

Annexes

Review Of Accountabilities and Structural Arrangements between the Ministry Of Defence and the New Zealand Defence Force

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Ministry of Defence and New Zealand Defence Force

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ANNEX A:

MINISTERIAL PRESS RELEASE
ANNOUNCING THE REVIEW

Hon Mark Burton
Minister of Defence

10 September 2001

Defence review and inquiry details

The Minister of Defence Mark Burton has announced a review and two inquiries into accountabilities, operations and responsibilities within defence.

“There will be three separate but related processes”, Mark Burton said.

1. “there will be a review of the accountabilities and structural arrangements between the Ministry of Defence, the New Zealand Defence Force, and the three service arms.

“This review was signalled in the Government’s Defence Policy Framework released in June 2000, and follows changes that have already been made at an operational level, with the establishment of Joint Force Operational Headquarters at Trentham.

“This is a major review”, Mark Burton said. “The terms of reference are being finalised, but essentially the review will consider issues such as the effectiveness of the 1990 decision that created NZDF and MOD; the balance of responsibilities and accountabilities between the Secretary of Defence and the Chief of Defence Force and the Chief of Defence Force and the single service chiefs; options for better co-ordination of policy advice and implementation; the issues raised in the Controller and Auditor General’s report; and options for greater transparency in the capital planning and acquisition process.

“Former State Services Commissioner Don Hunn has indicated his availability to conduct the review. This will be confirmed shortly. I will expect an interim report by Christmas.

“Feeding into this overall review will be the results of two inquiries,” Mark Burton said.

2. “I have, along with the Chief of Defence Force, asked the State Services Commissioner to conduct a formal inquiry into standards of behaviour, the leaking of documents, and the inappropriate use of information and position by Defence Force personnel.

“The State Services Commissioner will initiate an investigation, which will, under section 11(4) of the State Sector Act, have all the desirable characteristics of a Commission of Inquiry, including the power to summon witnesses and hear evidence under oath.

“Those within and outside of the Defence Force who believe they have a contribution to make, will have an opportunity to do so.

“The consensus of Crown Law and the State Services Commission is that such an inquiry would be timely , focused and cost efficient, and would preserve the appropriate legal relationship between myself and the Chief of Defence Force as provided for in the Defence Act”, Mark Burton said.

3. “I have also agreed with the Chief of the Defence Force that the most appropriate way to address specific concerns over a letter written by an army officer in March 1997 and an e-mail circulated by naval staff in March 2001, is to involve the Judge Advocate General.

“The Judge Advocate General is appointed by the Governor-General and is statutorily independent. He is not answerable to the Chief of the Defence Force, nor is he subject to political direction.

“The Judge Advocate General is the custodian of the military justice system. One of his specific roles is to advise the Chief of Defence Force on the conduct of investigations into the propriety of the actions of Service personnel, particularly where those actions are alleged to have impinged on constitutional conventions.

“His involvement is, therefore, entirely appropriate.

“The office of the Judge Advocate General is now identifying a suitable person to carry out an effective, timely and independent inquiry” Mark Burton said.

“I expect that the two inquiries, under the authority of the State Services Commissioner and the Judge Advocate General respectively, will be completed by November, and the findings will feed into the overarching review.

“This government is intent on building a highly professional, well equipped modern defence force. We are determined to put the most appropriate structures in place and to ensure that any past problems are identified and eliminated” Mark Burton said.

ANNEX B:

REVIEW TERMS OF REFERENCE

Background

The Government's Defence Policy Framework released in June 2000 foreshadowed a *“review of accountabilities and structural arrangements between the Ministry of Defence and the New Zealand Defence Force”*

Focus of the Review

The Minister of Defence has established an independent, external review of the current accountabilities and structural arrangements of Defence. This review should include, but will not be limited to:

- Consideration of the role and responsibilities of the Minister of Defence and how the accountabilities and structural arrangements between the Ministry of Defence and the New Zealand Defence Force support and inform those responsibilities;
- The relationships, responsibilities and accountabilities of and between the Secretary of Defence and the Chief of Defence Force and the appropriateness of those arrangements to the statutory and other responsibilities of the New Zealand Government, Parliament and the Governor-General;
- The relationships, responsibilities and accountabilities of and between the Ministry of Defence, the New Zealand Defence Force and the single Services (Royal New Zealand Navy, New Zealand Army, and Royal New Zealand Air Force), including the Chiefs of Staff of the Services and the Joint Force Commander New Zealand;
- The effectiveness of the structural arrangements and accountabilities put in place as a result of the Strategos Report, and implemented in the Defence Act 1990;
- The new organisational arrangements at the Headquarters, Joint Forces, and the Headquarters, New Zealand Defence Force;
- Options for better structural arrangements and accountabilities to improve co-ordination of policy and operational inputs into defence and security policy and operations;
- Options for enabling policy advice from a variety of sources to ensure high quality, professional, timely, fully-tested and informed defence and security policy advice to the Government;

- Options for structural arrangements and accountabilities that enable appropriate Parliamentary Select Committee participation in defence planning and capital acquisition advice and decision-making; and
- Options for structural arrangements and accountabilities that enable co-operation rather than competition between components of the New Zealand Defence Force.

The Review will take into account:

- The Government's Defence Policy Framework
- The findings of the Controller and Auditor General's report into the Acquisition of Light Armoured Vehicles and Light Operational Vehicles;
- The report of the Parliamentary Select Committee's Inquiry "Defence Beyond 2000"
- relevant experience and lessons learned from the structural arrangements and accountabilities of higher defence organisations in New Zealand's key strategic partners;
- the results of the inquiry by the Judge Advocate General into an alleged inappropriate letter and e-mail and the review by the State Services Commissioner into NZDF standards of behaviour.

Outcomes

The Minister of Defence expects the review to make recommendations on improvements to the accountabilities and structural arrangements between the Ministry of Defence and the New Zealand Defence Force that will help him achieve the following outcomes:

- Defence policy and operational advice that meets New Zealand's national security requirements, interests and obligations;
- Defence policy advice that is well-informed, meets State Sector standards and combines the expertise of military personnel with that of civilian advisers to serve the collective interest of the Government;
- Effective and efficient performance direction, planning and management of Defence assets, resources, outputs and outcomes;
- Transparent and robust defence planning and capital acquisition processes, including the setting of capital acquisition priorities, tendering and decision-making and advice to Ministers; and
- A New Zealand Defence Force and Ministry of Defence that is committed to Jointness at inter-agency and all levels of the Defence organisation.

Signature

Hon Mark Burton
Minister of Defence

ANNEX C

SUMMARY EXTRACTS FROM THE
ANSELL/WHITE REVIEW¹

Para 101 pg 39

“The view of the Chief of Defence Force that it was appropriate to rely on the authority of the single Service Chiefs to investigate leaks in their own services reflects the constraints which affect the authority of the Chief of Defence Force in respect of the single Service Chiefs. The constraints arise under the Defence Force structure created by the Defence Act 1990 which, in an operational command sense, makes the Chief of the Defence Force paramount, but in a managerial sense makes him only first amongst equals because all are appointed by the Governor-General and the CDF has no authority to remove or suspend a single Service Chief. CDF does not have the authority of a Chief Executive in respect of the single Service Chiefs. They are commanders in their own right in respect of their Service. The review being conducted by Mr Hunn provides a timely opportunity to consider how what seems to us to be structural ambiguities should be resolved.”

Para 133 pg 48

“It seems to us that in the context of the subject matter of our review there is a need for clear and decisive leadership at the top of the Defence Force and the army to identify and remove or neutralize those individuals responsible for the breach of Defence Force standards and the unauthorized disclosure of official information...”

Para 134 pg 49

“The terms of reference to be given by the Minister to the CDF...should state clearly and prominently that one of his principal responsibilities will be to take decisive steps to end this sorry saga. They must include a vigorous attempt to identify and remove or neutralize that small minority of officers who have participated in it; the expeditious reiteration to all personnel of their responsibilities in this area, and all practical means that can be taken to enhance and preserve respect for the accepted standards of behaviour...”

Para 135 pg 49

“In para 101 we referred to constraints on the powers of the CDF (who) can only carry out his management role through the Service Chiefs; yet since he does not

¹ Full Title: Review Of The Performance Of The Defence Force In Relation To Expected Standards Of Behaviour, And In Particular The Leaking And Inappropriate Use Of Information By Defence Force Personnel.

appoint those Chiefs he has very limited disciplinary power over them and therefore less authority to ensure that his wishes are carried out...

Para 136 pg 49

“One possible approach might be a change in the way the Service Chiefs are appointed...consideration might be given to aligning appointment processes governing Service Chiefs a stage further with those governing Departmental Chief Executives...while the Governor-General continues to approve the appointment of Single Service Chiefs, the Defence Act could be changed to provide for the appointment to be formally made by the CDF, bringing the Service Chiefs into the same kind of contractual relationship with CDF as State Sector Chief Executives have now with the State Services Commissioner.”

Para 137 and 138 pg 50:

“Consideration could usefully be given to other amendments of the Act including:

- The nature and extent of the powers of the CDF to command all aspects of the Defence Force (current ambiguities should be removed)*
- The role and functions of the three Service Chiefs now that the Joint Forces Headquarters has been established*
- The effectiveness of the command structure outside operational and related areas*
- A requirement that by the end of a transitional period all appointments to senior positions should have Joint Forces experience.*
- Clarification of the role of the Governor-General*
- Inclusion of a specific provision requiring political neutrality of the Defence Force and briefing of the Leader of the Opposition to encourage a bipartisan approach to defence issues. There is a precedent for such a provision in the New Zealand Security Intelligence Service Act 1969: see s 4AA.”*

ANNEX D

COMPARATIVE STUDIES: HIGHER DEFENCE STRUCTURES IN AUSTRALIA, UNITED KINGDOM, CANADA AND THE UNITED STATES

Introduction

D.1 In any comparative analysis work, there are always differences of size, historical experience, resources, etc. Some differences are significant. For example, in assessing the relevance of international experience to New Zealand, it is important to take account of the fact that over 15 years of reforms have changed the ways in which all parts of New Zealand's Public Sector operate, manage resources, and account to Parliament and the Government for results. Such reforms have not been taken as far in the defence establishments in comparator countries. This can create incompatibilities between the legal frameworks of government operations between New Zealand and those countries with which we normally compare ourselves.

D.2 At same time, many other differences do not invalidate the lessons that can be learned from relevant overseas experiences. For example, regardless of its comparatively small size, the New Zealand defence establishment must perform exactly the same management functions that much larger defence establishments of relevance must perform.

D.3 Other aspects of similarity underwrite the value of examining the higher defence structures of Australia, United Kingdom, Canada and the United States. For example, these countries operate popular representative democratic political systems that assign broadly similar direction and oversight roles to legislative and executive branches of government for defence activities. These countries maintain defence management and policy staffs made up of both military officers and civilian officers. These countries have to varying degrees, moved to adopt many of the public sector management concepts and approaches that have been developed in New Zealand. In some aspects of management, their defence organisations have followed a New Zealand practice lead; in other areas, New Zealand's lead has been overtaken by reform initiatives in Australia, Canada, US and UK.

D.4 For these reasons – similarity of defence functions, democratic political governance structures and practices, the advantages of coalition interoperability, and similar developmental tracks in management reform – Australia, the United Kingdom, Canada and the United States offer particularly relevant higher defence structures worthy of consideration.

Australia

D.5 The Australian Defence Organisation (ADO) is made up of the Australian Defence Force (ADF) and the Australian Department of Defence (DoD). The ADF and DoD are separate but *interdependent* entities whose staffs are both co-located and fully integrated across a broad range of functions. The ADO is a ‘diarchy’ (government by two separate entities). The diarchy brings together the separate legislative powers of the Chief of Defence Force (CDF) and the Secretary of Defence.

D.6 Constitutionally, the Australian and New Zealand approaches to defence are very similar. In both countries the Governor General holds the formal but largely ceremonial title of Commander-in-Chief. Control of the Armed Forces is vested in the Minister. The Chief of Defence Force exercises command. The main difference is in respect of the Secretary. In Australia, the Secretary of Defence *jointly* administers the ADF with the CDF, but retains ultimate authority and accountability for administrative matters and the expenditure of defence resources.

D.7 Civilian control of the military in Australia, as in New Zealand, is well understood to mean control by the government (not the civilian bureaucracy). The Minister exercises this control on behalf of the Cabinet. He issues an annual *joint* ministerial directive to the CDF and Secretary, setting out strategic objectives for the Defence portfolio.

D.8 In Australia, the principal Act governing the powers of the Minister, the CDF and the Secretary is the Defence Act 1903. The Secretary also draws separate power from the Public Service Act 1922. Under this Act, the Secretary is responsible and accountable for the general good working of the ADO. He is also responsible for all expenditure. In practice (see below) CDF and the Secretary jointly share their administrative, advice and control (but not command) responsibilities through an interlocking system of Output Executives, Owner Support Executives and Enabling Executives, all of whom report equally to both Chief Executives.

D.9 A point of note in the Australian system is the time spent in recent years on refining their defence governance arrangements. Through a succession of efficiency and other reviews the Australian higher defence structure, like that in the UK, has moved from a model based on *separate* civilian and military staffs to one organized around the achievement of agreed outputs by *integrated* civilian and military staffs working in partnership with each other.

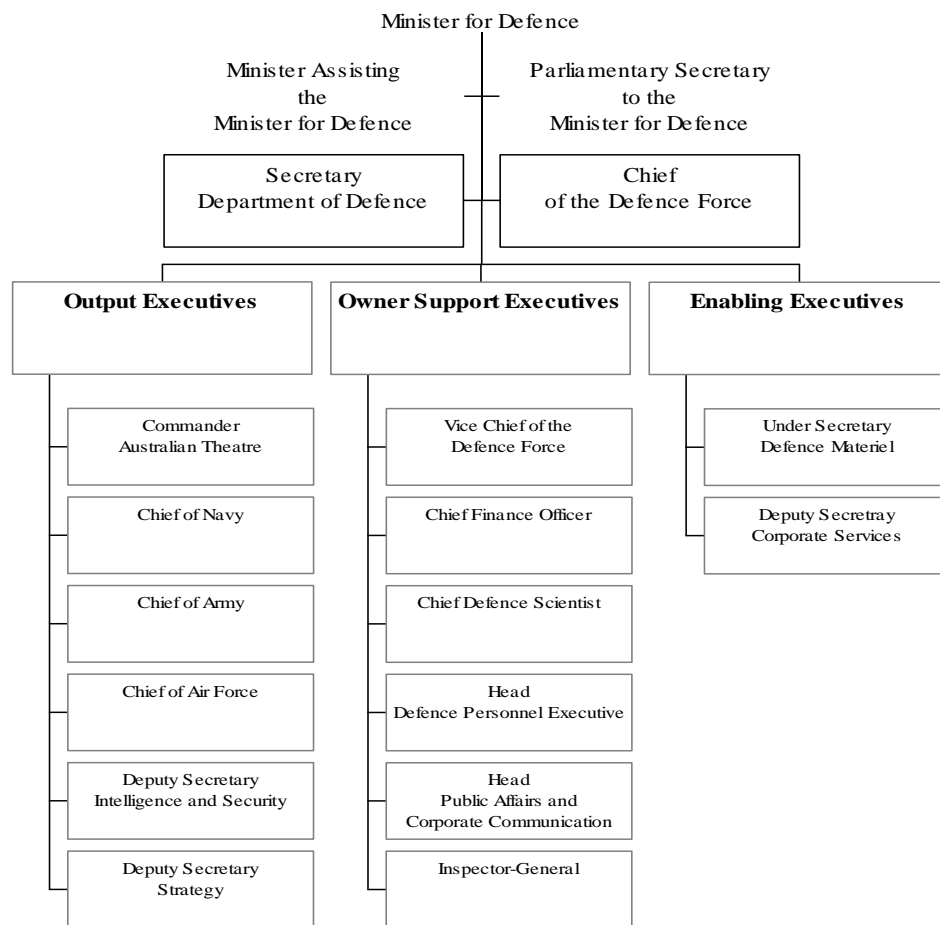
D.10 The Australian government currently funds Defence to produce 6 outputs (Defence Operations; Navy; Army; Air Force; Strategic Policy; and, Intelligence). Each output is the responsibility of an Output Executive. The

first four Output Executives are exclusively military appointments (but responsible nonetheless to the Secretary-CDF diarchy or partnership).

D.11 Supporting the ADO and the Government in its role as owner, the six Output Executives are assisted by six Owner Support Executives focused on broad governance issues. They provide support to the Secretary/CDF in relation to goods and services, and sustainability issues. The six Owner Support Executives are the Vice Chief of the Defence Force, the Chief Financial Officer, Head Defence Personnel Executive, Chief Defence Scientist, Head Public Affairs and Corporate Communication and the Inspector General.

D.12 In addition, there are a further two Enabling Executives who provide goods and services to the other Executives. They are the Under Secretary Materiel and Deputy Secretary Corporate Services.

Figure 1: Australian Defence Organisation s at 1 July 2001



D.13 The main points of interest in the New Zealand context are:

- The extent of integration across the ADO. All Output Executives (including the Service Chiefs), Owner Support Executives (including the Inspector General) and Enabling Executives (including the Under Secretary Defence Materiel) report equally to both the Secretary and the Chief of Defence Force. They have, in effect, twin-reporting lines.
- There is no separate Deputy Secretary, Audit and Evaluation: this role is performed as part of the Inspectorate General function.
- Consistent with the underlying philosophy of a fully integrated organizational structure, the Under Secretary Defence Materiel does not report separately to the Secretary. The Under Secretary reports to both the Secretary and CDF.
- Although the Secretary is ultimately responsible for the good functioning of the ADO, and its resources, the Chief Financial Officer and the Deputy Secretary Corporate Services also report to both Chief Executives.
- In the Australian system, neither Chief Executive takes exclusive day-to-day responsibility for any one aspect of Defence policy or administration. Nonetheless, the CDF alone remains responsible for command and control of the ADF.

D.14 A point made to the Review is that the mere act of integration does not solve all the problems. CDF and the Secretary still need to work actively at inculcating the habit of cooperation between the staffs. To lead the way, a variety of practical arrangements have been put in place to support the Secretary and CDF. First, they have physically adjoining offices. Second, they share a common reception area and support staff. Third, there is a well-articulated system of senior committees to bring together the work of the integrated staffs.

Committee Structures

D.15 The principal decision making body in the ADO is the Defence Committee. Chaired by the Secretary, this committee consists of CDF plus all the Output Executives, the Owner Support Executives (except Public Affairs and Defence Personnel) and the Enabling Executives.

D.16 The Chiefs of Staff Committee (COSC) is chaired by the CDF. The Secretary is a permanently invited member. The COSC provides 'military advice' to the CDF to assist in the discharge of command responsibilities. A Defence Capability and Investment Committee, chaired by the VCDF, and including representatives from both 'halves' of the defence organisation, looks after present and future capability issues. A Defence Audit Committee, chaired by an 'external' member, and with representatives from both sides of the house, discharges responsibility for the audit programme.

D.17 By joint ministerial directive, all proposals by CDF for promotion to the rank of Brigadier equivalent and above are made in consultation with the Secretary, VCDF and the Service Chiefs.

Higher-level National Security Arrangements - Government

D.18 In New Zealand, an ad hoc grouping of Ministers (typically, the Prime Minister, Deputy Prime Minister, Finance Minister, Minister of Foreign Affairs and Trade, and Minister of Defence), exercise overall responsibility for national security. There is no standing Cabinet level, or senior officials' level, National Security Committee. In Australia, a more formalised structure exists. At Cabinet level, a National Security Committee (NSC), comprising the Prime Minister, Deputy Prime Minister, the Treasurer, Minister of Foreign Affairs, Attorney-General, and Minister of Defence meet from time to time to discuss matters concerning international political, economic, defence, intelligence, and domestic security. A committee of senior officials at Permanent Head level (the Secretaries' Committee) supports the NSC.

Higher-level National Security Arrangements – Parliament

D.19 Parliamentary oversight is mainly exercised through the Joint Standing Committee on Foreign Affairs, Defence and Trade of the Australian Senate and House of Representatives. This committee of 32 Senators and Representatives has four sub-committees: Foreign Affairs, Defence, Trade and Human Rights. The full committee and its sub-committees are empowered to inquire into and report upon matters relating to their area of government activity.

D.20 The Standing Committee operates in two modes: as a References Committee and as a Legislation Committee. In the former role, the Committee inquires into and reports on matters referred to it by the Senate or the House of Representatives. In its Legislative role, the Committee examines any bills or draft bills referred to it. The Committee does not have the power to amend bills, but may recommend amendments. In this role, the Committee is also responsible for monitoring the performance of departments and agencies. All relevant departmental annual reports are referred to the Committee for scrutiny. The Committee does not have any prerogatives in terms of treaty making or ratification.

D.21 The Joint Committee has a permanent parliamentary staff of five, including a Committee Secretary, and two researchers. Each sub-committee also has its own dedicated Secretary.

Public Consultation

D.22 The Parliamentary Committee is the prime method through which public consultation is sought on defence and national security matters). However, in 2000, the Australian Government (through the Defence Minister

and the National Security Committee of Cabinet) decided to undertake a broad-ranging public consultation in order to involve the community public in the formulation of defence policy making for the period ahead. The Australian national consultation followed similar successful initiatives in the United Kingdom and the United States (see paragraphs D.39-43 and D.71-72).

D.23 The process involved the release of a public discussion paper on defence, the setting up of a Community Consultation Team (of four members) and a nation-wide series of hearings. As a result, over 2,000 people attended 28 community meetings, with more than 1,150 written submissions being made by individuals, industry and community organisations and over 5,000 e-mail messages received.

D.24 The public consultation provided a highly effective vehicle for disseminating information about defence and security issues facing Australia. It tested the variety of views and levels of consensus in respect of such issues. It also opened up the previously “closed door” Governmental decision-making process for defence policy-making and assisted in building a broader community understanding of government policy.

Relevance of Experience

D.25 If New Zealand were to move in the Australian direction (i.e. full integration of staffs, joint administration by an interdependent Defence executive, adoption of joint Ministerial directives to the Secretary and CDF, reform of committee structures and representation on them) this would not represent a return to the situation pre-1990. For example, unless the New Zealand Defence Act was amended or revised, there would still be two Defence agencies. The formal situation would be much as at present but virtual unification would be achieved even by both groups of staffs working to a single vision and set of directives. Integrating the staffs would directly address problems of information access, duplication and other deficiencies that have been identified.

