

HON ANDREW LITTLE, MINISTER OF DEFENCE

Operation Gallant Phoenix: Proposal To Extend The Mandate And Increase New Zealand's Multi-Agency Contribution

May 2023

This publication provides documents on Cabinet's 22 March 2021 decision to extend the mandate for New Zealand's multi agency deployment to Operation Gallant Phoenix for two years, until 30 June 2023.

The pack comprises the following documents:

- the Cabinet minute: *Operation Gallant Phoenix: Proposal To Extend The Mandate And Increase New Zealand's Multi-Agency Contribution* [CBC-21-MIN-0080]
- the Cabinet paper: *Operation Gallant Phoenix: Proposal To Extend The Mandate And Increase New Zealand's Multi-Agency Contribution*.

This pack has been released on the Ministry of Defence website, available at: www.defence.govt.nz/publications.

It has been necessary to withhold certain information in accordance with the following provisions of the Official Information Act 1982. Where information is withheld, the relevant sections of the Act are indicated in the body of the document. Where information has been withheld in accordance with section 9(2) of the Act, no public interest has been identified that would outweigh the reasons for withholding it.

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- the security or defence of New Zealand or the international relations of the Government of New Zealand [section 6(a)]
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- maintain legal professional privilege [section 9(2)(h)].



Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

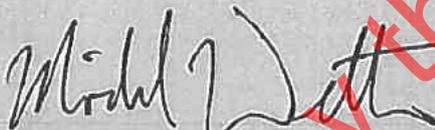
Operation Gallant Phoenix: Proposal to Extend the Mandate and Increase New Zealand's Multi-Agency Contribution

Portfolios NZSIS / Police / Defence

On 22 March 2021, Cabinet:

- 1 noted that the current mandate for New Zealand's deployment to Operation Gallant Phoenix in Jordan expires on 30 June 2021 [CAB-20-MIN-0089];
- 2 noted that this deployment has a direct benefit to New Zealand's national security and supports the international rules based system;
- 3 noted that the Report of the Royal Commission of Inquiry into the Terrorist Attack on Christchurch Mosques emphasised the value of the New Zealand deployment to Operation Gallant Phoenix, and that recommendations 12 and 13 of that Report may result in an increase in requests for information from the New Zealand contingent;
- 4 agreed to extend the mandate for New Zealand's current contribution [redacted] s6(a) Operation Gallant Phoenix for two years until 30 June 2023;
- 5 [redacted] s6(a)
- 6 [redacted] s6(a)
- 7 noted that the estimated cost of the deployment referred to in paragraphs 4-6 above is \$4.131 million;
- 8 noted that the unmitigated overall threat assessment for New Zealand personnel in Jordan is [redacted] s6(a)
- 9 noted that agencies have determined that the highest level of risk for assessed activities at Operation Gallant Phoenix carried no greater than a [redacted] s6(a)

- 10 [REDACTED] s6(a)
- 11 noted that agencies will review their assessments annually or in response to any event that could result in an increase to the risk of assessed activities, and that Ministers with Power to Act will be advised of any increase to the assessed risk;
- 12 noted that all participating agencies will be operating under their own legal mandates, including the ability to provide support to one another;
- 13 agreed that the New Zealand Defence Force may temporarily exceed the Cabinet-mandated personnel numbers for this deployment for the purposes of command reconnaissance, rotation, and extraction of forces in and out of theatre;
- 14 noted that the Chief of Defence Force will inform the Prime Minister, the Minister of Defence and the Minister of Foreign Affairs in advance whenever Cabinet-mandated personnel numbers are exceeded for the reasons set out in paragraph 13 above;
- 15 noted that the total estimated costs for all options, [REDACTED] s6(a) can be funded from within the existing unallocated baseline for Vote Defence Force: Operations Contributing to New Zealand's Security, Stability and Interests MCA;
- 16 noted that this deployment decision is estimated to increase the value of the veterans' support entitlements liability by a maximum of \$1.990 million;
- 17 noted that the total expenses associated with paragraphs 15 and 16 above can be met from within the existing amount of the Vote Defence Force Non-Departmental Other Expenses appropriation: Service Cost – Veterans' Entitlements.



