed that further thought needed to be put into reporting lines and accountabilities and developing the right skills and experience among Ministry staff fulfilling the POLAD function.
- 9.2 The Ministry of Defence has sporadically provided POLAD capabilities to the NZDF, predominantly through exercises such as Southern Katipo 2017 (as has MFAT). We understand the Ministry's International Branch is in the early stages of looking at how to build a POLAD capability to be able to partake in further training exercises and, potentially, in humanitarian assistance, disaster relief and other missions. The Ministry has also considered establishing a permanent policy position in HQJFNZ. Our suggestions and recommendations are intended to complement and reinforce these initiatives.

### WHAT A POLICY ADVISER DOES

- 9.3 A POLAD has several functions. The first is to advise military personnel on the ground (from theatre or through a 'reach-back' function from operational headquarters) on matters that may affect New Zealand's national security and foreign policy interests as they relate to the deployment. This work could include the POLAD drawing on their understanding of the policy context to contribute to joint military planning processes and activities or interpreting and advising on the application of the mandate and directives to particular situations once they have been agreed. POLADs assist military personnel in assessing what knowledge needs to be escalated to Ministers, including about events or incidents that approach the limits of the mandate Cabinet granted. POLADs can also play a useful role when it comes to defence diplomacy. In many nations, POLADs accompany the commander to key leadership engagements. In a deployment scenario, POLADs can gain useful insights by building relationships with POLADs from other members of the coalition.
- 9.4 POLADs also facilitate an important channel of communication. In the United Kingdom, Australia, Canada and the Netherlands, POLADs maintain close connections and regular engagement with their policy colleagues based at the strategic headquarters, including by passing up risks, threats or issues with policy implications to senior officials. A POLAD function would improve the Secretary's and CDF's lines of sight to the operational front, strengthening their ability to properly advise and inform the Minister of Defence on the policy aspects of a deployment. POLADs would also have a robust understanding of the broader strategic considerations for that deployment, which they could pass on to military colleagues in theatre or at HQJFNZ in consultation with policy teams back home. This understanding would help generate a more effective feedback loop between the tactical, operational and strategic levels.

## WHEN POLICY ADVISERS ARE USED

- 9.5 While support for establishing a POLAD function was significant among those we interviewed, opinions varied on the types of situations they should be used for. We consider POLADs should be posted to operations alongside military personnel for complex or extended deployments. This is consistent with the approach taken by New Zealand's international partners we spoke to, as well as NZDF legal advisers, who we were told are not deployed on every operation.
- 9.6 We also note that for some situations it may work best if staff are designated as POLADs for certain operations but perform the POLAD role from Wellington. This model is used in Canada where, in addition to policy staff deployed overseas and to operational commands, they also have 'part-time' POLADs based in the central policy group in-country who advise military commanders.
- 9.7 Finally, we consider that deploying a permanent POLAD to HQJFNZ could be a useful first step. Establishing a POLAD position at HQJFNZ (or in any other capacity) should be viewed as part of a wider programme of integration and does not displace the need for additional policy advice throughout the deployment lifecycle. The advantages of deploying a POLAD role for Special Forces operations are explored in *Part Three: New Zealand's Special Forces*.

## REPORTING LINES AND ACCOUNTABILITIES

- 9.8 Agreeing clear accountabilities and reporting lines for the POLAD function will be crucial to its success. Lessons from international partners we spoke to and the NZDF's Defence Legal Services (DLS) suggest POLADs need to have direct access to the top of the command structure for their advice to be influential. For example, an NZDF legal adviser on deployment is a principal adviser to the commander. In Canada, it is agreed in advance that POLADs will be given access to major files. Encouragingly, the NZDF lawyers we spoke to highlighted a significant cultural change where most commanders now see lawyers as an enabler for successful, compliant missions rather than as a constraint on their flexibility.
- 9.9 Some partner countries we spoke to told us how their POLADs maintain independence by having the ability to report through to senior policy officials based in the strategic headquarters should this be required. This facilitates a connection through to the strategic centre, but is also a support mechanism for the POLAD with a direct link back to policy colleagues in case they encounter tricky questions or issues requiring a second opinion. We encourage the NZDF and Ministry of Defence to adopt the approach taken by Canada and Australia where policy and military leadership prepare agreements or directives on the POLAD's roles, responsibilities and expectations in advance of their being deployed.

## RELATIONSHIP WITH LEGAL ADVISERS

- 9.10 As mentioned above, the NZDF already deploys legal advisers for certain deployments. Legal advisers advise military commanders on whether something can be done within the bounds of the law, rather than whether it should be done from a policy or operational perspective. The NZDF lawyers we spoke to thought it would be useful to have POLADs sit alongside legal advisers in the context of a complex deployment and that the roles could be mutually supportive. Furthermore, one international partner described how the POLADs and legal advisers sit together and – while they are not equipped or authorised to provide professional quality assurance to another specialist role – can usefully 'sense-check' each other's advice.

## SKILL SETS AND RESOURCING

- 9.11 Before assessing the knowledge, skills and experience required for a POLAD, it is worth briefly examining the source of the policy officials who would staff this function. We understand the NZDF has perceived MFAT as the default provider of POLADs for exercises (with limited uptake) and had approached MFAT on the prospect of deploying a POLAD to HQJFNZ. Some personnel we spoke to said they were not sure if the POLAD function should be staffed by the Ministry of Defence or MFAT. International practice varies – in Australia, Canada and the United Kingdom POLADs are provided by the Ministry of Defence or equivalent, while in the United States and the Netherlands, foreign policy advisers that serve alongside the military are sourced from the State Department and Ministry of Foreign Affairs respectively (although they work closely with the Department of Defense). We favour the former practice as it would underscore the need for deep Defence expertise and strong military awareness and is an important means of the Secretary fulfilling their statutory accountability as the principal civilian adviser to the Minister of Defence.

- 9.12 Given New Zealand's small scale, we see benefit in other national security agencies also being involved in growing a POLAD capability. Based on experience, the nature of the mission must be a determining factor for New Zealand. Human security or stabilisation challenges that involve a significant civil or internal political dimension may again emerge in New Zealand's region. In this case, the New Zealand response would require MFAT's involvement in both its diplomatic and international development capacities and involvement of other agencies such as New Zealand Police. The NZDF may be required to provide a military 'shield' for such deployments. For this reason and because of New Zealand's small scale, we favour a flexible approach to growing a dedicated POLAD capability that is led by the Secretary and centres on the Ministry of Defence, but is inclusive of MFAT and other national security agencies' personnel as appropriate.
- 9.13 Both NZDF and Ministry of Defence staff talked about the need for the Ministry to be better equipped to perform the POLAD function, including by developing broader knowledge of military strategic thinking (see also *Part Two: Headquarters New Zealand Defence Force*) and gaining experience engaging with the military in an operational environment. According to our interviews and discussions with international partners, other qualities desirable in a POLAD are:
- the ability to identify the right questions to ask the NZDF to identify risks and sensitivities that need to be flagged up
  - a very good understanding of the military context and a highly informed level of awareness of joint operations
  - significant policy expertise and contextual knowledge to add value through their advice
  - being highly capable and sufficiently senior to be considered credible
  - the ability to build rapport with the recipients of their advice to engender greater levels of trust and with diplomatic representation on the ground as appropriate.
- 9.14 Finally, we welcome the preliminary work being undertaken by the Ministry of Defence's International Branch to build a POLAD capability.

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## 10. Training and development for senior and high-potential NZDF personnel

- 10.1 Military operations take place in a policy context. NZDF personnel at all levels should be trained on the constitutional and legislative framework within which they operate, including that the NZDF is ultimately responsible to the Minister of Defence for what it does or does not do. It is particularly crucial that those in command – including Senior National Officers – understand the policy dimensions of their authorising environment.
- 10.2 Several former Senior National Officers spoke about feeling personally unprepared to identify the policy risks and sensitivities related to their deployment. We heard that traditionally it has been up to the individual to seek out knowledge and briefings on policy issues and context before and during their deployment, with some officers being naturally more astute on this front than others. This ad hoc approach carries significant risk. Senior National Officers are responsible, among many other duties, for reporting back to New Zealand on events and incidents that have a high political and public interest. No written guidance exists to explain what that means for each mission (we expand on this in *Part Four: Information Management and Flow of Defence Knowledge*). Without being prepared in a consistent way to know what 'political interest' or 'policy setting' means at any given time for an operation, a risk exists that important knowledge is not passed to the strategic centre. We acknowledge efforts to expand pre-deployment training to include a brief on policy considerations that is delivered by both NZDF and Ministry of Defence personnel (also referenced in paragraph 5.20). We note the inclusion of the policy briefing has not yet been codified.

- 10.3 More widely, the NZDF Leadership Framework expects leaders to “[balance] multiple and conflicting demands from within and external stakeholder groups”<sup>55</sup> and consider diverse perspectives from lower leadership levels. To do so effectively, NZDF personnel need to be adequately trained and educated on their role within the broader national security sector and in relation to political decision-makers early on. This training should include an understanding of the policy advice process, the constitutional principle of democratic oversight of the military and the source of authority for operational activities arising from the Defence Act 1990.
- 10.4 In addition to training, secondments and rotations to policy-facing roles can also play an important part in exposing military personnel to the broad variety of external interests at play during the deployment lifecycle and improving their policy nous. Both the NZDF and Ministry staff we interviewed said NZDF personnel who had spent time in the broader public sector tended to have a valuable wider perspective on defence-related issues. For individuals identified as future leaders, stints in the Office of Chief of Defence Force or as Military Secretary in the Office of the Minister of Defence should be part of a structured programme of career progression. These roles provide individuals with exposure to strategic decision-making and an understanding of the broader context that is vital to their career development. The NZDF and Ministry of Defence should also think about secondments for high-potential NZDF personnel into the Ministry in a more formalised way and vice versa.
- 10.5 Positive developments have occurred in the last few years, such as improvements to pre-deployment training and the setting up of secondments to other government agencies. Furthermore, NZDF senior leadership appeared to agree that personnel needed to develop a better understanding of the policy components of operational deployments. However, a lot of work remains to be done to systematise opportunities that we found were still largely ad hoc and underdeveloped.

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## 11. Conclusions and recommendations

- 11.1 Successfully embedding an integrated model of working throughout the deployment lifecycle will require both the NZDF and Ministry of Defence to invest in the capability of their people and processes. We recommend that high-potential individuals identified as NZDF future leaders be given more exposure to and awareness of policy interests and how to work with Ministers as part of a structured programme of training and development. This could be through secondments to other government agencies, the Office of the Minister of Defence, and the Office of Chief of Defence Force. This training and development should also be provided to those holding senior positions at HQJFNZ (for example, Component Commanders) and HQNZDF. We encourage the NZDF to codify the inclusion of briefings on the policy components of a deployment in pre-deployment training.
- 11.2 We recommend the Secretary work with the CDF to build POLAD capability. This capability will support military personnel navigating the policy dimensions of a complex deployment and will improve channels of communication between the strategic centre and the operational front during those deployments. Given the small size of the Ministry of Defence, developing a cadre of people with the right skills and knowledge to undertake the POLAD function will require resources. It will also involve agreeing and codifying clear accountabilities and reporting lines. Other national security agencies could also be involved in developing this capability.
- 11.3 Finally, exercises and table-top activities are crucial for testing the effectiveness of working arrangements in a safe environment. We understand the POLAD function has become a regular component of the Southern Katipo exercise but that this exercise has not taken place since 2017 due to COVID-19. Exercise and table-top scenarios that require the NZDF and Ministry of Defence to work together during the execution phase of a deployment – including in providing information and knowledge up to the Minister of Defence – would be particularly beneficial to test the new working arrangements we propose, including the POLAD function. We recommend the NZDF and Ministry identify opportunities to do so.

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55 NZDF *Leadership Framework* (no date) at page 11.

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**Recommendation 3:** We recommend the Secretary of Defence and Chief of Defence Force work together to develop the capability required to embed the integrated deployment lifecycle. In particular, we recommend the:

- 3.1** Secretary of Defence work with the Chief of Defence Force to build a policy adviser (POLAD) capability, including agreeing clear accountabilities, reporting lines and required skill sets. Other national security agencies could be involved in growing this capability
  - 3.2** Chief of Defence Force mandate exposure to the broader policy context as part of a structured training and development programme for NZDF future leaders, including through secondments to other government agencies, the Office of the Minister of Defence and the Office of Chief of Defence Force
  - 3.3** Commander Joint Forces New Zealand, NZDF Strategic Commitments and Engagements Branch and Ministry of Defence identify opportunities to test the effectiveness of integrated working arrangements, including the POLAD function.
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**PART TWO:**

**HEADQUARTERS  
NEW ZEALAND  
DEFENCE FORCE**

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# 1. Overview

- 1.1 The report of the Government Inquiry into Operation Burnham and Related Matters (the Inquiry)<sup>56</sup> contains many references to Headquarters NZDF (HQNZDF). In particular, the Office of Chief of Defence Force (OCDF) and NZDF's communications team had a role in many of the failures after Operation Burnham by perpetuating a false narrative of what happened during the operation for the then Chief of Defence Force (CDF) and Minister of Defence to publicly state. Systems, processes and behaviours within HQNZDF were such that crucial information was discovered only by chance and, even then, repetition of a false narrative was not initially prevented.
- 1.2 The Inquiry's findings raised issues, which we have pursued, about how the structure and form of HQNZDF enables a variety of important functions and responsibilities that allow complex military operations to be conducted effectively and properly. These include the creation and flow of military knowledge from theatre to national security stakeholders and vice versa. Of particular importance is the end-to-end management of classified operational information so the CDF and Secretary of Defence (the Secretary) can fulfil their roles as the respective principal military and civilian advisers to the Minister, thereby enabling the Minister to have an appropriate level of visibility and knowledge to meet their democratic oversight and accountability obligations. The resilience of command and control architecture is vital in underpinning this function.
- 1.3 As the strategic centre of the NZDF, HQNZDF has responsibility for functions of both a military and corporate nature. HQNZDF must provide the CDF and Vice Chief of Defence Force (VCDF) with the functions they need to run the NZDF, monitor military performance and provide strategic direction to the wider organisation. Crucially, as the interface between the NZDF and the Government, HQNZDF is responsible for advising Cabinet and other government agencies on military matters. It also manages the NZDF's relationship with the Ministry of Defence to jointly advance the Government's defence objectives. In several interviews, we received general comments that HQNZDF has been gradually transforming to become more structurally shaped and resourced for the delivery of corporate support functions and governance rather than strategic military operations functions.
- 1.4 In times of high operating tempo when NZDF's capacity and resources are stretched across concurrent operational theatres, HQNZDF's performance as the strategic military headquarters becomes critical. During this review, it became apparent to us that the strategic military headquarters function in HQNZDF could be strengthened, including to incorporate a clear integrated military and policy element. Our recommendations reflect this finding, and we note that clear ownership and responsibility for implementing cross-cutting changes in systems, practices and behaviour will be needed.
- 1.5 HQNZDF has been reviewed several times over the last 15 years. The latest review (New Zealand Defence Force Headquarters Review 2019) evaluated HQNZDF's purpose, function and structure.<sup>57</sup> The recommendations of that review primarily related to the organisational re-alignment of HQNZDF, including the OCDF. While some recommendations were implemented, workforce cost pressures have meant that others that would have gone some way to addressing issues arising from the lack of clarity between the strategic military and corporate functions of the NZDF have not been addressed. We note that the structure of the OCDF has not changed. However, its head, the Chief of Staff HQNZDF, is considering a restructure proposal for the OCDF.

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56 Sir Terence Arnold and Sir Geoffrey Palmer *Report of the Government Inquiry into Operation Burnham and Related Matters* Government Inquiry into Operation Burnham and Related Matters (2020) <https://operationburnham.inquiry.govt.nz/inquiry-report/>.

57 Ernst & Young *New Zealand Defence Force Headquarters Review 2019* (2019).

- 1.6 It is against this backdrop that we considered (as drawn from the Expert Review Group terms of reference):
- whether the structure of the OCDF is optimised to enable the CDF to fulfil their responsibilities to Ministers in relation to complex operational deployments
  - how the flow of information on complex operational deployments involves the OCDF
  - how information about complex operational deployments is communicated to Defence Public Affairs (DPA), the NZDF's communications unit
  - how formal NZDF communications about complex operational deployments are drafted, approved and promulgated
  - how military lawyers are kept informed on the details of complex operational deployments, including in-theatre and at headquarters elements in New Zealand.
- 1.7 To answer these questions, we focused on four critical functions of HQNZDF (which also arose from our terms of reference):
- the OCDF, including the Chief of Staff, ministerial servicing team and the Chief Advisor Public Affairs
  - DPA
  - Defence Legal Services (DLS)
  - strategic military headquarters function.
- 1.8 We outline these functions before examining the key issues facing HQNZDF, including the 'bigger picture' issues about risks to the strategic military headquarters function. How information on operational deployments is provided to the OCDF and shared between the CDF and VCDF is explored in *Part Four: Information Management and Flow of Defence Knowledge*.

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## **2. Current functions: Office of Chief of Defence Force and the interface with the Office of the Minister of Defence, Defence Public Affairs, Defence Legal Services and Headquarters NZDF's strategic military function**

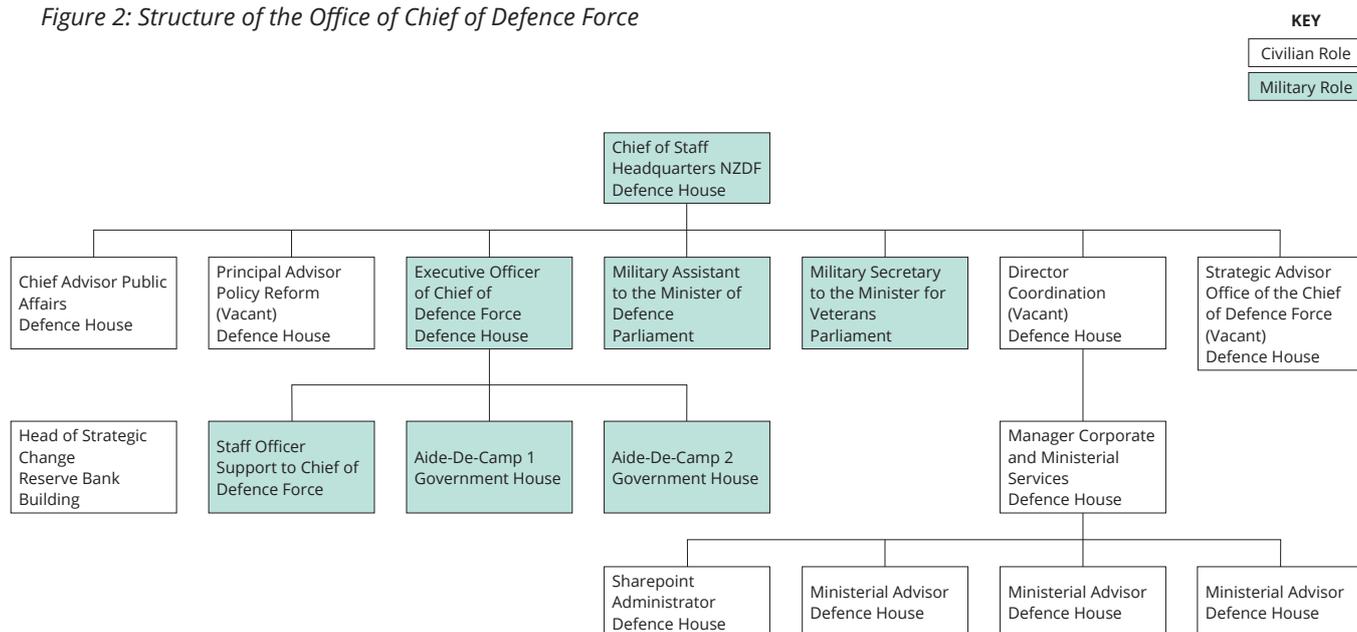
### **OFFICE OF CHIEF OF DEFENCE FORCE**

- 2.1 The OCDF contains a mix of strategic military and corporate support functions that are notionally designed to support the CDF in their dual role as both Chief of the Armed Forces and Chief Executive of NZDF.<sup>58</sup> It also provides a level of support to the VCDF for both shared and delegated responsibilities and to keep the VCDF 'in the loop' on decision-making and oversight of strategic military operations. Furthermore, the OCDF functions as an information clearing-house and is the key avenue through which information and advice is provided to the Minister. Its ministerial servicing team is responsible, in conjunction with the Ministry of Defence, for preparing and issuing responses to ministerial correspondence, requests under the Official Information Act 1982, parliamentary questions, media enquiries, and questions from the Foreign Affairs, Defence and Trade Select Committee. The structure of the OCDF is illustrated in Figure 2.