D.26 Drawing on the Australian experience, there are a number of options for achieving positive benefits of contestability. First, the central strategic management and policy areas of the defence organisation could be strengthened significantly. Such staffs would need to be led by appropriately ranked and qualified senior executives responsible to both Chief Executives, for the quality of all organisational advice (whether civilian or military, policy or operational¹). Second, inter-agency consultative arrangements could be

¹ As noted elsewhere in the text, no distinction is drawn in this review between civilian and military policy advice. Where the policy originates from (i.e. a civilian or military staff member) is seen as being largely academic in a fully integrated defence organisation. What matters more than the point of origin is the quality of the finished policy advice stream as it reaches the Minister. This review takes the position that quality and contestability issues are best addressed in an integrated staff environment where operational and other information is freely available to the staffs required to address and debate the policy issues involved.

strengthened to ensure that advice being tendered is transparent, rigorous and arrived at on the basis of full inter- (and intra-) departmental input. Third, staff resources available in the Minister's office could be strengthened to assist him in the discharge of his oversight responsibilities. Fourth, expert, independent, staff input to the Select Committee could be provided to assist that Committee to fulfil its role as an independent contributor of defence policy and decisions. Fifth, a more public consultative approach could be incorporated into the formulation of defence policy either through an independent Advisory Committee on National Security and Defence (along the lines of the Public Advisory Committee on Disarmament and Arms Control as proposed by the Select Committee's report on *Defence Beyond 2000*²) or through community and/or expert panel-based consultations.

United Kingdom

D.27 Even with allowance for differences in size of their armed forces, the strategic level command, control and administrative arrangements in the UK bear striking similarity to the top level defence structure in Australia, as do arrangements for political oversight. The overall concept in the UK is to conduct the business of defence through an integrated civil/military strategic management organization whose activities are managed through collective responsibilities and accountabilities.

D.28 At departmental level, two principal advisers support the Minister: the Permanent Under Secretary and the Chief of the Defence Staff. The two advisers are equal in authority. Their work is supported by a Joint Central Staff which is a fully integrated, civil/military organization with responsibilities for: Resources, Programmes and Personnel; Operations and Policy; Administration and Civilian management; Finance Management and Accountability; Equipment Capability Requirements, Planning and Programming; and, Management and Organisational Reform. These responsibilities cover both the administration of the Ministry of Defence and the Armed Forces themselves.

D.29 The Joint Central Staff itself has developed over the last 15 years through a series of evolutionary steps, one of the most recent of which was to integrate the three Single Service Capability Development staffs into a single Equipment Capability Customer area. The 2nd Permanent Under Secretary and the Vice Chief of the Defence Staff manage and lead the Joint Central Staff, for which they are jointly responsible.

D.30 Points of interest in the UK model in the New Zealand context include the:

² Australia does not have such a committee. To provide it with an independent source of advice, the Australian government has recently established and funded the Australian Strategic Policy Institute. The Institute is headed up by Hugh White, a former Deputy Secretary of Defence.

- equal status afforded to the Permanent Under Secretary and the CDS, and the 2nd Under Secretary and the VCDS;
- formation of a fully integrated civilian/military staff to conduct all strategic level staff work;
- linkages between the Defence Commitments and Defence Policy areas (which addresses the concern that policy needs to be informed by operations, and vice versa);
- separate Defence procurement, and joint logistics organisations, the former with a business-style board of directors of civilian and military officers;
- joint military and civilian staff responsible for military capability definition, development, structured by military capability, rather than Service groupings; and
- role of the Joint Central Staff in resource planning, programming and budgeting.

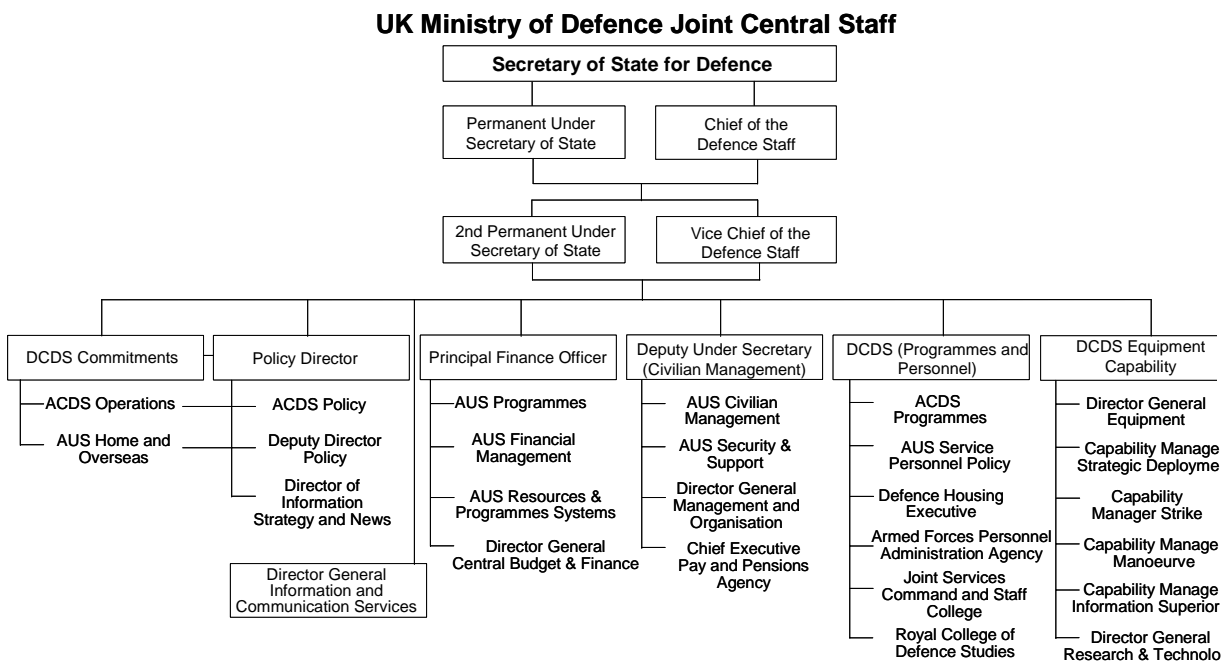


Figure 2: United Kingdom Ministry of Defence Joint Central Staff Organisation

D.31 A particular point to note from Figure 2 is that, as in the Australian structure, all functional areas have twin reporting lines. They report equally to both the Permanent Under Secretary of State and to the CDS.

D.32 Of interest also is the series of recent initiatives designed to achieve better outcomes in the capability requirement, acquisition and logistics

areas. To ensure that capability requirement definition studies are handled on a joint and integrated basis, the UK has merged the force development components of Naval, Army General and Air Staffs into an Equipment Capability Customer (ECC) organisation headed by a Deputy Chief of Defence Staff (Equipment Capability). The ECC has integrated staffs from the force development, programming, finance, scientific, research and analytical support areas of the single Service and central staffs organized into broad capability areas: strategic deployment; strike; manoeuvre; and, information superiority; such capability areas are not Service specific.

D.33 The ECC is part of the Joint Central Staff. Its mission is to determine, in consultation with the Service Staffs, the capability requirements of the Armed Forces. It identifies, prioritises, plans and programmes capability procurement across all three services in concert with integrated product teams from the Defence Procurement Agency. Under 'Smart Procurement Initiative' the ECC is the key designated 'customer' of the Defence Procurement Agency. In this role, the ECC is responsible for setting delivery performance requirements that have to be met by the Defence Procurement Agency.

D.34 A UK Defence Logistics Organisation was established in April 2000. This organisation is tri-service, and provides all in-service maintenance and support for the Armed Forces. Because of the interconnectivities between the Defence Procurement Agency and the Defence Logistics Organisation, reforms have been initiated to achieve complete interoperability between the two. These reforms cover financial processes, human resource management and business planning and performance management tools.

Higher-Level National Security Arrangements – Government and Parliament

D.35 Political and parliamentary oversight in the UK is discharged through an array of committees. Principal of these is the Defence and Overseas Policy Committee. The Prime Minister chairs the Committee with its membership made up of the Deputy Prime Minister, Secretary of State for Defence, (equivalent to New Zealand's Minister of Defence), Secretary of State for Foreign and Commonwealth Affairs, (equivalent to New Zealand's Minister of Foreign Affairs and Trade), Chancellor of the Exchequer (equivalent to New Zealand's Finance Minister) and Secretary of State for Trade and Industry. This committee examines broad issues of national security. It is similar in function, and membership, to the Australian National Security Committee of Cabinet.

D.36 A Defence Council is responsible to this Defence and Overseas Policy Committee. The Secretary of State for Defence chairs the Council. Its membership includes the three other junior Ministers who support the Secretary of State, the Chief of Defence Staff and the Vice Chief of the Defence Staff, the Permanent and 2nd Permanent Under Secretaries, the Chiefs of Staff, the Chief Scientific Adviser, the Chief of Defence Logistics and the Chief of Defence Procurement.

D.37 Five subordinate committees report to the Defence Council. Of these, the Secretary of State for Defence chairs the Admiralty, Army and Air Force Boards. The other two committees are the Chiefs of Staff Committee (chaired by CDS, with membership including the Permanent Under Secretary) and the Defence Management Board (chaired by the Permanent Under Secretary). The Management Board is responsible for strategic direction and vision, defence policy and capability, and departmental management. It also allocates resources and manages overall performance. Membership includes the CDS, the Chiefs of Staff, the VCDS, the 2nd Permanent Under Secretary, Chief of Defence Procurement, the Chief Scientific Adviser and Chief Defence Logistics.

D.38 Parliamentary oversight is mainly exercised through the Defence Select Committee. This committee normally meets once a week. Five permanent staff members and a range of specialist advisers including senior retired military officers and university senior academics assist the committee. Although the Select Committee makes recommendations to Parliament on its findings, it has no budgetary or legislative authority of its own and no prerogatives in terms of treaty making or ratification.

Public Consultation

D.39 In 1997, the UK Government launched a Defence Review incorporating a comprehensive public consultation process. The aim was “to establish the widest possible shared vision about Britain’s future security needs and the tasks of its Armed Forces...[and] to provide Britain’s Armed Forces with a new sense of clarity, coherence and consensus”.³ The Strategic Defence Review process as a whole was guided by the principles of openness with the public, the Parliament, the UK’s allies and partners; maximum use of in-house staffs rather than setting up a separate review team; and widest possible involvement within the UK MoD and Government as a whole.

D.40 The external public consultation process included:

- Two open seminars led by the Foreign and Defence Secretaries of State, and attended by MPs, academics, representatives of non-Governmental Organisations, the media and Departmental officials;
- Open invitation to make public submissions that produced over 500 written submissions from MPs and Peers, local authorities, academics, industry, interest groups, journalists and members of the public;
- An informal discussion series with former Defence Ministers, retired senior officers and officials, industrialists, trade unionists, academics,

³ Strategic Defence Review Process Essay, <http://www.mod.uk/issues/sdr/process.htm>

former and current MPs, Peers, scientists, non-Governmental organisations and environmentalists;

- Special Interest Group Briefings and Consultations, for example, the Trade Unions;
- Two Parliamentary debates and the tabling of public submissions in Parliament;
- 150 Parliamentary Questions answered over the course of the Review;
- A panel of 18 “outsiders” with a diverse range of interests and experience in defence and other areas. This group was tasked with testing the conclusions emerging from the other discussions and working groups; and
- Speeches by the Secretaries of State for Foreign Affairs and Defence.

D.41 Because the key aims of the consultation process were to gather a broad range of information and input, and to build a committed consensus on defence policy and the military roles, force structures and management of defence, equal attention was paid to consultation within the Defence Organisation. The Review established over 20 MOD working groups comprising military and civilian personnel and representatives from other Government Departments, managed by the Vice Chief and the Second Permanent Secretary. These Working Groups briefed all senior committees up to and including the Defence Council.

D.42 Submissions were encouraged from Service and civilian personnel with over 100 being received. An internal liaison team was established visiting camps and bases to listen personally to the views of Service and civilian personnel. Their visit programme provided over 7,500 staff members with the opportunity to discuss the Review and contribute their views. Summaries of results of the public consultation were subsequently distributed through the MoD’s internet web-site.

D.43 Subsequent to the completion of the Strategic Defence Review, three follow-up up-dating policy exercises have been conducted by the MoD to ensure that feedback is provided on the implementation of Strategic Defence Review’s recommendations, and to incorporate and explain defence policy and capability changes that are being introduced to reflect changed strategic and resourcing circumstances. The latest update was issued publicly (in Parliament, hard-copy and electronically) in July 2002.⁴

⁴ Ministry of Defence, *The Strategic Defence Review: A New Chapter* (Cm 5566 Vol. 1, July 2002).

Jointness Initiatives

D.44 A number of significant structural and leadership initiatives have been undertaken to support the move to a joint military and integrated defence organisation culture. In addition to the Joint Central Staff in the UK Ministry of Defence, the Joint Logistics Organisation and the Equipment Capability Customer, a Joint Doctrine Centre has been established. Single Service staff colleges have been amalgamated into a single Joint Services Command and Staff College and are evolving increasingly joint programmes of learning.

Canada

D.45 As for New Zealand, Australia and the United Kingdom, the Canadian defence system is founded on the precepts of the Westminster Parliamentary system. Like Australia, and the United Kingdom [and for that matter the United States], Canada's defence management system has evolved along a very consistent path to greater and greater levels of civilian-military and joint military integration.

D.46 Under the Canadian National Defence Act, the Minister of Defence, is responsible for exercising control over the Department of National Defence and the Canadian Forces. Under the Emergencies and Emergency Preparedness Acts, he is also responsible for civil preparedness in Canada for (Civil Defence) emergencies.

D.47 At the end of the Second World War, strategic defence management functions were integrated into a Department of National Defence. In 1964, complete unification of the Canadian Armed Forces was directed. Completed by 1967, unification was supplemented in 1972 by the integration of the Department of National Defence and CF Headquarters into a National Defence Headquarters. Three environmental headquarters (land (Montreal), maritime (Halifax) and air (Winnipeg)) were set up. In the 1990s, the unification experiment was reviewed and changes were made in response. These included returning to distinctively uniformed land, maritime and air military Services, and the re-integration of the Chiefs of Land, Air and Maritime Staffs and their personal staffs into the National Defence Headquarters.

D.48 A "Deputy Minister" (DM) heads the Department of National Defence. While the Deputy Minister is an appointed public servant, and in many respects is the equivalent of the New Zealand and Australian Secretaries of Defence, or the British Permanent Under Secretary of Defence, it would appear that the Canadian DND Deputy Minister is significantly more empowered. Under the Ministerial Statement on Authority, Responsibility and Accountability, promulgated as a response to the recommendations of the Somalia Inquiry, the Deputy Minister is identified as "the Minister's alter ego, both legally and in practical terms, who under the Interpretation Act, may

exercise all of the Minister's powers except the power to make regulations". A Chief of the Defence Staff (CDS) commands the Canadian Forces and is the Government's senior military adviser.

Responsibilities and Accountabilities of the DM and CDS

D.49 The Deputy Minister and the Chief of the Defence Staff jointly head the National Defence Headquarters. The DM has primary responsibility for defence policy, resources and international defence relations. The Chief of Defence Staff has primary responsibility for command, control and administration of the Canadian Forces and advice to the Minister on military requirements, capabilities, options and the possible consequences of undertaking or failing to undertake various military activities. The CDS is accountable to the Minister for the conduct of CF activities, as well for the condition of the Forces and their ability to fulfil the military commitments and obligations undertaken by the government.

D.50 Although the National Defence Headquarters is fully integrated, some functions fall primarily under the responsibility of the DM, while others are primarily the responsibility of the CDS. A few functions respond in equal measure to the DM and the CDS. The major components of the NDHQ are set out in Figure 3. The primary responsibility relationships of senior advisers and staff functions are:

Primarily Responsible to: Deputy Minister	Equally Responsible to DM and CDS	Primarily Responsible to Chief of Defence Staff
<ul style="list-style-type: none"> • Assistant DM for Policy • Assistant DM for Financial and Corporate Services • Assistant DM for Materiel • Assistant DM for Infrastructure and Environment • Associate Assistant DM for Personnel (for civilians) 	<ul style="list-style-type: none"> • Vice Chief of the Defence Staff • DND and CF Legal Advisor • Chief of Public Affairs • Chief of Review Services 	<ul style="list-style-type: none"> • Chief of the Maritime Staff • Chief of the Land Staff • Chief of the Air Staff • Deputy Chief of the Defence Staff • Assistant DM for Personnel (for military personnel) • Judge Advocate General

Roles of the Vice Chief of Defence Staff and Deputy Chief of Defence Staff

D.51 The Vice Chief of the Defence Staff has a unique role in the staff structures of the Canadian NDHQ. By custom, he is the senior subordinate military officer to the CDS and acts as the CDS in the latter's absence. He is responsible to both the DM and the CDS for co-ordinating all cross-boundary issues and resolving differences among Group Principals (Assistant DMs) and the Environmental Chiefs of Staff. Finally, he is the senior resource manager for at the ND HQ, with responsibility for developing and overseeing the ND HQ's strategic management and planning process and generating planning options and guidance to meet overall defence objectives. In these roles, the VCDS holds the key integrative position for managing the relationships between all its

functional components of the ND HQ. The Director General of Public Affairs, the DND and Canadian Forces Legal Adviser, the Chief of Review Services (Audit and Programme Evaluation) and the Chief Information Officer also report to the VCDS in the first instance.

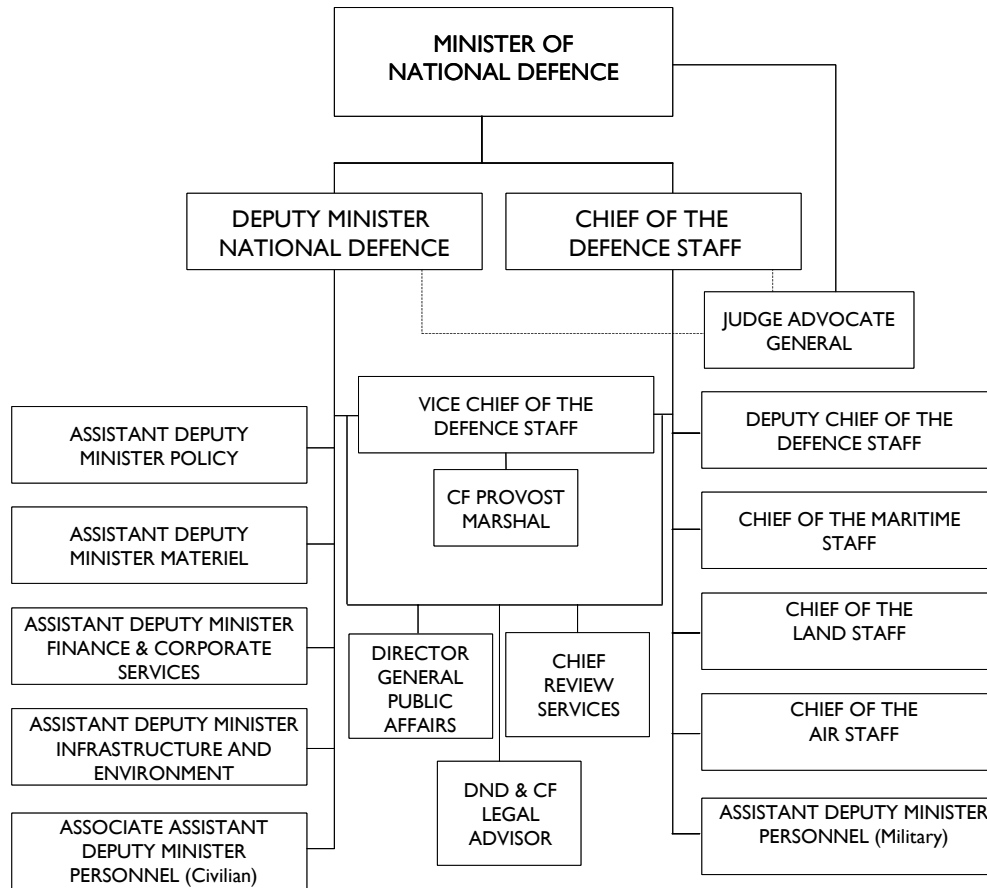


Figure 3: Top-Level Canadian National Defence Headquarters Structure

D.52 The Deputy Chief of the Defence Staff provides the operational direction to the Canadian Forces in the field for non-routine and contingency operations and is the focus for integrated military planning and operations at ND HQ. He is responsible for developing plans and taskings for non-routine and contingency operations, and recommending the allocation of military resources required to effect such operations. He is also responsible for the effective production and dissemination of defence and scientific intelligence, managing security and military police operations, and overseeing Emergency Preparedness Canada (similar to New Zealand Civil Defence), on behalf of the DM. In many respects, the Canadian DCDS carries out many of the same functions as New Zealand's Joint Forces Commander NZ.

Committee Structures

D.53 The Canadian defence organisation is directed, led and managed through five key committees:

- *the Defence Council*, which meets at the call of the Minister and is used to inform him of departmental activities and emerging issues and assist the Minister in reaching decisions. The other members are: the Parliamentary Secretary, DM, CDS, and other senior advisors;
- *the Defence Management Committee*, which is co-chaired by the DM and CDS and is used to consider all management matters affecting the strategic direction of defence and to enable the DM and CDS to reach and co-ordinate decisions and advice to the Minister;
- *the Armed Forces Council* which is chaired by the CDS and includes the VCDF, DCDS and the Environmental Chiefs of Staff and is used to consider broad military matters related to the command, control and administration of the CF, and to assist the CDS in reaching decisions;
- *Daily Executive Meeting*, which is co-chaired by the CDS and DM and is used to provide information on on-going operations and activities, emerging issues and other pressing matters; and
- *Program Management Board*, which is chaired by the VCDS and is used to provide resource management oversight.

United States

D.54 The United States organisation, accountabilities and responsibilities for national security and defence are primarily set out in the US Constitution, the 1947 National Security Act and other Acts of Congress, US Code Title 10, and a series of Presidential Decision Directives and Presidential National Security Directives. The key components are:

- a higher-level cross-government national security structure and set of decision-making authorities;
- a defence department and armed forces management structure; and
- oversight functions and responsibilities of the US Congress.

Cross-Government National Security Structure

D.55 Under the US Constitution, the President is ultimately responsible for national defence and is the Commander-in-Chief of the US Armed Forces. Unlike in New Zealand, the United Kingdom, Australia and Canada, this role in the US is not a titular or ceremonial one, but the final seat of decision-making authority for how and where US Armed Forces are used. The President is supported by the Secretary of Defense who is a political appointee nominated by the President, but appointed with the advice and consent of the US Senate. The Secretary of Defense position is a Federal Government cabinet-level

appointment. The President and the Secretary of Defense are the “National Command Authorities” (NCAs) that have constitutional authority to direct the use of armed forces.

D.56 The other components of the top-level US national security architecture are the:

- National Security Council (NSC) (statutory members: the President, the Vice President, and the Secretaries of State and Defense; statutory advisers: Chairman, Joint Chiefs of Staff, and the Director of Central Intelligence; non-statutory member: the National Security Adviser);
- National Security Council Principals Committee (draws together the Secretaries of all major federal departments with responsibilities that impinge upon national security; and
- National Security Council Deputies and Policy Co-ordination Committees and NSC Staff (responsible for inter-agency sub-Cabinet level co-ordination and policy and strategy work).

D.57 In the months following the September 11 attacks, it was determined that over 100 different government organisations hold some responsibility for security of the US homeland. Virtually every major Congressional committee has some responsibility for oversight of these disparate organisations. In June 2002, the President proposed a new Federal Government department of Homeland Security, with responsibilities for border and transportation security, emergency preparedness and response, chemical, biological, radiological and nuclear countermeasures, and information analysis and infrastructure protection. While it is anticipated that the new Department will draw in a wide range of currently distinct agencies and sub-agencies, the major departments with security roles (Justice, FBI, CIA, Transportation, and Defense) will maintain their separate responsibilities. Consequently, there will still be a requirement for multi-agency co-ordination. To achieve this, the President will retain the Homeland Security Adviser, the Homeland Security Council and the White House Office of Homeland Security that were set up after September 11.