Michael Webster
Secretary of the Cabinet

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OPERATION GALLANT PHOENIX: PROPOSAL TO EXTEND THE MANDATE AND INCREASE NEW ZEALAND'S MULTI-AGENCY CONTRIBUTION

Proposal

1. To seek agreement to extend the mandate for two years, and consider a proposal to increase the contribution to New Zealand's multi-agency deployment to Operation Gallant Phoenix (OGP) in Jordan.

Relation to Government priorities

2. New Zealand's multi-agency deployment to OGP contributes towards keeping New Zealanders safe, lays the foundation for the future by supporting New Zealand's Counter Terrorism Strategy and the National Security and Intelligence Priorities (NSIPs), and supports the international rules based system.

Executive summary

3. This paper presents three options for Cabinet's consideration:

Option One (increase)	Extend the mandate for two years to 30 June 2023, increase New Zealand's contribution s6(a) Recommended
Option Two (maintain)	Extend the mandate for two years to 30 June 2023, maintain New Zealand's existing contribution to OGP s6(a)
Option Three (withdraw)	Extend the mandate for one month to 31 July 2021 in order to conclude New Zealand's deployment to OGP. Not recommended

The Operation Gallant Phoenix Platform

4. OGP is an intelligence fusion facility based near Amman, Jordan. Originally founded to share intelligence on the flow of foreign terrorist fighters (FTFs) in and out of Iraq and Syria, it has evolved into a platform where partners can collect, monitor, process, share, and receive material in accordance with their national security priorities.

s6(a)

s6(a), s6(b)(i)

5. While the location of OGP was initially intended to facilitate easier access to information recovered from Iraq and Syria, its location has since become less relevant given its now global focus.

New Zealand's contribution to Operation Gallant Phoenix

6. New Zealand's involvement in OGP (named Operation SOLAR) began with a contribution [redacted] s6(a) in August 2014 [redacted] s6(a), s6(c) [redacted] s6(a), s6(c). As the Operation developed, the counter-terrorism benefits to New Zealand were identified. In March 2017 Cabinet agreed to deploy [redacted] s6(a) personnel from the New Zealand Defence Force (NZDF) and New Zealand Police (NZP), for two years.²
7. Following the 15 March terrorist attack on Christchurch masjidain in 2019, Cabinet approved the expansion of the deployment [redacted] s6(a) and extended the mandate until December 2020.³ In December 2020, Cabinet agreed to defer (through a six month mandate extension to 30 June 2021) consideration on the future of New Zealand's deployment to OGP to ensure advice could reflect the Report of the Royal Commission of Inquiry (RCOI) into the terrorist attack on Christchurch masjidain and the Government's response.⁴ The RCOI Report has now been released and a staged Government response is currently under development.
8. New Zealand's current multi-agency deployment to the OGP platform consists of [redacted] s6(a) personnel from NZDF and NZP.⁵ The prioritisation of where New Zealand personnel focus their efforts is informed by guidance from the NZP and the NZSIS, and the focus can be changed quickly as the threat situation dictates. The New Zealand Intelligence Community (NZIC) and NZP also have the ability to request information from the New Zealand element at OGP.
9. The NZDF contributes the majority of New Zealand's deployed personnel. This enables New Zealand agencies to access a vast amount of information on violent extremist organisations globally, without diminishing their capacity. In turn, NZDF personnel receive training and experience which cannot be obtained elsewhere.
10. [redacted] s6(a), s6(b)(i)

Benefits to New Zealand

11. [redacted] s6(a)

² CAB-17-MIN-0081 refers.

³ CAB-19-MIN-0005 and CAB-19-MIN-0260.02 respectively.

⁴ CAB-20-MIN-0503 refers.

⁵ [redacted] s6(a)

⁶ [redacted]

s6(a), s6(c)

12.

13. Participation in OGP also provides New Zealand with greater coverage of violent extremist threats. For example,

s6(a)

14. The New Zealand contingent's ability to pass leads and intelligence to relevant partners at OGP also counters violent extremism globally in support of the international rules based system. New Zealand's presence at OGP increases our connectivity with the other nations at the platform, forging international networks that support cooperation and information exchange.