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<sup>58</sup> The NZDF is not a government department listed in Schedule 2 of the Public Service Act 2020, so is a non-public service department. However, the Defence Act 1990 makes the CDF responsible to the Minister in the same way as a departmental chief executive.

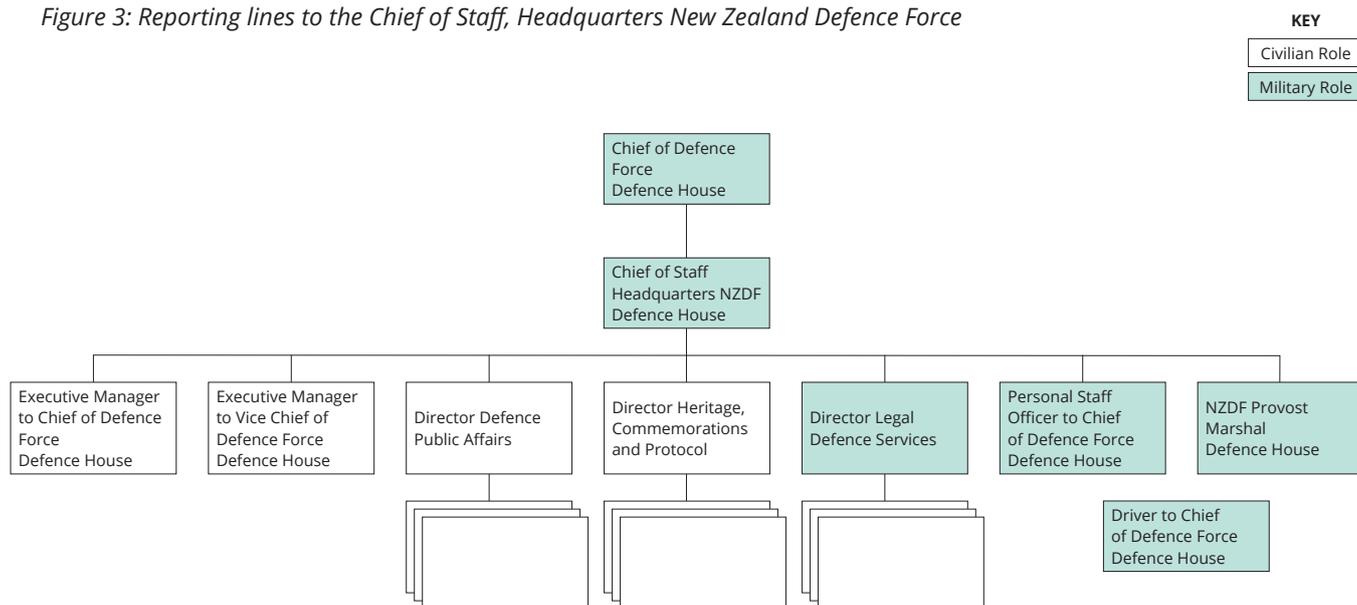
Figure 2: Structure of the Office of Chief of Defence Force



## CHIEF OF STAFF

- 2.2 The role of Chief of Staff heads up the OCDF and is a critical tier 3 position that a senior officer usually fills. The CDF has an understandably significant interest in the appointment process for this position as the relationship between the Chief of Staff and the CDF must be close and trusting. The role and work of the Chief of Staff reflect the CDF's priorities and work practices. That said, the Chief of Staff must also provide efficient services that facilitate the critical internal and external relationships through which coherence in corporate and underlying military decision-making is assured, at both individual and collective levels. As with all such functions across the public service, the OCDF is also an issue-management and problem-solving point in the system. In a large organisation with many complexities (such as managing the interface with the Navy, Army and Air Force Chiefs of Service and the Commander Joint Forces New Zealand), the Chief of Staff has a significant span of responsibilities, many of which are not explicitly stated in their position description.
- 2.3 The Chief of Staff told us that his primary focus is to collect and assess information from across the NZDF to provide strategic advice to the CDF and VCDF and through to the Minister of Defence, and that he supports HQNZDF's collective strategic military decision-making processes as a key output. We were told the CDF would receive very little information or advice that the Chief of Staff had not already been privy to or had input into. We were informed the current Chief of Staff is on call 24/7 and that it is not clear to everyone who the backup is when he takes leave or is unavailable.
- 2.4 The Chief of Staff has several functions reporting to them, some of which appear to be the result of ad hoc additions to the OCDF. We also note that the Director DLS and Director DPA report to the Chief of Staff. Figure 3 shows the reporting lines to the Chief of Staff. We observed that the Chief of Staff has a very wide span of responsibilities, incorporating a mix of coordination, clearing-house and line manager responsibilities.

Figure 3: Reporting lines to the Chief of Staff, Headquarters New Zealand Defence Force



## MINISTERIAL SERVICING

- 2.5 The Inquiry explored some of the complexities of information management and the flow of knowledge between and through the OCDF and the Office of the Minister of Defence. The relationships and processes that connect these areas are fundamental to ensuring the timely and accurate provision of high-quality information and advice. Both the team providing ministerial servicing and the Chief Advisor Public Affairs (who works closely with DPA) within the OCDF are functions critical to the quality and management of a significant amount of information that flows to the Office of the Minister of Defence. Both functions also maintain a close relationship with the Military Secretary, who is an NZDF staff member seconded to the Office of the Minister of Defence.
- 2.6 The ministerial servicing team in the OCDF occupies a key junction in the flow of information between the CDF and the Minister and is the point of response to a broad variety of public enquiries. The Ministry of Defence also maintains a team responsible for ministerial servicing and has the policy counterpart of the Military Secretary – the Private Secretary – in the Office of the Minister of Defence. Ministers may also engage a press secretary and individuals with a military or policy background to be on their personal political staff.
- 2.7 A close working relationship exists between the OCDF and Ministry of Defence in respect of ministerial services. We heard from several interviewees that there is now a greater focus on being transparent and publicly releasing information unless protection is necessary in accordance with the Official Information Act 1982. Since May 2018 (and as required by Cabinet since 1 January 2019),<sup>59</sup> both agencies’ ministerial servicing teams have helped to promote transparency about what the defence agencies do by proactively releasing Cabinet papers and other documentation on their respective websites.

59 Cabinet Office Minute CO (18) 4 refers. Available from <https://www.dpmc.govt.nz/sites/default/files/2018-10/CO-18-4--proactive-release-of-cabinet-material-updated-requirements.pdf>.

## CHIEF ADVISOR PUBLIC AFFAIRS

- 2.8 In addition to the Director DPA, the Chief of Staff also manages the Chief Advisor Public Affairs – a critical position that spans both the OCDF and DPA, but is formally part of the OCDF. This position was created in late 2014 and is currently filled by a civilian with professional experience in government media and communications who directly advises the CDF and NZDF senior leadership. The Chief Advisor Public Affairs is DPA's key day-to-day link to both senior NZDF leaders<sup>60</sup> and the Office of the Minister of Defence. Through this role, DPA is informed of matters that engage the CDF because they may have organisational or reputational implications. And through its media function, DPA performs the same alerting function back to the Chief Advisor Public Affairs. Together, the Chief Advisor Public Affairs and DPA operate in a high-trust and often high-pressure environment.
- 2.9 In reviewing and approving media responses or other communications produced by DPA, the Chief Advisor Public Affairs, by virtue of their experience and placement in a cross-cutting role, brings another perspective – consideration of the current political environment and how other government agencies may respond. The incumbent has strong relationships with key people in the Ministry of Defence and extensive experience in engaging with Ministers. It is important to note that the relationship between the Chief of Staff and the Chief Advisor Public Affairs is a critical accountability juncture for the NZDF as the information and advice they provide to the CDF and the Office of the Minister of Defence directly informs what is then passed on to Ministers, Parliament, media and the public.

## DEFENCE PUBLIC AFFAIRS

- 2.10 As the NZDF's communication unit, DPA manages media enquiries, press releases, social media and publications for NZDF personnel and the wider public. It has 46 staff located across HQNZDF and various camps and bases, and two staff members (one of whom works part time) situated at Headquarters Joint Forces New Zealand (HQJFNZ). DPA is headed by the Director DPA (currently a military appointment at Lieutenant Colonel rank). The Director is responsible for three main teams situated in HQNZDF – Media and Communications, Creative Services, and Digital and Marketing – as well as civilian public affairs managers and military public affairs officers outside of HQNZDF.
- 2.11 The Media and Communications team drafts reactive and proactive communications products for internal and external publication. Information and knowledge are obtained from subject-matter experts throughout the NZDF and then approved for release through the chain of command before being passed to the OCDF (the Chief Advisor Public Affairs and Chief of Staff) for final approval. All press releases and media responses are approved by the Chief Advisor Public Affairs, who provides strategic public affairs advice to the CDF and NZDF senior leadership.<sup>61</sup> This process is not straightforward; information and knowledge flows back and forth between parties while being worked on, and the Ministry of Defence and other agencies may be consulted depending on the topic.<sup>62</sup> The need-to-know principle is applied when the subject concerns operational security or sensitive diplomatic matters. We heard from multiple interviewees that DPA has good relationships across the NZDF, including with the New Zealand Special Air Service (NZSAS) and Ministry of Defence. The Ministry of Foreign Affairs and Trade is often heavily involved in the drafting of press releases on deployments, reflecting that such announcements are of foreign policy, political and diplomatic importance.

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60 It should be noted that as well as the Chief Advisor Public Affairs, DPA does have other links to senior NZDF leaders within its own structure, for example through the public affairs managers of each Service.

61 The Chief Advisor Public Affairs' position description (dated September 2014) states that this role provides "strategic public affairs advice to the Chief of Defence Force and the NZDF senior leadership" and "leadership and direction on public affairs issues, crisis and reputation management, and will provide oversight of public relations programmes to ensure they effectively describe and promote the strategic direction of the Defence Force".

62 It was encouraging to hear that DPA is in discussions with the Ministry of Foreign Affairs and Trade's strategic communications team to explore how they can better support each other.

## DEFENCE LEGAL SERVICES

- 2.12 DLS has 27 military and five civilian lawyers. Approximately half of the military lawyers and all of the civilian lawyers are located at HQNZDF, with two to three military lawyers at HQJFNZ at any given time. The remainder are spread around camps and bases. The remit of DLS covers both corporate and operational law, as well as litigation. NZDF lawyers are trained to a high level in the law of armed conflict and international humanitarian law. The source of the obligation to have legal advisers available to commanders during armed conflict is Article 82 of Additional Protocol I to the Geneva Conventions.<sup>63</sup> The NZDF's *Manual of Armed Forces Law* (volume 4) also sets out instances where commanders must seek legal advice.<sup>64</sup>
- 2.13 Many of the legal issues that arise about deployments have international legal or diplomatic complexities that call for more specialised advice from a non-military perspective, for example, from other agencies such as the Ministry of Foreign Affairs and Trade and the Crown Law Office. Additionally, the International Court of Justice is an important source of legal authority via its judgments. While the NZDF and the Ministry of Defence are separate legal entities, we note that the NZDF's legal capability is also important to the Ministry as it has no legal section, although several staff have legal qualifications.
- 2.14 In 2010, DLS was not an independent unit and did not have unfettered access to the CDF as the Director DLS reported to the VCDF (who, theoretically, could order the Director DLS not to engage directly with the CDF). However, since 2011, DLS has been an independent tri-service unit due to changes to the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 that required in-house lawyers to be independent. While the Director DLS reports to the Chief of Staff (who is of the same rank), the reporting relationship is for only line management purposes. This reporting line creates a notional risk of 'capture' – that legal advice could be marginalised by operational imperatives.
- 2.15 The Director DLS has a monthly meeting with the CDF and an 'open door' to communicate with the CDF at any other time if need be. Since 2014, a DLS legal adviser has attended the CDF's weekly Operations Brief as a matter of practice, and the Director DLS is a member of the Strategic Risk Assessment Board with full visibility and participation rights in the compartmentalisation process. The significance of this board is set out in *Part One: Policy and Military Integration*.
- 2.16 Legal advisers are not deployed on every operation, and the decision to deploy is made in consultation with command on a case-by-case basis, depending on the complexity of the operation and available resources at the time. Deployed lawyers always maintain a direct reporting line to the Director DLS. On deployment, a legal adviser advises personnel of their legal obligations and is a principal adviser to the commander. They are part of 'hot washes' and debriefs after an operation. Deployed legal advisers also maintain a situation report independently of command that is provided to the Director DLS.
- 2.17 As highlighted in *Part One: Policy and Military Integration*, the attitude of commanders towards the role of legal advisers in operational activities has improved considerably since 2010. The provision of legal advice and inclusion of legal advisers in all aspects of operational planning and conduct is now firmly seen as an enabler, rather than a hindrance.
- 2.18 DLS is a member of the Government Legal Network, and the Director DLS attends the regular meeting of chief legal officers from agencies across government. The Crown Law Office formed the Government Legal Network after it was recognised that government legal offices would benefit from regular interaction. Within the network sits the Defence, Security and Intelligence Practice Group. We heard how DLS is also well connected and leverages its direct relationships with other agencies regularly. In particular, DLS has a good working relationship with the Ministry of Defence.

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63 Jean-Marie Henckaerts and Louise Doswald-Beck *Customary International Humanitarian Law* Cambridge University Press (2005); *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol I)* 1125 UNTS 609 (opened for signature 8 June 1977, entered into force 7 December 1978) [Additional Protocol I].

64 NZDF *Manual of Armed Forces Law: Law of armed conflict* (DM 69 (2nd ed), volume 4, 2019) <https://www.nzdf.mil.nz/assets/Publications/DM-69-2ed-vol4.pdf>.

## HEADQUARTERS NZDF AS A STRATEGIC MILITARY HEADQUARTERS

- 2.19 We heard how an important lesson from the aftermath of Operation Burnham was that systems and practices for high-level strategic oversight of complex operations were variable within HQNZDF, including for NZSAS operations where the flow of information and knowledge was limited to a select number of individuals within the then-Directorate of Special Operations. Neither HQNZDF nor HQJFNZ was well-positioned to provide overarching advice about matters and issues of a strategic military nature to senior Defence leadership, national security stakeholders or deployed personnel. Some interviewees stated that the situation today remains largely the same.
- 2.20 As outlined in *Part One: Policy and Military Integration*, the NZDF's Strategic Commitments and Engagements (SCE) Branch and the Ministry of Defence's International Branch work together to develop joint defence advice on mandates for operational deployments. We heard how the SCE Branch (in particular) is taking steps to strengthen strategic military planning and monitoring.<sup>65</sup> However, it appears that limited strategic military advice is provided during or after an operation from HQNZDF to HQJFNZ or deployed personnel.

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## 3. Gaps and issues

- 3.1 We found five main gaps and issues in relation to our review of HQNZDF.
- The OCDF could function more effectively.
  - The NZDF needs to advance transparency in its communications.
  - Communications processes on complex coalition operations may not be adequate.
  - Some of DLS's critical accountabilities and reporting systems are not codified.
  - HQNZDF could function more effectively as a strategic military headquarters.

### THE OFFICE OF CHIEF OF DEFENCE FORCE COULD FUNCTION MORE EFFECTIVELY

- 3.2 We were told the OCDF has evolved in an ad hoc manner, with functions added or moved elsewhere according to the requirements of successive CDFs. How an individual fills the role of the CDF is driven by both the individual and the circumstances of the time – and the OCDF must be agile enough to cope with the ebb and flow of how any one individual CDF operates. We heard from many interviewees that tension exists between the OCDF's ability to adequately fulfil its military functions and its ability to adequately fulfil its corporate functions to support the CDF and VCDF. Noting the increase in the VCDF's responsibilities that will be required to give effect to the recommendations in this report, greater support will need to be provided by the OCDF to the VCDF.
- 3.3 The current OCDF appears to be perceived by some NZDF personnel as a largely administrative body that supports the corporate functioning of the NZDF reasonably well, but does not support strategic military decision-making in the same way and could be better connected to other parts of HQNZDF, including SCE Branch. A strategic planning function used to be in the OCDF before the establishment of HQJFNZ, and, while we do not recommend reinstating this function, we consider that the CDF is not supported as best they could be in both of their roles. We expand on this later in this part.

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<sup>65</sup> The SCE Branch is re-establishing the Strategic Effects Board, chaired by the CDF, which will make decisions on military strategic effects in accordance with strategic intent and plans. It will aid in ensuring coordination and synchronisation across the NZDF and be supported by the Strategic Effects Advisory Group, which will make recommendations to the Strategic Effects Board and oversee measurement of the effects.

- 3.4 Some concern was expressed to us about the OCDF's resilience in terms of personnel, and in particular the role of the Chief of Staff. The current Chief of Staff acknowledged the risk that he could become overburdened with the amount of information he receives. This is particularly problematic given the Chief of Staff's de facto responsibility for the **flow** and **fidelity** of information to the CDF, VCDF and Minister. Bearing in mind the failures during the aftermath of Operation Burnham, if the Chief of Staff, for whatever reason, does not receive, holds back, or misconstrues crucial information, considerable risk exists that the CDF and Minister could be misinformed, undermining the Minister's ability to properly exercise ministerial accountability and democratic oversight. We also consider that the Chief of Staff has too many line management responsibilities and does not have adequate support. These two factors combined mean that, regardless of the aptitude of any person in this position, it is a single point of failure. This is untenable, and we address the need for a separate information and knowledge stewardship function in *Part Four: Information Management and Flow of Defence Knowledge*.
- 3.5 We note that it is unusual for a Chief of Staff to have responsibility for an organisation's communications and legal units, as such functions often report directly to the Chief Executive. The future placement of DPA and DLS should be considered in the restructure proposal for the OCDF. It should also be considered whether units such as Heritage, Commemorations and Protocol could be moved out from under the Chief of Staff to reduce their span of responsibilities. Furthermore, we observe that civilian vacancies in the OCDF provide the Chief of Staff with an opportunity to consider where those roles are best-placed and how and with what skill sets and experience they are resourced.
- 3.6 The OCDF needs the right mix of people who understand the authorising environment, understand the various demands of internal and external stakeholders, and can communicate well for the strategic military and policy interface. This includes suitably experienced and capable civilian and military staff. We were told that the OCDF is not somewhere that personnel are posted early in their careers. The OCDF is the critical interface between the NZDF and Ministers and Parliament and, in our view, needs to grow leaders who have a robust understanding of the needs and responsibilities of the CDF, VCDF, Secretary and Minister of Defence. Accordingly, the OCDF should be a place where high-potential personnel from all over the NZDF are strongly encouraged to be posted to as part of their leadership development and training early on in their careers.
- 3.7 We requested the position descriptions for key roles in the OCDF. The ones we received were outdated or incomplete; others were missing. Some were found only after extensive searching. The descriptions we were able to review were heavily NZDF-centric and did not contain many references to the broader authorising environment, including the Government or Minister of Defence. In some cases, responsibilities significantly overlapped between roles.