Defense Department Executive Structures and Responsibilities

D.58 The history of evolution of the US Department of Defense is a consistent one of continual amalgamation and integration, focused on the responsibilities and authorities of the Secretary of Defense on the one hand, the Chairman, Joint Chiefs of Staff on the other.

D.59 The Secretary of Defense heads the Department of Defense. The Department is divided into the Military Departments, the Office of the Secretary of Defense, the Joint Chiefs of Staff, nine combatant commands, 14 defence agencies, and 7 Departmental Field Activities. This structure is outlined in Figure 4 overleaf.

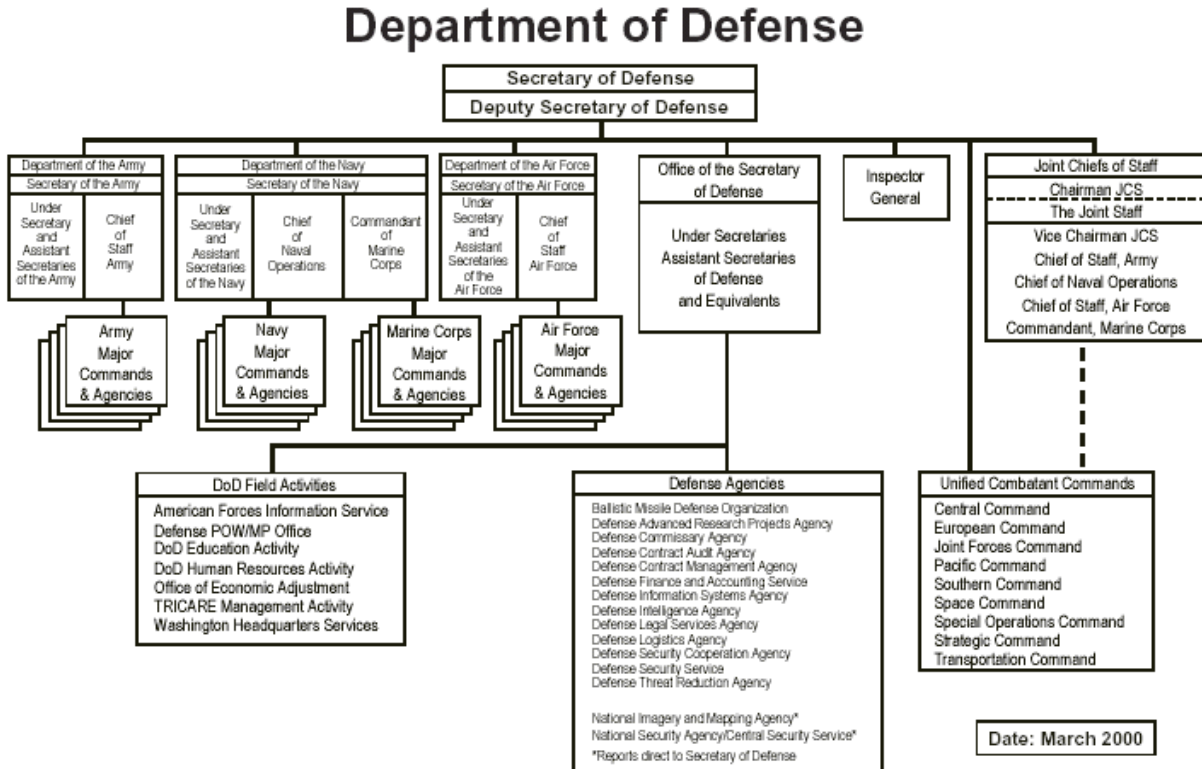


Figure 4: Top-Level Organisation for the US Department of Defense

D.60 The Military Departments are headed by Service Secretaries who are civilian political appointees nominated by the President and appointed with the advice and consent of the US Senate. For all matters that are not connected to the operational chain of command, the military Chiefs of Staff report to their Military Department Secretary. The Departments, and the Service major commands and agencies are responsible for: (1) recruiting and training; (2) supply, and mobilisation; (3) administration; (4) equipment, buildings, structures and utilities procurement, maintenance and repair, and (5) acquisition of property.

D.61 Under Secretary of Defense Rumsfeld, the Military Departments have started on reforms to address stove-pipe civilian and military structures, duplication, cumbersome work practices, and information blockages. These reforms include:

- an integrated Executive Office for each Department that includes the Secretary, the Under Secretary, the Service Chief of Staff and Vice Chief;
- a strengthened Director of the Departmental Staff with greater co-ordinating responsibilities;
- advice and assistance relationships between Assistant Secretaries and Service staffs;

- bringing policy/strategy/requirements functions up from subordinate commands into realigned strategic-level departmental organisations; and
- realignment of staffs to match the staff designations of the Joint Chiefs of Staff.

D.62 The second major staff of the Department of Defense is the Office of the Secretary of Defense. This Office is the principal staff organisation used by the Secretary and Deputy Secretary to exercise authority, direction and control over the Department. In co-ordination with other parts of the Department, the Office is responsible for:

- defence policies in support of US national security objectives;
- oversight to assure the effective allocation and efficient management of resources consistent with Secretary's approved plans and programs;
- evaluation mechanisms to supervise policy implementation and program execution at all levels of the Department; and
- being the focal point for departmental participation in the US security community and other Government activities.

D.63 The third major staff of the Department is the Joint Chiefs of Staff and Joint Staff organisation. The character of this organisation has been most significantly affected by the 1986 Goldwater Nichols Act that effectively mandated the jointness concept of the US Defence organisation by:

- defining the Chairman, Joint Chiefs of Staff as the principal military adviser to the President and Secretary of Defense;
- creating the Vice-Chairman, Joint Chiefs of Staff to act for the Chairman in his absence;
- defining the Joint Chiefs of Staff, assisted by the Joint Staff, as the immediate military staff of the Secretary of Defense;
- clarifying the role of the Secretary of Defense in the operational chain of command;
- strengthening the independent authority of the Chairman, Joint Chiefs of Staff and the Joint Staff;
- requiring joint duty experience prior to appointment as a Joint Chiefs of Staff member or a unified or combatant commander;
- specifying the normal chain of command to be from the President to the Secretary of Defense to combatant commanders;
- requiring the Chairman, Joint Chiefs of Staff, to assess whether Service programs and budgets conform to strategic priorities and operational requirements; and

- specifying the responsibilities of the Secretaries of the military departments to the Secretary of Defense and clarifying the authority of the Secretary of Defense over the Service Secretaries.⁵

D.64 The Joint Staff is responsible to the Chairman through the Vice Chairman and Joint Staff Director, to assist in his functions that include: strategic direction, strategic planning, contingency planning, requirements, programs and budgets, and doctrine, training and education. The Joint Staff is a joint functionally-organised structure. It has branches for: Manpower and Personnel, Intelligence, Operations, Logistics, Strategic Plans and Policy, Command, Control, Communications and Computer Systems, Operational Plans and Interoperability, and Force Structure Resources and Assessment.

D.65 It is interesting to note that similar to the UK MOD's Equipment Capability organisation, the military requirements and force structuring directorate of the Joint Staff is organised according to military capability groupings rather than Service or environmental definitions. These include Intelligence, Surveillance and Reconnaissance, Combating Terrorism, Information Operations, Joint Readiness, Strategic Mobility and Sustainability, Regional Engagement/Presence, and Command and Control.

D.66 The fourth component of the Departmental organisation is that of the Combatant Commands (European, Central, Southern, Pacific, Joint Forces, Transportation, Space, Special Operations, and Strategic Commands). Each combatant command is assigned forces that are required to be maintained at levels of operational readiness and to carry out operational missions. Combatant commanders do not report to the Chiefs of Staff, or the Military Department Secretaries, but through the Chairman the Joint Chiefs of Staff directly to the Secretary of Defense. The Military Departments are responsible for "raising, training and sustaining" forces assigned to the Combatant Commands.

Political Oversight

D.67 The US Constitution establishes significant and powerful roles for the US Congress in national security and defence affairs. Congress (the Senate) is the only political body that can ratify treaties and Congress, not the President, is empowered to declare war. The Congress is also empowered to "raise and support Armies and provide and maintain a Navy, and to makes Rules of government and Regulation of the land and naval forces". The Senate also has the authority to examine and approve (or not) the President's nominees for appointments within the Department of Defense.

D.68 These responsibilities and obligations are primarily exercised through the Senate and House Armed Services Committees. Professional staffs

⁵ Barry Goldwater Department of Defense Reorganization Act of 1986, 99th Congress, 2nd Session, HR 3622, S. 2295.)

support each committee. For example, the House Armed Services Committee has a staff of 48 members, including 23 professionals and 5 legal counsels. In addition, Congress has two independent research agencies that it can task – the General Accounting Office, and the Congressional Research Service.

D.69 Congressional Committees primarily carry out their oversight functions through passage and negotiation of the annual defense authorisation bills. These bills cover the breadth of Departmental operations in minute input-oriented detail. While suiting the American democratic process, this process involves a level of micro-management by legislation that places significant impediments upon managerial efficiency, and continues to focus more on what is spent rather than what is delivered.

D.70 Congress has also influenced the formulation of defence policy and strategy in recent years through mandating the Quadrennial Defense Review process. Under this process, the President and the Secretary of Defense is required to provide every four years an assessment of defence policy and strategy, and the appropriateness of military capabilities that are being maintained and acquired to support that policy and strategy. Congress has instituted a National Defense Panel, drawn from independent experts, to assess the Department's self-review.

D.71 As in the UK and Australia, the US Secretary of Defense has also sought to facilitate other forms of public consultation and alternative policy advice to official sources of defence policy advice. An example is the Hart-Rudman Commission set up by Secretary Cohen in 1998 as a Federal Advisory Committee tasked to (a) conduct a comprehensive review of the early 21st global security environment; (b) develop a comprehensive overview of American strategic interests and objectives; (c) delineate a national security strategy appropriate for that environment and the nation's character; (d) identify a range of alternatives to implement the national security strategy; and (e) develop a detailed plan to implement the range of alternatives proposed.

D.72 Despite the significant differences in resourcing levels, size, and resourcing and management models, the US defence system has a number of positive and informative lessons for New Zealand:

- a continuous trend over the last fifty years to achieve an integrated Department of Defense structure that concentrates responsibilities and authority under a single political head - the Secretary of Defense (equivalent to the New Zealand Minister of Defence);
- a continuous trend to achieve greater integration of civil and military staffs, the latest efforts being made by Secretary Rumsfeld to reduce vertical silos in the Departments of the Navy, Army and Air Force between military staffs and the civilian Secretariats;

- the use of a higher, political and officials-level integrative multi-agency structure - the National Security Council - to bring together key national-level decision-makers to consider and provide co-ordinated political direction on matters of national security and foreign policy, in both a proactive strategy-making process, and in response to security crises and emergencies;
- the development of cascading strategies and policies for each government department and agency involved in national security, flowing from the National Security Strategy of the US, for example, to the National Military Strategy for the US Department of Defense;
- the evolution by the Chairman, Joint Chiefs of Staff of joint doctrine and operations ‘visioning’ documents to complement employment scenarios as key inputs into processes for formulating strategic policy and strategy, and assessing and selecting required capabilities, force structures and military equipment;
- the development of an empowered Chairman, Joint Chiefs of Staff, and an effective joint staff structure; focused on developing joint perspectives and concepts; and, the re-alignment of work practices and structures in the Military Departments to conform with joint-oriented structures and work practices;
- a strong focus on rigorous, qualitative and quantitative analytical processes to support business cases for force modernisation, and robust and diverse capabilities for environmental scanning, and analysis;
- the separation of responsibilities, command authorities, resource delegations and assets between “strategic national” (with the Service Chiefs of Staff raise, train and sustain functions, in the Military Departments), and “strategic theatre” (with the combatant commanders)
- highly refined and interactive information relationships between the Department of Defense and the Congress; and
- embedded public consultation and public debate processes through independently and federally-funded research institutions and panels and groups to provide policy advice alternatives.

Comparative Highlights and Points of Note

D.73 Relating the above comparative discussion to the Review Terms of Reference, the following observations can be made.

The role and responsibilities of the Minister of Defence and how the accountabilities and structural arrangements between the Ministry of Defence and the New Zealand Defence Force support and inform those responsibilities

D.74 In comparison with his Australian, UK, Canadian and US counterparts, the New Zealand Minister is less well supported. In comparative countries, Ministers of Defence (or their equivalent) are part of a clearly-mandated Cabinet-level National Security Committee structure to consider political, foreign policy, economic and trade objectives and supply high level 'whole of government' political guidance on security and defence objectives. Subordinate Ministers with specialist defence portfolios support most overseas Ministers. Australian, UK and Canadian Defence Ministers particularly also have the advantage of a fully integrated stream of advice coming to them that incorporates the points of view of all the Services and other agencies within Defence. In New Zealand, by contrast, the Minister can be, and often is, presented with multiple points of view that he then has to reconcile, with very little support.

The relationships, responsibilities and accountabilities of and between the Secretary of Defence and the Chief of Defence Force and the appropriateness of those arrangements to the statutory and other responsibilities of the New Zealand Government, Parliament and Governor-General

D.75 The Australian, UK, Canadian and US higher defence structures are designed to bring together the different points of view within the various parts of Defence and present the Government with options that represent the considered advice of all the participants. Integration of that advice takes place at all steps in the chain rather than just at the top, where in the New Zealand case, an unsupported the Minister is often not well supported to consider the technical merits of different advice streams.

The relationships, responsibilities and accountabilities of and between the Ministry of Defence, the New Zealand Defence Force and the Single Services (Royal New Zealand Navy, New Zealand Army, and Royal New Zealand Air Force), including the Chiefs of Staff of the Services and the Joint Force Commander New Zealand

D.76 In all four of the overseas examples studied, the approach taken has been to move to fully integrated structures where the advice of single Service representatives and joint staff advice and civilian officials is integrated into a single vision of what needs to be done. In none of the examples studied are Departmental-level separate streams of advice to the political authorities encouraged.

D.77 A comparison of current wiring diagrams for New Zealand vis a vis Australia, the UK, Canada and the US shows a broad convergence amongst our overseas partners towards a model that brings military and civilian staffs together to work collegially on issues. The details differ, with Canada, for example, showing the least integrated structure (after New Zealand) and the UK

perhaps furthest down the path to a seamlessly integrated organisational structure.

D.78 In Australia, the overall philosophy guiding their structure is that irrespective of the actual detail, the main aim must be to arrive at a structure in which the different experiences and skill sets in the civilian analytical community are brought to bear in a manner that complements *and augments* the operational experience and knowledge of military officers.

The effectiveness of the structural arrangements and accountabilities put in place as a result of the Strategos Report, and implemented in the Defence Act 1990

D.79 The key point to note is that in all the countries studied, the trend is towards increasingly unified civilian and military staff structures. Even as far back as 1990, in setting up a separate civilian and military structure, New Zealand was moving against the trend elsewhere.

The new organizational arrangements at the Headquarters, Joint Forces and the Headquarters, New Zealand Defence Force

D.80 The creation of a separate Joint Forces Headquarters in New Zealand is fully consistent with overseas practice. It is very clear that New Zealand's overseas peers have moved significantly over the last fifteen years to establish a wide range of joint organisations and supporting management practices for joint doctrine, culture, and leadership. From this perspective, the HQ JF is a strong beginning, but only a beginning nonetheless.

Options for better structural arrangements and accountabilities to improve co-ordination of policy and operational inputs into defence and security policy and operations

D.81 Each of New Zealand's international peers offers innovations and successful model components that could be incorporated into options for improved structural arrangements and accountabilities for New Zealand higher defence structures. No one particular model offers a complete paradigm. For example, while the US model because of its size, scope and resourcing levels supports a number of inefficiencies and duplication that cannot be sustained in New Zealand. At the same time, there are many components of the guiding philosophy of the US model that have direct relevance to options for future New Zealand higher defence structures. To a much greater degree, the Australian and UK models both offer a vision of what can be accomplished by fully integrated, civilian and military, joint defence organisations and higher national security structures.

Options for enabling policy advice from a variety of sources to ensure high quality, professional, timely, fully-tested and informed defence and security policy advice to the Government

D.82 In the countries examined, each had a wide variety of alternative sources of advice, opinion and information on defence and security matters. Equally, each had a number of tertiary level research and teaching institutions that specialise in educating both the next generation of scholars and researchers on defence and security matters, and the next generation of defence officials and military officers. For example, in the United States, in Washington DC alone, there are over 100 research “think tanks” working on defence and security issues. Furthermore, in each peer country, the Defence Organisation directly funds a number of tertiary level public and semi-private research organisations to carry out independent research on issues ranging from highly technical and specific defence management matters through to alternative security futures analyses. For example, the Australian Government has most recently established an Australian Strategic Policy Institute to provide a source of high quality alternative advice to the Government.

D.83 These sources of advice serve to provide both alternative avenues of information for members of the political community, and also enrich and support the policy and staff work of the defence organisations in each country.

D.84 Similarly in each country, greater resources are devoted to knowledge gathering initiatives in the political community – with staffs supporting the research efforts of the US Congress’s or the UK or Australian Parliamentary Committees. Furthermore, senior politicians in these peer countries are similarly supported by professional staffs to provide analysis of the variety of advice, particularly from extra-departmental sources that is being brought forward.

D.85 In the broader public policy advice arena in the New Zealand, the avenues for obtaining high quality policy advice outside government are very limited. Few universities providing high quality, demanding educational and research programmes on defence and security affairs. This significantly reduces the future pool of talented persons qualified for Departmental positions. It limits the pool of similar persons qualified to act as specialist staffs to the Parliament’s Select Committee. Furthermore, it limits the amount of competent, value-added research that is being undertaken on New Zealand defence and security matters.

D.86 New Zealand’s peers clearly place significant importance (as demonstrated by diversity of sources and resourcing levels) to encouraging and supporting robust and diverse capabilities outside government. The degree of

diversity ensures avoidance of institutional capture or offsets eccentricities that can flow from the encouragement of any one source of advice.

Options for structural arrangements and accountabilities that enable appropriate Parliamentary Select Committee participation in defence planning and capital acquisition advice and decision-making

D.87 Each of the models studied maintained significant levels of staff support for Parliamentary/Congressional committees. For example, the UK Defence Select Committee, which handles Defence only (i.e. not Foreign Affairs and Trade also) has 5 permanent staff and several specialist advisers retained on a contracted basis to assist it in the conduct of its oversight work. The Australian Parliamentary Research Committee also has several permanent staff members available to it to assist Select Committee members in their enquiries. Each US Congressional Committee has a staff of upwards of 40 personnel. Moreover, in each of these international peers, the relevant defence organisations also maintain staff positions that are focused on liaising with and meeting the information needs of the Parliamentary/Congressional Committees.

D.88 In light of this international experience, the best and most effective way to strengthen the New Zealand Select Committee would appear to be to provide additional staff support to it to enable the development of an independent, in-depth, analytical, research and technical capability. While consulting expertise can be purchased for specific topics, international experience suggests that the Select Committee needs a permanent expert staff capability of its own.

Options for structural arrangements and accountabilities that enable co-operation rather than competition between components of the New Zealand Defence Force

D.89 Of the countries studied here Canada in the past went the furthest in seeking to eliminate competition between the Services by creating a unified Canadian Force. While this experiment generated a number of efficiencies, it produced a number of less than satisfactory results, leading to a re-establishment of the single Services and their unique value-added cultures and expertise.

D.90 Other countries have learnt much from the Canadian experience, including moving towards jointness rather than unification approaches. New Zealand's other peers have worked consistently and with determination to foster jointness, establish an over-riding shared and common vision, and strengthen the underlying policy processes so that the individual services have increased confidence in the robustness and fairness of the various outcomes. Initiatives have included amalgamating educational experiences for military personnel from all Services at the technical, professional and staff and

command levels, joint and integrated staff structures at strategic and operational levels of their defence organisations, the design and implementation of joint force capabilities and packages; capability-based, rather than equipment-based force development and planning processes; a strong focus on writing and promulgating joint doctrine publications; the development and promulgation of joint vision statements.

ANNEX E:

THE FUTURE STRATEGIC ENVIRONMENT IMPLICATIONS FOR HIGHER DEFENCE STRUCTURES

E.1 Even if a Defence Organisation was ideally structured, resourced, and staffed to cope with today's strategic environment, and to respond to today's stakeholders, suppliers and customers, it may not necessarily be fitted to cope with the environment and requirements of the future. Moreover, if it is not coping well with today's operating demands and requirements, today's structures and accountabilities could be even less effective in the future. Consequently, it is important that the structural arrangements of the Defence Organisation be designed to cope with future as well as current performance requirements. Furthermore, as noted earlier, the Minister has asked that this review be forward-looking rather than focused on past failings.

E.2 To achieve these objectives, I considered it important to situate my examination of the higher organisation of New Zealand defence within an understanding of the demands and challenges of the strategic environment within which it must function effectively in the future. To this end, I commissioned an analysis of the future strategic environment for Defence. This following analysis is a summary paper of contemporary expert and considered views drawn from publicly available sources. It takes a ten-year forward look, identifying and outlining trends with implications for the future shape and capabilities of a effective Defence Organisation. While I do not offer the paper as the final word on the matters, its main purpose is to suggest the complexity of the setting in which New Zealand's defence machinery will have to operate.

Assumptions

E.3 The strategic environment in which the Defence Organisation functions is far from static, and in many areas increasingly fluid. At the same time, some aspects are relatively constant. In broad terms, these features can be expected to continue to shape New Zealand's future defence environment:

- New Zealand as a democratic state, with national governance based on a modified Westminster system (legislature, Government executive, national public service and separate judiciary), with a constitutional head of state, with Armed Forces under civil political control;
- the outcomes of a physically secure New Zealand and protected New Zealanders and New Zealand resources;

- the requirement for a strategic level headquarters/office within the overall organisation of the Defence function to meet compliance, governance, and policy formulation functions;
- the division of organisation, command, and management of military forces into strategic, operational, and tactical level activities; and
- significant limitations on the proportion of national resources that Governments will be prepared to devote to maintaining national defence, unless there is a significant and proximate deterioration in New Zealand's security environment.

Geo-Political Trends

E.4 A less stable, predictable security order has replaced that of the Cold War. Pre-Cold War threats have re-emerged. Moreover, nationalist, tribal, religious and ethnic conflicts held in check by the Cold War superpower confrontation, have been released allowing protagonists to use savage violence to settle historical grievances. Disintegrative forces of micro-nationalism have been unleashed with the break-up of empires and alliances, leading to state fragmentation.

E.5 Particularly in some parts of the world, national governments have continued failing to achieve sufficient economic growth and wealth redistribution to assure peace in their territories. Without the aid and incentives from competing Cold War blocs, such governments have not been even less able to cope with systemic corruption, cycles of drought and famine, population expansion, debilitating international debt, and the AIDS/HIV pandemic. Consequently, they have been unable to defuse clan, tribal or provincial inequities and aspirations that have generated violent conflict, cross-border refugee crises and community disintegration.