15. OGP also provides access to valuable training opportunities, currently unavailable in New Zealand. Deployed personnel return to New Zealand with enhanced capabilities, regardless of the length of their deployment. Where appropriate, the New Zealand contingent at OGP exports training material back to New Zealand to improve domestic capability.

Royal Commission of Inquiry Report

16. The RCOI Report emphasised the value of OGP to New Zealand: [OGP] *"has provided benefits to New Zealand's national security beyond what was initially expected and continues to prove the value of New Zealand's participation. We [the RCOI] have seen some reports from Operation Solar and can confirm that they provide real value and insight into matters of significance to New Zealand's counter-terrorism effort".*⁷

17. Subject to the Government's response, there is potential for information requests from New Zealand's deployment to OGP to increase as Recommendations 12 and 13 in the RCOI Report and other work resulting from the Royal Commission are addressed.

- Recommendation 12: Develop and promote a reporting system that enables members of the public to easily and safely report concerning behaviours or incidents to a single point in government (NZP lead);
- Recommendation 13: Develop and publish indicators and risk factors that may demonstrate a person's potential for engaging in violent extremism and terrorism – update them regularly as the Threatscape evolves (NZSIS lead).

⁷ Report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain, Part 6, 3.2(9). As an example, the report cited the platform's identification in November 2018 of an IP address located in Dunedin, which had been accessing suspicious files containing content *"that could facilitate actions that would result in threat and or attack activity"*, although no conclusive link was able to be drawn between the Dunedin IP address and the individual convicted of the March 15 Terrorist Attack."

Proposal

18. Cabinet is asked to consider one of the following three options :

Option One: Increase New Zealand's contribution (recommended)

19. Option One would involve extending the mandate for two years to 30 June 2023, increasing New Zealand's contribution to OGP s6(a)

[Redacted]

20. s6(a)

21. s6(a)

22. s6(a)

23. s6(a), s9(2)(g)(i) Recommendations 12 and 13 of the RCOI report may create a further increase in demand from public reporting of counter terrorism leads and increased requests for information from the New Zealand deployment. As the workload of the deployment increases, so do the information assurance demands s6(a)