## NZDF NEEDS TO ADVANCE TRANSPARENCY IN ITS COMMUNICATIONS

- 3.8 Many interviewees said that, since the Inquiry, the centrality of transparency to the NZDF's work has become better recognised. After the release of the Inquiry's report, the CDF spoke to DPA staff about the value of transparency and how undue operational security concerns should not prevent the release of information that does not need to be protected. We note that this message was not communicated to all NZDF personnel or in writing. Interviewees noted that there has been, at times, a greater willingness for senior leaders to front the media, for example when the Explosive Ordnance Disposal Task Unit carried out a recovery mission on Whakaari/White Island in December 2019<sup>66</sup> and the *Independent Review of the NZDF's Progress against its Action Plan for Operation Respect* was released in July 2020.<sup>67</sup>
- 3.9 DPA relies on the wider NZDF to provide information in an accurate and timely manner with appropriate consideration of what should be withheld due to valid operational security or other security concerns. However, we also heard how pockets of the NZDF 'self-censor' at times and unilaterally decide to hold back information from DPA for reasons that are not always justifiable. This presents both timeliness and attitudinal challenges, and means DPA staff often have to question why information is being withheld and educate other parts of the NZDF about why it is necessary to share information outside the organisation.

66 For example, see Anna Leask "White Island eruption: Defence boss' fears Whakaari recovery heroes" NZ Herald (16 December 2019) <https://www.nzherald.co.nz/nz/white-island-eruption-defence-boss-fears-for-whakaari-recovery-heroes/BVWRUWROTL2OOTWR3NJBIAQIKQ/> (accessed 4 May 2021) and David Fisher "New review finds a 'code of silence' among the problems dooming plan to eliminate sexual violence in our military" NZ Herald (16 July 2020) <https://www.nzherald.co.nz/nz/new-review-finds-a-code-of-silence-among-the-problems-dooming-plan-to-eliminate-sexual-violence-in-our-military/7AVTOA25GXOUAKLKPBT5L5MUE/> (accessed 4 May 2021).

67 Debbie Teale and Dr Carol MacDonald *Independent Review of the New Zealand Defence Force's Progress against its Action Plan for Operation Respect* Operation Respect Independent Review Team (2020) <https://www.defence.govt.nz/publications/publication/operation-respect-review>.

- 3.10 The entire NZDF has a responsibility to embed attitudes, behaviours and practices that advance transparency on defence matters. This requires a clear mandate from senior leadership that is also well understood by the NZDF more widely. The core of that mandate should be the NZDF's responsibility to inform the public, even where complex military operations are the subject and where operational security and other security factors are involved. We recognise that other interests may prevent the release of defence information into the public domain, including the interests of other governments or if it relates to other matters Ministers are considering. For some of those matters, for example announcements on major deployments, Ministers often elect to release this information.
- 3.11 DPA staff we spoke to told us that, based on the CDF's spoken instruction, they considered it their role to advance a culture of transparency within the NZDF. However, we consider that these efforts are constrained by the lack of explicit mandate to manage for transparency and an overt focus on maintaining a favourable public image. From in-use corporate documents and briefings provided to us, it appeared that the predominant emphasis was still on creating content to maintain and enhance the NZDF's reputation. We heard from some interviewees that internal communications can appear as 'spin' and are not engendering trust and confidence within the broader NZDF. In our view, the apparent weighting towards reputation management in such documents needs review. It looks insular and, conceivably, could be interpreted as coming at the expense of transparency in regard to practices and decisions about releasing information. Having a reputation as a trusted organisation stems from consistent behaviours and ways of working, even in adversity when difficult or negative events occur, not from selecting how and when to be proactive and forthcoming with information.
- 3.12 We were briefed on a draft of *NZDF Public Affairs Strategy 25*, which was finalised in April 2021<sup>68</sup> and applies to all public-facing units in the NZDF, of which DPA is one. It outlines six public affairs principles, including that "public affairs plays a key role in meeting transparency obligations within the requirements of organisational and operational security".<sup>69</sup>
- 3.13 The strategy as it stands is a positive step, yet, in our view, it can be improved. The strategy's context should be set by acknowledging and explaining the accountability relationships between the NZDF and Ministers, Parliament and the public. We found it lacked an overarching acknowledgement that transparency enhances the NZDF's wider standing and purpose, as well as an explicit mandate to manage for transparency. In contrast, the strategy seemed, as with its predecessors, to be weighted more towards an inward-facing goal of reputation management – we consider it should have an outward and proactive intent to meet contemporary public interest expectations.
- 3.14 Achieving greater transparency in what is sometimes called the 'post-truth era' is more complicated than it might seem. The strategy needs to acknowledge that defence public affairs exists in a complex and disrupted environment where the public consumes information in many ways from a variety of providers. The management of national security, diplomatic and operational security interests and the need to be transparent present a challenging operating environment for public affairs staff. The tension is clear. As reinforced in other parts of this report, operational security is a valid concern that, if mismanaged, can result in grave consequences. However, all NZDF personnel need to be aware that operational security should not be used as a blanket excuse to withhold information – there must be proper assessment of what is right for the Minister to know and what could reasonably be communicated to the media and the public.
- 3.15 Finally, it is concerning that DPA does not appear to have a longer-term communications plan. Such a plan should carry DPA's strategic goals into practice by linking them to the NZDF's other operational planning activities. It should do this by describing the operating environment and articulating the most appropriate ways and means to inform the media and public of the substance of what the NZDF is going to be involved in, taking into account any security constraints. The plan cannot replace the day-to-day requirements of the news cycle to which DPA must react and respond; however, it could help alter the balance between proactive and reactive communications.

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68 *NZDF Public Affairs Strategy 25* (draft, 2020), at page 2.

69 *NZDF Public Affairs Strategy 25*, above n 68, at page 14.

## **COMMUNICATIONS PROCESSES ON COMPLEX COALITION OPERATIONS MAY NOT BE ADEQUATE**

3.16 The current practice for drafting, approving and promulgating content related to operational deployments has not been stress-tested for reactive media management during complex coalition operations in recent years. In a defence coalition environment, partner control of the message can be dominant due the fact New Zealand does not usually command major coalition operations and relies on its partners to obtain information. A risk exists that partners may release information that New Zealand has not seen or is inconsistent with national messaging. We are concerned that on possible future coalition operations the NZDF may not be able to adequately manage the messaging around the activities and conduct of its forces. Senior National Officers are not chosen for their ability to manage media and communications issues. However, this competency is important for senior leaders and should be an element of their pre-deployment training. In addition to the support provided by DPA from HQNZDF, the designated policy adviser may be able to usefully advise the Senior National Officer on communications and media matters.

## **INVOLVEMENT OF DEFENCE LEGAL SERVICES IS NOT CODIFIED**

3.17 While the NZDF's *Manual of Armed Forces Law* (volume 4) sets out instances where commanders in theatre must seek legal advice, the changed behaviours and attitudes towards the inclusion of legal advice in other areas relies on personalities and relationships and does not appear to be codified, whether in relation to the inclusion of DLS legal advisers at the CDF's weekly Operations Brief or when DPA staff are required to consult DLS on a matter. Furthermore, the current 'open door' arrangement for the Director DLS to communicate with the CDF at any given time is not codified. Overall, while current collective practices, attitudes and behaviours mean personnel know to utilise DLS and value its input, future personnel may not know or choose to, and we were told that DLS could easily be left out of the loop on important matters or issues. We also observe that the current legal capability to support deployed forces is not stress-tested for higher tempo coalition environments. Both matters need attention.

## **HEADQUARTERS NZDF COULD FUNCTION MORE EFFECTIVELY AS A STRATEGIC MILITARY HEADQUARTERS**

3.18 We heard from several senior NZDF personnel that HQNZDF does not consistently carry out strategic military planning or monitoring of operations through the strategic lens across the duration of a campaign. On the planning front, no formal process includes all three Services for considering the prioritisation and utilisation of finite operational resources over the medium to long term and within the broader context of government objectives and external pressures.

3.19 The increasing demand on the NZDF to contribute to all-of-government activities, the ever-changing international security environment, and the emergence of new security issues will likely change the nature of what the Government asks the NZDF to do now and in the future. Furthermore, the increasingly dynamic security environment and complex operations demand persistent strategic management. While personnel in certain functions, including within the SCE Branch as previously mentioned, are working to improve processes for formulating strategic planning advice, our concern is that the current resourcing of SCE Branch and the structure of HQNZDF are not configured to enable these improvements.

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## 4. Conclusions and recommendations

4.1 We make seven conclusions in relation to HQNZDF.

- Military strategic planning and command and control within the NZDF should be improved.
- HQNZDF should be significantly enhanced as a strategic military centre.
- To govern and guide the development of the strategic military centre, a stewardship role and responsibilities should be assigned.
- There should be a comprehensive reconsideration of the purpose, functional priorities, structure and configuration of the OCDF.
- NZDF communications should focus less on reputation and more on accountability and transparency.
- Critical accountabilities and reporting systems for DLS should be codified.
- The NZDF should continue to use secondments and other opportunities to deepen and broaden DLS capability.

### **MILITARY STRATEGIC PLANNING AND COMMAND AND CONTROL WITHIN THE NZDF SHOULD BE IMPROVED**

4.2 In our view, a clear requirement exists to improve military strategic planning and command and control within the NZDF. We recommend that this is delivered to senior leaders from an integrated strategic military and policy function, which would provide the CDF, Secretary and Minister with clear strategic options and control. Crucially, this function would provide the opportunity for the Minister and Cabinet to receive advice from a higher-level risk scanning and assurance capability, where questions about current or upcoming operations and addressing future challenges could be raised. It would also take pressure off the OCDF, in particular the Chief of Staff, who at present is expected to manage the necessary coordination and quality control of information flows to the CDF and Minister. This function should include several staff officer positions, including Special Forces, which would deliver greater shared awareness of strategic thinking and Special Operations.

4.3 We note that standing up this function will require greater investment in military strategic thinking, training and development for NZDF personnel and Ministry of Defence staff. There is also benefit in officials from the wider national security sector developing these skills.

### **HQNZDF SHOULD BE SIGNIFICANTLY ENHANCED AS A STRATEGIC MILITARY CENTRE**

4.4 It is imperative that both the strategic military and corporate functions necessary for the CDF and VCDF to successfully deliver the NZDF's mission and responsibilities are adequately carried out by HQNZDF. It is our view that HQNZDF should be significantly enhanced as a strategic military centre, providing end-to-end strategic leadership and risk management of military activities. Moreover, the CDF and Secretary need to receive the appropriate information, in an accurate and timely manner, to be able to fulfil their respective roles as the principal military and civilian advisers to the Minister of Defence. As such, we recommend that the CDF, in consultation with the Secretary, review the organisational structure and resourcing of particular functions in HQNZDF with a view to ensuring it is best positioned to meet both present and imminent challenges and expectations, as outlined in previous paragraphs.

## **STEWARDSHIP OF THE STRATEGIC MILITARY CENTRE IS NEEDED**

4.5 As discussed in *Part One: Policy and Military Integration*, we recommend the NZDF and Ministry of Defence strengthen integration throughout the deployment lifecycle at all levels of their organisations. We also considered whether the proper overall functioning of HQNZDF as a strategic military headquarters and centre of military governance ought to be recognised as a distinct stewardship task. By virtue of the VCDF's rank and authority and responsibility for maintaining the joint working approach between the NZDF and the Ministry, we consider an integrated strategic military and policy advice function would require stewardship and quality control by the VCDF in conjunction with their Ministry of Defence counterpart. This further aligns with our recommendation in *Part Four: Information Management and Flow of Defence Knowledge* that the VCDF should have overall accountability and responsibility for the end-to-end stewardship of strategic information and knowledge of public and political interest in the NZDF.

## **THE PURPOSE, FUNCTIONAL PRIORITIES, STRUCTURE AND CONFIGURATION OF THE OFFICE OF CHIEF OF DEFENCE FORCE SHOULD BE COMPREHENSIVELY RECONSIDERED**

4.6 We further recommend that the OCDF's purpose, functional priorities, and structure and configuration be comprehensively reconsidered and in light of the other changes we propose. This is needed to enable a greater focus on the services that support the essential national security functions of the CDF, Secretary and Minister of Defence as we have described them. The OCDF needs to become a more cohesive and resilient entity so it can better support the CDF and VCDF in carrying out their respective responsibilities for both military and corporate matters.

## **NZDF COMMUNICATIONS SHOULD FOCUS LESS ON REPUTATION AND MORE ON ACCOUNTABILITY AND TRANSPARENCY**

4.7 DPA has a critical role to play in supporting CDF's accountability to be transparent about the NZDF's activities by providing accurate and timely information. New Zealanders have growing expectations about what information they have access to and how they can access it. Overall, NZDF's communications focus needs to be less about managing its reputation and brand, and more about advancing transparency to achieve a level of public disclosure that meets contemporary accountability and transparency expectations. Our specific conclusions on *NZDF Public Affairs Strategy 25* and DPA's role and purpose are as follows.

- *NZDF Public Affairs Strategy 25* needs to be reviewed. NZDF senior leadership should ensure this strategy incorporates key accountability relationships, the need to manage for transparency and how it will do so, and the owners of risk in the context of publicly releasing information.
- All NZDF personnel need to be made aware of their individual and collective responsibility to understand the importance of transparency and to not unduly withhold information that would be reasonable for the media or public to know. We strongly encourage that a CDF directive be promulgated and publicly released outlining the importance of transparency for reasons of accountability and the exercise of democratic oversight by the Minister.
- DPA needs to have a clear guiding purpose and move away from its predominant focus on internal communications and reactive media management towards a greater focus on proactive communications and enabling the public to be better informed about the NZDF's activities. This will require reviewing DPA's operating model.
- The process for drafting, approving and promulgating formal NZDF communications should be codified and include parameters for communications on operational deployments as well as the involvement of risk-owners, including the Ministry of Defence and external agencies when relevant. Furthermore, we encourage NZDF senior leadership to involve DPA in future opportunities to test the resilience of its processes for complex operational environments.

## CRITICAL ACCOUNTABILITIES AND REPORTING SYSTEMS FOR DLS SHOULD BE CODIFIED

4.8 Based on our enquiries, we found that DLS is a professional, outward-looking group with a clear role in the NZDF, including throughout the lifecycle of operational deployments. We are satisfied that NZDF lawyers are kept sufficiently informed of operational decision-making and activities. Positive developments are the greatly improved acceptance of the overall necessity of legal advice by positioning a deployed legal adviser as a principal adviser to the commander in a deployed operational cell, and the inclusion of legal advisers in receipt of information on the details of operational deployments. However, some developments or current practices, as outlined in paragraph 3.17, are based on custom and relationships. We consider critical accountabilities and reporting systems should be codified in relevant documentation, for example, in CDF and operational directives. In particular, it is vital to codify that the Director DLS has open access to the CDF, regardless of where this role reports to.

## NZDF SHOULD CONTINUE TO USE SECONDMENTS AND OTHER OPPORTUNITIES TO DEEPEN AND BROADEN DLS CAPABILITY

4.9 To maintain currency in the current low tempo operational environment, NZDF leadership should ensure DLS staff continue to take up secondments or opportunities to collaborate with the intelligence community and Australian defence agencies. Furthermore, we consider it would be beneficial for Ministry or external staff to be seconded into DLS and vice versa, which would deepen and broaden abilities and increase diversity of thought.

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**Recommendation 4:** We recommend the Chief of Defence Force, in consultation with the Secretary of Defence, review the suitability of particular elements of Headquarters NZDF for the future. As part of this review, we recommend the Chief of Defence Force:

- 4.1 establish with the Secretary of Defence an integrated strategic military and policy function that provides for the end-to-end strategic management of operations
  - 4.2 reduce the span of control of the Office of Chief of Defence Force and prioritise its core functions, including those related to the Chief of Defence Force's operational and strategic governance responsibilities and external accountabilities for democratic oversight
  - 4.3 direct that *NZDF Public Affairs Strategy 25* be revised to reflect key accountability relationships and position NZDF communications to meet contemporary accountability and transparency expectations.
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**PART THREE:**

**NEW ZEALAND'S  
SPECIAL FORCES**

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# 1. Overview

- 1.1 Following the fall of the Taliban Government in Afghanistan in late 2001, New Zealand contributed to United Nations–mandated efforts to support the interim Afghan Government. In May 2021, the last NZDF personnel left Afghanistan, thereby concluding New Zealand’s 20-year deployment. Over the last two decades, New Zealand has contributed through periodic deployments of the New Zealand Special Air Service (NZSAS), the establishment of the New Zealand Provincial Reconstruction Team in Bamyán Province and, in more recent years, through the deployment of officer-training specialists. NZSAS personnel deployed to Afghanistan on multiple occasions: from late 2001 for 12 months, in 2004 and 2005 for six months each year, and from September 2009 to March 2012 as part of the International Security Assistance Force. It was during the latter deployment that Operation Burnham took place on 21–22 August 2010.
- 1.2 In this report, we do not traverse ground already covered by the Government Inquiry into Operation Burnham and Related Matters (the Inquiry).<sup>70</sup> Many NZDF personnel we spoke to understandably expressed relief that the Inquiry’s report found the actions of NZSAS personnel on the ground during Operation Burnham were lawful and professional. However, issues occurred after Operation Burnham that, as outlined in previous pages of this report, culminated in the NZDF (both NZSAS and non-NZSAS personnel) not fulfilling obligations to the Minister of Defence. The failures as described in the Inquiry’s report were due to a mix of factors, including flaws in the underlying organisational culture, systems and structures, and were not simply failures of certain individuals. We heard from a small number of interviewees that the failings identified were predominantly the fault of a few individuals and, thus, they could never happen again. We do not accept those views – the failures of individuals are enabled and perpetuated by weaknesses in the structures, processes and people around them. However, we note that even with the best structures, leadership, systems and culture, a risk remains that failures in knowledge flows could happen again.
- 1.3 It is important to state from the outset that we believe the NZSAS is a strategic capability the Government needs. At the macro level, New Zealand is a small nation of limited international influence and military power where successive governments seek to make a credible contribution to international efforts in support of peace and security. The Government has to prioritise and make choices about what military capabilities it can have to achieve its policy objectives for the amount it is prepared to spend on defence. Deployable at low cost compared with other capabilities, the NZSAS is a small, highly disciplined capability. It provides political and national security sector decision-makers with options to address complex regular and irregular threats and risks to national security, and to further national interests in concert with the capabilities of Regular Forces.
- 1.4 As stated earlier in this report, the NZSAS’s expeditionary mode of employment is where significant risk and potential political sensitivity exists. Personnel can be operating and living in a foreign country for extended periods under the direction of coalition commanders alongside multinational forces. The operating environment can be high risk, complex and dynamic, as each coalition member negotiates a maze of international law, command and control arrangements, national constraints, military capabilities and rules of engagement. Operation Burnham was carried out using such a mode of employment, with operational control of New Zealand’s Special Forces delegated to the International Security Assistance Force Commander for an extended period. Such command and control arrangements inherently present risks. It is against this background that we sought to identify areas – both structural and behavioural – that need to be strengthened to ensure the Minister has the necessary access to information and to minimise the likelihood that senior leaders and Ministers are, inadvertently or otherwise, misled or misinformed about events in theatre in the future.<sup>71</sup> Ultimately, the Minister of Defence needs have trust and confidence that they have appropriate visibility of NZSAS operational activities to be able to fulfil their accountability obligations and exercise democratic oversight at all times.

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70 Sir Terence Arnold and Sir Geoffrey Palmer *Report of the Government Inquiry into Operation Burnham and Related Matters* Government Inquiry into Operation Burnham and Related Matters (2020) <https://operationburnham.inquiry.govt.nz/inquiry-report/>.

71 As we state in the *Context*, the Inquiry found that there was no organised institutional strategy within the NZDF to “cover up” what happened during Operation Burnham or the possibility of civilian casualties. However, the Inquiry did find that “NZDF was unwilling to admit error on its part. As an organisation, it had at the outset misled the Prime Minister, ministers, members of Parliament and the public about the possibility of civilian casualties on Operation Burnham, describing the allegations as ‘unfounded’”: Arnold and Palmer, above n 70, at pages 28 and 277.