E.6 The late 20th and early 21st century globalisation wave has also created the conditions for reviving or empowering many destabilising non-state groups. Some such transnational groups have grown in financial power and the strategies of violence to challenge or undermine the authority and infrastructures of national governments. Drug cartels, mafia criminal gangs and the Al Qaeda network are examples of such groups.



E.7. Following the end of the Cold War, and encouraged by the international co-operation generated in response to the Iraqi invasion of Kuwait in 1990, the United Nations sought out an expanded management role in dealing with international security crises. However, having been only

tested in limited and controlled peacekeeping situations, the UN found itself unprepared to handle challenging interventionist roles to stop on-going violent conflicts and the humanitarian crises surrounding them. Plagued by uncertainties over funding sufficiency, ineffectual military structures, optimistic and in many cases unrealistic mandates and expectations, the UN experienced a number of significant failures (Somalia, Rwanda and Bosnia-Herzegovina for example) have challenged the authority and confidence of the organisation.



E.8 Despite continual efforts, improvements in the UN's military capability have been very incremental. Progressively more international responses to security crises have involved ad hoc multinational military forces, drawn from like-minded countries, rather than UN organised military forces. In some cases, such multinational forces are operating on directly behalf of the UN; in others, action and forces are loosely endorsed by UN Security Council resolutions. In providing international humanitarian assistance, the UN is also joined by an increasing range of private, independent national and transnational volunteer organisations.



E.9 At the same time, the structure of alliances and treaties, which characterised the Cold War period, is under transformation. The Warsaw Treaty Organisation has ceased to exist formally. The other main Cold War alliance – NATO – has been reinventing itself, both with an expanded membership, and with networking programs, such as the Partnership for Peace to improve the ability of military forces surrounding NATO to work successfully with each other and NATO. The example of the Gulf War coalition demonstrated that former opponents could work together even if only on a temporary basis. These circumstances have potentially redefined the prime alliances from that of collective self-defence to that of being a vehicle through which countries develop interoperable military forces that can be formed and reformed into different multinational combinations appropriate for a range of security crises as they emerge.

E.10 The post Cold War international security management system is also characterised by more multifaceted loose coalitions for responding to security challenges. Such collective security responses are likely to involve military forces, police forces, administrative and governance advisers, infrastructure experts, etc., with regional actors others than the US taking

leadership roles, such as Australia/New Zealand in East Timor, and the British with the International Security Assistance Force in Afghanistan.

E.11 Although non-state groups are growing in influence, for the foreseeable future, the international system is likely to be characterised by a hierarchy of states defined by their relative political, economic and social advantages and disadvantages. Even so, governments are likely to be less in control of their choices for action than they have been in the past. Because of the spread of access to instant television and increasingly internet broadcasts, public opinion is apt to continue to pressure particularly democratic governments into humanitarian interventions. Where national self-interest is not also similarly engaged, if such interventions run into trouble, public opinion is just as likely to force governments' hands to hasty and damaging withdrawals.

E.12 There is little evidence to suggest that state governance failures and the humanitarian crises they generate, or transnational threats of drugs and people trafficking, resources poaching, money laundering etc., will subside. The UN is likely to continue to have significant difficulties responding effectively to violence associated with this spectrum of activity, and prioritising its responses. As a consequence, its credibility, as highest international legal authority, will go on being challenged both by states and transnational actors prepared to act outside international law. Its credibility will also be challenged by coalitions of states, private volunteer organisations that have the capacity and will to act against aggression when the UN cannot achieve sufficient consensus to underwrite its own involvement.

E.13 The international legal environment is likely to become more litigious and demanding. The accepted primary of state sovereignty is under increasing pressure from the ideal of universal human rights. It is likely that the UN will continue to struggle with balancing states rights vs individual rights. Other issues of international law will affect the operational environment for which the future Defence Organisation must prepare and plan military forces. These include for example, Law of the Sea conventions. Influential pressures groups will continue to work to restrict military weapons, and to create a more ethically challenging environment of laws that bind the actions of regular military forces but not irregular or illegal combatants that they may have to cope with.

E.14 Increasing environmental stresses and resource shortages are likely to aggravate social and political tensions in many of the world's regions. Consequently, offshore, under-developed and under-utilised resources are likely to become a growing source of international dispute and potential conflict. Environmental degradation, resulting from global warming, and pollution may also lead to disputes between governments, and destabilising economic costs. Environmental protection policies and preventative measures are likely to be more and more important in managing and shaping the strategic environment to prevent conflicts.

E.15 The pace of globalisation is accelerating through the effects of information-based technological innovation. Traditional concepts of territorial and cultural sovereignty are being challenged as boundaries of all types become more permeable. The benefits of globalisation are likely to continue to be unevenly distributed across the world's regions. This will exacerbate high levels of both economic and social aspirations and dissatisfaction. Integration of regional economies, supported by expanding free trade agreements, is likely to limit the use of force to resolve some issues between states. But it will not necessarily have the same effect on intra-state conflict, where disparities in wealth may be exacerbated by shifts in economic opportunities to other regions and countries.



E.16 National interfaces with globalisation will inevitably expose a country to adverse domestic and international impacts just as much to more positive effects. The volume of international trade is likely to increase, with governments finding it increasingly necessary to align their economic policies to meet international investor expectations. As more industries become globalised, fewer countries retain control over all the means of production. Just-in-time management practices are purposely designed to avoid holding inefficient margins of capacity. Therefore, national economies are increasingly dependent upon uninterrupted offshore supplies of critical resource and products. When one region becomes embroiled in conflict, countries far removed from that region can have their economies affected by their reliance on resources and products from that region. The flow of oil products is a case in point.

E.17 The September 11th terrorist attacks have focused most countries on previously unexplored international and domestic security vulnerabilities that have been increased by globalisation and technological change. These include proliferation of weapons of mass destruction, emerging bio-technologies and information sabotage threats. Here again, increasing economic and financial interdependencies between countries and regions, and globalised information and transportation networks increase the "spread effect" of potential threats to well beyond the area generating them. As a result, the stability, economic wealth and health, and trade of remote countries such as



New Zealand can be more easily threatened than was previously achievable by physical means.

E.18 Some security challenges are likely to arise with little or no warning, while others can be expected to have a long but not necessarily clear gestation period. Regardless of warning time, particularly Western publics are likely to expect prompt responses, with minimal casualties on all sides and collateral damage. Such demanding standards call for particular military capabilities of precise, timely intelligence and precise uses of lethal and non-lethal force.

E.19 At the same time, military power (in all its forms) is more likely to be mandated as part of a wider, co-ordinated response to security crises, be they emergencies and threats within a state's territory (for example, smuggling in illegal goods, resource poaching, natural disasters, etc) or crises that challenge regional neighbours or international norms of behaviour. This means that many of the non-offensive and supporting capabilities of military forces that have been commercialised at home base, are again required as part of deployed military forces.

Implications for New Zealand Defence

E.20 There is a high degree of uncertainty over the track that international security may take in the future. A number of scenarios, ranging from a benign, strategically stable environment to a malignant world of great instability and rivalry can be extrapolated from contemporary geo-strategic trends. The level of uncertainty in New Zealand's geo-strategic environment is a disincentive for a long-term focus on Defence matters. Yet, most defence capabilities have anything up to a forty-year life in the NZDF. Consequently, the future Defence Organisation will need structural arrangements and business processes that will allow it to identify, procure and maintain defence capabilities with the organic adaptive capacity to allow future Governments to respond to a diversity of security threats and opportunities, many of which cannot be clearly articulated or envisioned in the short term.

E.21 Anything but the most benign of future security situations where present and likely future vulnerabilities are not tested is likely to stretch the capabilities of the New Zealand Defence Force. In all other scenarios, it is likely that maintaining and demonstrating a credible off-shore presence, detection, and intervention posture will be increasingly important to contain or deter potential security challenges before they can escalate to a level beyond New Zealand's response capabilities.

E.22 Collaborative, regional security arrangements are likely to be increasingly needed. Traditional approaches where a country seeks to look after all its security needs independently is likely to be less and less feasible. More multi-national approaches allow countries to specialise their defence capabilities, while relying on others to contribute the balance of required capabilities to a common pool that can be accessed by all. By developing complementary force structures that are highly interoperable, each can

offset capability gaps that they carry by relying on others to fill them. While moderating the cost of defence, such multinational approaches are dependent upon sufficient similarity in the strategic policies and objectives amongst partners to assure all that each is committed to meet their individual obligations. In many respects, this has been the logic behind New Zealand and Australia's Closer Defence Relations policy.

E.23 These geo-strategic trends, and the conditions they are likely to create, increase the need for New Zealand higher defence structures that facilitate a broader appreciation of national security, rather than defence, requirements both at the political and officials levels. Such structures are required to integrate and co-ordinate a whole-of-government approach to formulating over-arching national security policy and strategies. These are needed to proactively shape New Zealand's security environment to reduce the potential for conflict and other security threats. Such strategies are also needed because they guide inter-locking policies and strategies of relevant government departments and agencies, including the Defence Organisation. Co-ordinated national security structures are also needed to harmonize responses to events if they arise, by identifying the best responses, and assigning responsibilities and resources to departments and agency to ensure that resources are not duplicated or applied at cross-purposes.

E.24 Current New Zealand higher defence structures at the whole-of-government national security level are limited to ad hoc crisis response and consequence management. In the light of trends in New Zealand's geo-strategic environment, such structures are likely to be progressively more taxed by multi-faceted security threats and responses. Moreover, such structures cannot guarantee to be active when opportunities arise for preemptively shaping New Zealand's security environment, so that conflicts do not emerge, or are defused before they can flare up.

Jointness Trends

E.25 Analysis of warfighting and defence management trends and the behaviours of New Zealand's strategic partners confirms a consistent and concerted trend towards increasing jointness in both preparing for and conducting security operations, and in maintaining defence forces. The joint structures and command and control arrangements that are needed by the NZDF flow from the likely future operating environment at the strategic national and national operational levels.



E.26 Unlike business, in many aspects of war, duplication and diversity is a proven advantage. It complicates the challenge for an opponent who has to be prepared to cope with military forces with diverse ways of causing defeat. However, it has been increasingly recognised that duplication and diversity also contain inherent inefficiencies. "Stove-pipes" of duplicated capability create problems of co-ordination, delimit opportunities for synergy, and are wasteful of resources, when common approaches can work just as effectively. As a consequence, almost all

professional military forces, regardless of their size, are reviewing their force structures and command and management practices to develop joint ways of carrying out military operations and preparing military forces.

E.27 These joint efforts include joint doctrine for organising and employing military forces, joint education to train and prepare future leaders and followers, joint structures and processes for command, management, and support, and joint communications architectures. As more armed forces adopt joint approaches, those that do not, will find it increasingly difficult to be effective in multinational operations. Joint approaches are progressively the professional standard necessary for effective strategic and operational level working relationships with strategic partners.

E.28 Joint approaches are concerned with more than simply joining similar units together into composite forces. Jointness involves standardised ways of describing and organising for activity. By having common activity descriptions, rather than have Service, or land, maritime or air activity descriptors, there are opportunities for looking at different ways of carrying out activities that are not circumscribed by Service or environment. By standardising organisational structures, greater organisational alignment can be achieved in the processes of the overall Defence organisation, rather than the vertical alignments of separate Military Services and Departments.

E.29 Over the last decades, jointness has become synonymous with the effectiveness, efficiency and synergies achievable through seamlessly combining the resources and capabilities of land, maritime and air forces. However, the trend for the future of jointness, is its expansion to encompass integrated broader inter-agency/departmental planning processes and operations. The catalyst for this is the changing nature of security crises and the changing response strategies and roles of military forces and other contributors in managing such crises.

E.30 Assessments of international security trends lead to the conclusion that at least for the first decades of the 21st century, inter-state conflicts, characterised by force-on-force military engagements between regularly constituted military forces with political goals of invading and occupying territory, are likely to be rare. The new “conventional” operations will be responding to outbreaks of violent devastation and human suffering resulting from civil and ethnic disputes, government collapse and cross-border spill-overs that engage the attention of the international community in whole or significant part, as well as providing humanitarian assistance and disaster relief.

E.31 Rather than keeping military forces reserved for use only in destructive confrontations, national security and regional security strategies are increasingly stressing the use of military forces in presence and conflict mitigation and prevention roles. As military forces develop more controllable force applications (such as precision weapons that can be launched safely from outside the range of an attacker or low-lethality weapons where

casualties can be avoided) they can serve as part of broader diplomatic, economic and political strategies to de-escalate crises, or prevent escalation.

E.32 It is likely that increasing attention will be paid to the management of conflict, notably efforts to prevent it occurring in the first place, to reduce the risk of conflict escalation and to develop post-intervention strategies to resolve underlying causes. Such conflict management strategies depend upon maintaining a comprehensive range of civilian governance/administration and military assets and capabilities, and developing tested and trusted working practices and processes between all actors, both domestically, and on the international stage.

E.33 These types of strategies and operations are complex. Effective responses must integrate and co-ordinate political/diplomatic, humanitarian, intelligence, economic development and security mechanisms. Complex contingency operations are characterised by the often short-notice with which they are launched. While it may be relatively easy to detect the signs of crisis, political and diplomatic processes and initiatives will often introduce uncertainty over when an operation is actually launched, what its goals will be, and who will be involved, and what exit strategy is to be employed. Effective operations depend upon all participants sharing common understandings of processes and capabilities ahead of time. The time to become “joint” is not when an operation is declared.

E.34 In response to a new generation of complex emergencies, Inter-agency planning processes and operations at the national level (and increasingly at the coalition level) must be designed in a way to achieve more than just internal co-ordination. They must also be the nodes and connections for a broader range of actors with a stake in complex contingency operations – United Nations agencies, private volunteer organisations, scientific teams, host nations, and local, regional governments in conflict zones. Today and into the future “joint” does not just mean “purple military”; it means “inter-agency” and “international”.

E.35 Expansion of the strategic joint concept to incorporate an inter-agency approach to reflect a ‘whole of government’ and an international approach to national security issues is a natural evolution. Defence is but one part of a complex matrix of international, governmental, national, non-governmental and local agencies and organisations that have the potential to address security issues. In New Zealand’s strategic partners, increasing efforts are being directed towards delineating and synchronising the different roles, missions and responsibilities of organisations, departments and agencies through integrated processes and co-ordinating structures and arrangements.

E.36 Under traditional security thinking, national efforts to provide for New Zealand’s security have been “stove-piped”. Multiple “hand-off” points have existed between Government agencies and departments. This has resulted in demarcations between different contributors that can impede

concerted and effective action. Co-ordination between agencies have been managed “on the fly” once a security challenge has presented itself. The approach means that opportunities to manage New Zealand’s security, so that the country has fewer security challenges to respond to, can be missed.

Implications for New Zealand Defence

E.37 Higher defence structures will be needed that contribute to networking the security roles and contributions of relevant departments and agencies. A future Defence Organisation will need to contain structures, arrangements and processes that allow it to interconnect with other departments and agencies (and other external organisations and groups) in a broader national security network.



E.38 A future Defence Organisation will need joint management structures and arrangements particularly at the national strategic level and at the operational level that commands and directs the operations of deployed forces. At sea, in the air, and on the ground, forces operating at the tactical level need organisations, structures and processes that are particular to their working environment. Even at this level, forces still need to be aware of the broader joint environment in which they are operating that will support and protect them.

E.39 To move to adopt the professional standard of jointness at the national strategic, the operational and the tactical levels of military operations, a future Defence Organisation will be needed that supports and evolves a robust, confident joint culture, built on the knowledge, experience, and competencies contributed from both joint and environment-specific operations.

Technology

E.40 The future defence environment is characterised by accelerating technological development, innovation and redundancy. It is not practical here to discuss in detail the dramatic changes that are occurring across the spectrum of technology that have implications for national security and defence. As an economy, the key areas of technology change of relevance to the Defence Organisation have been examined, and rather than itemise these changes, this section highlights the implications of technology change.

E.41 *Cycles of technology change are becoming increasingly short.* As the time between each technology advance decreases, so too does the time until a current technology and its products is made obsolete by the next generation arriving. More frequently, older technologies are not interchangeable with new products. These features of technology change represent an in-built growth dynamic that will over time reduce the freedom

of choice for many countries and individuals in staying in touch with where technologies are going.

E.42 In some technology areas of interest to military forces, manufacturing costs are decreasing or not increasing with each generation of technological advance. This is in part because commercial drivers have taken a dominant control and economies of scale can be achieved in meeting a civilian, globalised market, that could not be achieved if only military customers were being supported. In other areas of interest to military forces, technology-generated cost growth is occurring at the same rate or faster than technological improvement. Many of these areas of technology relate to specialist military equipment (armoured vehicles, naval combatant ships, and military aircraft) where economies of scale are much more limited.

E.45 As a consequence, while in the commercial world, technology-enhanced products (for example, computers) are gaining generational leaps in capacity for similar or reduced costs, in the area of specialist military equipment, such cost efficiencies are less and less likely.

E.46 Technology developments in the first decades of the 21st century are likely to make some types of military equipment prematurely redundant. In this context, one area of particular note is the advances being made in robotics - an example is the likely replacement of the light observation helicopter by unmanned aerial vehicles. New weapons and equipment with substantially different effects are likely to move from research type projects into fully developed and fielded systems. For example, low-lethality, disabling weapons and robotics tailored for urban violence control, reconnaissance and surveillance. New battlespaces will open up (including cyber-space and bio-space) and will be exploited by weapons unique to those spaces (such as viruses in computers, and tainting of information). Weapons of mass destruction, particularly chemical and biological are likely to become more available, and less controllable.

E.48 Technology-enabled equipments will progressively substitute for at-risk personnel in military forces that can afford to do so, for example robotics. The obverse applies. Those countries who chose not to afford, or cannot afford such technology-enabled equipments will be forced to expose their Service personnel to greater levels of risk, and to maintain military forces of a larger personnel size to carry out missions.

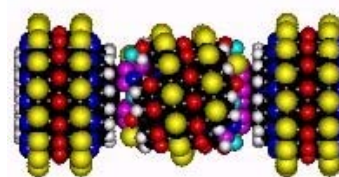


E.49 Technology change is trending in two directions and this trending is changing the balance between offensive and defensive strategies and capabilities. On the one hand, as commercial drives take the lead, new products, substances, and technologies, which can be modified for violent purposes, are more readily accessible through commercial markets. The range of commercially available technologies is likely to continue to provide greater scope for innovative improvised weaponry. Moreover, for those who wish to create disproportionate violent effects, - and this includes non-state groups and even individuals as much as national governments - Cold War-generated arms control regimes are likely to prove increasingly irrelevant.

E.50 On the other hand, national governments seeking to protect and defend against security threats must balance equipping and preparing their military forces for traditional style war-fighting (which is becoming increasingly expensive), and to meet unconventional threats that can equally soak up significant resources and require particular capabilities, for example, chemical and biological defence capabilities, cyberspace patrollers. For most countries maintaining conventional war capabilities, the pressure to minimise casualties and damage is driving equipment priorities for long-range precision, real-time, accurate surveillance and reconnaissance, rapid strategic and tactical protected mobility capabilities. In both responding to conventional and unconventional violence, responses are dependent upon increasingly sophisticated and integrated technologies that because they are specialised and limited to military use are proportionately more expensive to acquire.



E.50 Emerging new technologies, which until recently have been the stuff of science fiction are increasingly likely to generate real world applications within the lifetime of extant military specialist equipments. These include areas such as genetics, biotechnology and nano-technology. These technologies will introduce whole new manufacturing processes, new energy sources and energy storage devices, new weapons, for example.



E.51 The minimum entry level into many types of future multi-national military operation will progressively more dependent upon technology. Military forces that are not technologically interoperable, particularly in terms of specialist military equipment, command and control systems, and information management systems, will be assessed as a risk and burden on more technologically-enabled multi-national forces.

E.52 While technology change cycles are shortening, professional competence for maintaining and using high technology equipments is a long-lead time component of military capability. Self-diagnostics and improvements in reliability and maintainability are reducing some areas of required professional knowledge. At the same time, the ubiquity of technology is expanding the requirement for military personnel and civilian advisers that are technologically-focused, and able to maximise management and operational advantages from evolving technologies.

E.53 While security crises can be expected to emerge with relatively short notice, developing technologically-competent, and equipped military forces cannot be achieved in similar time scales. Continuous, committed levels of investment in personnel and equipment will be needed to ensure that technology-enabled capabilities are available when required.

E.54 As cycles of technology evolution shorten, it will be increasingly important to manage equipment life cycles. For smaller countries with limited resources, managing the risk of premature redundancy will require strategies that include close attention to technology change indicators, experimentation with low-cost, high pay-off niche technologies, investment premiums in selecting equipment platforms with stretch potential to allow upgrading or reconfiguration with each new generation of technology.

E.55 Over the last decades of the 20th century, information technologies were used to reduce the layers of management in most businesses. This application of technology has taken on a mantra status, with unfortunate side-effects that were not fully thought through. In many firms, and government departments, information technology applications leapt ahead of the organisation's ability to record and automate the tacit knowledge of the layers of management that were removed. Consequently, information technologies are now more focused on information resources management, and effective management structures, rather than simplistically eradicating layers. Such technologies include electronic document management, the internet, and electronic communications.



Implications for New Zealand Defence

E.56 Because of these trends, a Defence Organisation is required that has sophisticated management processes for identifying and specifying required military capabilities against trends, and building effective business cases to modernise the NZDF in ways that maximise the technology effect for dollar expended over time. A capacity to develop innovative equipment strategies for managing technology turbulence and technology-generated costs is also needed.

E.57 The increasing rate of technology dissemination is likely to be one cause of acceleration in the rate at which new threats emerge – for example, bomb-making and chemical weapons instructions available on the internet. The future Defence Organisation needs to be structured in ways that minimise impediments to the timely development and acquisition of robust counter-measures as new security threats emerge, or pro-active measures to reduce vulnerabilities.

E.58 A defence organisation is needed that is capable of creating effective interfaces and partnerships with other government departments and the private sector to access relevant scientific-technological innovations. It needs to have an environment that supports a culture of innovation, questioning, and searching for alternative solutions. A future Defence Organisation also needs to have the personnel capacity and culture to compose and manage the information requirements of a modern public sector department (e-government, public relations, and inter-agency co-operation). Structures that impede communications, and use information technologies and management systems to control rather than exploit information, will be increasingly wasteful.

E.59 The future Defence Organisation will need to manage and sustain a portfolio of capability assets that will increasingly be defined and influenced by technologies and rates of technological change outlined above. The organisation will require professional staffs and leaderships that are technologically knowledgeable, confident and innovative.

Management and Finance

E.60 Despite a converging trend between management practices within the private and public sector, Defence management will continue in the future to be subject to constraints and controls not found in the private sector. These constraints will continue to influence the degree to which Defence management can operate along commercial lines. For example, every mistake made by Defence is liable for public scrutiny, whereas failure in the private sector is an accepted risk. Failure in Defence can translate into casualties and destruction. Business failures while certainly traumatic do not often have the same consequences.