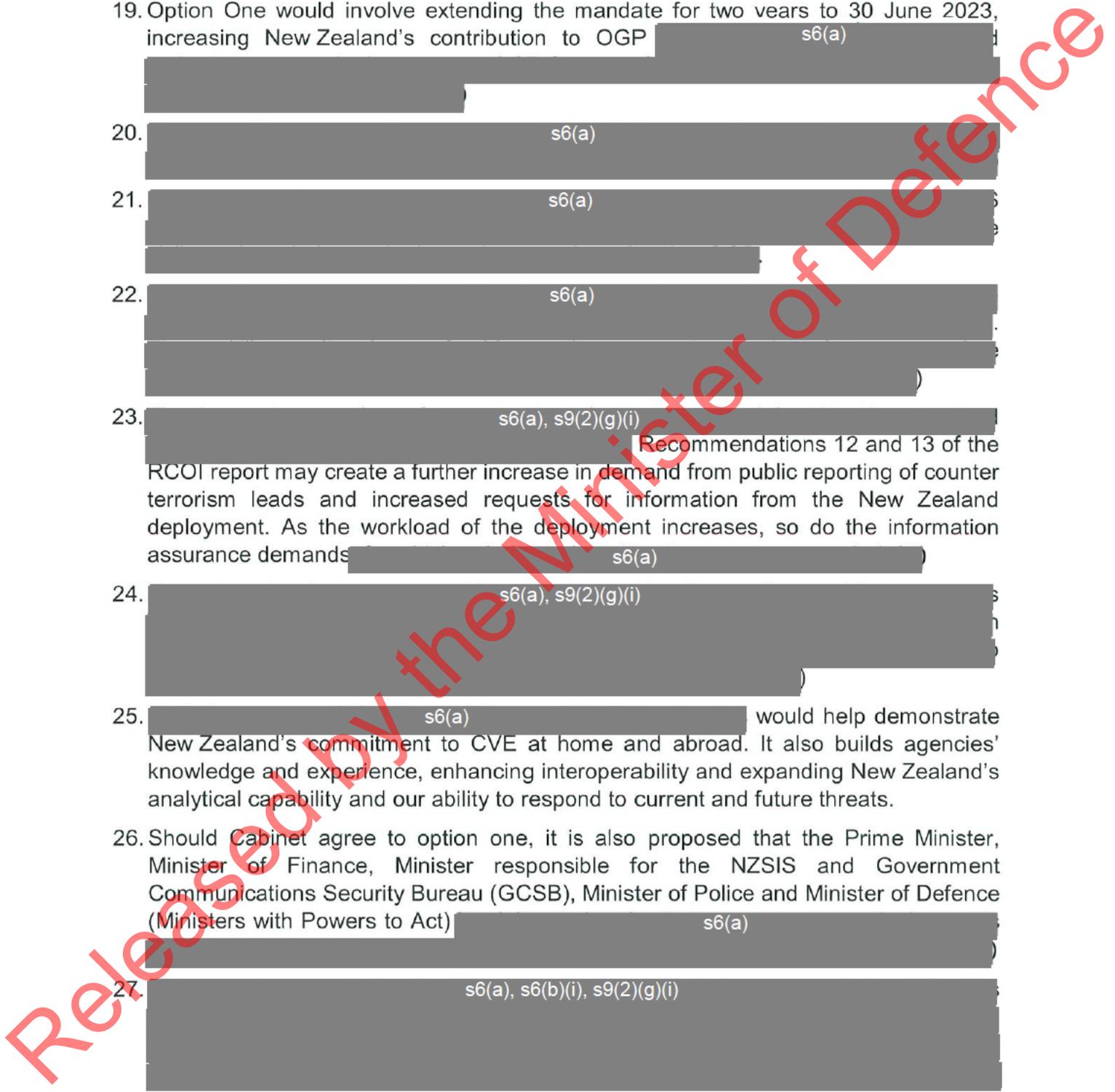
24. s6(a), s9(2)(g)(i)

25. s6(a) would help demonstrate New Zealand's commitment to CVE at home and abroad. It also builds agencies' knowledge and experience, enhancing interoperability and expanding New Zealand's analytical capability and our ability to respond to current and future threats.

26. Should Cabinet agree to option one, it is also proposed that the Prime Minister, Minister of Finance, Minister responsible for the NZSIS and Government Communications Security Bureau (GCSB), Minister of Police and Minister of Defence (Ministers with Powers to Act) s6(a)

27. s6(a), s6(b)(i), s9(2)(g)(i)

8 s6(a)



s6(a), s6(b)(i), s9(2)(g)(i)

Option Two: Maintain New Zealand's contribution

28. Option Two would involve extending the mandate for two years to 30 June 2023 and maintaining New Zealand's existing contribution to OGP s6(a)
29. While maintaining the current contribution would retain the existing benefits to New Zealand, it would not enable New Zealand to accrue the full range of benefits available from our deployment s6(a)
30. s6(a)

Option Three: Withdraw (not recommended)

31. Option Three would extend the mandate for New Zealand's existing contribution to OGP s6(a) for one month to 31 July 2021 in order to conclude New Zealand's deployment. This would provide time for partners to be notified, s6(a), and all New Zealand personnel to withdraw.
32. Option Three is not recommended as it would diminish New Zealand's access to information on violent extremism and weaken our ability to respond to current and future national security threats. s6(a)

Threat level

33. The unmitigated overall threat assessment for New Zealand personnel in Jordan is s6(a)

Impact of COVID-19

34. The COVID-19 pandemic has no significant impact on the New Zealand contingent's ability to carry out its assigned tasks.

Legal considerations

35. The New Zealand presence is in Jordan with the consent of the Government of Jordan. For NZDF personnel, New Zealand does not have a Status of Forces Agreement with Jordan. All New Zealand personnel on OGP remain subject to Jordanian law, and do not enjoy any legal privileges or immunities.
36. Each New Zealand agency involved in New Zealand's contribution to OGP operates under its own statutory mandate and policies. New Zealand's commitment to OGP complies with all relevant domestic and international legal obligations.