- 1.5 While the NZDF's usefulness depends on its capability and professionalism, it also crucially depends on ministerial, government and public trust and confidence. In the context of the NZSAS, this trust and confidence is underpinned by how the NZSAS, through NZDF leadership, keeps Ministers, government and the public appropriately informed about what it does and why (**transparency** and **visibility**) and, in part, through an understanding and acceptance of how the NZSAS can best generate beneficial outcomes for New Zealand (**utility**). These factors, when aligned with the political will of the government of the day, create social licence and, therefore, the permission space for the NZSAS to operate. Strengthening and maintaining trust and confidence requires a collective NZDF effort: the NZSAS needs to reach 'up and out' to increase understanding about what it does for New Zealand and why, and NZDF leadership needs to support the NZSAS's connection with the wider national security sector.
- 1.6 Several factors present challenges to achieving and maintaining greater trust and confidence. These factors include the incorrect public perception that the NZSAS unlawfully killed civilians during Operation Burnham, despite being cleared of such allegations, and the overall lack of understanding about the positive results the NZSAS can achieve. The tension with Special Forces is that most of their operations are covert, so what they do appears opaque. This tension is not unique to New Zealand, and the conduct of Special Forces in other democracies has been reviewed and investigated.
- 1.7 Our terms of reference asked us to consider "whether the establishment of the Special Operations Component Command has delivered the most effective command, control and accountability, when considering the location of Special Operations Forces elements within the NZDF organisational structure".<sup>72</sup> In the rest of this part, we examine aspects of the role, culture and structure of the NZSAS and propose improvements in each of these areas to strengthen trust and confidence in the NZSAS. We also touch on managing risk with Special Forces and reinforcing expectations of accountability and transparency. Issues emerging around the ownership and management of information created in theatre – such as the interoperability of multiple document management systems (belonging to New Zealand and its defence partners) and obtaining access to information of national interest – are explored in *Part Four: Information Management and Flow of Defence Knowledge*.

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## 2. NZSAS as part of the wider system

- 2.1 The NZSAS has a role as part of the wider national security sector – more specifically, as an instrument of national security risk management. It provides the New Zealand Government with the capability to achieve national security objectives, whether in times of conflict or peace. The niche skill sets and training of NZSAS personnel mean they can undertake high-risk, high-value missions in a variety of modes of employment, including recovery operations, counter-terrorist operations with New Zealand Police, and limited offensive operations in extremely difficult and demanding circumstances.
- 2.2 It came through strongly in interviews and our discussions that the NZSAS needs to both see itself and be seen as part of the NZDF and wider national security sector. Encouragingly, the NZSAS has, in recent years, more explicitly acknowledged its place as part of the wider NZDF, although some interviewees said it can still be perceived as a 'separate' elite entity. We found the aftermath of Operation Burnham caused the NZSAS to reflect deeply about how it wants to be perceived by fellow NZDF personnel, external stakeholders and the public. The draft *Special Operations Component New Zealand Plan 2020–2025: Nationally Integrated Special Operations*<sup>73</sup> evidences a growing awareness of the need to outwardly voice what the NZSAS is doing to learn, plan and evolve to maintain its relevancy and work with others to achieve government priorities. The plan acknowledges retaining the trust and confidence of leaders both within and outside the NZDF as an ongoing challenge. However, a need remains for NZSAS and NZDF leadership to consult and discuss such matters with the Ministry of Defence and other external actors across the national security sector.

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<sup>72</sup> At paragraph 8.1. The terms of reference are in *Appendix A*.

<sup>73</sup> NZDF *Special Operations Component New Zealand Plan 2020–2025: Nationally Integrated Special Operations* (draft, 2020).

- 2.3 We heard from several interviewees, including senior NZDF leadership, how the most significant change within the NZSAS since 2010 is cultural – the generational change of officers and non-commissioned officers. We heard how NZSAS personnel are now provided exposure to and are more aware of strategic and political issues earlier in their careers. Current personnel who experienced the aftermath of Operation Burnham and the Inquiry appear to be more aware of the need for system-wide thinking, integration and transparency. We observed that more junior NZSAS personnel at Papakura Military Camp acknowledged their part as an interdependent component of the NZDF and broader government system. They appeared to have awareness of the national security system and more experience than their predecessors in working with other government agencies. These are all constructive developments that should be maintained and built on.
- 2.4 We were informed that, in recent years, NZDF leadership has recognised it needs to provide future leaders with more diverse experiences outside the NZSAS and that the NZSAS has adapted its training and development programmes accordingly. Significant investment has been made to enhance the NZDF Leadership Framework to develop leaders who “begin early to develop relationships and connections both within and outside their organisations”.<sup>74</sup> The benefits of instilling in high-potential personnel the ability to operate effectively within a broader network are being realised by the current cohort of leaders. Secondments outside the NZDF are but one such development tool to increase the individual’s understanding of the broader system within which the NZDF operates, as well as to provide an opportunity to learn how other government agencies perceive the NZDF. We consider that people being developed to fill key roles such as Special Operations Component Commander, Commanding Officer 1 NZSAS Regiment and other potential future senior NZDF leadership roles should be required to have a wider range of experience, including outside the NZSAS and NZDF. This is so that when they assume these roles, they can assess the broader political framework within which they work, know where to get advice on the policy and political contexts, and understand the importance of democratic oversight.
- 2.5 The generational change within the NZSAS described to us is still emerging and embedding, and we are cautious not to over-emphasise the extent and impact of the changes so far. To our knowledge, one senior NZSAS officer has been seconded outside the NZDF, and they spoke highly of the benefits of having had that opportunity. This is a start, but seconding NZSAS personnel to other organisations is not yet the norm. We are aware that this development is caveated by the fact the NZSAS is a small Special Forces capability that needs its personnel to undertake regular training and exercising to maintain a high level of operational readiness. Personnel with leadership potential are also expected to attend educational institutes such as Command and Staff College. That being said, we believe it is important that personnel with leadership potential are afforded the opportunity to work and learn outside the NZSAS and, ideally, outside the NZDF to broaden and deepen their understanding of the workings of Headquarters NZDF (HQNZDF) and other government agencies.

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## 3. Culture of the NZSAS

### VALUES AND BEHAVIOURS

- 3.1 It is clear to us that a strong values-based system is at the core of all the NZSAS does and commanders drive the four tenets – namely, the unrelenting pursuit of excellence, highest standards of discipline, brooking no sense of class, and humour and humility – into every aspect of their activities. Some interviewees considered that the NZSAS having its own tenets reinforces its ‘tribe within a tribe’ mentality and separates it from the rest of the NZDF. Others saw the tenets as necessary to drive and ground the NZSAS, by keeping personnel committed to clear values that bond them together as they carry out extremely difficult and dangerous tasks. This is an inevitable cultural tension. However, we consider that, provided the behaviours and attitudes are aligned, the NZSAS tenets are consistent with the NZDF’s overarching organisational values of Tū Kaha (Courage), Tū Tika (Commitment), Tū Tira (Comradeship) and Tū Maia (Integrity). Collectively reinforcing both the NZSAS tenets and NZDF values must continue to be a steadfast responsibility of NZSAS and NZDF leadership now and into the future. Clear, lived values are a critical element of healthy cultures within an organisation.

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<sup>74</sup> NZDF *Leadership Framework* (no date), at page 5.

- 3.2 There is no doubt the NZSAS is a unique group in terms of its skill sets and mental and physical resilience and, to an extent, as highlighted above, a 'tribe within a tribe' mentality is necessary for personnel to do what is asked of them. This mentality results from the trust required between personnel and the tenets to which they hold themselves accountable. However, the potentially negative side of that mentality is arrogance and elitism, which can lead to poor relationship management and domineering or bullying behaviours. While the failures identified by the Inquiry were not solely the fault of a few people, it needs to be asked whether an individual who begins to exhibit undesirable behavioural and attitudinal traits would be identified and managed appropriately. All personnel have a role in sensing where that line may be being crossed, and it is senior officers who need to formally address poor or below-standard behaviour as soon as it arises. When we asked the current Chief of the Defence Force (CDF) about this, he stated he was confident that senior officers talk to those who display negative traits as soon as they are noticed and poor behaviours and attitudes are called out. This view was separately reinforced by other senior leaders.
- 3.3 Ensuring there are clear and well-understood values and strong and present leadership is particularly important in a complex operating environment where individual and collective boundaries and limitations can be pushed to the brink. Operating in such an environment requires the behaviours and attitudes that deployed personnel are expected to exemplify be regularly reinforced and monitored by senior NZDF leadership. Regular communication with people outside the operational cell is also crucial to mitigate the risks described above.

## **REINFORCING THE PRIMACY OF ACCOUNTABILITY AND TRANSPARENCY**

- 3.4 We consider some risk remains of unnecessary secrecy of information about the NZSAS's activities that is enabled by current structures, processes, behaviours and attitudes. While some secrecy will be essential to maintain national, operational and personnel security in some circumstances, secrecy should not be the default position or applied in a blanket manner. It is not acceptable for a secret and compartmented environment to be used to obstruct people from having the visibility they need to properly perform their roles. Compartmentalisation in the context of NZDF operations (including those involving the NZSAS) is covered in more detail in *Part One: Policy and Military Integration*.
- 3.5 When considering whether to protect information for security reasons, transparency must also be considered. We want to make it clear – transparency does not mean complete openness, and it does not mean that valid operational security concerns should be dismissed; transparency means consideration is given to what is 'right' for the public, media, Ministers and government each to know. This requires the careful exercise of judgement. For example, what is right for the Minister of Defence to know may not be right for the public to know, depending on the circumstances.
- 3.6 To reinforce what is stated in other parts of this report, the need-to-know principle is about the right people knowing the right information at the right time. This means the right people are in the room when decisions are made. For complex operations, in particular, the 'right people' include those who manage risks and have interests beyond the operational realm, including the Secretary of Defence. It follows that if the right people know, then they can ensure the right people, including the Minister, are not surprised.

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## 4. Structure

### ESTABLISHMENT OF THE SPECIAL OPERATIONS COMPONENT NEW ZEALAND

- 4.1 In 2015, the Special Operations Component New Zealand (SOCNZ) was established at Headquarters Joint Forces New Zealand (HQJFNZ).<sup>75</sup> However, before we discuss this change, it is necessary to first outline what was in place at the time of Operation Burnham. The Directorate of Special Operations was established in 2008 as a strategic coordinating headquarters within HQNZDF and headed by the Director Special Operations. This directorate structure created a direct relationship from the operational level to senior leadership in HQNZDF. This gave key decision-makers better access to and understanding of the NZSAS and the shortest possible route to get the ‘ground truth’ from theatre to decision-makers.
- 4.2 We heard that while the directorate structure worked well for developing mandates and planning pre-deployment, it did not work well during an operation, as different people made different assumptions about responsibilities. The information management systems within the NZSAS and HQNZDF were able to be bypassed as most information about operational activities went through the Director Special Operations, who had only technical control of NZSAS personnel in Afghanistan. This meant the Director Special Operations had greater decision-making responsibility than the Commander Joint Forces New Zealand, who had superior command authority. This, in combination with the strong culture of exclusivity and secrecy within the directorate, had the effect of enabling a monopoly on knowledge flows at the strategic level and prevented visibility within key areas of the NZDF and outside the NZDF to other stakeholders such as the Ministry of Defence and Ministry of Foreign Affairs and Trade. It is apparent relatively few had input into decision-making or access to knowledge flows, despite what the national and international interests engaged in such a complex and dynamic military matter should have demanded. It also made some vital reporting lines within the NZDF opaque, particularly for the Commander Joint Forces, who did not consistently receive information or have awareness about what was happening on operations.
- 4.3 In June 2015, the establishment of the single-unit SOCNZ at HQJFNZ was mandated by the then-CDF. The SOCNZ manages New Zealand’s Special Operations Forces on the CDF’s behalf and is headed by the Special Operations Component Commander. Operational command of NZDF force elements at HQJFNZ is formally assigned to the Commander Joint Forces. This means, for deployed NZSAS personnel, the Commander Joint Forces usually fulfils the function of the Joint Commander, including, since 2020, for unconventional warfare and compartmented operations.<sup>76</sup> However, there is an exception in the case of counter-terrorism, where the CDF retains full command of the NZSAS. The CDF then assigns operational command to the Special Operations Component Commander, who is responsible to the CDF for the planning and conduct of such operations. We were told that similar dual command arrangements exist in partner countries, and we see no issue here.

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<sup>75</sup> HQJFNZ is commanded by the Commander Joint Forces New Zealand, who receives advice from each of the Services through the Maritime, Land and Air Component Commanders. The Special Operations Component Commander advises the Commander Joint Forces on New Zealand’s Special Operations Forces.

<sup>76</sup> We were told that the NZDF *Special Operations Component New Zealand Plan 2020–2025: Nationally Integrated Special Operations* (draft, 2020) and relevant doctrine, which will formalise the change in command and control arrangements for unconventional warfare and compartmented operations, are awaiting finalisation pending the completion of the Expert Review Group’s report.

## IMPACT ON COMMAND AND CONTROL ARRANGEMENTS

- 4.4 During interviews, we consistently heard how the establishment of the SOCNZ has been a positive change, making lines of accountability much clearer and consistent with the Maritime, Land and Air Components. It also allows for wider consultation and quality assurance in how Special Operations Forces<sup>77</sup> are trained, developed and operationalised. The NZSAS is now subject to the same command and control arrangements and governance and reporting mechanisms as the other components. If NZSAS personnel were to undertake an operational deployment overseas now, the Commander Joint Forces would exercise operational command<sup>78</sup> and be provided with visibility of events and any delegated command and control arrangements in theatre through established and practised reporting processes. This was not the case in 2010. However, the trade-off is that the SOCNZ does not have as much flexibility or direct access to the CDF and other senior leaders as the Directorate of Special Operations allowed for. This creates the risk that there is now less engagement and understanding about the utilisation of the NZSAS's particular capabilities at the strategic level. This is explored further below.
- 4.5 The international defence partners we engaged with each utilise varying levels of operational jointness – not all operations including Special Operations Forces personnel are commanded and run out of a joint operational headquarters like in New Zealand. In particular, we heard from one defence partner that had recently established a standalone Special Operations Forces operational headquarters that, like HQJFNZ, is responsible for Special Operations Forces training, operations and commanding deployed units. Previously, the partner's Special Operations Forces elements had been under the separate command of the Navy and Army. We were told their Commander Special Operations Forces (equivalent to the New Zealand Special Operations Component Commander) reports directly to the CDF-equivalent for operations in all modes of employment. The three main reasons for this new command structure were the increase in requests to utilise Special Operations Forces and Special Operations Forces command and control both nationally and internationally, the growing number of joint operations with other force elements, and to foster greater Special Operations Forces interoperability with other force elements and government agencies. We consider the latter two reasons are especially applicable to the New Zealand context in maintaining a special operations component as part of a joint operational headquarters.

## CONNECTION BETWEEN THE NZSAS AND STRATEGIC CENTRE OF THE NZDF

- 4.6 While it is operationally advantageous that the SOCNZ now exists at HQJFNZ with the other components so senior NZDF leaders have more oversight and visibility of operational and tactical activities, a risk exists that the NZSAS is too disconnected from strategic thinking and conversations in HQNZDF, particularly with the Strategic Commitments and Engagements (SCE) Branch and Ministry of Defence. We heard how the Director of Special Operations used to have a close relationship with SCE Branch and that contact with the Ministry had been sporadic since the establishment of the SOCNZ.
- 4.7 A consistent theme that arose from speaking with Special Operations Forces personnel and policy advisers from the United Kingdom and Canada in particular was that the strategic military centre needs to have a clear line of sight to the operational front to fulfil its responsibilities and vice versa. This requires active engagement, particularly during long campaigns.
- 4.8 In January 2021, an NZSAS liaison officer was placed in SCE Branch to facilitate information flows, especially since the NZSAS now more frequently carries out activities with other government agencies. This is a positive development but it does not go far enough. Our concern is that the NZSAS, by maintaining only a sole liaison officer role, is missing out on opportunities to meaningfully contribute to discussions that concern the utilisation of its capabilities. Furthermore, Special Operations Forces scoping, concepts and activities need to be assured at the strategic military and policy level so risks can be appropriately managed. We believe the NZSAS should be part of an integrated strategic military and policy function, as stated in Recommendation 4 (see *Part Two: Headquarters New Zealand Defence Force*).

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77 Special Operations Forces are personnel who are organised, equipped and trained to command, plan, conduct and support Special Operations.

78 Note that the Commander Joint Forces New Zealand does not exercise operational command of any Special Operations Forces engaged in counter-terrorism.

- 4.9 In our view, implementing the recommendations earlier in this report regarding greater military and policy integration throughout the deployment lifecycle will strengthen the connection between the NZSAS and the Ministry of Defence. We have identified that in 2010 no clearly defined and understood ministerial expectation existed that advice to Ministers on “major matters of defence policy” should be integrated between the NZDF and Ministry of Defence and cover the full operational lifecycle. If the integration we recommend in this report had been in place in 2010, it would have applied to Operation Burnham – before, during and after – and set higher stewardship and assurance requirements for knowledge flows and information management.
- 4.10 Finally, as highlighted in *Part One: Policy and Military Integration*, it is apparent to us that a gap remains for a policy advice element from the Senior National Officer in theatre to the Component Commander at HQJFNZ up to the CDF. In other countries, the Senior National Officer and Special Forces commander are supported by a policy adviser (POLAD) in theatre or through a reach-back function for complex operations. This role helps deployed personnel to know what knowledge is of concern or interest to transmit back to New Zealand. This is particularly important in the context of Special Forces, which, by their nature, are more likely to be operating in a high-risk, dynamic and politically sensitive environment and possibly for an extended period with strict ‘need-to-know’ requirements. It is vital senior military leaders have sufficient political acumen and informed advice to ensure the operation is being carried out within national policy constraints. We also consider the NZDF should not deploy NZSAS personnel without a formal command relationship to the Senior National Officer in-country if both Special Forces and Regular Forces are deployed.

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## 5. Conclusions and recommendations

- 5.1 The NZSAS is an important and internationally respected part of New Zealand’s Defence Force. As described in this report, there is now better oversight and processes supported by constructive behaviours and attitudes, but we have highlighted where there is more to do. Future operational activity at any tempo must be conducted with the right structures, processes, practices and behaviours in place to ensure the CDF, the Secretary of Defence, Ministers and other government stakeholders have the appropriate levels of visibility and receive integrated information and advice in a timely and accurate manner to allow them to perform their respective functions.
- 5.2 In terms of structure, we find that the current command, control and accountability arrangements the SOCNZ delivers are generally fit for purpose and an improvement on what existed in 2010. However, while the SOCNZ’s current structure, command and control arrangements, and accountability mechanisms are satisfactory for current low tempo conditions, we cannot provide assurance that they would ensure appropriate levels of oversight and visibility during high tempo operational activity in a complex coalition environment. In particular, a disconnect remains between the NZSAS, HQNZDF and the Ministry of Defence at both operational and tactical levels. We consider the recommendations for greater policy and military integration and the establishment of a strategic military and policy function will help to address this issue. Furthermore, the efficacy and resilience of command and control arrangements for the SOCNZ should continue to be periodically evaluated, especially if the tempo of operations increases.
- 5.3 Current and future NZDF leaders need to maintain a long memory of the events and lessons learned in the aftermath of Operation Burnham. A risk always exists that standards of good behaviour will be breached and systems and processes will have gaps or weaknesses; when the two sufficiently converge, problems are likely to occur. Implementing our suggestions and recommendations will help the NZSAS and wider NZDF to prevent the failings that occurred after Operation Burnham from happening again. The ‘tone set at the top’ is critical to this. Within the NZSAS, the cultural shift that is occurring is promising. However, we note that if NZSAS personnel are deployed in an expeditionary mode of employment in the future, deployed personnel cannot operate in the vacuum – they must be clearly and consistently supported by NZDF leadership and integrated policy and military advice.