E.61 The high capital and operating costs associated with the defence function also call for a standard of transparent decision-making and high standard of decision support that will continue to be considered by some external commentators as excessive. At the same time, the convergence trend in management practices suggests that in many areas of the Defence function, the same management practices can be applied to achieve the same degree of efficiency and effectiveness achieved in the private sector.

E.62 Trends in public sector management of relevance are:

- a trend towards devolving Central Government responsibilities to regional and local government entities, state-owned enterprises or management boards. Because of the constitutional control provisions over the

monopoly ownership of the instruments of military force by the State, it is assumed that Central Government will continue to retain sole responsibility for national security, including the Defence function;

- defragmentation with the structural integration of small agencies into larger departments is likely to continue, with synergies achieved, duplication eradicated and a critical mass of qualified, skilled staff established;
- increasing emphasis is likely to be placed on multi-agency outcomes, and whole-of-government approaches to issues that require collaboration and multi-discipline action with a concomitant reduction in the emphasis on vertical, singular, fragmented accountabilities that are less able to place the public interest in a broader context;
- Short-term delivery of outputs is being replaced by longer term perspectives, with an increasing focus on Government's ownership interests, and with policy development needing to focus on achieving longer-term Government Outcomes; and
- Significant benefits are likely to be accrued through the harnessing of information technology under the E-government initiative, with the challenge being to transform current processes and practices to exploit and manage its potential.

E.63 Best management practices highlight:

- initiatives to create more adaptive corporate culture – these include articulating and implementing powerful, relevant values through leadership example; setting competencies for individual performance and assessing performance against such competencies; increasing levels of investment in personnel development, up-skilling and re-training; recognition of the value of institutional knowledge in compensation packages;
- organisations are becoming externally orientated rather than inwardly focused, searching for and expressing a strategic focus that continuously positions them for the future, whilst maintaining continuity of service delivery;
- cross-functional teams are replacing functional silos, either on a permanent basis such as in business units, or through the adoption of project management concepts, with duplication removed through integration, redundancy, or the adoption of a shared service concept, with emphasis accorded to implementing process management;
- corporate governance, compliance and standards functions are being integrated into integrated corporate management units, with an increasing focus on risk management to identify and reduce transaction costs and meet service delivery expectations;
- higher level governance structures of organisations remain centred on committees, having clarity of purpose, with a sense of personal

accountability and responsibility, and a mandate to make decisions, rather than manage by consensus;

- Engagement of employees in management actions is increasingly common, as a conduit for innovation, with more networked organisational structures replacing the traditional hierarchical chain of command that are viewed as contributing to inertia; and
- personnel potential is recognised, with Human Resources increasingly becoming a specialised discipline, having greater interaction throughout the organisation.

E.64 Financial considerations likely to impact on the future Defence Organisation include:

- continued financial constraints, with efficiencies needing to be continually sought in non-core areas and areas that are duplicated across the NZDF, and a need for alternative delivery strategies such as better work practices through to out-sourcing;
- the percentage of GDP spent on Defence (1.1% currently) is likely to remain substantially unchanged, which is likely to be insufficient to meet even extant capital investment needs, requiring capital injections on an on-going basis;
- the adoption of 'limited' multi-year operating appropriations to support a longer term focus on Defence matters, with opportunities to enhance management flexibility being to a high degree offset by lumpiness of capital expenditures and funding for military inflation that does not meet actual levels (6-8% per year);
- resource/finance functions within the Defence Organisation will move away from governance and compliance to focus on business/decision support; with the Treasury demanding increasing robustness in supporting financial data;
- 'future' strategic issues will increasingly need to be managed under a 'risk management' strategy, which balances the need to preserve and enhance long term military capabilities and address short term priorities, with a framework in place that considers trade-offs between requirements and available resources;
- Defence strategic-level output and cost attribution structures may need to be re-appraised and realigned to address changes created by the establishment of HQ JFNZ and any move to an joint HQ NZDF, or integrated Defence Organisation; and
- the discretionary element of Defence's operating budget will remain small (currently about 5-10%), requiring best practice in contract management (currently, there is approximately \$60million annually involved in commercial contracts), commercial disciplines to be applied and the impact of future out-sourcing to be weighed against any further potential reduction in financial flexibility.

Implications for New Zealand Defence

E.65 The management and financial trends outlined above suggest the need for a streamlined Defence structure that promotes the open, rapid flow of data and information to accelerate change. A future Defence organisation is needed that empowers co-operation, information sharing and adoption of best practices, with institutional boundaries between the single Services and between HQ NZDF and the MoD being removed.

E.66 A future defence organisation needs to lighten its strategic-level structure by delegating executive authority to lower staffing levels responsible for service delivery. A future defence organisation is needed that does not contain functional impediments to process management, and working within management processes tailored to meet the decision support standards required for expenditure of public monies. An organisational structure is needed that can apply commercial discipline to support financial decisions. Internal structures are required that support a shift to an outcome and customer focus, rather than reinforcing the focus on input management.

E.67 Future Defence organisation and structural arrangements need to contain the following features and characteristics:

- the capacity to re-evaluate and redefine its core values, with the intent of establishing a Defence joint, integrated culture that is agile, responsive and wholly professional;
- organisationally integrated to reduce the negative effects of vertical silos, to achieve synergies, to eliminate single Service bias, and to build, sustain and effectively utilise a critical mass of qualified staff to meet the standards for advice and service delivery;
- co-ordinate and contribute effectively to any network of governmental departments and agencies for national security, with any impediments to working effectively in partnership eliminated;
- use strategic planning processes as the primary mechanism for aligning capability development, structure, personnel and institutional requirements, with have the capacity to develop a robust future-orientated focus, that provides and updates a shared common strategic perspective;
- embrace and implement best practice performance across a range of disciplines and functions, supported by a comprehensive performance management system;
- facilitate and sustain a continuous improvement management focus across all defence functions and activities;
- develop personnel policies that reflect the best management practices; with a new compact needing to be struck between military and civilian staff, particularly in support areas; and

- ensure that compliance and governance requirements that meet government and the public sector standards, supported by a risk management strategy, are robust, independent and transparent.

Summary

E.68 The analysis of trends and their implications for the future structural arrangements of the Defence Organisation highlight:

- a need to introduce a national security structure at Governmental and senior official level that facilitates a whole of Government (and international) approach to defining New Zealand's security policy, governance and potential responses to events;
- a need to advance the joint approach to an inclusive inter-agency national security network concept, with a governance structure established that provides direction, policy and strategies to facilitate collaboration and planning between international, government, national and local organisation and agencies, providing the conditions for all instruments of national power to be brought to bear to address security vulnerabilities, including issues of conflict management;
- a need to redefine and embed core values throughout Defence, to change its existing culture;
- a need to remove self-imposed wasteful boundaries and adopt a joint, integrated structure strategic-level organisational structure;
- a strategic perspective be adopted, underpinned by enterprise-wide architecture and supported by a comprehensive, standardised performance management and risk management systems;
- the requirement for adopting best practice process management approaches, supported by removing layers of unnecessary bureaucracy due to functional silos, streamlining work practices and devolving executive authority for differentiated processes to levels where decisions should be made;
- the requirement to adopt an open communication strategy for both all internal and external audiences, and to apply resources to develop the effective content to be communicated.
- a comprehensive personnel strategy, that is innovative and responsive to the current and emerging changes in the work place, be developed and implemented; and
- corporate governance and compliance be maintained, commensurate with the standards expected of the public sector.

ANNEX F:

LEGAL ANALYSIS OF
NEW ZEALAND'S DEFENCE LEGISLATION
(Paper provided by Professor Matthew Palmer,
Centre for Public Law, Victoria University of Wellington)

Constitutional And Legal Context

F.1 Some rather ancient (and possibly boring) English constitutional history is outlined below, culminating in far more exciting New Zealand developments. This historical context is presented in the conviction that, in order to understand the changes to New Zealand defence legislation since the 1960s, it is important to understand the historical legal and constitutional dynamics that have led to and shaped those rules and structures.

Constitutional and Legal Historical Developments

F.2 The early history of the development of English constitutional and legal rules concerning the military are intimately linked to the royal prerogative of the Crown. The successful development of the institution of the monarchy in feudal Europe was directly related to the coercive military power that the monarchy was able to wield. The royal prerogative was implicitly understood to be concerned with the defence of the realm, maintenance and direction of foreign relations and the power to raise an army.

F.3 Over time, the British Parliament developed its constitutional role in challenge to the power of the Crown and Executive government. The English civil war of the seventeenth century exacerbated tension between different branches of government over the control and accountability of the military. Articles of War were issued by Charles I in 1639 to discipline the army and by the Long Parliament to control the conduct of the navy. The post-restoration Militia Act 1661 and the Naval Discipline Act 1661 reaffirmed the Crown's control of the militia and sought to regulate discipline in the naval forces.

F.4 The Glorious Revolution of 1688-89 effected an important constitutional turning point. The Bill of Rights of 1688 (Eng) (which is still part of New Zealand law by virtue of the first schedule of the Imperial Laws Application Act 1988) sought to impose limits on the Executive's ability to use the coercive force of the military. This was partly achieved by the assertion of parliamentary control over the levying on taxes, thereby attacking the Crown's means of funding military activities. Even more specifically, however, article one of the Bill of Rights Act 1688 provided that Parliamentary authority was required to maintain a standing army in peacetime: *"That the raising or keeping a standing army within the Kingdome in time of peace unlesse it be with consent of Parlyament is against law."*

F.5 A Mutiny Act was passed annually from 1689 in order to provide the legislative authority for the discipline for and maintenance of a standing army.¹ The annual nature of this legislative authority was followed in New Zealand until 1955, with the annual passage of the New Zealand Army and Air Force (Annual) Act.²

F.6 Provision for the maintenance of defence forces in New Zealand began early. The royal prerogative was active in this regard. In 1845 an Ordinance was made "for raising a militia within the Colony" (Militia Act 1845). This Act made all men between the ages of 18 and 60 liable to compulsory militia training and conscription, provided they were "not an aboriginal native" (Militia Act 1845, s 7). A Native Force Ordinance followed in 1847.³ The militia was involved, together with imperial troops, in the wars with Maori.

F.7 The New Zealand Governor held the title of Commander-in-Chief of the Dominion of New Zealand.⁴ The constitutional significance of this position had emerged in the United Kingdom in 1793 when a General Commander-in-Chief began to act as the King's delegate, exercising his powers of command over the armed forces.⁵ Attempts by Governor Grey to take personal command of the Imperial troops stationed in New Zealand included leading the troops into battle against the express wishes of the British General who commanded them in 1847.⁶ The powers of the Governor as Commander-in-Chief were finally limited to a right of general direction of the troops and no power of directing field operations.⁷

F.8 Matters of war and internal defence continued to be dealt with by the British Government through the Governor until Imperial troops were withdrawn by 1870.⁸ As late as 1892 the Instructions to the Governor bound him to reserve bills concerning the discipline of royal forces for the Queen's pleasure, rather than assent to them (authorised by section 57 of the New Zealand Constitution Act 1852).⁹

F.9 The royal prerogative continues to constitute the basis for the terms of the relationship between the Crown and the armed forces.¹⁰ The armed forces are an instrument of the Crown to which its members swear an oath of allegiance. "The defence prerogative is necessarily broad and unchecked and reserves to the Crown an unreviewable discretion as to what the national interest requires."¹¹ This prerogative is exercised by the Governor-General as the Crown's representative in New Zealand. The Governor-General is still Commander in Chief, as set out in the 1983 Letters Patent.¹² This title is symbolic of the relationship between the military and the Crown and does not confer additional powers on the Governor-General. Alison Quentin-Baxter, in reviewing the Letters Patent in 1980 described the title as being "devoid of substantive effect".¹³ The title remains in the 1983 Letters Patent due to "the importance still attached in New Zealand, particularly within the Armed Services, to the naming of the Governor-General as Commander-in-Chief."¹⁴

F.10 Two factors have dramatically affected the exercise of the prerogative. First, the powers of the Governor-General have come to be required, by strong constitutional convention, to be exercised on the advice of his or her Ministers.¹⁵ Ministers, drawn from Parliament, now direct the powers of the Crown. Second, statute has replaced most relevant aspects of the prerogative in relation to defence matters. As a result of these factors the Governor-General's powers are now almost purely ceremonial. The main vestige of the military role of Commander-in-Chief is the Governor-General's ability to hear military complaints and the variety of military inspections he or she undertakes.

F.11 Consistent with general constitutional principle, the political responsibility for defence matters lies with the Cabinet as a collective and the Minister of Defence individually. The Minister of Defence has ministerial responsibility for defence matters in New Zealand. He or she is responsible to Parliament for the formulation and implementation of defence policy by Executive government. Except as otherwise required by law, the convention of collective responsibility gives Cabinet as a collective the power to override the Minister. Given the potential significance of military crises the Prime Minister can also become more closely involved in defence matters than in other portfolios.

F.12 It is important to note that the precise nature of the accountability relationship between the Minister and the military has been governed in law by a succession of statutes, as examined below. In the ebb and flow of these legislative changes, the key battles for control appear to have been between the military and elected Ministers, between the military and civilian advisers to Ministers, and between the different Services.

Summary of Key Constitutional Principles

F.13 The key constitutional principles governing the New Zealand military, as they have evolved through history can be summarised as:

- The Governor-General still has the ceremonial position of Commander in Chief, reflecting the historical connection of military power with the monarchy;
- An important aspect of the Bill of Rights of 1688 (Eng) was the assertion by Parliament of its authority to limit the ability of the Crown to control the coercive force of the military;
- The early establishment of the New Zealand military by statute;
- Parliament wrested control of Executive Government from the Crown. Executive government is now directed by Cabinet as a collective and by each Minister of the Crown individually. The Minister of Defence is politically responsible for defence matters in New Zealand.
- The precise accountability relationships in New Zealand between the Minister of Defence and the military, between the military and civilian advisers to Ministers, and between the different Services have been governed by a succession of statutes.

New Zealand Defence Legislation Since 1964

F.14 The detailed comparative analysis of the provisions that underlie later discussion of key aspects of the legislative regimes for defence since the mid 1960s is provided in Appendix B to this Annex. Appendix A provides a diagrammatic representation of the organisational structure of accountabilities of defence officials and institutions under each legislative regime as well as diagrammatic representation of the key changes between them.

F.15 In summary, three significant changes are apparent in the legislative regimes for New Zealand defence since the mid-1960s:

- The governance of the Armed Services by different Service Boards was amalgamated into a single Chiefs of Staff Committee in 1971. The legal responsibilities of the (civilian) Secretary of Defence and (military) Chief of Defence Staff became more blurred as they acquired joint functions in relation to policies, planning, coordination of Ministry activities, definition of Ministry organisation and functions, and the execution of Defence Council decisions;
- The Defence Council was abolished in 1990 and the powers and authority of the Minister of Defence were given emphatic legislative emphasis. The Council had been:
 - responsible as a collective body for the administration and command of the Armed Forces and the formulation and recommendation of policy; and
 - composed of Chief of Defence Staff, Secretary of Defence, Chiefs of Staff of the three Services and chaired by the Minister of Defence (who had a veto power over important matters of principle, policy or administration).
- The single Ministry of Defence was split in 1990 into the (predominantly military) New Zealand Defence Force, headed by the Chief of Defence Force with significant powers and responsibilities, to undertake operational functions; and the (predominantly civilian) Ministry of Defence, headed by the Secretary of Defence, to undertake policy, purchase and review functions.

Defence Act 1964

F.16 Appendix B provides a detailed comparative analysis of the provisions of the 1964 Act. In summary the key features of the Act are outlined in the following paragraphs.

F.17 Under the 1964 Act, each of the single Services retained its own Service Board that provided a significant part of the command and administration of the Services. The membership of each of these Boards included the Minister of Defence and the Deputy or Associate Secretary of Defence, but not the Chief of Defence Staff.

F.18 The Chief of Defence Staff was the principal military adviser to the Minister. He was responsible for convening and chairing a Chiefs of Staff Committee to facilitate cooperation between the individual Service chiefs.

F.19 This Act established the Ministry of Defence, comprising the New Zealand Naval Forces, New Zealand Army, Royal New Zealand Air Force, and civilians. It thereby attempted to bring the three single Services together into a more unified structure.

F.20 The Secretary of Defence was deemed to be the Permanent Head of the Ministry for the purposes of the State Services Act 1962 and Public Revenues Act 1953. The Secretary was to coordinate the business of the Ministry, including financial planning and expenditure, inspect the administration of the Services and act as principal civilian adviser to the Minister (but was not responsible for the command or administration of the Services).

F.21 The Defence Council facilitated cooperation and consultation between the key officials and the Minister. The membership of the Council included each of the Chiefs of Staff, the Chief of Defence Staff, the Secretary of Defence and was chaired by the Minister of Defence. In addition to its role as defence policy adviser to the Minister, the Defence Council was responsible for the administration and command of the Defence Forces.

F.22 The Minister of Defence was the chair of the Defence Council and "administered" the Defence Act (section 3). The Minister had a veto power over a decision of the Defence Council to which he or she had not been a party or had not assented in writing if it was "an important matter of principle or policy or administration" (section 12).

F.23 The legislation was expressly stated not to derogate from the Governor-General's existing powers, duties and obligations as Commander in Chief of New Zealand.

Defence Act 1971

F.24 The main change effected by the 1971 Act was to abolish the Service Boards in favour of reliance on the Chiefs of Staff Committee. Under the 1971, the Service Boards were abolished. The Chiefs of Staff Committee was given legislative expression, comprising the Chief of Defence Staff and each Chief of Staff, and conveying agreed collective advice to the Minister (with each member having a statutory right to request the CDS to convey a different view to the Minister).

F.25 The functions of each Chief of Staff were spelt out in more detail (primarily commanding their respective Service and being responsible to the CDS for the implementation of policies, plans and programmes). Each Chief of Staff had the power to "make such representations as [the Chief of Staff] considers desirable or necessary to the Minister" or in exceptional circumstances to "any higher authority", subject only to a requirement for the Chief to notify the CDS (section 27(4)).

F.26 The Chief of Defence Staff retained his or her previous functions and powers as well as acquiring the statutory power, under the Defence Council, to command the Navy, Army and Air Force through the relevant Chiefs of Staff. The CDS's role was blurred with that of Secretary of Defence as they acquired joint functions in relation to:

- execution of Defence Council decisions,
- coordination of the Ministry's activities,
- coordination of the preparation of policies, plans and programmes;
- reviewing policies, functions, organisation and procedures of the Ministry; and
- ensuring the organisation and functions of the Ministry are clearly defined and adequately controlled and supervised.

F.27 There was little change to the legislative provisions related to the Ministry of Defence. The Secretary of Defence's role was beefed up a bit in legislation but also blurred with that of the Chief of Defence Staff as noted above. The Secretary also became Executive Secretary of the Defence Council. On the passage of the State Sector Act 1988 the Secretary was denoted as Chief Executive rather than Permanent Head and acquired statutory responsibility for "the efficient administration, control and accounting of all expenditure and revenue in the Ministry" as well as other specified responsibilities.

F.28 There was little change to the legislative provisions related to the Defence Council, although its 1964 role of "advising the Minister on important matters of policy" was altered to "assisting the Minister in formulating and recommending defence policy".

F.29 The Minister of Defence's role was similar to before but more assertive as the Ministry was stated to be "under the control of the Minister of Defence" rather than under the 1964 Act where the Act is merely "administered by the Minister of Defence."

F.30 The 1964 legislation had not derogated from the Governor-General's unspecified existing powers, duties and obligations as Commander in Chief of New Zealand. By contrast, in addition to recognising the Governor-General's powers as Commander in Chief, the 1971 legislation noted his or her "power to raise and maintain armed forces to defend or protect the interests of New Zealand, to provide assistance to the civil power in New Zealand or elsewhere in an emergency, to provide any public services required by the Government, and to comply with New Zealand's international treaty obligations" (section 4). We consider that little, if any, substantive effect turned on this codified statement of the prerogative power.

Defence Act 1990

F.31 The main changes effected by the 1990 Act were to split the Ministry of Defence into the New Zealand Defence Force and the Ministry of Defence, and to abolish the Defence Council.

F.32 The Chiefs of Staff Committee was put under the control of the Chief of Defence Force (CDF) rather than the Defence Council. The CDF was given the power to determine the functions, duties and powers of the Committee. The right of each Chief of Staff to make representations to the Minister is retained, still being subject to the requirement that the Chief notify the CDF (section 28(6)).

F.33 The title of Chief of Defence Staff was replaced by Chief of Defence Force (CDF) and the powers of the position beefed up though the Minister was given the express duty of setting terms of reference for the CDF. The CDF became responsible (to the Minister) for functions that effectively constitute him or her as chief executive of the new organisation, the New Zealand Defence Force, with the power to issue "Defence Force Orders". The CDF was given the power to determine the functions, duties and powers of the Chiefs of Staff Committee. The CDF's joint functions with the Secretary of Defence were limited to consultation with each other "on any advice on any major matters of defence policy that is to be given by either to the Minister". The Minister of Defence was given the express duty to set the "terms of reference" for the CDF (these are the terms and conditions of appointment, duties and obligation and the manner in which the Government expects those duties and obligations to be carried out).

F.34 Following the orthodoxy of not establishing government departments by statute, the Ministry of Defence was no longer specified in the Defence Act although it became listed in the first schedule to the State Sector Act 1988. The New Zealand Defence Force was stated to comprise the Armed Forces of New Zealand and civil staff. The Armed Forces raised and maintained by the Governor-General are also stated to continue to comprise specified elements of the Naval Forces, Army and Royal New Zealand Air Force. The provisions of the Public Finance Act 1989 are stated to apply to the New Zealand Defence Force as if it were a government department (section 104).

F.35 The Secretary of Defence was denoted as a chief executive under the State Sector Act. The Secretary's role as the principal civilian adviser to the Minister (and other Ministers) is preserved but his or her formulation of advice on defence policy and preparation of a defence assessment is to be undertaken in consultation with the CDF. The Secretary is given explicit responsibility for procurement, replacement and repair of military equipment and the conduct of assessments and audits of the Defence Force and Ministry.

F.36 The Defence Council was abolished.

F.37 Ministerial authority over the Armed Forces is emphatically reaffirmed in the long title of the Act.¹⁶ The Minister of Defence's previous power to control the Ministry now becomes the power to control the New Zealand Defence Force through the Chief of Defence Force. The Minister also acquires powers to:

- determine whether the Armed Forces shall be used in industrial disputes or assist the Police in an emergency;
- authorise the maximum number of staff in the Armed Forces;
- require the Secretary of Defence and Chief of Defence Force to consult formally with each other on advice from either to the Minister;¹⁷
- set the terms of reference for the Chief of Defence Force.

F.38 The Governor-General's powers were no longer expressed to include raising and maintaining armed forces to provide any public services required by the Government.