37. New Zealand is obligated under international law to not aid or assist (or be complicit in) an internationally wrongful act by another State. s6(a)

s6(a)

38. s6(a), s9(2)(h)

[Redacted]

Human Rights

39. s6(a), s9(2)(h)

[Redacted], the agencies have also taken into account broader policy considerations, consistent with New Zealand's stance on promoting human rights.

40. s6(a), s9(2)(h)

[Redacted]

41. s6(a), s9(2)(h) New Zealand agencies s6(a)

[Redacted] have assessed the risks associated with the activities each agency intends to carry out at OGP. The assessment then considered the specific mitigations available to and employed by each agency to manage or reduce these risks.

42. Key items noted in these assessments were:

42.1 s6(a)

[Redacted]

42.2

[Redacted]

⁹ New Zealand is obligated under international law not to aid or assist (or be complicit in) an internationally wrongful act by another State, such as acts of torture, inhuman and degrading treatment or punishment, and the imposition of the death penalty. New Zealand also has a strong position against providing support in circumstances when the death penalty may result (regardless of whether it is lawful or not in the relevant state).

¹⁰ s6(a)

[Redacted]

Released by the Minister of Defence

42.3 Agencies also apply a range of other mitigations to OGP activities, for example,
s6(a)

43. New Zealand agencies have each identified the scope of activities that their personnel may carry out at OGP without further assessment ('assessed activities'), unless there is a specific indication that a human rights breach may occur or has occurred.)

44. After considering relevant mitigations, New Zealand agencies found the highest level of risk for assessed activities at OGP carried no greater than a s6(a)

s6(a)

45. s6(a) a
New Zealand agencies will conduct case by case assessments of these activities in accordance with their internal policies and obtain corresponding approvals before the activity is carried out to ensure compliance with human rights.¹²

46. The New Zealand agencies will also review their assessments of risk on an annual basis to ensure they remain accurate and have considered appropriate mitigations. They will notify each other of new or increased risks associated with proposed activities at OGP or OGP participants and an early review will be carried out as required. Ministers with Powers to Act will be advised in the event of an increase to the risk finding for assessed activities.)

Rotations

47. In March 2012, Cabinet agreed to the inclusion in all Defence deployment papers a provision that allows the NZDF to temporarily exceed Cabinet-mandated personnel numbers for the purposes of command reconnaissance, rotation, and extraction of forces in and out of theatre [CAB Min (12) 10/2 refers]. In July 2018, Cabinet noted the 2012 decision and agreed that this convention will continue [CAB 18-MIN-0346 refers]. The Chief of Defence Force will inform the Minister of Defence, Minister of Foreign Affairs and Prime Minister in advance whenever a rotation, extraction or command reconnaissance is planned above mandated numbers.)

Impact on New Zealand's ability to respond to a security incident in the Pacific

48. Agencies assess that none of the proposed options in this paper would affect New Zealand's ability to respond to a security incident in the Pacific, largely due to the small number of specialist personnel deployed.)

11 s6(a)

12 s6(a)

Financial implications

49. This paper proposes three options. Option One (Increase) is estimated to cost a total of \$5.141M, comprised of \$4.793M for the deployment and \$0.348M s6(a) [redacted]. Option Two (Maintain) is estimated to cost a total of \$3.433M, comprised of \$3.085M for the deployment and \$0.348M s6(a) [redacted]. Option Three (Withdraw) is estimated to cost a total of \$0.148M.
50. The total estimated costs for all options, s6(a) [redacted] can be funded from within the existing unallocated baseline for Vote Defence Force: Operations Contributing to New Zealand's Security, Stability and Interests MCA.
51. The NZDF cover the financial cost of all deploying personnel to OGP on behalf of all other New Zealand Government agencies. The following table sets out the expenditure and funding arrangements for this deployment:)

Vote Defence Force	NZ \$million					Total
	2021/22	2022/23	2023/24	2024/25	2025/26	
Option One	2.782	2.359	-	-	-	5.141
Option Two	1.803	1.630	-	-	-	3.433
Option Three	0.148	-	-	-	-	0.148
Additional Funding Required	-	-	-	-	-	-

52. This deployment decision is estimated to increase the veterans' support entitlement obligation by a maximum of \$1.77M over the term of this deployment (\$1.99M s6(a) [redacted]). The expense is able to be funded from within the existing Vote Defence Force appropriation *Service Cost – Veterans' Entitlements* and no additional funding is required.