- 5.4 The NZSAS needs to simultaneously look inwards to continue to absorb lessons from the Inquiry and this report and look outwards to become more integrated with the wider NZDF and national security sector. We note that the future operating environment will require the NZSAS to be more collaborative and interoperable with other elements of the NZDF and government agencies as the nature of threats change.
- 5.5 It is encouraging to see the NZSAS is thinking critically about how to stay relevant to the national security sector. As mentioned earlier, the NZSAS has developed a draft plan, *Special Operations Component New Zealand Plan 2020–2025: Nationally Integrated Special Operations*. The draft plan appears to be nested in *NZDF Strategy 2025*<sup>79</sup> and *NZDF Strategic Plan 2019–2025*,<sup>80</sup> but needs development to clarify its purpose and more clearly state the NZDF's various accountability relationships to Ministers, Parliament, government and the public. The draft plan also needs to explicitly recognise that a military authorising environment exists for day-to-day or routine activity and that, for strategic risk events, the authorising environment changes and incorporates a wider span of actors due to the greater range of interests affected. The draft plan refers to lessons learned as a result of Operation Burnham, but needs to be explicit about what those lessons are.
- 5.6 The draft plan can be used as a vehicle to facilitate a timely and much wider discussion about strategic utility and accountability relationships of the NZSAS. Accordingly, we recommend the CDF, in consultation with the Secretary of Defence, use the document to facilitate a broader discussion with other national security sector agencies.
- 5.7 Within Defence, the draft plan should be one of the inputs to long-term strategic thinking about the:
- strategic utility and future role of the NZSAS (domestically and internationally)
  - capabilities needed for the future, including developing personnel leadership capabilities in respect of the workings of government and its agencies.

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**Recommendation 5:** We recommend the Chief of Defence Force ensure that steps continue to be taken to integrate the New Zealand Special Air Service (NZSAS) into the wider NZDF and national security sector. In particular, we recommend the Chief of Defence Force:

- 5.1 integrate one or more Special Operations staff officer roles into the strategic military and policy function (see Recommendation 4) to enable appropriate transparency, oversight, assurance and strategic awareness of Special Operations
  - 5.2 facilitate, in consultation with the Secretary of Defence, a broader discussion with other New Zealand defence, security and foreign affairs agencies about the role of the NZSAS in modern warfare and national security and its contribution to government priorities now and in the future
  - 5.3 take a strategic and proactive approach to developing NZSAS leadership capability for the future and regularly monitor the leadership climate created by NZSAS leaders; in particular, by providing current commanders and high-potential personnel with opportunities to develop political acumen and a better understanding of the wider government authorising environment, including policy advice processes, the importance of democratic oversight and how to develop networks across the national security sector.
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79 NZDF *NZDF Strategy 2025: An Integrated Defence Force* (no date) page 15 of *NZDF Strategic Plan 2019–2025: Operationalising Strategy25* (no date) <https://www.nzdf.mil.nz/assets/Publications/NZDF-Strategic-Plan-2019-2025.pdf>.

80 NZDF *NZDF Strategic Plan 2019–2025: Operationalising Strategy25* (no date) <https://www.nzdf.mil.nz/assets/Publications/NZDF-Strategic-Plan-2019-2025.pdf>.

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**PART FOUR:**

**INFORMATION  
MANAGEMENT  
AND FLOW  
OF DEFENCE  
KNOWLEDGE**

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# 1. Overview

- 1.1 Information management systems and practices and flows of defence knowledge across the NZDF and to the Ministry of Defence must work better for the Minister of Defence to be able to properly exercise democratic oversight of the military. As discussed in *Part One: Policy and Military Integration*, we believe greater integration between the NZDF and the Ministry of Defence before, during and after operational deployments is critical to ensuring advice to the Minister takes account of both policy and military considerations. To provide accurate and timely information and advice to the Minister, organisations must have systems and practices in place to record, store and report information and knowledge as it moves through the strategic, operational and tactical levels of decision-making.
- 1.2 Secure and resilient information management systems and practices are critical to conducting military operations effectively. They enable military personnel to capture and share information through the command chain and with coalition partners and other government agencies. This is particularly important as the information domain becomes a critical component of modern warfare. The volume of knowledge that militaries have to engage with and the pace of knowledge flows will continue to increase.
- 1.3 The failures identified by the Government Inquiry into Operation Burnham and Related Matters (the Inquiry)<sup>81</sup> raise serious concerns about the NZDF's information management competency and the functionality of its record-keeping and retrieval systems, policies and processes. The Inquiry also highlighted deficiencies in the **transfer** of information and knowledge about Operation Burnham among the various parties involved. Providing assurance on the NZDF's information management systems and practices is, therefore, not just about considering how each function operates in its own right, but also how information and knowledge flows between them. It remains unclear to us who exercises stewardship over the flow and fidelity of defence knowledge up to the Minister of Defence.
- 1.4 Improvements have been made since Operation Burnham and its aftermath. For example, we were told individual holdings of information of former NZDF personnel (including emails) are now archived once they leave, and the central Knowledge and Information Management Directorate (KIMD) at Headquarters NZDF (HQNZDF) was established in 2016 to be the primary driver of information management in the NZDF. The NZDF's draft business case for its Information Management Programme recommends investment in a suite of changes to current systems, policies and processes to improve how information is managed throughout the NZDF. The business case is scheduled to go to Cabinet for approval at the end of 2021.
- 1.5 For the NZDF, embedding effective information and knowledge management practices relies on overcoming significant cultural and behavioural barriers. Flows of knowledge that are timely, robust and to the right people ultimately depend on individuals making the right decisions based on the guidance and instructions provided to them. Given the broad scope of information management at the NZDF (including corporate functions) and considering the nature of the issues the Inquiry identified, we have focused on the transfer of operational knowledge that would be of public and political interest from theatre through to Headquarters Joint Forces New Zealand (HQJFNZ) up to HQNZDF and, depending on the nature of the information, to the Minister of Defence.
- 1.6 We acknowledge that in an organisation as large, complex and geographically disparate as the NZDF, information and knowledge management is a perennial challenge. It is also one that is shared by New Zealand's defence partners. Even so, on the basis of current systems and practices, we cannot provide assurance that if the NZDF were to deploy to a complex, coalition environment similar to New Zealand's military deployments to Afghanistan, the failings identified by the Inquiry with respect to record-keeping and retrieval would not be repeated.

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81 Sir Terence Arnold and Sir Geoffrey Palmer *Report of the Government Inquiry into Operation Burnham and Related Matters* Government Inquiry into Operation Burnham and Related Matters (2020) <https://operationburnham.inquiry.govt.nz/inquiry-report/>.

- 1.7 We have major concerns about the current state of the NZDF's record-keeping and retrieval processes. We received a variety of different interpretations of how the current system works, and NZDF personnel at all levels pointed to fragmented systems and practices and impenetrable processes and guidance. We also heard from the top levels of the NZDF that the tendency is to over-classify documents. This tendency is consistent with the behaviours and attitudes towards security and transparency examined in earlier parts of this report and by the Inquiry. Retrieval is also clearly a problem with multiple different systems and historical information stored in forms such as hard drives, discs and paper files. The changes we recommend and those the NZDF is considering through various change programmes (under way or planned) will help to strengthen ministerial and public trust and confidence in the NZDF's ability to operate in a transparent manner.
- 1.8 Our terms of reference tasked us to determine a benchmark or measure of international best practice in relation to record-keeping and retrieval processes. We requested details on information management good practice from international defence partners and it seems information and knowledge management is also a challenge in other countries and government agencies. Partners we spoke to also experienced issues including with duplicated data, fragmented systems and practices, and the management of legacy information. One partner told us about recent moves to close down the use of personal drives and USBs to force staff to work in the centralised document management system. Another explained that personnel struggled to find the time to record information properly and consistently, resulting in problems retrieving data later. We conclude there is no one 'right' way to do record-keeping and retrieval.
- 1.9 In the absence of a clear measure or benchmark of international practice, we have developed six key principles for effective information and knowledge management to use as our basis for assessment. With these principles in mind, we examined the NZDF's systems and practices in theatre, at HQJFNZ, and at HQNZDF for:
- record-keeping, storage and retrieval
  - knowledge flows
  - resourcing and training.

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## 2. Information and knowledge management principles

- 2.1 We developed a set of six principles essential for an effective information and knowledge management system in a military organisation. In developing these principles, we drew on discussions with international defence partners and information and knowledge management experts from New Zealand's Department of Internal Affairs and the Information and Records Management Standard issued by Archives New Zealand under the Public Records Act 2005.<sup>82</sup>

### **1. Strong leadership and accountability are vital. Senior leadership should actively promote the importance of information management and make it a priority for the organisation.**

It is important that senior leaders at the executive level visibly and proactively support information management as a priority and adopt an organisation-wide approach on information and records management. Leaders at all levels should promote compliance and monitor how staff are applying policies. Organisations should also have a formal governance group that is either dedicated to information management or oversees information management as part of its mandate.

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<sup>82</sup> Archives New Zealand *Information and Records Management Standard* (2016) <https://archives.govt.nz/manage-information/how-to-manage-your-information/key-obligations-and-the-standard/information-and-records-management-standard>.

**2. Staff should be supported to know and meet their responsibilities in creating, managing and sharing information and knowledge through clear policies and access to training and guidance.**

Organisations should identify areas of low information management capability and performance and have plans to address them. As all individuals are responsible for creating, storing and reporting information, everyone should have access to clear, documented guidance and training on how to do so in accordance with the organisation's policies and processes. This guidance should cover what information can be shared outside the organisation and the criteria for determining this. Guidance and training are particularly important when new information management systems are being introduced. Systems and processes should be as intuitive as possible to make it easy for people to do the right thing. Involving end-users in the testing of new products will help to facilitate buy-in.

**3. Organisations should employ specialist staff with expertise in information management and record-keeping.**

Skilled information management professionals play an important role in supporting good information management practices and encouraging compliance, in addition to managing legacy information. Information managers' accountabilities should be clearly documented. They should regularly report to senior leadership on progress, risks and mitigations in the information management space.

**4. Organisations should identify and regularly review their high-risk and high-value information and the records needed to support it. They should identify and document where all information and records are created and held across all system environments and physical environments.**

High-value information is information critical to an organisation performing its core functions. Information that is high risk could expose the organisation to major operational failure or loss of public or ministerial confidence (among other things) if mismanaged. It is important organisations know and document which systems and parts of the organisation hold information and records that fall into these categories in order to protect an organisation from risks, including to its reputation. Organisations should document the location of all information and records so they are easily retrievable, particularly where held across multiple systems. Staff should be made aware of what constitutes high-risk and high-value information and, in line with Principle 2, be provided with policies and guidance on how to manage it accordingly.

**5. Information and records should be kept only for as long as they are required for business, legal, accountability and archival obligations. They should be regularly disposed of in line with authorised disposal authorities.**

Several risks are associated with maintaining information and records longer than required, including potential security and privacy breaches and the high costs associated with long-term storage. All information and records should be 'sentenced' (where a decision is made about whether to keep, destroy or transfer them), according to their value and in line with clear and documented policies and procedures.

**6. Information management systems need to be interoperable both internally and externally, including with international partners. Systems need to be portable.**

When designing new information management systems, it is important to consider how they will work together with existing systems, both internally and with those of other government agencies and international partners. Interoperability with international partners is particularly important in the military context given the prevalence of coalition operations. Defence forces need systems that operate effectively alongside each other to achieve the desired military effects. Interoperable systems also facilitate knowledge sharing between deployed forces based in a coalition headquarters and senior personnel in the central headquarters back home. Given military personnel are often spread across multiple locations, systems also need to be portable and function effectively in both domestic and offshore environments.

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## 3. Description of current systems and practices

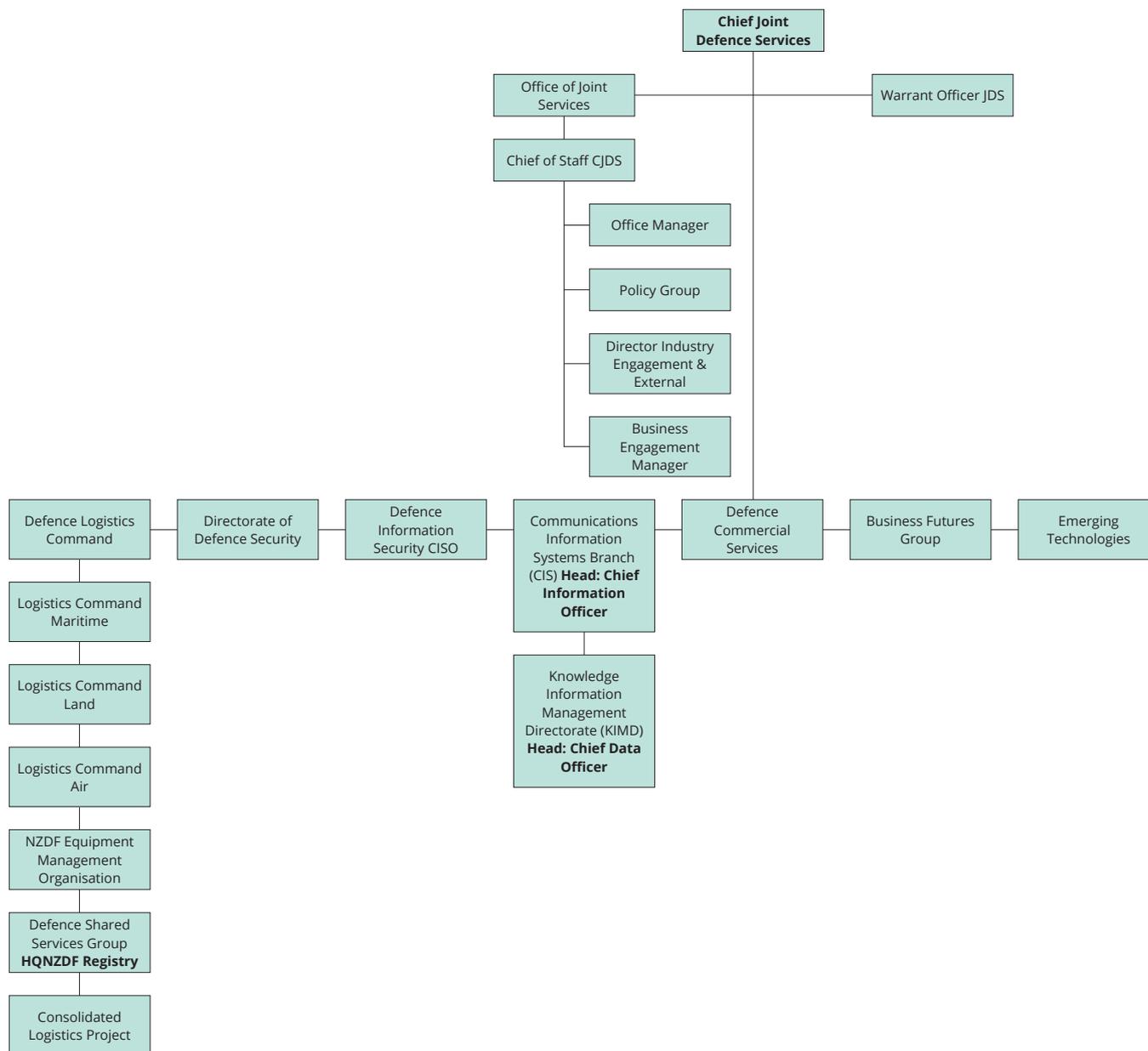
### OVERVIEW OF LEADERSHIP ARRANGEMENTS AND CHANGE PROGRAMMES

- 3.1 We believe the NZDF is well aware of the importance of information and knowledge management. We observed a collective desire among those we interviewed to improve how things are done. This desire is underpinned by a strong commitment at the very top of the organisation to improve information management: information is one of the top four priorities of the Chief of Defence Force (CDF) for 2021 and is linked to *NZDF Strategy 2025*. Both the draft business case for the Information Management Programme<sup>83</sup> and the Information Strategy Campaign Plan developed in 2019 recognise that information is a key asset and a critical enabler for the NZDF and that failing to understand, protect and value its information poses major strategic and military risks.
- 3.2 In addition to the Information Management Programme, we were made aware of the Communications and Information Systems Change and Transformation Programme, which is also NZDF-wide. This transformation programme involves several major technology investments (known collectively as the Enterprise Projects) that will deliver the foundation of the new Defence Information Platform. Two of the three investments (Enterprise Cloud and Connectivity) have been approved by Cabinet and will be delivered in 2021. These programmes are interdependent: the transformation programme will deliver the tools and technology to enable the management and exploitation of information throughout its lifecycle, while the Information Management Programme will deliver the standards, principles, processes and people capability in support. It should be noted that the Information Management Programme also includes some technology uplift, including a digital archive. Throughout this part, we have stated where the NZDF's change programmes propose to address issues we have identified. We note the flow and fidelity of defence knowledge is not specifically within the scope of these programmes.
- 3.3 We welcome the NZDF's enterprise approach to managing information and knowledge. We note the current organisation-wide Defence Document Management System (DDMS) is used by both NZDF and the Ministry of Defence on a shared information technology (IT) system (the Document Information Exchange Service – DIXS). This key factor in enabling integration did not exist before 2015. The Chief Data Officer and Chief Information Officer informed us that about 16 IT systems across various classifications would become one under the Enterprise Cloud system.
- 3.4 As outlined in paragraph 1.4 of this part, KIMD in HQNZDF is intended to be the main driver of information management across the NZDF. KIMD is led by the Chief Data Officer (a civilian) who reports to the Chief Information Officer (an Air Commodore). The Chief Information Officer heads the Communications and Information Systems (CIS) Branch and reports to the Chief Joint Defence Services (currently filled by a Brigadier, an equivalent rank to an Air Commodore). We were told that CIS Branch and KIMD work closely together, with CIS Branch focusing on hardware and systems and KIMD focusing on data and information. We note that the Chief Information Officer – rather than the Chief Data Officer – is the Senior Responsible Owner for the Information Management Programme, despite the programme focusing on data and information rather than on technology and systems. Figure 4 illustrates these arrangements. We note here that later in this part we recommend a senior member of the NZDF is given overall accountability and responsibility for the end-to-end stewardship of NZDF strategic information and knowledge of public and political interest. This recommendation may have flow-on effects for existing governance structures and other roles and responsibilities, such as those of the Chief Joint Defence Services, the Chief Information Officer and the Chief Data Officer, that will need to be considered in implementation.

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83 Note that the draft business case for the Information Management Programme has not yet completed the NZDF's internal review processes and is subject to the outcome of a Treasury-led End Point Investment Clinic and Gateway Review. These latter external reviews need to be completed before final investment decisions can be made by NZDF leadership and subsequently Cabinet.

Figure 4: Information management organisational arrangements



Note: CJDS = Chief Joint Defence Services; CISO = Chief Information Security Officer; JDS = Joint Defence Services.

3.5 In our interviews, we heard from NZDF senior leaders about transforming the NZDF into a “network combat force by 2025” with “information being the ammunition of the future”, in line with *NZDF Strategy 2025*. The draft business case for the Information Management Programme flags interdependencies with the formation of the new NZDF Information (Warfare) Domain, which will deliver capability to achieve operational outcomes. We agree the NZDF needs to consider how best to achieve military effects in designing its information management capabilities. This is particularly so given the increasing importance of information in the context of future warfare, and because not doing so is likely to negatively impact on NZDF’s utility as a coalition partner. However, we caution that this should not be at the expense of addressing the fundamental issues with the current system and practices identified in the remainder of this part. Information management and knowledge flows underpin **all** military operations so it is important to get the basics right first.

## FROM THEATRE TO MINISTERS: ASSESSING THE INFORMATION MANAGEMENT LIFECYCLE

- 3.6 Assessing the current state of NZDF-wide information systems and practices requires understanding how information and knowledge are recorded, stored and used at each stage of the decision-making process. In the draft business case for the Information Management Programme this is visualised as a four-stage lifecycle:
- create, receive and capture
  - find, use and share
  - store, access and exploit
  - keep or destroy.