Assessment of Current Defence Legislation

Political Responsibility Preserved

F.39 The current legislation continues to reflect the conventional constitutional position of the armed forces. The Governor-General's ceremonial position is recognised by the Defence Act. Parliament's scrutiny of expenditure in Vote Defence is the same as for other departments (though annual legislation to authorise the maintenance of a standing army is no longer required). The Minister of Defence's political responsibility for defence matters is explicitly recognised by legislation (and indeed stated to extend to "control" through the command of the Chief of Defence Force). In addition the nature of the relationship between the Minister and the military is set out in detail in statute.

Split of Operational Functions from Policy, Purchase and Review

F.40 The current legislation reflects the policy intention to split the unified organisation of the Ministry of Defence into two organisations. The new Ministry is responsible for policy, purchase and review functions, with the New Zealand Defence Force acquiring operational responsibilities. The structures and legislative incentives for cooperative behaviour have also been lessened. The Defence Council, which constituted a forum of significant legal powers, and which presumably required some measure of cooperation to function effectively, was abolished.

F.41 It is particularly noticeable that the current, predominantly civilian, Ministry that exercises defence policy, purchase and review responsibilities, has few powers to extract information from the operations organisation of the New Zealand Defence Force.

F.42 The three possible legal levers are:

- Section 24(3) of the Defence Act 1990 which defines the Secretary's statutory powers as including "all such other powers as may be reasonably necessary to enable the Secretary to perform the functions and duties imposed on the Secretary by or under this Act or any other enactment." This power is likely to be too broad to enable the Secretary to require the specific provision of information by the NZDF.
- Section 31(2), and (3) of the Defence Act 1990 empowers the Minister to require the Secretary and CDF to consult formally if the issues relate to

advice that is to be, could be, or has been given to the Minister. Yet formal invocation of ministerial authority is a blunt and haphazard instrument to empower the exercise of the core functions of the Ministry.

- Standing Order 197 empowers the Foreign Affairs, Defence and Trade Select Committee to require information but this is an even more public and blunt instrument that is unlikely to assist the Ministry to perform its core functions on a day to day basis.

F.43 It is not clear to us why the Defence Act 1990 fails to provide the Ministry of Defence with an adequate mandate to obtain information from the NZDF when such powers appear to have been envisaged in the 1989 Cabinet Policy Committee decisions leading to the legislative change. Nor is it clear to us why the Minister of Defence in August 1990 would have wished to have exercised his statutory power under section 24(2) of the Act to circumscribe the Ministry's exercise of its audit and assessment powers by preserving the assessment of professional military performance as the responsibility of the CDF. This direction is apparently still in force.

F.44 The Ministry's advice on policy and purchase decisions, as well as its ability to review, can only be as good as the information base it has to work from. In situations where operational incentives exist to skew such decisions, NZDF can be expected to have a natural reluctance to disclose information. Such a relationship can be characterised as a bilateral bargaining game, and cannot be expected to work unless both organisations have institutionally equivalent powers and need each other to succeed (and it may not work very well even then). This condition does not appear to be satisfied under the current legislation.

Ministerial Authority and the CDF

F.45 Ministerial authority over the armed forces is emphasised in the current legislation. Three sources of authority are particularly important.

F.46 First, section 7 of the Defence Act 1990 provides that "[f]or the purposes of the general responsibility of the Minister in relation to the defence of New Zealand, the Minister shall have the power of control of the New Zealand Defence Force, which shall be exercised through the Chief of Defence Force." The extent of the powers conferred upon the Minister by this section to direct the military is unclear at the margins, and untested in court. It is likely to be affected by the historical evolution of the prerogative in relation to defence matters and the scheme of the current defence legislation. We consider that, if tested in court, the Minister's power would be likely to extend to control over general strategic decisions relating to the deployment of troops and politically sensitive decisions relating to foreign policy. It is unlikely to extend to specific operational decisions in a field of conflict which a court is more likely to find to be the preserve of the CDF. There is a legal grey area here and the circumstances which would test it would require an unfortunate conflict to develop between the Minister and CDF.

F.47 The second source of ministerial authority in relation to defence matters derives from the Minister's statutory duty under section 25(2) of the Defence Act 1990 to give to the CDF written terms of reference. These must:

- Be consistent with the provisions of the Defence Act 1990;
- Set out the terms and conditions of appointment as Chief of Defence Force;
- Set out the duties and obligations of that appointment; and
- Set out the manner in which the Government expects those duties and obligations to be carried out.

The CDF has the duty to act in accordance with those terms of reference (section 25(2)).

F.48 In our view the terms of reference may be used by the Minister to direct the overall approach that is to be taken by the CDF. For instance, the terms of reference may direct that one obligation of the CDF on appointment is to act in a cooperative manner towards the Secretary of Defence. This may be able to be extended to a requirement to provide information to the Secretary of Defence upon request. The Minister does not have the power to use the terms of reference to remove or limit the exercise of the CDF's powers, functions and duties that are prescribed in statute, although the Minister may provide direction as to the manner in which these are expected to be conducted. For instance, the Minister can not use the terms of reference to specify which civil staff the CDF is to appoint under section 62A, but could possibly direct which characteristics should be given greater weight by the CDF in making this decision. Our views on the terms of reference are stated generally, in order to give some flavour as to the extent of this power. It would, of course, be necessary to obtain specific legal advice from the Crown Law Office on the validity of any particular proposed set of terms of reference.

F.49 The third source of ministerial authority in relation to defence matters lies in the Minister's relationship with the Ministry of Defence. The convention of ministerial responsibility and public service loyalty applies to this relationship as the Ministry is a government department under the State Sector Act, staffed by public servants. The standard directive ability of the Minister in relation to public servants applies.

F.50 Finally, the minister's practical exercise of powers depends on the Minister knowing what the key issues are and what the key aspects of key decisions are, especially policy and purchase decisions. This requires good advice. The weakness identified above in the Ministry's power to require the provision of information can be expected to similarly affect the effectiveness of the Minister's role in acting on Ministry advice.

CDF Authority and the Separate Services

F.51 The separate nature of the organisation and accountability of each Service has diminished in legislation. The separate Service Boards were abolished in 1971. The role of the Chiefs of Staff Committee was put under the control of the CDF in 1990. The definition of the Armed Forces in the 1990 legislation also has a much more collective flavour to it than

previously, a point relied on by Justice Heron in striking out the challenge to the abolition of the Skyhawks in 2001.¹⁸

F.52 The CDF (or his or her delegate) has the power to "issue and promulgate Defence Force Orders" (section 27(1)). These must:

- be issued in the performance of the functions and exercise of the powers of the CDF;
- be issued for the purposes of the Defence Act 1990;
- be consistent with any of the provisions of the Defence Act 1990, the Armed Forces Discipline Act 1971, or any other enactment (section 27(1)).

F.53 Defence Force Orders may relate to, but are not limited to the terms and conditions of service of members of the Armed Forces (section 27(5)); conferring benefits on members of the Armed Forces (section 27(5)); and fixing certain terms and conditions of service, such as provision for appointment, rank, procedure for transfer and conditions attaching to the discharge of members of the Armed Forces (section 47).

F.54 Defence Force Orders have the status of orders issued by a superior officer. Failure to comply with a Defence Force Order is punishable by imprisonment for up to two years.¹⁹ The right to issue orders is reinforced by the prerogative,²⁰ and the oath taken by all members of the Armed Forces to "loyally observe and obey all orders of Her Majesty, her heirs and successors, and of the officers set over [him], until [he] shall be lawfully discharged".²¹ This oath legally binds the member to serve in that Service until discharged.²²

F.55 Each Chief of Staff is appointed directly by the Governor-General (on the advice of his or her ministers) from the officers of the particular Service (section 28) and the Governor-General has the power to release, discharge, cancel or vary an officer's commission or appointment and may delegate this power to the CDF (section 32). The actual procedure for dismissal is not set out in the Act. Under common law, however, "all officers of the Crown – military, naval and civil, are dismissable . . . at the Crown's pleasure."²³ Although section 32 refers to the Governor-General and not the Governor-General in Council, the Governor-General will still exercise this power on Ministerial advice. The Governor-General's power under this section may also be subject to any conditions of service set out by the CDF under section 45(1), and any Defence Force Orders on the subject that have been issued under section 27(1).²⁴ The exercise of this power is also subject to judicial review.²⁵

F.56 Similarly, each Chief of Staff still retains an ability to report directly and separately to the Minister rather than through the CDF. This is an anomalous position when compared to any ordinary Chief Executive and may not be consistent with current international practice. It presumably enables individual Chiefs of Staff to make end runs around the CDF directly to the Minister and weakens the CDF's authority in advising the Minister. On the other hand, it also serves to ensure that the Minister has contestable

advice from professional military officers that may otherwise be stifled by military discipline. The seriously coercive power of the military suggests that there are possible dangers in concentrating the power of military command in one professional military position alone, no matter how well chosen and qualified the individual.

Current Legislation as a Limit on Cooperation

F.57 The current legislative regime is designed to separate the defence policy, purchase and review functions of the Ministry of Defence from the operational defence functions of the NZDF. The legal basis of the organisational separation of functions is largely constituted by the creation of two separate organisations. Several sections envisage continued cooperation across organisational boundaries (e.g. sections 24(1)(b), (c), and 31). It may be possible for a number of functions to be undertaken cooperatively and “jointly” across organisational boundaries without breaching the Act.

F.58 This section outlines the key barriers in the current legislation to increasing cooperation and coordination between the Ministry of Defence and the New Zealand Defence Force. What is possible without legislative change?

F.59 The Defence Act 1990 focuses predominantly upon the roles and responsibilities of key officials, rather than specifying the organisational structures of the Ministry of Defence and the New Zealand Defence Force. The separate legal existence of the two organisations, with separate powers and functions, is fundamental to the current legislative regime. This will always enable the Secretary of Defence and/or Chief of Defence Force to withdraw at any time from cooperative or joint structures that are superimposed on the two underlying separate legal entities. However, with goodwill from both of the holders of both of these positions, we consider that a fair degree of “jointness” and cooperation can be achieved between the two organisations without legislative change. If it is intended to create a single integrated organisation then legislative change will be necessary. If it is intended to make specific incremental moves towards more jointness and cooperation then, in the short term at least, legislative change may not be required.

F.60 Below, we set out the powers held by key officials under the current legislation that can be used to effect structural change and the powers and functions that cannot be altered without legislative change. Again, please note that these provisions are outlined in order to give a general flavour of what may be possible and what may not be. If specific proposals for incremental moves to increase “jointness” are formulated it will be important to test their validity against the law by way of specific legal analysis.

F.61 The existing legislation contains the following powers that could be used to increase “jointness” in the operation of the Ministry of Defence and NZDF:

- The Minister of Defence has the "power of control of the New Zealand Defence Force" as well as general responsibility for Defence (section 7). (See part III.C above).
- The Minister of Defence must set terms of reference for the CDF (section 25(2)). (See Part III.C above).
- The Governor-General may make regulations by Order in Council relating to a wider range of purposes (section 101).
- The Secretary of Defence has "all such other powers as may be reasonably necessary to enable the Secretary to perform the functions and duties imposed on the Secretary by or under this Act or any other enactment" (section 24(3)).
- The Chief of Defence Force has the power to issue Defence Force Orders (section 27(1)). (See part III.D above).
- The Chief of Defence Force has the power to establish a joint force comprising members of two or more Services and determine who is to command that joint force. (section 12(1)) Such a joint force can attain a similar status to the other Service forces, as the CDF may command the force directly through the joint force commander, irrespective of whether the commander of the joint force is a Chief of Staff (section 8(2)(b)).²⁶
- The Chief of Defence Force may divide the Armed Forces into "such branches or corps, formations, commands, units and other parts as the Chief of Defence Force determines from time to time" (section 11(6)).
- The Chief of Defence Force has the power to determine the "functions, duties and powers" of the Chiefs of Staff Committee, provided only that these are not inconsistent with the Defence Act 1990 (section 29(2)). (See Part III.D above).
- The ability of the Minister of Defence, the CDF and each of the Chiefs of Staff to delegate their powers under section 30 may be used to facilitate structural change.

F.62 Powers and functions conferred by the current legislative regime, which cannot be altered without legislative change, include:

- The Minister of Defence must exercise his or her power of control over the New Zealand Defence Force through the Chief of Defence Force (section 7). (See part IIIC above).
- The Minister of Defence and the Chief of Defence Force must prepare terms of reference that the CDF and the Chiefs of Staff, respectively, must comply with (sections 25(2), and 28(5)).
- The Armed Forces can only be commanded by the Chief of Defence Force through the Chiefs of Staff (section 8(3)). A joint force can be used to control any members of the NZDF that are under the control of the joint force commander. It cannot be used to command the Services as a whole, however, as this would intercept the direct line of command from the CDF to the Service Chiefs.

- The Secretary of Defence must remain the principal civilian adviser and the Chief of Defence Force the principal military adviser to the Minister and other Ministers (sections 24(2)(a), and 25(1)(a)). This does not prevent the formation of a joint Ministry of Defence and NZDF policy advice body. Such a body would not be specifically prevented from providing recommendations and information to the Secretary and the CDF to assist in their advice functions. Legally, however, the Secretary and CDF would each continue to fulfil separate functions in providing advice. They would be doing so through the same medium and there would be some doubt as to what extent of integration would run into legal impediments.²⁷
- The Secretary of Defence is responsible for the procurement, replacement and repair functions of the Ministry of Defence (section 24(2)(d)). The Secretary must further arrange for the assessment and audit of these Ministry of Defence functions, and of the NZDF (section 24(2)(d), and (e)).
- The Secretary of Defence must consult with the Chief of Defence Force when formulating advice on defence policy and preparing the defence assessment (sections 24(2)(b), (c) and 31(1)).
- The Chief of Defence Force is responsible to the Minister for carrying out the functions and duties of the NZDF, the general conduct of the NZDF and the efficient, effective and economical management of the activities and resources of the NZDF (section 25(1)(b)). The CDF is also responsible to other Ministers for any functions and duties of the Defence Force relating to that Minister's portfolio, and advice provided to that Minister (section 25(1)(c)).
- The Chief of Defence Force must provide the Minister of Defence with an annual report on the activities of the Defence Force for that year and on "such other matters affecting the Defence Force as the Chief of Defence Force thinks fit." (section 91).
- The Chiefs of Staff are responsible for advising the Minister, through the CDF, on any matter relating to their Service (sections 28(1)(b), (2)(b), and (3)(b)). They command their Service forces under the CDF, and are responsible to the CDF for the "implementation of policies, plans, and programmes prescribed or approved" in relation to their Service (sections 28 (1)(a), (c), (3)(a),(c), and (3)(a),(c)).
- Any Chief of Staff must be able to make "such representations as he considers necessary or desirable" to the Minister provided that this is consistent with section 28(6)).
- The appointment, promotion and discharge of officers and civil staff in the Ministry of Defence and the New Zealand Defence Force must be undertaken in compliance with sections 32, 33, and sections 59-71.

A Concluding Note about Organisational Reform and Legislation

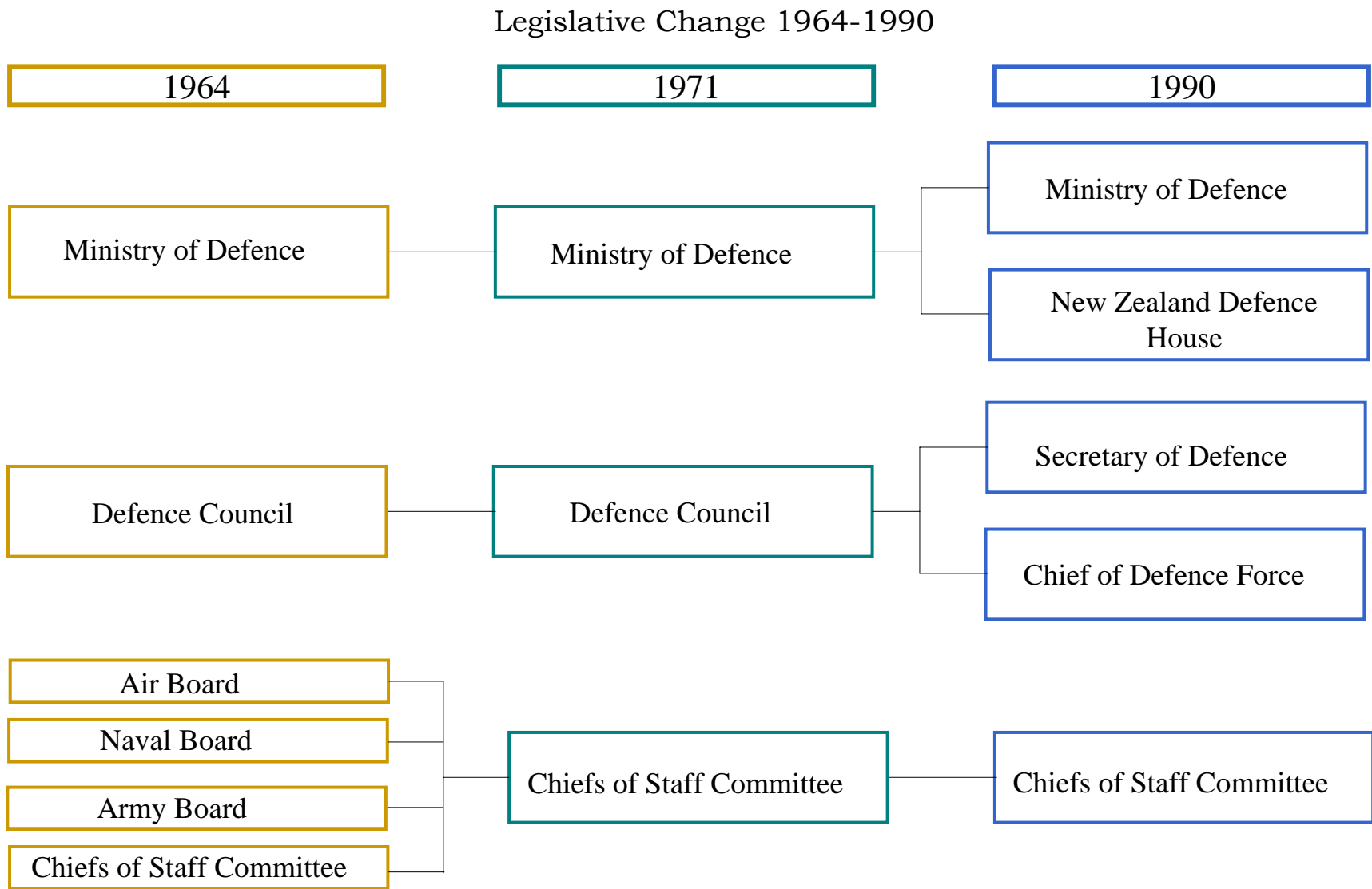
F.63 An effective legislative regime for a government organisation requires well thought-through policy and organisational design. This requires careful analysis of exactly what governmental functions are sought

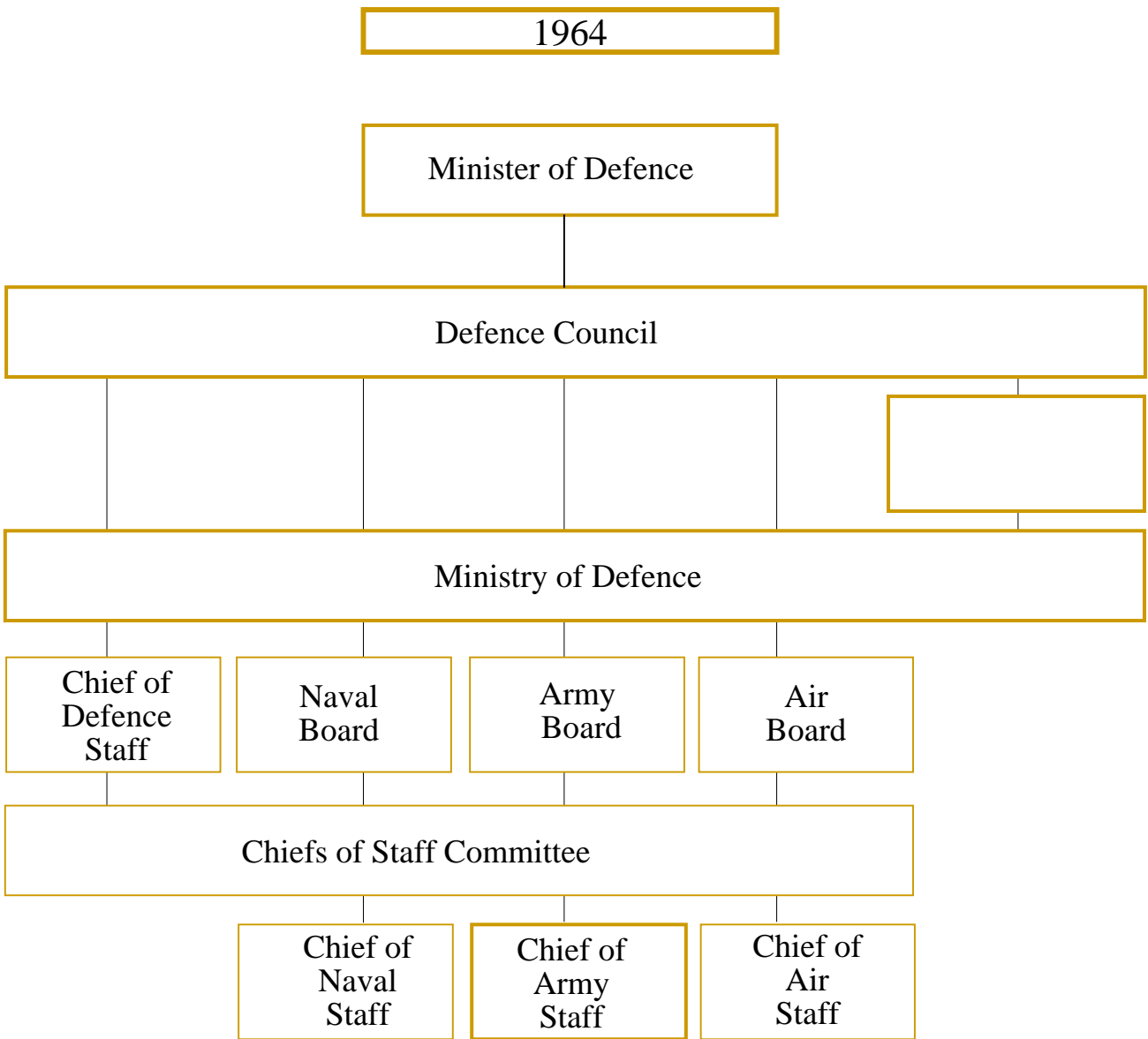
to be fulfilled. It requires analysis of how the activities necessary to fulfil those functions are undertaken. It requires analysis of the incentives necessary to entice the relevant actors to undertake the required activities. It also requires that those incentives are accurately provided for and this must often be by way of legislation. It is vital that the policy decisions are accurately captured in the detail of the legislative provisions. There is no point formulating a lovely set of policy decisions on organisational design if the detailed legislative provisions that effect them are not consistent with the policy intent. Inconsistency between policy intent and legislative effect can lead to policy failure.²⁸