Consultation

53. This paper was jointly prepared by the Ministry of Defence; the New Zealand Defence Force; the New Zealand Security Intelligence Service, and the New Zealand Police. The Department of the Prime Minister and Cabinet (NSG, NAB); Government Communications Security Bureau; Treasury; and Ministry of Foreign Affairs and Trade were consulted. The Department of the Prime Minister and Cabinet (PAG) was informed.

Communications

54. While the existence of OGP is public knowledge s6(a), s6(b)(i) [redacted] New Zealand's deployment to OGP was publicly announced for the first time in 2019, following Cabinet's decision to extend that mandate. s6(a) [redacted] Should Cabinet agree to continue the deployment, officials would notify key partners of Cabinet's decision through official channels. s6(a) [redacted]

Proactive release

55. A redacted version of this paper, should it be approved, would be proactively released following the public announcement.)

Recommendations

56. We recommend that the Committee:

- 1) **Note** the current mandate for New Zealand's deployment to Operation Gallant Phoenix in Jordan expires on 30 June 2021.)
- 2) **Note** this deployment has a direct benefit to New Zealand's national security and supports the international rules based system.)
- 3) **Note** that the Royal Commission of Inquiry Report emphasised the value of the New Zealand deployment to Operation Gallant Phoenix and that Recommendations 12 and 13 may result in an increase in requests for information from the New Zealand contingent.)
- 4) **Agree** to one of the following three options:

4.1) **Option One:** Increase New Zealand's contribution (recommended)

4.1.1) **Agree** to extend the mandate for New Zealand's current contribution [redacted] s6(a) to Operation Gallant Phoenix for two years until 30 June 2023.)

4.1.2) [redacted] s6(a)

4.1.3) [redacted] s6(a)

4.1.4) [redacted] s6(a)

4.1.5) **Note** the estimated cost for Option One [redacted] s6(a) is \$5.141M.)

Or

4.2) **Option Two:** Maintain New Zealand's contribution)

4.2.1) **Agree** to extend the mandate for New Zealand's current contribution [redacted] s6(a) to OGP for two years until 30 June 2023.)

4.2.2) [redacted] s6(a)

4.2.3) **Note** the estimated cost for Option Two, [redacted] s6(a) is \$3.433M.)

Or

4.3) **Option Three:** Withdraw (not recommended)

4.3.1) **Extend** the mandate for New Zealand's existing contribution to OGP [redacted] s6(a) for one month until 31 July 2021 to notify partners [redacted] s6(a) [redacted], after which time all New Zealand personnel would withdraw from OGP.

4.3.2) **Note** the estimated cost for Option Three is \$0.148M.

- 5) **Note** that the unmitigated overall threat assessment for New Zealand personnel in Jordan is [redacted] s6(a)
- 6) **Note** agencies determine that the highest level of risk for assessed activities at Operation Gallant Phoenix carried no greater than a [redacted] s6(a) [redacted]
- 7) [redacted] s6(a) [redacted]
- 8) **Note** that agencies will review their assessments annually or in response to any event that could result in an increase to the risk of assessed activities, and that Ministers with Powers to Act will be advised of any increase to the assessed risk.
- 9) **Note** that all participating agencies will be operating under their own legal mandates, including the ability to provide support to one another.)
- 10) **Agree** that the New Zealand Defence Force may temporarily exceed the Cabinet-mandated personnel numbers for this deployment for the purposes of command reconnaissance, rotation, and extraction of forces in and out of theatre.)
- 11) **Note** that the Chief of Defence Force will inform the Prime Minister, the Minister of Defence and the Minister of Foreign Affairs in advance whenever Cabinet-mandated personnel numbers are exceeded for the reasons set out in recommendation 10.
- 12) **Note** the total estimated costs for all options [redacted] s6(a) [redacted], can be funded from within the existing unallocated baseline for Vote Defence Force: Operations Contributing to New Zealand's Security, Stability and Interests MCA.
- 13) **Note** this deployment decision is estimated to increase the value of the veterans' support entitlements liability by a maximum of \$1.990M depending on the option agreed.)
- 14) **Note** that the total expenses associated with recommendations 12 and 13 can be met from within the existing amount of the Vote Defence Force Non-Departmental Other Expenses appropriation: Service Cost – Veterans' Entitlements.)