## INFORMATION MANAGEMENT IN THEATRE AND AT HQJFNZ

- 3.7 *Record-keeping, storage and retrieval – overview:* We reviewed a variety of directives, standard operating procedures and other guidance documents on information management in theatre and at HQJFNZ. A directive issued by the Commander Joint Forces New Zealand in 2017 specifies the policy and processes for managing information and records for HQJFNZ and the operations it supports. We also reviewed Commander Joint Forces directives advising on when to use which network and archives management. There are standard operating procedures, including on using the DDMS, and a Commander Joint Forces New Zealand minute and aide memoire from 2019 on records management requirements for deployed personnel. These instructions and guidance are in addition to the specific reporting requirements for each operation as set out in the discussion on knowledge flows below (paragraphs 3.13–3.19).
- 3.8 In terms of practice, we found that at the tactical and operational levels, information appears to be generated and curated in a process-led way. This process appears to be ingrained from frontline personnel to senior leaders. Personnel participate in ‘hot washes’ immediately after an operation and produce operational summaries and storyboards for transmission through the command chain. We were informed that weekly situation reports (SITREPs) emailed from theatre to HQJFNZ were saved in the DDMS by HQJFNZ staff, as were formal briefings to and from theatre. This is not always the case for day-to-day emails, which are filed in individuals’ inboxes and sometimes saved to the DDMS.
- 3.9 However, we heard how the DDMS does not work well for deployed personnel during operations, and personnel have tended to find alternative methods of storing information as a result (such as on hard drives). We were told the DDMS was seen as the remit of the ‘corporate military’ while the ‘operational military’ had its own way of storing information. We examine this in more detail when we discuss gaps and issues below (from paragraph 4.1). Sharing information on deployments is also difficult. We heard deployed personnel have to go out of their way to access electronic information systems that connect back to New Zealand, so will sometimes resort to unofficial communication channels as a workaround.
- 3.10 As the NZDF usually operates as part of a coalition, information and knowledge will also be recorded and stored on coalition systems, often across multiple classification levels. As evidenced in the Inquiry’s report, accessing and then repatriating this information back to New Zealand can be challenging. Issues with retrieval are compounded by the high turnover of personnel on NZDF deployments. These issues were also highlighted by some of New Zealand’s defence partners that we spoke to.
- 3.11 *Record-keeping, storage and retrieval – NZSAS systems and practices:* We heard from NZSAS leadership that information and knowledge management is a priority for them. Personnel we spoke to were conscious of the need to ensure that, after operations, information is recorded and stored in a manner that allows it to be readily retrieved several years down the track, even with changes in personnel, technology and systems. We were told reports prepared in theatre are double-checked and personnel are not allowed to finish for the day unless these have been completed. We note this behaviour is driven by the current leadership.

- 3.12 The NZSAS operates its own bespoke information management systems (including a singular document management system) and controls the flow of knowledge relating to its activities using policies and practices unique to the NZSAS. We note the NZSAS usually needs access to higher classification systems when deployed. We were informed the current NZSAS leadership is looking to better integrate the NZSAS into the NZDF's enterprise system and approach. Noting our findings in *Part Three: New Zealand's Special Forces* around better integrating the NZSAS with the rest of the NZDF, we endorse and encourage steps being taken towards better alignment of NZSAS and wider NZDF information and knowledge management systems and practices.
- 3.13 *Knowledge flows between theatre and HQJFNZ*: Knowledge flows and communications from theatre to HQJFNZ and subsequently to HQNZDF are based on routine (periodic SITREPs) and extraordinary (crisis event) reporting. Specific routine reporting requirements for each deployment are set out in the directives, operational orders and instructions governing that mission. We were told Senior National Officers send a SITREP back to HQJFNZ by the end of every week. These routine reports are then collated at HQJFNZ and used to prepare a brief for the Commander Joint Forces on a Monday, followed by the CDF Operations Brief at HQNZDF on a Tuesday morning (which some senior Ministry of Defence staff also attend). CDF also receives a Commanders Update Brief from the Commander Joint Forces every Friday. An operations huddle is held at HQJFNZ on a Wednesday to address requests for information from deployed personnel, and information is provided back to those in theatre by Friday. If information is pressing, huddles occur daily.
- 3.14 The Critical Incident Notification (CIN) system provides fast-response reporting to senior leadership on incidents that meet the Commander's Critical Information Requirements and/or Extraordinary Reporting requirements detailed in the Command Directive, orders and instructions. The Commander Joint Forces promulgated the CIN process in about 2013. It includes a standardised reporting format, timeline and distribution list for receipt. A CIN is notified to the Commander Joint Forces (and Chief of Staff HQNZDF as back-up) through HQJFNZ staff in the first instance. They then talk to the CDF if they consider it necessary, and the CDF decides whether to alert the Minister of Defence.
- 3.15 The CIN process also sets out what constitutes a critical incident, including the death or serious injury of a person (military or civilian) where the NZDF is involved, a significant event within a country where NZDF personnel are located, a significant situation likely to require an NZDF operational response, or a serious disciplinary issue. It also includes any incident, accident, event or activity likely to generate public or high political interest, or that may impact on the reputation of HQJFNZ or deployed forces. Determining whether an incident meets this criterion requires a level of subjective judgement. We were informed personnel receive no specific guidance or training on what kind of things might generate public or political interest or reputational risk. The Secretary of Defence and their policy staff are not consulted in making this determination. As outlined in *Part One: Policy and Military Integration*, this poses a risk that important knowledge is not passed up to the strategic centre.
- 3.16 It appears that New Zealand's defence partners we spoke to operate similar systems to the NZDF for incident reporting. In Canada, however, a ministerial directive is issued at the beginning of a deployment that sets out what the Minister of Defence at the time expects to be briefed on and within what period. These requirements vary according to the type of deployment and the rules of engagement. Noting our finding in *Part One: Policy and Military Integration* that Senior National Officers often feel unprepared to identify and address the policy issues related to their deployments, we encourage the NZDF to work with the Ministry of Defence and the Office of the Minister of Defence to understand and document the Minister's expectations and requirements around information flows for each deployment. Clearer guidance on these expectations will mitigate the risk that individuals lack understanding of what constitutes political and public interest or intentionally interpret it narrowly to avoid scrutiny. Clarifying the Minister's expectations for information requirements for those in theatre will reduce the risk that information flows are impeded by individual failures of judgement.

- 3.17 *Knowledge flow between the Commander Joint Forces, the CDF and the Chief of Staff HQNZDF:* Similar to the modern command and control arrangements for most militaries, CDF retains visibility of operations but delegates day-to-day oversight of the tactical and operational domain to the Commander Joint Forces (and below them, the Component Commanders). We were told that, while this arrangement works well for the most part, the information CDF receives currently from HQJFNZ is often very tactical and does not necessarily cover the strategic context. From this information, the Chief of Staff advises the CDF particularly on issues that may, in his view, have policy implications or need to be advised to the Minister or Ministers. We consider that current arrangements would be insufficient in a high tempo environment given the increase in the volume of information that would be coming out of theatre. The recommendations in *Part One: Policy and Military Integration* to establish a new policy adviser (POLAD) capability and in *Part Two: Headquarters New Zealand Defence Force* to establish a strategic military and policy function will help to address this issue. We note it is important that POLADs are given proper access to operational information in order to provide effective policy input.
- 3.18 In *Part One: Policy and Military Integration* we also identified that the feedback loop to deployed personnel from the strategic centre can be informal and ad hoc. We heard from some NZDF personnel who, when they were deployed, had passed back information to HQJFNZ or HQNZDF about upcoming personnel changes or in-theatre events of strategic significance, but had not received an adequate or indeed any response. Therefore, opportunities for the NZDF's strategic centre to have influence on operational activities and decision-making were missed.
- 3.19 While the Commander Joint Forces is responsible for the fidelity and flow of operational and tactical information from theatre to HQJFNZ and then up to HQNZDF, once that information reaches HQNZDF it appears to be the Chief of Staff who assumes a de facto stewardship role in ensuring it gets to the Minister of Defence. As outlined above, the CDF is on the distribution list of those who will be notified of a critical incident (including those involving the NZSAS), as is the Chief of Staff at HQNZDF. The Chief of Staff ensures both the CDF and Vice Chief of Defence Force (VCDF) are aware of critical incidents. We were told the Chief of Staff is constantly on call in case of an emergency – if the Chief of Staff thinks the Minister needs to know about a crisis event immediately, they will call the Military Secretary at any hour. The CDF may also contact the Minister directly. We examine the need to strengthen formal stewardship responsibilities for information that flows from theatre up to the Minister later in this part (paragraph 4.24).
- 3.20 *Resourcing and training:* We observed that the NZSAS is not properly resourced to do information management as best it could, either in deployed operational cells or at Papakura Military Camp. We note that the Army has developed the operational support and information systems (OPSIS) trade, the role of which is to provide information management at tactical-level headquarters both in New Zealand and on deployed operations. However, the trade is a relatively recent initiative that was introduced after the NZSAS and New Zealand Provincial Reconstruction Team deployments to Afghanistan. We found that unlike some of New Zealand's defence partners, the NZDF does not routinely deploy specialist information managers, even for its most complex operations.
- 3.21 Furthermore, personnel we interviewed stated that they had received almost no training on information management requirements in theatre before they deployed. We note that HQJFNZ, which employs three information management specialists, is in the process of developing a course on information management to include in the pre-deployment training programme. New starters at HQJFNZ are trained how to use the DDMS as part of their induction. Worryingly, we were told some personnel rotating into HQJFNZ from camps and bases had never heard of the DDMS before. The lack of training on effective information management is an issue acknowledged in the draft business case for the Information Management Programme, which we return to in our discussion of gaps and issues (from paragraph 4.1).

## INFORMATION MANAGEMENT AT HQNZDF

- 3.22 *Record-keeping, storage and retrieval:* We were told that while most parts of HQNZDF now use the DDMS, it has not been rolled out to the entire organisation. Senior NZDF leaders we spoke to acknowledged the DDMS isn't universally used even by those who do have access to it, in part due to the way the rollout was managed. Many personnel said their teams weren't consulted in the planning or development of the system, and while some teams were trained in how to use the DDMS, training did not appear to be systematic across the organisation. Others told us that the DDMS was already considered a legacy system, reducing their incentive to use or invest time into it.
- 3.23 We reviewed a multitude of orders, directives, policies and procedures that set out what personnel must record and file. As introduced in paragraph 1.7 of this part, we agree with personnel that many of these documents are impenetrable. We were told all these documents apply to NZDF as a whole. Much of this documentation was provided to us by KIMD, which provides day-to-day support to all parts of NZDF to help inform personnel and aid compliance with relevant legislation and policy as they create, use, store, exploit and destroy information. We were told that the NZDF takes a 'hub and spokes' approach to information management. KIMD acts as a central hub providing support and expertise, while most information management work is the responsibility of functions and teams (spokes).
- 3.24 While KIMD is physically based in HQNZDF, we were informed it is responsible for information management across all NZDF locations and classification systems. We note, however, that decisions about information management still appear to be decentralised, even within HQNZDF itself. For example, the Army and Navy appear to determine their own resourcing requirements for information management specialists and Army General Staff manage their own separate registry.
- 3.25 *Knowledge flows within HQNZDF:* To reinforce our findings in *Part Two: Headquarters New Zealand Defence Force*, the Office of Chief of Defence Force – specifically, the Chief of Staff – is a critical information node between the CDF and the rest of the NZDF. We were told the Chief of Staff is involved in all aspects of operational activity from what is happening day to day on operations to where the organisation is positioning itself strategically. Unusually for a military Chief of Staff, they are responsible for providing strategic advice upwards to the CDF in addition to coordinating and managing information and knowledge at the lower levels. This places significant responsibility for the flow of information and knowledge in the hands of a busy individual and, in our view, gives rise to a potential bottleneck in the passage of information to the CDF and subsequently to the Minister of Defence.
- 3.26 The Expert Review Group terms of reference also tasked us to look at how information on operational deployments is shared between the CDF and the VCDF. The current CDF told us he and the VCDF share information about operations and running the NZDF on a daily basis. In addition to a formal monthly meeting, the CDF and VCDF go to predominately the same briefings and sit on the same governance boards, including the weekly meeting with the Minister and meetings of the NZDF Board and Executive Committee. The VCDF has responsibilities for assigned branches of the NZDF, including Defence Intelligence, Strategic Commitments and Engagements Branch and Capability Branch. It is reflected in the CDF's expectations from the Minister of Defence and both the CDF's and VCDF's job descriptions that if the CDF is away the VCDF assumes all their responsibilities. A formal delegation occurs if the CDF is overseas. The handover process includes a face-to-face meeting, a directive and a record sheet of decisions made and actions required. We are satisfied that sufficient processes and practices enable information sharing between the CDF and VCDF, and they should continue to be followed. We also encourage the CDF and VCDF to consider what adjustments might need to be made to these arrangements if the NZDF were to enter a period of high tempo operational activity.
- 3.27 *Knowledge flow between HQNZDF and the Minister of Defence:* Knowledge of an operational nature that would be of public and political interest flows from HQNZDF to the Minister of Defence and their office in a variety of ways. For critical incidents, the Minister is informed through the CIN process through either a conversation between the Military Secretary and the Chief of Staff HQNZDF or direct engagement with the CDF. We were told in such cases, the Chief of Staff or the CDF makes sure to specify whether the information is new and, if so, to stress that it cannot be taken as a fully accurate version of events, as the first reports out of theatre are rarely ever accurate. Sometimes a written briefing may be provided to the Minister after the initial critical incident has been dealt with. This is particularly helpful if the Minister is then expected to front the media and public, for example, where an incident resulted in casualties.

- 3.28 Tension exists between timeliness and accuracy of information, and we acknowledge that it can be a significant challenge when operating in a dynamic military environment. This tension is further exacerbated by the rapid transmission of events through social media and other media channels. In our view, the management of this tension sits at the top – Ministers, senior public officials and military leadership must be openly willing to accept that the first reports out of theatre on an incident will invariably contain inaccuracies and ensure briefings to the public and media are qualified accordingly.
- 3.29 In terms of routine reporting, the Minister receives regular oral briefings on defence activities and engagements at their weekly meeting with the CDF, Secretary of Defence and other senior Defence officials. The Minister's Private Secretary prepares a written record of these meetings and promulgates it to a select group of senior officials and officers. The Minister also receives a weekly report, jointly compiled by the Ministry of Defence and the NZDF, which provides an update on current and emerging issues and engagements. Written submissions are prepared (often jointly between the NZDF and the Ministry of Defence) on significant issues where a decision is required. Information and knowledge flow between HQNZDF, the Ministry of Defence and the Office of the Minister of Defence informally through the Ministry's Private Secretary and the NZDF's Military Secretary.
- 3.30 It is important that the knowledge the Minister receives goes through robust levels of scrutiny and verification as it flows through the various levels of decision-making. This involves checking the accuracy of the information and knowledge at hand, which can be difficult to source if record-keeping policies and practices are not followed consistently. It also involves pitching advice and information at the right level for the Minister – in many cases this will include an analysis of the strategic considerations (both military and policy) as well as presentation of the facts. We were told the Chief of Staff checks that the right people have contributed to proposed advice or information and that it reflects ministerial and NZDF priorities and objectives before it goes to the CDF for sign off. However, the Chief of Staff is not formally accountable for providing this function and – as outlined in *Part Two: Headquarters New Zealand Defence Force* – must balance it with a multitude of other responsibilities. We return to the issue of stewardship of information in the findings and recommendations later in this part (paragraphs 4.23 and 4.24).
- 3.31 *Resourcing and training:* One of the major changes over the past few years in terms of information management at HQNZDF (and across government more widely) is that all personnel are expected to do record-keeping themselves rather than dedicated staff performing this function on behalf of other personnel. Senior leaders are required to do their own filing, and we were told that, when under pressure, this activity can slip down the priority list. As examined later in this part (paragraph 4.5), this is exacerbated by a lack of clear guidance and training on information management systems, processes and policies.
- 3.32 We were told that the constraint on civilian recruitment in the NZDF has impacted on information management resources. While KIMD advises the organisation on the fundamentals, it is currently a team of 18 full-time staff and five contractors, which is small when considering the size of the NZDF. KIMD largely relies on people in each business unit to drive compliance and put processes in place that are appropriate for the unit's function. We were told HQJFNZ has a specialised information management officer and that KIMD may replicate this role across other parts of the NZDF, depending on how it defines the NZDF's information management operating model, which is a foundational activity of the Information Management Programme. The Army and Navy employ their own information management specialists, while the Air Force does not. We understand limited engagement occurs between the single Service information managers and KIMD.

## MANAGEMENT OF LEGACY INFORMATION

- 3.33 Legacy information is held across numerous systems. This is, in part, because, until relatively recently, information management was done at the single Service level. Many of these processes have continued despite the introduction of the NZDF-wide DDMS. The registry and declassification functions at HQNZDF are in the Defence Shared Services Group under the Defence Logistics Command, which is also part of the remit of the Chief Joint Defence Services.
- 3.34 While the Defence Shared Services Group manages the HQNZDF Central Registry<sup>84</sup> and three classified Air Force registries, we understand the Army and Navy have their own separate registries stored on old IT platforms. Several Army camps and bases also maintain their own sub-registries, although we understand there is some oversight of these by Army General Staff to ensure coherence with the HQNZDF Central Registry. HQJFNZ maintains a separate registry for operational information. We were told a large backlog of paper-based records, containing unclassified and classified files, hasn't been appraised.
- 3.35 These factors, combined with the widespread use of team shared drives and personal drives and issues with DDMS search functions, can make retrieving information to respond to requests under the Official Information Act 1982, parliamentary questions, ministerial correspondence, and public and staff enquiries extremely complex and difficult. We were told personnel, therefore, rely heavily on registry staff who know who to ask and where to go. Despite a review of the Central Registry in 2017 resulting in a temporary increase in resources to digitise the registry function and speed up declassification, currently only two full-time staff members carry out retrieval work and one part-time staff member declassifies documents. Similarly, staff carrying out information management functions in the Army and Navy told us that while the DDMS was supposed to shift responsibility for filing and searching for electronic documents to frontline teams, there was a constant demand for their services in terms of advising and supporting people on how to store and find information.

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## 4. Gaps and issues

- 4.1 We found six gaps and issues in relation to the management and flow of information.
- Information and knowledge management may be made subordinate to systems and technology under current leadership, accountability and responsibility arrangements.
  - NZDF personnel are not well supported to manage information and knowledge effectively, and specialist information management resources are not prioritised.
  - Significant barriers to the retrieval of information exist, and insufficient resources are allocated to dealing with extensive holdings of legacy information.
  - NZDF's IT infrastructure is not well suited to the military context.
  - Transparency and accountability are undermined by the tendency to over-classify information.
  - It is unclear who is accountable for the end-to-end stewardship of operational information and knowledge as they flow through the Defence system.

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84 The Defence Shared Services Group HQNZDF Central Registry team is responsible for the management of all unclassified and classified historical files (paper records) for Defence.

## **INFORMATION AND KNOWLEDGE MANAGEMENT MAY BE MADE SUBORDINATE TO SYSTEMS AND TECHNOLOGY UNDER CURRENT LEADERSHIP, ACCOUNTABILITY AND RESPONSIBILITY ARRANGEMENTS**

- 4.2 The draft business case for the Information Management Programme clearly describes the important role of **strong senior leadership who promote information management as a priority** in creating a culture that values information as an asset. Developing and embedding consistent and integrated governance arrangements for information management is also listed as a programme outcome, although it is not clear in the business case what those arrangements would involve. As stated earlier in this part, we believe NZDF leadership is committed to improving information management systems and practices and has a sound understanding of the issues the organisation faces. However, we have reservations about the current leadership and accountability arrangements for information management in the NZDF.
- 4.3 As explained earlier, the Chief Information Officer is the Senior Responsible Owner for both the Information Management Programme and the multiple future IT investments and changes to the Communications and Information Systems operating model (collectively known as the Communications and Information Systems Change and Transformation Programme). The current Chief Information Officer is also the first military person to fill that role and does not come from an information management or IT background. We were informed the intention was to appoint someone who was not necessarily a technical specialist, but who could provide leadership during the transformation programme and who understood the way the NZDF operates.
- 4.4 We were told that the role of the Chief Information Officer had previously focused more on the technology side of information management. We were told that before the establishment of KIMD, the NZDF had tended to invest solely in technology without ensuring that information or knowledge specialists and processes were in place to support systems to operate effectively. Information and data are organisational assets that will ultimately outlive the technology that underpins them. Our concern is that the current configuration – where the Chief Information Officer who already has responsibility for significant IT investments is also ultimately accountable for widespread changes to information management – risks information and knowledge processes and practices once again being made a lower priority than systems and technology. The Chief Data Officer has an important role to play with respect to information and knowledge management, and this should be reflected in the balance of leadership, accountabilities and responsibilities shared between them and the Chief Information Officer.