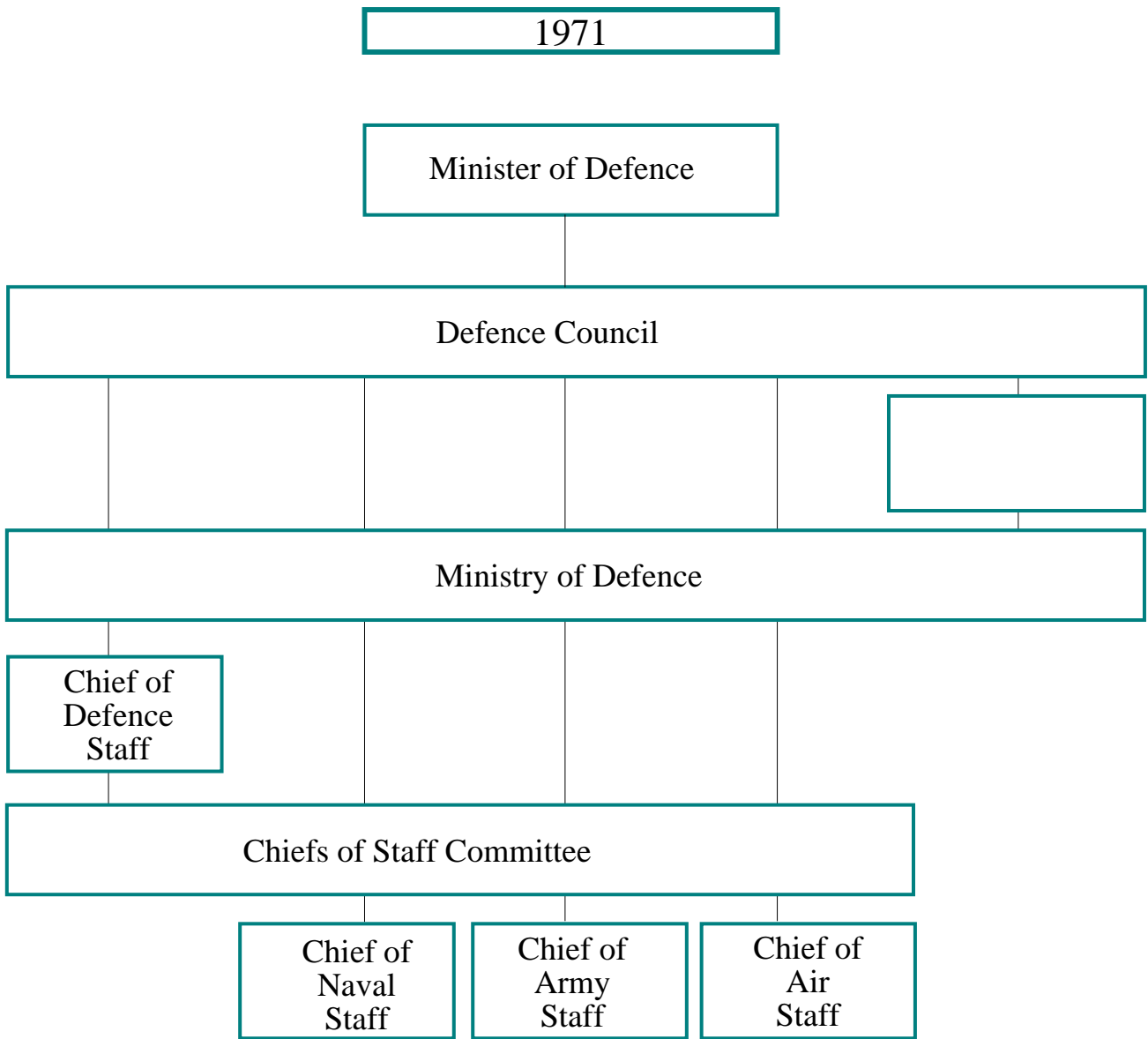
F.64 Equally though, while legislation may be an essential ingredient to effective organisational reform, you cannot legislate behaviour. Human behaviour is the driving force in all organisational dynamics and must be taken into account, enabled and harnessed in organisational design and their legislative frameworks.

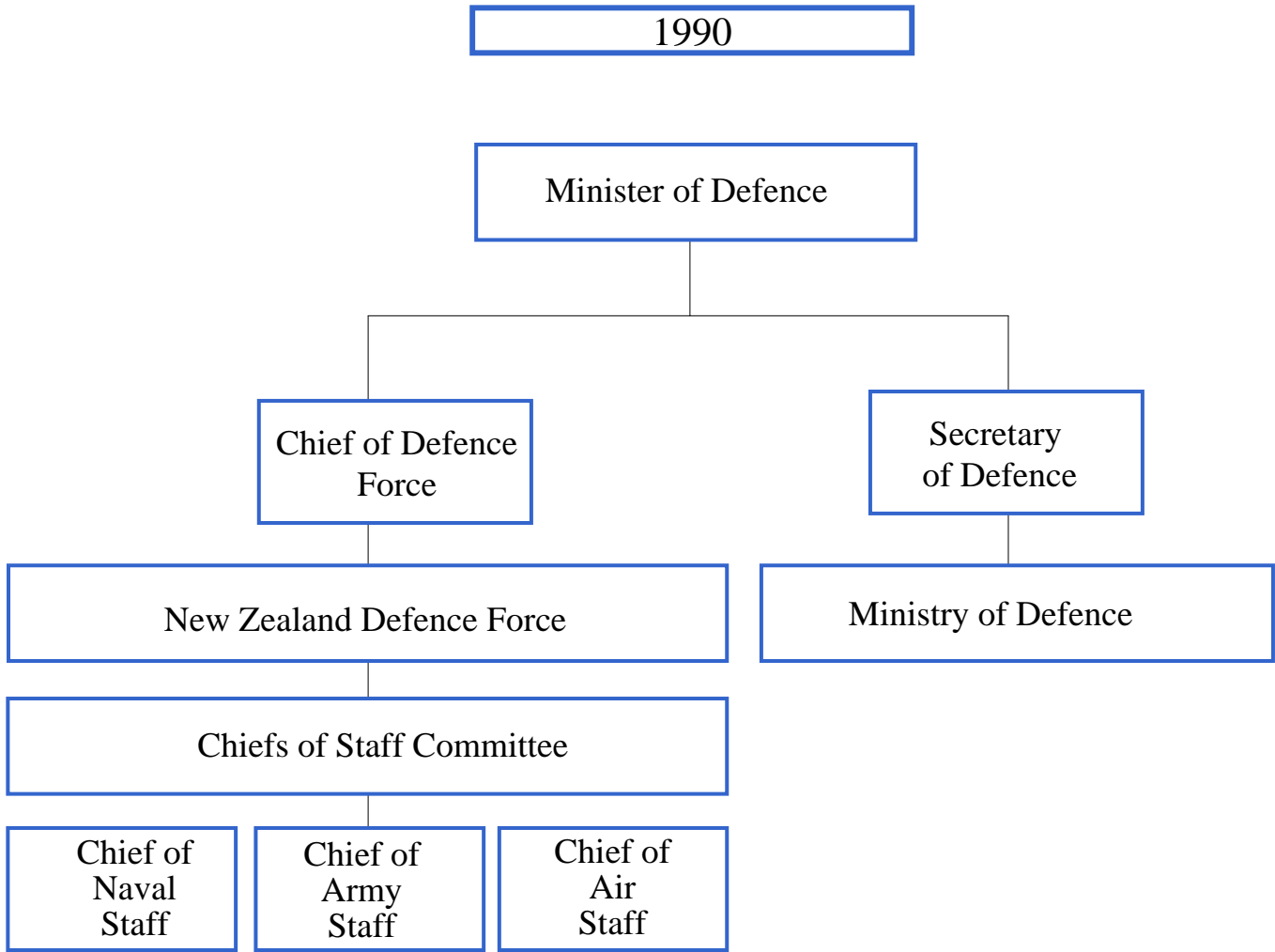
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- 1 This precedent was also followed with the establishment of the Royal Air Force, with the passage of the Air Force (Constitution) Act 1917.
 - 2 A separate New Zealand navy was not maintained until the latter part of this period.
 - 3 Ministry of Defence "A Brief History of New Zealand Service Law" *Manual of Armed Forces Law* vol 1, ch 1, 22.
 - 4 Letters Patent 1907.
 - 5 Ministry of Defence "A Brief History of New Zealand Service Law" *Manual of Armed Forces Law* vol 1, ch 1, 1-21.
 - 6 Directorate of Legal Services *The Legal Fundamentals of Armed Forces Operations (Draft)* (Ministry of Defence, Unpublished, 2000) para 1.12.
 - 7 J. Hight and H. D. Bamford *The Constitutional History and Law of New Zealand* (Whitcombe & Tombs Ltd., Christchurch, 1914) 373-4.
 - 8 Phillip Joseph *Constitutional and Administrative Law in New Zealand* (2 ed, Brookers, Wellington, 2001), 104.
 - 9 Joseph, above, 104.
 - 10 See in general *Halsbury's Laws of England* (4 ed, Butterworths, London, 1983) vol 41, Royal Forces, paras 1-4 and 11.
 - 11 Joseph, above, 629.
 - 12 Letters Patent Constituting the Office of Governor-General of New Zealand (SR 1983/225, amendment SR 1987/8).
 - 13 Alison Quentin-Baxter *Review of the Letters Patent 1917 Constituting the Office of the Governor-General of New Zealand* (Cabinet Office, Wellington, 1980) 25.
 - 14 Alison Quentin-Baxter, above, 25. Quentin-Baxter notes that the title of Commander-in-Chief "is a reflection of the role, if not the actual title, of the Crown in relation to the armed forces." This point is reinforced by the fact that in the Defence Act 1990 section 5 confers the power to raise and maintain the armed forces upon the Governor-General and not on the "Commander-in-Chief".
 - 15 *Cabinet Manual 2001* (Cabinet Office, Wellington, 2001) 8. In extraordinary circumstances there are acknowledged exceptions to this in the Governor-General's reserve powers. The exercise of these is usually also dictated by convention. The reserve powers would not enable the Governor-General to exercise personal command powers over the military except in the most extreme of cases when constitutional niceties are unlikely to be fully observed.
 - 16 This was referred to by Justice Heron in striking out the challenge to the abolition of the Skyhawks (*Curtis v Minister of Defence* (20 November 2001) High Court Wellington, CP253/01, 10-11.)

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- 17 This provision was referred to in the second reading debate on the Bill in 1990 by opposition MP Hon Doug Kidd in the following terms: "When the Government . . . has to write law to require two of the most senior people in the service of the Crown to be marked in on a formally organised basis to talk to each other, the question has to be asked whether the Government has it right." (29 March 1990) 506 NZPD 1116).
- 18 *Curtis v Minister of Defence* (20 November 2001) High Court Wellington, CP253/01.
- 19 Armed Forces Discipline Act 1971, s 39.
- 20 In *R v Froggatt* (1992) 1 NZCMAR 169, 183, the Court Martial Appeal Court also noted that; "the right to give an order derives from the Royal prerogative and not from statute."
- 21 Defence Regulations 1990, s 3.
- 22 Defence Act 1990, s 35.
- 23 *Deynzer v Campbell* [1950] NZLR 780, 811 (CA) per O'Leary CJ.
- 24 The Defence Act 1990, s 32(1) provides that the Governor-General's powers under this section are subject to the provisions of the Defence Act 1990.
- 25 *Bradley v Attorney-General* [1986] 1NZLR 176.
- 26 The Chiefs of Staff have a superior position to that of a joint force commander who is not also a Chief of Staff, due to the provisions in section 28(6) enabling the Chiefs to make representations to the Minister of Defence.
- 27 The meanings of "civilian" and "military" advice are not set out in the Act. It is not clear at what point of integration the fact that the support body to the Secretary and the CDF are joint would compromise the nature of the advice that each provides to the Minister, making this advice something "more", or "less" than civilian or military advice.
- 28 For further guidance as to the relationship between policy development and implementation into legislation see: Legislation Advisory Committee *Guidelines on Process and Content of Legislation* (Legislation Advisory Committee, Wellington, 2001); Legislation Advisory Committee *Report No. 4: Departmental Statutes* (Legislation Advisory Committee, Wellington, 1989).









APPENDIX B TO ANNEX F:

KEY ROLES AND ORGANISATIONS OF 1964-1990 DEFENCE LEGISLATION

		Defence Act 1964	Defence Act 1971	Defence Act 1990
Purpose of Act	Long Title	An Act to establish the Ministry of Defence and to provide a unified defence policy for the better defence of New Zealand	An Act to consolidate and amend the Defence Act 1964 and those parts of the Navy Act 1954, the New Zealand Army Act 1950, and the Royal New Zealand Air Force Act 1950, relating the constitution, command and administration of the new Zealand Naval forces, the New Zealand Army and the Royal New Zealand Air Force.	An Act: (a) To continue to authorise the raising and maintaining of armed forces for certain purposes; and (b) To constitute the New Zealand Defence force, comprising (i) the Armed Forces under the command of the Chief of Defence Force; and (ii) the Civil Staff under the control of the Chief of Defence Force, and (c) To reaffirm that the Armed Forces are under Ministerial authority; and (d) To define the respective roles and relationships of the Minister of Defence, the Secretary of Defence and the Chief of Defence Force; and (e) To redefine the relationship of the Chief of Defence Force to the Chiefs of Staff; and (f) To make provision generally in respect of the establishment, control and activities of the New Zealand Defence Force and related matters.

Roles of Governor-General and Governor-General in Council	Functions, Powers and Responsibilities	<p>Non- derogation from existing powers, duties and obligations as Commander-in-Chief of New Zealand or under any Service Act (s 6).</p> <p>Power to make regulations by Order in Council where necessary to give full effect to the provisions of and administration of the Defence Act (s 25(b))</p> <p>Powers to make regulations by Order in Council for any purposes that regulations were previously used for under the Navy Act 1954, the New Zealand Army Act, 1950, or the Royal New Zealand Air Force Act 1950. (s 25(a))</p>	<p>Power to raise and maintain armed forces to defend or protect the interests of New Zealand, to provide assistance to the civil power in New Zealand or elsewhere in an emergency, to provide any public services required by the Government, and to comply with New Zealand's international treaty obligations (s 4(1)).</p> <p>Powers, duties and obligations relating to the Armed Forces that pertain to the Governor-General's role as Commander-in-Chief of New Zealand (s 4(30), (4)).</p> <p>Power to make regulations by Order in Council for the purposes set out in section 88(1) and 47.</p>	<p>Power to raise and maintain armed forces to defend or protect the interests of New Zealand, to provide assistance to the civil power in New Zealand or elsewhere in time of emergency, to provide any public service, and to comply with New Zealand's international treaty obligations (s 5).</p> <p>Powers, duties and obligations that pertain to the Governor-General's role as Commander-in-Chief of New Zealand (s 6).</p> <p>Power to determine by Order in Council the equivalent ranks of members of each Service of the Armed Forces (s 17).</p> <p>Powers to make regulations by Order in Council for the purposes set out in sections 101(1) and 46.</p>
Roles of Minister of Defence	Functions, Powers and Responsibilities	<p>Administers the Defence Act (s 3)(1)</p> <p>Chairman of the Defence Council (s 11(1))</p> <p>Power to invalidate a decision by the Defence Council that the Minister was not a party to or did not assent to in writing, if the Minister determines that this decision is an important matter of principle or policy or administration (s 12).</p> <p>Non-derogation from the functions, powers and responsibilities of the Minister in relation to the Defence Act (s 3(2)).</p>	<p>Controls the Ministry of Defence (s 17)</p> <p>Chairman of the Defence Council (s 22(1))</p> <p>Power to invalidate a decision by the Defence Council that the Minister was not a party to or did not assent to in writing if the Minister determines that this decision is an important matter of principle or policy or administration (s 23).</p>	<p>Ministerial authority over the Armed Forces (Long Title).</p> <p>Power to control the NZDF through the Chief of Defence Force for the purposes of the general responsibility of the Minister in relation to the defence of New Zealand (s 7)</p> <p>Power to determine whether the Armed Forces shall be used in connection with an industrial dispute (s 9(2))</p> <p>Power to authorise the Armed Forces to assist the Policy in an emergency if the Prime Minister is unavailable and the Minister of Defence is the next most senior Minister. This power exists only where the circumstances set out in section 9(4) are satisfied and Parliament is informed as soon as possible in compliance with section 9(7)</p> <p>Power to requisition in the circumstances set out in section 10</p> <p>Power to authorise the maximum number of officers, ratings, soldiers, and</p>

				<p>airmen in the regular and territorial forces (ss 13(2), 15(2))</p> <p>Ability to require the Secretary of Defence and the Chief of Defence Force to consult formally with each other on advice from either to the Minister (s 31 (2))</p> <p>Sets the terms of reference for the Chief of Defence Force, including the terms and conditions of appointment as Chief of Defence, the duties and obligations of appointment and the manner in which the government expects those duties to be carried out (s 25(2))</p> <p>Ability to, at the request of the Chief of Defence Force, relieve the Chief of Defence Force of responsibility for certain functions if the Minister is satisfied that due to the circumstances (war or other like emergency) this is necessary to enable the Chief of Defence Force to perform his or her principal functions. (s 26(1)) The Minister then has the power to impose this responsibility on another member of the Defence Force. (s 26(2))</p>
	Reporting	The Minister must prepare an annual report of the operations of the Ministry for each year. A copy of this is laid before Parliament by the Minister (s 24)	The Minister must prepare an annual report of the operations of the Ministry for each year (s 77(1)) A copy of this must be laid before Parliament by the Minister (s 77(2))	Not specified, but see Public Finance Act 1989, (s 39(2), 34A(6)).
	Delegation	The Minister can delegate (in writing) any of his or her powers under the defence Act to any member of the Defence Council, to the Defence Council itself, to any member of a Board or to the Board itself (s 14(1)) The Minister cannot delegate the power to delegate (s 14(1)) The Minister retains at all times	The Minister can delegate (in writing) any of his or her powers under the Defence Act to the Defence Council or any person employed in the Minister... (s 29(1)) The Minister cannot delegate the power to delegate (s 29(1)) The Minister retains at all times the ability to exercise any powers he or she has delegated (s 29(10))	The Minister can delegate, in writing, any of his or her functions, duties and powers to the Chief of the Defence Force (s 30(1)) The Chief of Defence Force can sub-delegate these functions unless the Minister prohibits this (s 30(2)) The Minister retains at all times the ability to exercise these functions, duties and powers (s 30(8))

		the ability to exercise powers he or she has delegated (s 14(12))	she has delegated (s 29(10))	duties and powers (s 30(8))
	Appointment	Governor-General	Governor-General	Governor-General
Secretary of Defence	Functions, Powers and Responsibilities	<p>Deemed Permanent Head of the Ministry of Defence for the purposes of the State Services Act 1962 and the Public Revenues Act 1953 (s 7(1))</p> <p>Inspects the administration of the Services (s 7(2))</p> <p>Principal civilian adviser to the Minister (s 7(3)(a))</p> <p>Responsible for co-ordinating the business of the Ministry (s 7(3)(b))</p> <p>Responsible for the assignment and discipline of persons appointed to the Ministry under the State Services Act (s 7(3)(c))</p> <p>Responsible for the direction and control of all civilian or military personnel employed in relation to the Secretary's functions (s 7(3)(d))</p> <p>Responsible for the co-ordination of long term financial planning within the Ministry and for control of the defence programme expenditure in accordance with money appropriated by Parliament for this purpose (s 7(3)(e))</p> <p>Deputy Chairman of the Defence Council with the Chief of Defence Staff (s 11(2))</p> <p>Not responsible for the command and efficient and economical administration of the Services (s 7(2))</p>	<p>Permanent Head of the Ministry of Defence for the purposes of the State Services Act 1962 and the Public Revenues Act 1953 (s 25(1))</p> <p>Principal civilian adviser to the Minister (s 7(2)(a))</p> <p>Responsible for the efficient administration, control and accounting for all expenditure and revenue in the Ministry (s 25(2)(b))</p> <p>Responsible for the co-ordination of long term financial planning within the Ministry (s 25(2)(c))</p> <p>Accounts for stores and other equipment for which the Ministry of Defence is responsible under the Public Finance Act 1977 (s 25(2)(d))</p> <p>Responsible for the efficient financial administration and control of all accommodation, land and materials used by or within the Ministry of Defence (s 25(2)(e))</p> <p>Responsible for the assignment and discipline of persons appointed to the Ministry under the State Sector Act (s 25(2)(f))</p> <p>Responsible for the direction and control of all civilian or military personnel employed in relation to the Secretary's functions (s 25(2)(g))</p> <p>Executive secretary of the Defence Council (s 25(2)(h))</p> <p>May contract and trade in goods and land (s 25(5))</p> <p>Power to establish Committees for purposes contemplated by the Act as the Secretary may determine (s</p>	<p>Chief Executive of the Ministry of Defence for the purposes of the State Sector Act 1988 (s 24(1))</p> <p>Principal civilian adviser to the Minister of Defence and other Ministers (s 24(2)(a))</p> <p>Formulates advice on defence policy in consultation with the Chief of Defence Force (s 24(2)(b))</p> <p>Prepares in consultation with the Chief of Defence Force a defence assessment to submit to the Minister which includes a review of different options capable of achieving the government's defence policy goals (s 24(2)(c))</p> <p>Procures, replaces and repairs equipment, ships, vehicles and aircraft where this has major significance to military capability (s 24(2)(d))</p> <p>Conducts assessments and audits of the Defence Force in relation to any function, duty or project (s 24(2)(e))</p> <p>Conducts assessments and audits of the procurement, replacement and repair functions of the Ministry of Defence, as and when required by the Minister and in accordance with a programme of audit and assessment approved by the Minister, and consistent with the requirements set out in section 24(2)(e)</p> <p>All powers as are reasonably necessary to enable the performance of the Secretary's functions and duties (s 24(3))</p> <p>Ability to contract and trade in goods and land (s 24(4))</p> <p>Additional functions set out in the State</p>

			<p>32(1) Must prescribe its constitution, procedures, powers and to whom it is to be responsible (s 32(2))</p> <p>Deputy Chairman of the Defence Council with the Chief of Defence Staff (s 22(2))</p> <p>All powers reasonably necessary to enable the effective performance of the Secretary's functions and duties (s 25(4))</p> <p>Not responsible for the command of the Armed Forces although he may inspect the forces to exercise his functions (s 25(3))</p>	Sector Act 1988 (s 24(2))
	Reporting	Reports to the Minister following his or her inspections of the administration of the Services (s 7(2))	Not specified	No requirements set out, but see the State Sector Act 1988, s 30.
	Delegation	<p>The Secretary can delegate (in writing) any of his or her powers under the Defence Act to any member of the Personnel of the Ministry, whether civilian or military (s 14(4))</p> <p>The Secretary cannot delegate the power to delegate (s 14(4))</p> <p>The Secretary retains at all times the ability to exercise any powers he or she has delegated (s 14(12))</p>	<p>The Secretary can delegate (in writing) any of his or her powers under the Defence Act to any person employed in the Ministry (s 29(5))</p> <p>The Secretary cannot delegate the power to delegate (s 29(5))</p> <p>The Secretary retains at all times the ability to exercise any powers he or she has delegated (s 29(10))</p>	Not specified
	Appointment and Dismissal	<p>Appointed under the State Services Commission under the State Service Act 1962 (Defence Act 1971 s (7)(1))</p> <p>Dismissal is not set out in the State Services Act or the Defence Act</p>	<p>Appointed under the State Services Commission under section 26 of the State Service Act 1962</p> <p>Dismissal is not set out in the State Services Act or the Defence Act</p>	<p>Appointed by the State Services Commissioner (state Sector Act 1988, s 35)</p> <p>The Commissioner may remove the Secretary, with the agreement of the Governor-General in Council, for just cause or excuse (State Sector Act 1988, s 39).</p>
Chief of Defence	Functions, Powers and	Chief of Defence Staff is the principal military adviser to the	Chief of Defence Staff has power under the Defence Council to	Chief of Defence Force commands the Armed Forces through the respective