Authorised for lodgement

Hon Andrew Little
Minister Responsible for
the NZSIS

Hon Poto Williams
Minister of Police

Hon Peeni Henare
Minister of Defence

Annex A:

s6(a)

s6(a)

Released by the Minister of Defence

Annex B:

s6(a)

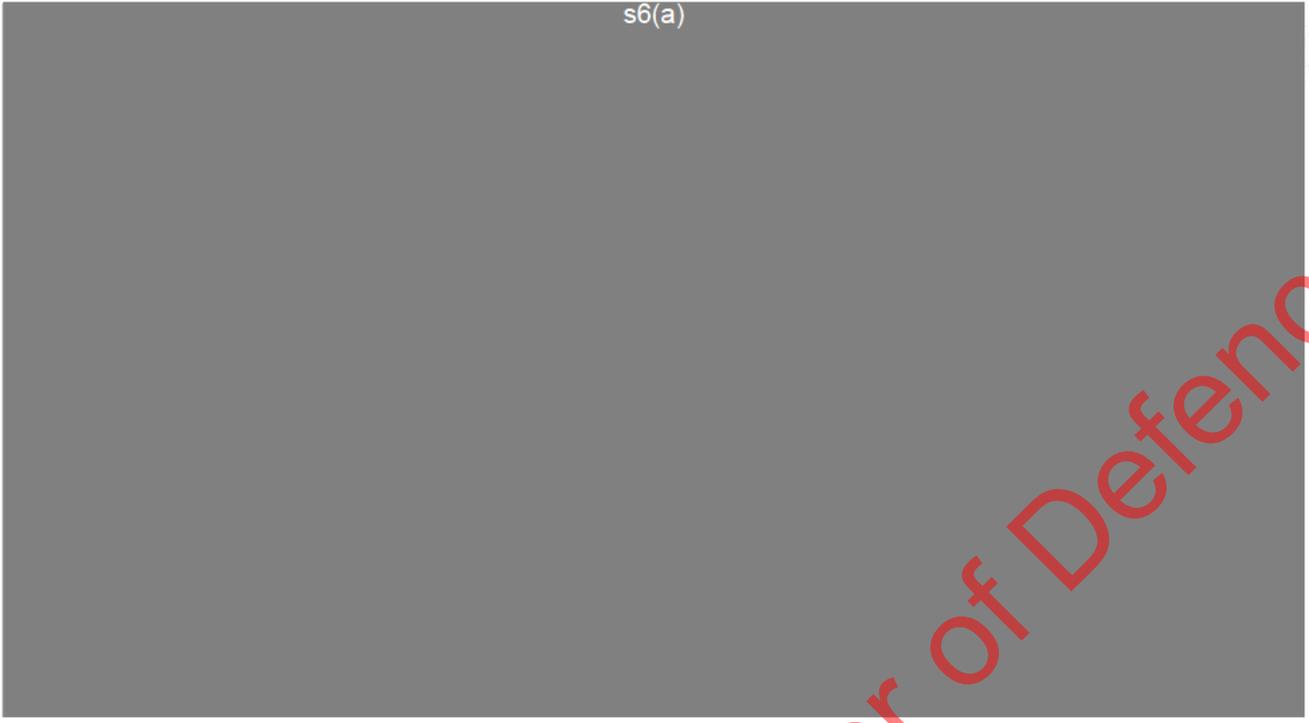
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