## **NZDF PERSONNEL ARE NOT WELL SUPPORTED TO MANAGE INFORMATION AND KNOWLEDGE EFFECTIVELY, AND SPECIALIST INFORMATION MANAGEMENT RESOURCES ARE NOT PRIORITISED**

- 4.5 One of the fundamental principles for an effective information and knowledge management system is that **staff should be supported to know and meet their responsibilities through clear policies and access to training and guidance**. As outlined above, there is no shortage of Defence Force Orders, directives and guidance governing information and knowledge management at the NZDF. The issue is that the volume and nature of this documentation makes it difficult for personnel to determine what they should be doing – the documentation is not easy to read or understand. NZDF personnel we spoke to also told us that training on how to use systems such as the DDMS is ad hoc. In the absence of accessible guidance and training, individuals and teams have developed their own ways of doing things, resulting in inconsistent application of policies and fragmented processes and practices. For example, we were told users weren't provided with guidance on NZDF-wide naming conventions until 12–15 months after the DDMS had been rolled out across Army General Staff. By this time, people had already made up their own conventions.
- 4.6 The draft business case for the Information Management Programme acknowledges the lack of standardised information management rules and education practices across the NZDF and quotes research from a user experience survey conducted in 2020 that confirms personnel find it extremely difficult to work out what resources are available to them on information management and how to access and utilise them.

- 4.7 If approved, the option recommended in the draft business case will establish a foundational set of consistent processes and tools across all NZDF information that will guide users in making decisions about how to manage, store and share information effectively. It also includes ongoing training for users across the organisation, including on the use of specific information management tools and the appropriate destruction of information. We strongly support both proposed outputs and are pleased to see they have been proposed as part of the first delivery stage of the Information Management Programme. We would expect the implementation of these improvements to be accompanied by a comprehensive change programme that takes into account the lessons learned from previous programme rollouts, including of the DDMS.
- 4.8 Relevant to the principle that **organisations should employ specialist staff with expertise in information management and record keeping**, information management specialist resourcing is not prioritised and the resources that do exist are not allocated consistently throughout the organisation. On extended deployments in a coalition environment where the ownership and ability to obtain information and knowledge is inevitably fraught, we consider it desirable that dedicated information management personnel be deployed as part of the operational cell to manage the creation, storage and retrieval of information and knowledge. This should be considered alongside decisions about deploying legal and policy advisers. We consider that a properly resourced operational cell would reduce the risk of human error in managing information and knowledge.
- 4.9 In addition to the lack of dedicated information management staff on operations, we were made aware of long-standing vacancies across HQNZDF's information and knowledge management functions. In the absence of dedicated information managers, there appears to be a reliance on staff who understand the importance of good information management to drive compliance across the rest of their team or branch.
- 4.10 The draft business case for the Information Management Programme acknowledges that other roles with information management responsibilities sit outside KIMD (including within the single Services) and these roles are not centrally recorded or managed. The option recommended in the business case provides for the design and implementation of a new operating model for information management and a people capability uplift strategy to ensure the NZDF has clearly defined and embedded specialist information management roles in place.
- 4.11 We heard that decisions on new information management systems (both technology and implementation) have traditionally been made without input from information management specialists across the organisation who have a valuable understanding of user requirements in their specific areas. In our view, obtaining such knowledge through consultation is vital to the success of any change programme, particularly one as wide-reaching as the Information Management Programme.

## **SIGNIFICANT BARRIERS TO RETRIEVAL OF INFORMATION EXIST, AND INSUFFICIENT RESOURCES ARE ALLOCATED TO DEALING WITH EXTENSIVE HOLDINGS OF LEGACY INFORMATION**

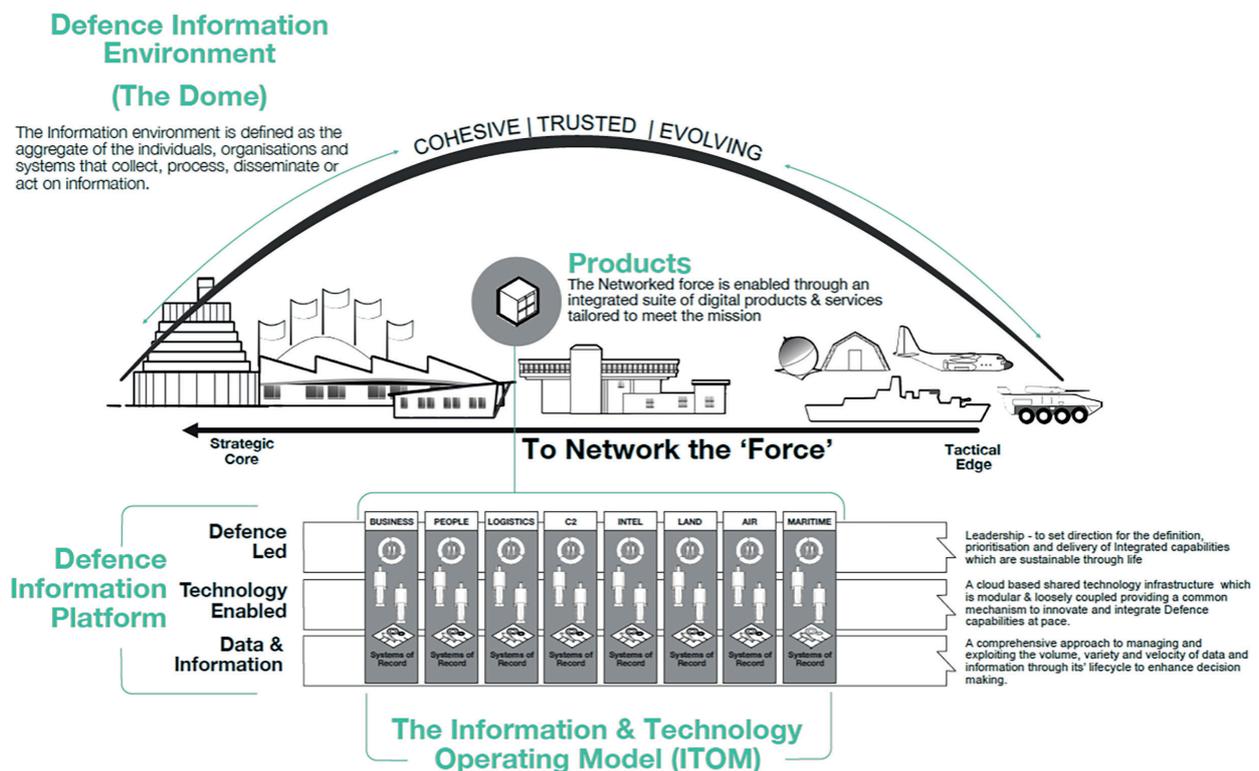
- 4.12 Information and knowledge are stored across multiple systems, networks and locations, including shared and personal drives. Crucially, no central database lists all the repositories across the organisation and the documents in each. This is contrary to the principle that **organisations should identify and document where all information and records are created and held**. It makes retrieval of information to respond to requests under the Official Information Act 1982, for example, highly complex and makes it difficult to say with certainty that all relevant material has been found. Ultimately, not knowing and recording the location of all information and records risks undermining public and ministerial trust and confidence in the NZDF.
- 4.13 An output under the recommended option in the draft business case for the Information Management Programme is a catalogue of NZDF's current information assets to provide a better view of what information exists, where it is located and who it can be shared with. As explained below (paragraph 4.16), the technology investments known as the Enterprise Projects will deliver an integrated Defence information management system, enabling personnel to access and 'exploit' the information catalogued. While there is limited granularity around these proposals at this stage, we believe NZDF leadership has a good understanding of the issues in this area and we support the direction of the business case.

- 4.14 More centralisation and/or alignment of registry functions is also required across the organisation. Senior leadership has almost no oversight of these functions. The Director of the Defence Shared Services Group is responsible for the provision of shared service functions across camps and bases and the corporate shared service function across HQNZDF at Defence House in Wellington, including registries. The Director reports to the Commander Logistics, who reports to the Chief Joint Defence Services. This means the Director does not have a direct line of communication to senior leadership on issues relating to legacy information and has limited input into discussions on information management resourcing and strategy. Furthermore, there is limited focus on registry functions in the draft business case. The recommended option includes the development of a single archive across physical and digital information assets, which we also support, with the caveat that this work needs to be properly resourced and consulted on with existing registry staff.
- 4.15 Once information and records have been identified and documented, those that are no longer required should be regularly disposed of. The draft business case states the approach to which information is kept or destroyed is inconsistent due to a lack of clear expectations, tools, systems and processes. A more immediate concern is that Defence Shared Services Group has a massive backlog of legacy information to process but is understaffed to deal with it. Storing this information is costly and, without knowing what information is in the legacy files in question, high risk.

## NZDF'S INFORMATION TECHNOLOGY INFRASTRUCTURE IS NOT WELL SUITED TO THE MILITARY CONTEXT

- 4.16 In addition to proper information management processes and practices, for a military to operate effectively it needs **information management systems that are both portable and interoperable**. The NZDF works across multiple platforms and locations and at different security classifications but it is difficult to transfer information between them. The draft business case for the Information Management Programme – in conjunction with the Enterprise Projects, notably the Cloud project – seeks to address this issue in several ways. A key investment objective for the programme is to integrate information across NZDF locations and classifications so personnel can find and access relevant content wherever they are, including on deployment. In terms of infrastructure, we were informed that technology investments will underpin the new Defence Information Environment that captures information and knowledge from the tactical to the strategic level (see the conceptual illustration in Figure 5). Archiving and analytics capabilities will be built into this model.

Figure 5: New Defence Information Environment



- 4.17 On the face of it, the plan for integrating the NZDF's IT systems appears to be coherent. We believe the proposed investments (including in the cloud, which Cabinet has approved) will help to address frustrations with IT systems that have contributed to personnel in different locations developing work-arounds such as storing information on personal drives. However, we note the gap is large between where NZDF systems are now and where they are envisaged for the future. It is important the introduction of new technology is accompanied by an investment in people capability to embed changes in practice as well as systems.
- 4.18 Furthermore, cloud computing at higher classification levels involves the utilisation of new and potentially high-risk technology, as it is not tried and tested. We were informed that the NZDF is at the forward edge of the Government's collaboration with Microsoft on cloud matters. However, we note some partner militaries are also moving to cloud-based systems. It is vital the NZDF's IT systems enable it to operate alongside its defence partners, including in a coalition environment. Interoperable systems are not only critical to delivering military effects but also mitigate the risk that important information is unable to be retrieved from coalition IT systems during or after an operation, as was the case in the aftermath of Operation Burnham.
- 4.19 As evidenced in the Inquiry report, incompatible systems are only part of the problem of accessing and repatriating records back to New Zealand in a coalition context. We note that since 2011, the North Atlantic Treaty Organization (NATO) has experienced an increase in requests from partners seeking advice on the management of and access to records due to the need to preserve sufficient records should a post-activity investigation need to take place. NATO is the information custodian for records originating from non-NATO nations participating in and/or contributing to a NATO operation and provided to the NATO chain of command, although the originator has control over downgrading, release and public disclosure.<sup>85</sup> Access to NATO records depends on the classification, with anything above unclassified being released only to individuals, governmental officials and organisations deemed to have a need-to-know requirement and an appropriate NATO security clearance.<sup>86</sup> To minimise continuance of the information retrieval issues experienced to date, when deploying into any coalition environment, the NZDF should put in place and monitor formal arrangements with NATO and coalition partners for storing and sharing information and knowledge – both throughout the deployment and when any partners withdraw their forces.

## TRANSPARENCY AND ACCOUNTABILITY ARE UNDERMINED BY THE TENDENCY TO OVER-CLASSIFY INFORMATION

- 4.20 **Personnel should be supported to understand their responsibilities in sharing information and knowledge outside the organisation.** Some interviewees told us that NZDF information can be 'over-compartmentalised' and 'over-classified'. While classification may be used as an excuse not to share information in order to avoid scrutiny, we were told it is often assumed that if something were marked unclassified it could be made public and that a lack of rigour and critical thought was applied to classification decisions. In our view, this stems from a lack of clear guidance from leadership on their risk appetite around certain types of information. This lack reinforces the importance of clear instructions on the criteria for compartmentalisation, as outlined in *Part One: Policy and Military Integration*. We recognise that some information does genuinely require protecting, but the assessment of why that is must be rigorous, guided by an organisation-wide approach to risk management. Classification should be applied only when required. These findings are consistent with those of the Royal Commission of Inquiry into the Terrorist Attack on Christchurch Masjidain on 15 March 2019.<sup>87</sup>
- 4.21 Over-classification has both current and future ramifications. As outlined above, significant investment in time and resources is required to address the declassification of historic documents. Across the organisation, the proper classification and declassification of information in line with only what needs to be protected would mean more information available, which is key to increasing public transparency and accountability.

85 NATO Deputy Secretary General *Directive on the Management of Records Generated on Operational Deployment* North Atlantic Treaty Organization (2012).

86 NATO Archives Committee *Guidelines on the Handling of Requests for Access to NATO Records Generated during Council Approved Operations, Missions and Activities by Operational Partner Nations* North Atlantic Treaty Organization (2018).

87 Hon Sir William Young and Jacqui Caine *Ko tō Tātou Kāinga Tēnei: Royal Commission of Inquiry into the Terrorist Attack on Christchurch Masjidain on 15 March 2019* (2020) <https://christchurchattack.royalcommission.nz/the-report/>.

4.22 These issues are not unique to the NZDF – for example, the Inspector-General of Intelligence and Security recently stated that there is “a tendency to over-classification by the intelligence agencies” and “near-permanent classification due to the lack of systematic classification review processes within the New Zealand government”.<sup>88</sup> This is not to say that change is not possible. Interviewees from the intelligence agencies talked about how shifting practices, behaviours and attitudes around transparency and oversight driven from the top has slowly had a positive impact on organisational culture. Many staff now look for opportunities to share what the organisation is doing and contributing.

## **IT IS UNCLEAR WHO IS ACCOUNTABLE FOR THE END-TO-END STEWARDSHIP OF OPERATIONAL INFORMATION AND KNOWLEDGE AS THEY FLOW THROUGH THE DEFENCE SYSTEM**

- 4.23 Information and knowledge about NZDF’s operational activities often has to travel through several layers of command before it reaches the Minister of Defence. In an organisation as large and complex as the NZDF, it is not enough to rely solely on each individual or function operating effectively to ensure the Minister receives the advice and information they require to carry out proper democratic oversight of the NZDF. Consideration must also be paid to the way information and knowledge moves **between** these functions and its integrity. This is particularly important in a coalition context where NZDF personnel are working across multiple networks and systems that are not easily connected to each other. We believe top-down accountability is needed for the flow and fidelity of information and knowledge from theatre to the Minister.
- 4.24 As outlined earlier, both the Commander Joint Forces and Chief of Staff HQNZDF perform some elements of the stewardship role. In our view, however, value exists in designating one role as accountable for the end-to-end stewardship of operational information and knowledge of potential public and political importance. If a situation similar to that which happened after Operation Burnham were to reoccur, the information steward could be called on to provide the Minister with assurance that they were being provided with high-quality and accurate advice and information sufficient for the Minister to discharge their accountabilities to Parliament and the public. We elaborate on the requirements for this role and who we believe should assume the role of information steward in the conclusions and recommendations.

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## **5. Conclusions and recommendations**

- 5.1 Information and knowledge are organisational assets and require careful management. This is particularly true for the NZDF, a large and complex organisation that relies on timely and accurate record-keeping, information storage and information flows both to properly advise and inform the Minister of Defence and for its strategic and operational decision-making and planning. We believe NZDF leadership understands the importance of information and knowledge management and is aware of the importance of culture and people alongside systems and technology.
- 5.2 However, assessing the NZDF’s current systems and practices against the principles set out at the beginning of this part demonstrates that fundamental improvements need to be made. We support the proposals to improve the way information is recorded, stored, used and shared in the Information Management Programme and Enterprise Projects. Implementation of the recommended option in the draft business case for the Information Management Programme, alongside investment in the Enterprise Cloud, Connectivity and Productivity projects, will go a long way to addressing issues with fragmented and incompatible systems and practices, and impenetrable and inconsistent processes and policies, all of which pose significant risks to the retrieval of NZDF information.

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<sup>88</sup> Inspector-General of Intelligence and Security (Madeleine Laracy) *Report of Inquiry into the Role of the GCSB and the NZSIS in Relation to Certain Specific Events in Afghanistan: Public report* Office of the Inspector-General of Intelligence and Security (2020), at page 49, <https://www.igis.govt.nz/assets/Inquiries/Inquiry-into-events-in-Afghanistan.pdf>.

- 5.3 We support, in principle, the people capability uplift also proposed in the draft business case for the Information Management Programme. We note the lack of routinely deploying dedicated information management staff on operations and the current decentralised approach to allocating resource for information management support functions outside KIMD, and encourage the NZDF to factor these issues into its consideration of a new operating model for information management.
- 5.4 Efforts to catalogue the NZDF's information and introduce a digital archive are also positive steps towards mitigating the security and reputational risks associated with not having a complete picture of what information is where across the NZDF's multiple platforms, locations and classifications. To further mitigate these risks and reduce the cost of maintaining a large backlog of paper-based records, we recommend that immediate steps are taken to define and identify the NZDF's high-interest and high-value information and the records needed to support this across all locations. Guidance on what constitutes high-interest and high-value information is in the discussion about Principle 4 (page 69). Subsequently, we recommend the NZDF prioritise the appraisal, declassification and disposal (as appropriate) of this high-interest and high-value information. This prioritisation will require the NZDF to obtain permission to dispose of information – we understand that the application for a disposal authority is under way and encourage the NZDF to finalise the authority as soon as possible.
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**Recommendation 6:** We recommend the Chief of Defence Force improve the management of stored information by:

- 6.1 defining and identifying NZDF's high-interest and high-value information and the records needed to support defence interests across all systems and locations (including legacy information)
- 6.2 prioritising the appraisal, declassification and disposal (as appropriate) of high-interest and high-value information.
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- 5.5 However, even if the Information Management Programme and Enterprise Projects were to be approved and implemented in full, we do not consider that their deliverables would be sufficient to rectify the failings the Inquiry identified. We note that, although these programmes provide that some senior leaders will be part of standard organisational governance arrangements, their scope does not extend to leadership, accountability and responsibility for information management at the senior levels of the NZDF or the flow and fidelity of defence knowledge, which was a significant issue in the aftermath of Operation Burnham.
- 5.6 On leadership, our concern with the current arrangements is the potential for information and knowledge to be subordinated to technology and systems, given the comparably 'soft' and intangible nature of information and data assets. This issue is compounded by the fact the Chief Information Officer has significant responsibilities in both areas, including as the Senior Responsible Owner for all current change programmes. We recommend the NZDF review current arrangements for the leadership, accountability and responsibility of information and knowledge management to ensure they properly reflect the importance of information and knowledge as organisational assets. In particular, we recommend reconsidering the balance of responsibilities between the Chief Information Officer and Chief Data Officer with respect to information and knowledge management.
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**Recommendation 7:** We recommend the Chief of Defence Force reconsider the balance of leadership, accountabilities and responsibilities between the Chief Information Officer and Chief Data Officer to ensure they properly reflect the importance of information and knowledge.

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- 5.7 To address issues with defence knowledge flows and their integrity, we recommend a senior member of the NZDF is given overall accountability and responsibility for the end-to-end stewardship of NZDF strategic information and knowledge of public and political interest. This person would be responsible for making sure information and knowledge are accurate, high-quality and get to the right places, including up to the Minister of Defence where required.
- 5.8 We recommend that this stewardship role be mandated as part of the VCDF's responsibilities. Our reasoning is that the steward needs to be someone exposed to the non-military considerations the Minister has to think about, and they need to be senior enough to be able to question information presented, including challenging the CDF if need be. In undertaking this role, we encourage the VCDF to draw on the information and knowledge management principles set out in paragraph 2.1 of this part.
- 5.9 The VCDF oversees the Strategic Commitments and Engagements Branch and Defence Intelligence, among other functions. Their counterpart in the Ministry of Defence is the Deputy Secretary Policy and Planning, who is responsible for the International and Policy Branches. The VCDF is also responsible for working with the Ministry on the joint Defence Capability Management System<sup>89</sup> and for developing a culture of information sharing and cooperation between the two agencies. As part of the stewardship role, we see the VCDF working closely with the Deputy Secretary Defence Policy and Planning to ensure information and knowledge provided to the Minister encompasses both policy and military considerations.
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**Recommendation 8:** We recommend the Chief of Defence Force direct that the Vice Chief of Defence Force be given overall accountability and responsibility for the end-to-end stewardship of the flow and fidelity of operational knowledge of public and political interest across the NZDF. The information and knowledge management principles set out in this report (pages 68–69) are intended to aid the VCDF in exercising this stewardship role.

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- 5.10 Finally, we recognise that information and knowledge management systems and practices will always have a human dimension. Delivering the right information to the right place at the right time – a shared outcome of the Information Management Programme and Enterprise Projects – requires that personnel across the NZDF know and understand how to do so. In addition to supporting personnel with thorough training and guidance, we recommend identifying opportunities to test information management systems and practices and knowledge flows. We suggest exercise scenarios and the like focus on the transfer of operational knowledge that is likely to be of public and political interest across multiple classifications and locations.
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**Recommendation 9:** We recommend the Commander Joint Forces New Zealand identify opportunities to test information management systems and practices and knowledge flow, focusing on scenarios requiring the transfer of operational knowledge that is likely to be of public and political interest across multiple classifications and locations.

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<sup>89</sup> The Defence Capability Management System is an integrated end-to-end system that plans, delivers and manages major military capabilities for use by the NZDF. It includes the people, enablers, behaviours, governance and leadership necessary to plan, deliver and manage Defence capability.

**APPENDIX A:**

# **EXPERT REVIEW GROUP TERMS OF REFERENCE**

# GOVERNMENT INQUIRY INTO OPERATION BURNHAM: FORMATION OF THE EXPERT REVIEW GROUP TO CONSIDER THE NEW ZEALAND DEFENCE FORCE'S ORGANISATIONAL STRUCTURE AND RECORD-KEEPING AND RETRIEVAL PROCESSES

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## Background

1. On 31 July 2020, the Attorney-General released the Report of the Government Inquiry into Operation Burnham and related matters (the Report). The Inquiry made four recommendations, which the Government accepted in principle.
2. Recommendation 1 of the Report provides that the Minister of Defence take steps to satisfy him or herself that the New Zealand Defence Force's (NZDF) (a) organisational structure and (b) record-keeping and retrieval processes are in accordance with international best practice, and are sufficient to remove or reduce the possibility of organisational and administrative failings of the type identified in the Report. The Inquiry recommended that an expert review group (comprising people from within and outside the NZDF, including overseas military personnel with relevant expertise) be appointed to enable the Minister to do so and to ensure public confidence in the outcome.
3. The Minister of Defence has also identified an opportunity to look at the broader organisational, systemic and cultural issues outlined in the Report, to test whether the NZDF is fit for purpose to meet the strategic challenges it is facing and will face in the coming years.
4. These strategic challenges include the NZDF's role in the all-of-Government response to COVID-19 and more generally in providing aid to the civil power; increasing national security demands; utilisation of new capabilities; an increasingly complex and dynamic international security environment; economic disruption; and rapid technological change.

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## Purpose

5. To this end, the following two separate tranches of work are envisioned:
  - 5.1 Phase 1 – Addressing Recommendation 1 of the Report:** The Expert Review Group will assess whether the NZDF's organisational structure and record-keeping and retrieval processes are in accordance with international best practice, and whether they are sufficient to remove or reduce the possibility of organisational and administrative failings of the type identified in the Report occurring in the future.
  - 5.2 Phase 2 – Positioning Defence for the future:** After Phase 1 is complete, the Minister of Defence will seek Cabinet agreement on Phase 2, which would look at broader New Zealand Defence Force (NZDF) organisational matters. Should a Phase 2 be agreed by Cabinet, the Expert Review Group would consider whether the current form, function and structure of the NZDF is fit for purpose for the current and future operational environment.

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## Scope of Expert Review Group

6. The overarching consideration to guide the scope of the work of the Expert Review Group is that the Minister of Defence must be satisfied that they will receive full, accurate and timely reporting from the NZDF in the future.
7. Having regard to its purpose, the Expert Review Group will assess and report on the following:

### PHASE 1 – ADDRESSING RECOMMENDATION 1 OF THE REPORT

#### (A) ORGANISATIONAL STRUCTURE

8. The Expert Review Group is to consider whether the current structure of the NZDF is best suited to remove or reduce the possibility of the failings identified in the Report reoccurring, including by consideration of:
  - 8.1 Whether the establishment of the Special Operations Component Command has delivered the most effective command, control and accountability, when considering the location of Special Operations Forces elements within the NZDF organisational structure.
  - 8.2 Relevant aspects of Headquarters NZDF functions, specifically:
    - 8.2.1 the structure of the Office of the CDF (OCDF), and whether this is optimised to fulfil the Chief of Defence Force's (CDF) responsibilities to Ministers in relation to operational deployments;
    - 8.2.1 how information regarding operational deployments is provided to the OCDF;
    - 8.2.3 how information regarding operational deployments is shared between the CDF and the Vice Chief of Defence Force;
    - 8.2.4 how information about operational deployments is communicated to Defence Public Affairs; and
    - 8.2.4 how formal NZDF communications products about operational deployments are drafted, approved and promulgated.
  - 8.3 The nature of the working relationship between Headquarters NZDF, Headquarters Joint Forces New Zealand and the Ministry of Defence in regards to operational deployments, including the levels of engagement and information sharing;
  - 8.4 The extent to which the Defence Act 1990 does, or should, reflect a role for the Ministry of Defence, working alongside the NZDF, in advising the Minister of Defence and Cabinet on operational deployments;

- 8.5 How military lawyers are kept informed on the details of operational deployments, including in-theatre and at headquarters elements in New Zealand; and
- 8.6 How the compartmentalisation of certain operational deployments is determined, and what policies and processes are applied to such deployments.

**(B) RECORD-KEEPING AND RETRIEVAL PROCESSES**

9. The Expert Review Group is to determine a benchmark or measure of international best practice in relation to record-keeping and retrieval processes, assess the likely cost-benefit analysis to the NZDF of reaching that benchmark or measure and identify steps to implement that benchmark or measure. In determining that benchmark or measure, the Expert Review Group should consider the following factors:
  - 9.1 The current state of NZDF-wide information management systems in terms of both ICT and policies, processes and procedures;
  - 9.2 The current state of information management resourcing, including professional information management staff and skill sets;
  - 9.3 The current state of information management systems, processes and resourcing in theatre on operational deployments;
  - 9.4 The progress of any information management-related change programmes that are already underway; and
  - 9.5 Whether there is a systematic classification review programme within the NZDF and if so, how is it being implemented.

**(C) ANY OTHER MATTER THE EXPERT REVIEW GROUP CONSIDERS MATERIAL TO THE SCOPE OF THE TERMS OF REFERENCE**

**PHASE 2 – POSITIONING DEFENCE FOR THE FUTURE**

10. The membership of the Expert Review Group and the Terms of Reference will be reviewed after the report on Phase 1 has been presented to the Minister of Defence.
11. The findings and insights from Phase 1 would underpin the final form of, and approach, to Phase 2. The Expert Review Group will develop a Phase 2 project plan and timeline for the Minister of Defence to consider.
12. The Minister of Defence will seek Cabinet agreement on Phase 2, including any revisions to the Terms of Reference and membership of the Expert Review Group.
13. Should Phase 2 be agreed by Cabinet, at this stage it is expected that the Expert Review Group would consider whether the current form, function and structure of the NZDF is fit for purpose for the current and future operational environment, particularly in view of the strategic challenges the NZDF will face in the coming years.
14. The findings or report of the Expert Review Group on Phase 2 would contribute to the Defence White Paper process, should Cabinet decide to commission a White Paper. The Defence Assessment that is currently underway will provide a comprehensive review of New Zealand's strategic environment and the implications for defence policy settings and NZDF roles and tasks to provide a basis for future analysis and decisions on force structure.
15. Phase 2 should explore previous reviews that considered Defence organisational arrangements. The Expert Review Group should examine why certain recommendations have been implemented and whether others that have not been, should be implemented.

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## Meeting Frequency

16. The Expert Review Group will have its first meeting no later than two weeks from the date of appointment.
17. The Expert Review Group will meet on a regular basis, at a frequency agreed to between the Chair and the Minister of Defence, and sufficient to make timely progress on their work programme.

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## Regular Reporting

18. The Expert Review Group is to report back to the Minister of Defence by early November 2020 with a progress update on initial planning, and thereafter on a regular basis at a frequency agreed to between the Chair and the Minister of Defence.
19. The Expert Review Group will provide the Minister of Defence with a progress report prepared in time for presentation to Cabinet by mid-December 2020, with details as to project plans, timelines and monitoring.
20. The Minister of Defence may choose to share subsequent updates with ministerial colleagues and/or Cabinet.

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## Timeframe for completion

### PHASE 1

21. The Expert Review Group will complete all work on Phase 1 and present a report on their findings to the Minister of Defence by June 2021.

### PHASE 2

22. Should Cabinet agree to Phase 2, at this stage it is assessed that the Expert Review Group would need to present a report on their findings to the Minister of Defence by the end of 2021, in order to contribute to the Defence White Paper process. However, this timeframe will be assessed prior to Cabinet agreement being sought on Phase 2.

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## Membership

23. The Expert Review Group is appointed by the Minister of Defence. It comprises persons who possess the necessary skills/expertise/experience to fulfil the positions of:

Chairperson
External adviser
Department of the Prime Minister and Cabinet (DPMC) senior official
Department of Internal Affairs senior official (information governance expertise)
Ministry of Defence senior official
NZDF senior military officer

24. The Expert Review Group will be supported by two international advisers:

Senior civilian public official (serving or retired)
Senior military officer (serving or retired)

25. The Expert Review Group may choose to seek input from the academic community to inform its work. It may also seek expert advice on any matter within the scope of the Terms of Reference.

### REVIEW OF MEMBERSHIP AND TERMS OF REFERENCE

26. The Terms of Reference and membership of the Expert Review Group will be reviewed after the Phase 1 report has been considered by the Minister of Defence. Cabinet agreement will be sought on Phase 2, including any revisions to the Terms of Reference and membership of the Expert Review Group. Should Cabinet agree to Phase 2, it would be desirable to retain some continuity of membership.

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## Resourcing Requirements

27. The Expert Review Group is classified as a Group 4, Level 1 body under the Cabinet Fees Framework. The fee for the Chair is NZD1,150 per day, and the fee for the external member and international advisers is NZD865 per day.
28. The Ministry of Defence will provide secretariat and research support to the Expert Review Group.

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## **Handling of classified information**

29. The Chair, after receiving advice from the Ministry of Defence and the NZDF, will seek agreement from the Minister of Defence to an appropriate process and settings for the handling of classified information that may be required to be accessed, distributed and discussed by the Group.
30. The agreed process and settings for the handling of classified information will be included in the progress report prepared for the Minister of Defence in time for presentation to Cabinet by mid-December 2020.

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## **Official Information Act 1982**

31. All information held and generated by the Expert Review Group will be official information for the purpose of the Official Information Act 1982 (the Act) unless the Act stipulates otherwise.

Approved by Cabinet on 5 October 2020

**APPENDIX B:**

# **ACKNOWLEDGEMENTS AND METHODOLOGY**

# ACKNOWLEDGEMENTS

The Expert Review Group thanks everyone who contributed to this review. Your insights and written contributions were carefully considered in our deliberations and provided an excellent basis for this report.

Sincere thanks for the outstanding support provided by the Secretariat: Nicole Dancer, Lisa Osborne, Charlotte Speedy and Sophie Tapper.

Lyn Provost (Chair) thanks Expert Review Group members Carol Douglass, Richard Foy, Tony Lynch, Brigadier Hugh McAslan and Simon Murdoch and international advisers Air Marshal (retired) Philip Osborn (United Kingdom) and Dennis Richardson (Australia).

## METHODOLOGY

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### 1. Composition of the Expert Review Group

- 1.1 The Minister of Defence appointed the Expert Review Group in consultation with the Prime Minister, Deputy Prime Minister, Attorney-General and Minister of State Services. Cabinet confirmed the appointments in October 2020.<sup>90</sup>
- 1.2 The Expert Review Group comprises a chair, five members and two international advisers (one civilian and one military). Each was appointed for a term of one year. Members and advisers were selected for their experience and expertise on the review topics identified in the terms of reference (set out in *Appendix A*), and all are current or former senior public service officials or senior military officers.

#### **LYN PROVOST** CNZM, **CHAIR**

Lyn Provost sits on several boards in governance and advisory roles. She was the Controller and Auditor-General of New Zealand from 2009 to 2017 and Deputy Commissioner of New Zealand Police from 2001 to 2009.

#### **SIMON MURDOCH** CNZM (**EXPERT ADVISER**), **MEMBER**

Simon Murdoch was the Chief Executive of the Department of the Prime Minister and Cabinet from 1991 to 1998 and Secretary of Foreign Affairs and Trade from 2002 until his retirement in 2009.

#### **TONY LYNCH** (**DEPARTMENT OF THE PRIME MINISTER AND CABINET**), **MEMBER**

Tony Lynch is a deputy chief executive at the Department of the Prime Minister and Cabinet. He was Deputy Secretary of Defence at the Ministry of Defence from 2014 to 2019.

#### **RICHARD FOY** (**DEPARTMENT OF INTERNAL AFFAIRS**), **MEMBER**

Richard Foy is Te Puna Rua Collaboration Director at the Department of Internal Affairs and was Chief Archivist and General Manager of Archives New Zealand from 2017 to 2020.

#### **CAROL DOUGLASS** (**MINISTRY OF DEFENCE**), **MEMBER**

Carol Douglass is a deputy secretary at the Ministry of Defence. Carol has been with the Ministry since 2011. Previously, she held positions at the Ministry of Foreign Affairs and Trade including in Wellington and overseas.

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<sup>90</sup> Cabinet Minute CAB-20-MIN-0458 refers. Available from <https://www.defence.govt.nz/assets/publication/file/Appointment-of-Expert-Review-Group.pdf>.

### **BRIGADIER HUGH MCASLAN DSD (NEW ZEALAND DEFENCE FORCE), MEMBER**

Brigadier Hugh McAslan is the Land Component Commander at the New Zealand Defence Force (NZDF). Hugh has spent three decades in the NZDF and completed overseas deployments on both coalition and United Nations missions, primarily in command roles. He has served in several roles at Headquarters NZDF, most recently as Chief of Defence Intelligence.

### **AIR MARSHAL (RETIRED) PHILIP OSBORN CBE, INTERNATIONAL ADVISER**

Air Marshal (retired) Philip Osborn served 37 years in the Royal Air Force. He served as Commander British Forces in Northern Iraq and Air Officer Commanding No 2 Group/Chief of Staff Operations and Support, where he was responsible for the command and leadership of one of the two operational Royal Air Force groups. He was Chief of Defence Intelligence from 2015 until his retirement in 2019.

### **DENNIS RICHARDSON AC, INTERNATIONAL ADVISER**

Dennis Richardson was Secretary of Foreign Affairs and Trade for two years before becoming the Secretary of Defence from 2012 until his retirement in 2017. He was Ambassador of Australia to the United States from 2005 to 2009.

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## **2. How the Expert Review Group carried out the review**

### **DOCUMENT REVIEW**

2.1 The Expert Review Group reviewed a wide variety of primary documentation relating to the topics identified in the terms of reference, including NZDF Standing Orders, Defence Force Orders and Minutes; Chief of Defence Force Directives; position descriptions; previous audits and reviews commissioned by the NZDF, including some undertaken by external providers; and corporate strategies. The material was used as a basis for discussion at the Expert Review Group's fortnightly meetings. For the purpose of the meetings, a summary of the primary documents was provided for each topic by the Secretariat to reduce reading time.

### **PRESENTATIONS BY SUBJECT-MATTER EXPERTS**

2.2 At its fortnightly meetings, the Expert Review Group heard from subject-matter experts within the NZDF and government agencies on the topics in the terms of reference. Receiving oral briefs alongside the written documentation was useful, particularly given the complex nature of some of the information. While several presenters were also interviewed in a smaller group setting, having them attend Expert Review Group meetings meant all members had an opportunity to engage with subject-matter experts.

## **INTERVIEWS**

- 2.3 Interviews were conducted in person or via video conference by two Expert Review Group members or a member and an international adviser. Members' and advisers' individual expertise and experience were factored into decisions as to who would conduct each interview.
- 2.4 Interviewees were individuals from the NZDF, Ministry of Defence and wider public sector whose current or former role and/or experience meant they were well-placed to inform the Expert Review Group's work. Most people interviewed were relatively senior in rank and position. Interviewees were provided with an information sheet in advance of the interview. This sheet included a list of proposed interview questions based on the topics identified in the terms of reference and assurances on confidentiality and the collection, use and storage of information provided during the interview.
- 2.5 Interviewees were encouraged to share any additional information or insights that might be relevant to the Expert Review Group's review, and many did so. The Expert Review Group made it clear that interviewees could follow up with the Secretariat to add to, correct or clarify anything following the end of the interview. Several interviewees provided the Expert Review Group with written submissions with additional or supplementary information, which were gratefully received. In some cases, Expert Review Group members or interviewees requested a follow-up discussion, which was then arranged. Given several of those interviewed also gave evidence to the Inquiry, we worked with the Crown Law Office to ensure proper protections were in place to safeguard interviewees' confidentiality. Interviews generally lasted 45 to 60 minutes.

## **VISITS TO PAKURA MILITARY CAMP, HEADQUARTERS NZDF AND HEADQUARTERS JOINT FORCES NEW ZEALAND**

- 2.6 The Chair of the Expert Review Group and a member visited Papakura Military Camp where they received a briefing on the role and conduct of the New Zealand Special Air Service (NZSAS), conducted interviews with senior officers and ran three group discussion forums. Each group consisted of around nine personnel across a mix of ranks and squadrons. The Chair also visited Headquarters Joint Forces New Zealand on two occasions to carry out interviews and attend the weekly Joint Operations Brief. The Chair also attended the Chief of Defence Force's weekly Operations Brief at Headquarters NZDF. These briefings pass information from an operational theatre to the Commander Joint Forces and subsequently to the Chief of Defence Force, Vice Chief of Defence Force and Secretary of Defence. Given the focus on information flows in the terms of reference, it was useful for the Chair to observe the attendees, content and structure of both meetings.

## **ENGAGEMENT WITH INTERNATIONAL PARTNERS**

- 2.7 In addition to the insights provided by the two international advisers, the Expert Review Group requested information from defence agencies in the Netherlands, the United Kingdom, Singapore, Australia and Canada about their organisational structure and record-keeping and retrieval processes. These requests were made through New Zealand's defence attachés and advisers. Information was received in writing (the Netherlands, Australia and Singapore) and via video conference (Canada and the United Kingdom). We also received a response from the North Atlantic Treaty Organization (NATO) on information management and record-keeping on NATO-led operations. While it was difficult to determine a definitive benchmark or measure of international practice for record-keeping and retrieval processes as per the terms of reference, information and insights from international partners provided a useful comparator.

## **CONSULTATION AND STAKEHOLDER ENGAGEMENT**

- 2.8 The Expert Review Group provided a formal progress report to the Minister of Defence in November 2020, which was considered by Cabinet in February 2021.<sup>91</sup> The Chair and the Minister met regularly throughout the process. Internal and external stakeholder engagement plans were also developed and implemented.

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91 Cabinet Business Committee Minute CBC-21-MIN-0007 refers.