Staff/Chief of Defence Force	Responsibilities	<p>Minister (s 8(2)(a)) Responsible for the direction and control of all military or civilian personnel employed in respect of his functions (s 8(2)(b))</p> <p>Convenes and chairman of the Chiefs of Staff Committee (s 8(2)(c))</p> <p>Conveys advice from the Chiefs of Staff Committee to the Minister (s 8(2)(c))</p> <p>May carry out inspections of the Armed Forces (s 8(3))</p> <p>Deputy Chairman of the Defence Council with the Secretary of Defence (s 11(2))</p>	<p>command the Navy, Army and Air Force through the relevant Chiefs of Staff (s 24(3)(a))</p> <p>Power under the Defence Council to establish a joint force and command this through the Chief of Staff or directly through a joint force commander (ss 5A(1), 24(3)(aa))</p> <p>Principal military adviser to the Minister (s 24(3)(b))</p> <p>Responsible for the direction and control of all military or civilian personnel employed in respect of his functions (s 24(3)(c))</p> <p>May carry out inspections of the Armed Forces (s 24(4)(a))</p> <p>Convenes and chairman of the Chiefs of Staff Committee (s 30(6))</p> <p>Conveys advice from the Chiefs of Staff Committee to the Minister (s 30(6))</p> <p>Deputy Chairman of the Defence Council with the Secretary of Defence (s 22(2))</p> <p>Power to make such representations as he or she considers necessary to the Minister or, if he considers the circumstances to be exceptional, to any higher authority (s 24(4)(b))</p> <p>Power to establish Committees for purposes contemplated by the Act as the Chief of Defence Staff may determine (s 32(1) Must prescribe its constitution, procedures, powers and to whom it is to be responsible (s 32(2))</p> <p>Must be a good employer of civil staff (s 59, 61)</p>	<p>Chiefs of Staff and the Joint Force Commander (s 8(3))</p> <p>Power to requisition when authorised to do so by the Minister of Defence in accordance with the conditions set out in section 10(2)</p> <p>May establish joint forces and appoint officers to command these forces, or put them under the command of any Chief of Staff (s 12(1))</p> <p>Principal military adviser to Minister of Defence and other Ministers (s 25(1)(a))</p> <p>Responsible to the Minister for carrying out the functions of the Defence Force, the general conduct of the Defence Force, and the efficient, effective and economical management of the activities and resources of the Defence Force (s 25(1)(b))</p> <p>Responsible to other Ministers for carrying out functions and duties of the Defence Act that relate to that Minister's portfolio, and for tendering advice to that Minister on any matter relating to that Minister's portfolio (s 25(1)(c))</p> <p>Duty to act in accordance with the terms of reference for the appointment as Chief of Defence Force set out by the Minister of Defence (s 25(2))</p> <p>Power to make such direct representations to the Minister as the Chief of Defence Force considers necessary, in the exercise of his or her functions or command (s 25(3))</p> <p>Power in exceptional circumstances to make such representations as the Chief of Defence Force considers necessary to the Prime Minister (s 25(3))</p> <p>Power to issue and promulgate Defence Force Orders, not inconsistent with the Act, and to authorise others to issue</p>
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				<p>and promulgate Defence Force Orders (s 27(1), (2))</p> <p>Responsible for issuing each Chief of Staff with written terms of reference setting out the terms and conditions of their appointment (s 28(5))</p> <p>Prescribes the conditions of service of members of the Armed Forces in compliance with section 45(2)</p> <p>Obligated to act as a good employer of civil staff and provide equal employment opportunities (ss 59, 61)</p> <p>Power to establish a code of conduct for civil staff (s 60).</p> <p>All powers as are reasonably necessary to enable the performance of the Chief of Defence Force's functions and duties (s 24(3))</p> <p>Ability to request the Minister of Defence to relieve the Chief of Defence Force of responsibility for some Chief of Defence Force functions in the circumstances set out in section 26(1) (time of emergency and war)</p> <p>Determines the functions, duties and powers of the Chiefs of Staff Committee (s 29(2))</p> <p>The Secretary of Defence must consult with the Chief of Defence Force before the Secretary presents the defence assessment to the Minister of Defence (s 24(2)(c))</p>
	Reporting	Reports to the Minister following inspections of the Services (s 8(3))	Not specified	Obligated to present an annual report to the Minister on the activities of the Defence Force for that year, and on any matters affecting the Defence Force that the Chief of Defence Force thinks fit to include (s 91)
	Delegation	The Chief of the Defence Staff can delegate (in writing) any of his or	The Chief of the Defence Staff can delegate (in writing) any of his or	Ability to delegate, in writing, the Chief of Defence Force's functions, duties and

		<p>her powers under the Defence Act to any member of the Services (s 14(3))</p> <p>The Chief of the Defence Staff cannot delegate the power to delegate (s 14(3))</p> <p>The Chief of the Defence Staff retains at all times the ability to exercise any powers he or she has delegated (s 14(12))</p>	<p>her powers under the Defence Act to any officer of the Armed Forces</p> <p>The Chief of the Defence Staff cannot delegate the power to delegate (s 29(4))</p> <p>The Chief of the Defence Staff retains at all times the ability to exercise any powers he or she has delegated (s 29(10))</p>	<p>powers to any member of the Defence Force (s 30(2))</p> <p>The Chief of Defence Force can also sub-delegate to any member of the Defence Force any function delegated to him or her by the Minister, unless the Minister prohibits this (s 30(2))</p> <p>The Chief of Defence Force retains at all times the ability to exercise any functions, duties and powers he or she delegates (s 30 (8))</p>
	Appointment and Dismissal	<p>Governor-General in Council appoints from the officers of the Defence Forces (s 8(1))</p> <p>Dismissal is not set out in the Act.</p>	<p>Governor-General in Council appoints from the officers of the Armed Forces (s 24(1))</p> <p>Dismissal is not set out in the Act.</p>	<p>Governor General in Council appoints from officers of the Armed Forces (s 8(1))</p> <p>Dismissal is not set out in the Act.</p>
Other Key Officials	Functions, Powers and Responsibilities	<p>The Deputy and Assistant Secretaries of Defence hold any powers, duties and functions as are delegated or assigned to them by the Secretary of Defence (s 23(1))</p> <p>IF that person is a member of the Board they may be assigned additional powers, duties and functions (s 23(2))</p>	<p>The Deputy Chief of Defence Staff and the Deputy Secretary of Defence each have any functions, duties and powers assigned to them by the Chief of Defence Staff, the Secretary of Defence, or both jointly (s 34(1)(2))</p>	Not specified
	Appointment and Dismissal	<p>The Deputy and Assistant Secretaries of Defence are appointed under the State Service Act 1962 (s 23(1))</p> <p>Dismissal is not set out in the State Services Act or the Defence Act</p>	<p>The Deputy Chief of Defence Staff is appointed by the Chief of Defence Staff with the concurrence of the Minister from the officers of the Armed Forces (s 34(1))</p> <p>The Deputy Secretary of Defence is appointed under the State Services Act 1962 (s 34(2))</p> <p>Dismissal is not set out in the State Services Act or the Defence Act</p>	Not specified
Chiefs of Staff	Functions, Powers and Responsibilities	Not specified	<p>Advise the Chief of Defence Staff and (through him or her) the Minister on any matters relating to their respective Services (s 27(1)(b),</p>	<p>Advise the Chief of Defence Force and (through him or her) the Minister on any matters relating to their respective Services (s 28(1)(b), (2)(b), (3)(b))</p>

			<p>(2)(b), (3)(b))</p> <p>Ability to make such representations as he or she considers necessary to the Minister, (or if the circumstances are exceptional, to any higher authority) after notifying the Chief of Defence Staff (s 27(4))</p> <p>Command their respective Services under the Chief of Defence Staff (s 27(1)(a) (2)(a) (3)(a))</p> <p>Each Chief has the duty to perform the functions and to exercise the powers of his appointment in accordance with the terms of reference issues by the Minister (s 28(5))</p> <p>Responsible to the Chief of Defence Staff for the implementation of policies, plans and programmes prescribed in relation to their respective Services (s 27(1)(c), (2)(c), (3)(c))</p> <p>Command any joint forces placed under their command by the Chief of Defence Force through the joint force commander (s 27(3A))</p>	<p>Ability, in the exercise of command or functions, to make such representations as he or she considers necessary or desirable to the Minister, after notifying the Chief of Defence Force (s 28(6))</p> <p>Command their respective Services under the Chief of Defence Force (s28(1)(a) (2)(a), (3)(a))</p> <p>Each Chief has the duty to perform the functions and to exercise the powers of their appointment in accordance the terms of reference issued by the Chief of Defence Force (s 28(5))</p> <p>Responsible to the Chief of Defence Force for the implementation of policies, plans and programmes prescribed or approved in accordance with the Act in relation to their Service. (s 28(1)(c), (2)(c), (3)(c))</p>
	Reporting	Not specified	Not specified	Not specified
	Delegation	Not specified	<p>Ability to delegate (in writing) any of his or her powers under the Defence Act to any Serviceman (s 29(6))</p> <p>Cannot delegate the power to delegate (s 29(6))</p> <p>The Chief of Staff retains at all times the ability to exercise any powers he or she has delegated (s 29(10))</p>	<p>Ability to delegate, in writing, the functions, duties and powers of a Chief of Staff to any member of the Defence Force (s 30(3))</p> <p>The Chief of Staff can also sub-delegate to any member of the Defence Force any function delegated to him or her by the Chief of Defence, unless the Chief of Defence Force prohibits this (s 30(3))</p> <p>The Chief of Staff retains at all times the ability to exercise any powers he or she has delegated (s 30(8))</p>

	Appointment and Dismissal	Not specified	Governor-General in Council appoints from the officers in the relevant Service (s 27(1), (2), (3)) The Governor-General has the power to compulsorily retire, discharge, cancel or vary an officer's commission or appointment (s 35(1))	Appointed by Governor-General in Council from the officers of that Service (s 28) The Governor-General has the power to release, discharge, cancel or vary an officer's commission or appointment and may delegate this to the Chief of Defence Force (s 32(1), (1A))
Officers	Appointment and Dismissal	Not specified	The Governor-General has the power to appoint, promote and discharge officers (s 35(1))	The Governor-General has the power to appoint, promote and discharge officers and may delegate this power to the Chief of the Defence Force (s 32(1), (1A))
Civil Staff	Appointment and Dismissal	Not specified	Not specified	The Chief of Defence Force appoints civil staff on merit (s 61A, 62) Dismissal is not specified in the Act
Ministry of Defence	Membership	New Zealand Naval Forces New Zealand Army Royal New Zealand Air Force Any persons appointed to the Ministry under the State Services Act 1962 or the Air Force Regulations 1952 (s 4)	New Zealand Naval Forces New Zealand Army Royal New Zealand Air Force Any persons appointed to the Ministry under the State Services Act 1962 (s 17)	Not specified
	Functions, Powers and Responsibilities	The Ministry shall have and undertake such functions as necessary for the due performance and exercise of the duties and responsibilities for the defence of New Zealand....” (s 5)	Not specified	Not specified
New Zealand Defence Force	Membership	Not in existence	Not in existence	Chief of Defence Force Chiefs of Staff (Chief of Naval Staff, Chief of General Staff, Chief of Air Staff). Armed Forces of New Zealand Civil Staff appointed under s 6A (s 11)
	Functions Powers and Responsibilities	Not in existence	Not in existence	Not specified
Defence	Membership	Minister of Defence (Chair)	Minister of Defence (Chair)	Abolished

<p>Council</p>		<p>Chief of Defence Staff (Deputy Chair) Secretary of Defence (Deputy Chair) Chief of the Naval Staff Chief of the General Staff Chief of the Air Staff (s 9(2)) Any officer of a department of State co-opted in exercise of the function of advising the Minister on important matters of defence policy (s 9(3))</p>	<p>Chief of Defence Staff (Deputy Chair) Secretary of Defence (Deputy Chair) Chief of the Naval Staff Chief of the General Staff Chief of the Air Staff (s 18)) The Secretary of Foreign Affairs (associate member) (s 20(10)) Any officer of a department of State appointed by the Council to be an associate member (s 20(2))</p>	
	<p>Functions, Powers and Responsibilities</p>	<p>Any functions previously undertaken by any of the Service Boards under existing legislation (s 10) Responsible for the administration and command (through the Boards or officers) of the Defence Forces (s 10(2)(a)) Advises the Minister on important matters of defence policy (s 10(2)(a)) Constant examination and implementation of further integration possibilities for the Services (s 10(2)(c)) Power to issue Orders to the relevant arms fo the Defence Forces in the exercise of Defence Council powers, duties and functions (s 13) Ability to establish and abolish committees, prescribing their functions and responsibilities (s 21(1)) All other powers reasonably necessary for the effective performance of Defence Council functions and duties, subject to</p>	<p>Responsible for the command (through appointed officers) and administration of the Armed Forces (s 21(1)(a)(b)) Assists the Minister in formulating and recommending defence policy (s 21(1)(c)) All other powers reasonably necessary for the effective performance of Defence Council functions and duties (s 21(2)) The Minister has the power to invalidate a decision by the Defence Council that the Minister was not a party to or did not assent to in writing if the Minister determines that this decision is an important matter of principle or policy or administration (s 23). Ability to establish and abolish committees, prescribing their functions and responsibilities (s 31(1))</p>	<p>Abolished</p>

		<p>conflicting legislation (s 10(2)(a))</p> <p>The Minister has the power to invalidate a decision by the Defence Council that the Minister was not a party to or did not assent to in writing if the Minister determines that this decision is an important matter of principle or policy or administration (s 12)</p>		
	Delegation	<p>The Defence Council can delegate (in writing) any of its powers under the Defence Act to any member of the Council, to any Board or member of a Board, or to any committee (s 14(2))</p> <p>The Council cannot delegate the power to delegate unless the delegation is to a Board (s 14(2))</p> <p>The Council retains at all times the ability to exercise any powers it has delegated (s 14(12))</p> <p>The Naval Board, Army Board and Air Board may discharge the functions of the Defence Council, subject to any direction by the Council (s 18)</p> <p>Power to establish, reconstitute or abolish committees and prescribe their functions and responsibilities (s 21(1))</p>	<p>The Defence Council can delegate (in writing) any of its powers under the Defence Act to the Chief of Defence Staff and/or the Secretary of Defence, or any committee the Council establishes (s 29(2)(3))</p> <p>The Council cannot delegate the power to delegate. (s 29(2)(3))</p> <p>The Council retains at all times the ability to exercise any powers it has delegated (s 29(10))</p>	Abolished
Chief of Defence Staff/Force and Secretary of Defence jointly	Functions and Consultation Obligations	Refer to Defence Council	<p>The Chief of Defence Staff and the Secretary of Defence have joint functions to:</p> <p>Supervise the execution of decisions of the Defence Council and ensure the co-ordination of the activities of the Ministry of Defence (s 26(a))</p> <p>Co-ordinate the preparation of policies, plans and programmes on behalf of the Defence Council (s</p>	<p>The Chief of Defence Force and the Secretary of Defence must consult with each other on any advice on any major matters of defence policy that is to be given by either official to the Minister of Defence or any other Minister (s 31(1))</p> <p>The Minister may of his or her own motion, or following a recommendation by either the Secretary of Defence or the Chief of Defence Force, require the Secretary of Defence and the Chief of</p>

			<p>behalf of the Defence Council (s 26(b))</p> <p>Continuously review the policies, functions, organisations and procedures of the Ministry of Defence (s 26(c))</p> <p>Ensure the organisation and functions of the Ministry of Defence are clearly defined and adequately controlled and supervised (s 26(d)(e))</p> <p>Power to establish Committees for purposes contemplated by the Act as they may determine (s 32(1))</p> <p>Must prescribe its constitution, procedure, powers and to whom it is to be responsible (s 32(2))</p>	<p>Defence Force to consult formally (s 31(2)(3))</p> <p>The obligation to consult does not affect the duties, obligations or responsibilities of either of these officials (s 31(4))</p>
Chiefs of Staff Committee	Membership	<p>Chief of Defence Staff (convenes and chair) (s 8(2)(c))</p> <p>Other members not specified</p>	<p>Chief of Defence Staff (convenes and chair)</p> <p>Chiefs of Staff (Chief of Naval Staff, Chief of General Staff, Chief of Air Staff) (s 30(1))</p>	<p>Chief of Defence Force (convenes (s 29(3))</p> <p>Chiefs of Staff (Chief of Naval Staff, Chief of General Staff, Chief of Air Staff (s 29(1))</p> <p>Any associate member (officer or Crown employee) appointed by the Committee (s 29(4)) Appointment may be revoked by a resolution of the Permanent members)</p>
	Functions, Powers and Responsibilities	Not specified	<p>Any functions, duties and powers determined by the Defence Council (s 30(2))</p> <p>The Chief of Defence Staff conveys the agreed collective advice of the committee to the Minister (s 30(6))</p> <p>A Chief of Staff may request where there are differing opinions expressed in a Committee meeting that the Chief of Defence Staff convey the opinions to the Minister. The Chief of Defence Staff must follow this request, as well as</p>	<p>Any functions, duties and powers, not inconsistent with the Act, determined by the Chief of Defence Force (s 29(2))</p> <p>A Chief of Staff may request where there are differing opinions expressed in a Committee meeting that the Chief of Defence Staff convey the opinion to the Minister. The Chief of Defence Staff must follow this request, with any advice the Chief of Defence Force considers appropriate (s 29(6))</p> <p>Power to regulate its own procedure as it thinks fit, subject to the provision of</p>

			providing any advice the Chief of Defence Staff considers appropriate (s 30(6))	this Act (s 29(7))
Naval, Army and Air Boards	Membership of each	<p>Minister of Defence (Chairman)</p> <p>The Chief of Staff for that particular Service</p> <p>A Deputy or Assistant Secretary of Defence</p> <p>Between two and four officers from that particular Service (naval and Air Boards only) (s 15, 17)</p> <p>The Vice Chief of the General Staff, the Adjutant General, the Quartermaster-General, one Territorial Force officer appointed by the Governor-General (Army Board only) (s 16)</p>	Abolished	Abolished
	Functions, Powers and Responsibilities	<p>Exercise the functions of the Defence Council subject to the direction of the Council (s 18)</p> <p>The Air Board has additional functions in relation to civil aviation (s 19)</p> <p>The Boards may sub-delegate powers delegated to them by the Defence Council if the Council approves (s 14(6))</p> <p>Promulgate orders issued by the Defence Council (s 13(2))</p> <p>Power to regulate Board procedure as Board sees fit, subject to this Act and directions of the Defence Council (s 20(3))</p>	Abolished	Abolished

ANNEX G:

SUMMARY OF THE LEGAL JUDGEMENTS
OF THE HIGH COURT AND COURT OF APPEAL (DECEMBER
2001, AND FEBRUARY 2002)

References

1. Reserved Judgement of Heron J, in the Matter of the Defence Act 1990, between Vernon Frederick Curtis (Applicant) and The Minister of Defence (Respondent), High Court of New Zealand, Wellington Registry 20 November 2001. (CP 253/01)
2. Judgement of the Court Delivered by Tipping J, in the Matter between Vernon Frederick Curtis (Appellant), and The Minister of Defence (Respondent), Court of Appeal of New Zealand, 25 February 2002, (CA 289/01)

Background

G.1 On 1 May 2001, the Minister of Defence announced the decision of the Government to disband the Air Combat Force of the Royal New Zealand Air Force (RNZAF). On 31 October 2001, Mr Vernon Curtis on behalf of an organisation known as "Save our Squadron" commenced proceedings in the High Court for a judicial review of the Minister's decision. Curtis applied to have the decision set aside and sought interim relief, essentially stopping the dismantling of the force awaiting a full hearing.

G.2 The Crown sought to strike out the proceedings and on 20 November 2001, Heron J struck out the substantive application and declined interim relief.

G.3 Curtis appealed to the Court of Appeal, arguing that he had at least an arguable case that the Minister had exceeded his powers when making the decision to disband the Air Combat Force, because the decision involved the abolition of an essential ingredient of the RNZAF. Curtis argued that such abolition went beyond the legitimate control vested in the Minister under s. 7 of the Defence Act.

G.4 The Court of Appeal reviewed Heron J's findings and judgement and agreed with Justice Heron's conclusions. On 25 February 2002, the Court delivered its judgement, dismissing the Appeal.

Discussion

G.5 The legal judgements of Heron J, and the Court of Appeal address three central issues in respect of the Defence Legislation:

- (a) the Minister's powers of control of the New Zealand Defence Force vested in him by s.7 of the Defence Act 1990 ;
- (b) the definitions of Armed Forces, and the constituent parts
- (c) the principle that the Courts of New Zealand within the assurance that the law has been upheld, do not intrude into matters of government policy.

The Minister's Powers under s.7 of the Defence Act

G.6 In respect of the first issue, Mr Curtis contended that the Minister had exceeded his powers when making the decision to disband the Air Combat Force, because that decision involved the abolition of an essential ingredient of the RNZAF which is itself part of New Zealand Defence Force. Mr Curtis contended that sub absoluteion went beyond the scope of the Minister's legitimate control. Experts for the Applicant contended that with the abolition of the Air Combat Force, the Air Force can no longer be described validly as an armed force able to satisfy the purposes specified in the Defence Act.

G.7. After reviewing the Long Title, and Sections 2, 5, 7 and 11 of the Act Justice Heron accepted the Crown's argument that other than prescribing that the Royal New Zealand Air Force must exist, the Act does not prescribe how that force is to be made up. In particular it does not provide for an Air Combat Force. The Minister's power of control of the New Zealand Defence Force under s7 does not allow the Executive to abolish the RNZAF. Justice Heron and the Court of Appeal noted that since the RNZAF undoubtedly still exists, it can not be contended that the Minister has exceeded his authority. As the Court of Appeal judgement noted:

Although, in terms of the Minister's decision, New Zealand will have less of an air force than it had before, we consider that in law it is impossible to contend that New Zealand no longer has an Air Force as part of the New Zealand Defence Force. While as a matter of opinion it may be possible to say that without air combat capability an Air Force can no longer be called an Air Force, we regard it as impossible to come to that view as a matter of law.(para 16, p.9).

Definitions of Armed forces

G.8 The Legal judgements refer to the constitutional position of New Zealand's armed forces. They re-state the view that Section 5 of the Defence Act reflects the long-standing constitutional requirement that Parliament must authorise the presence of armed forces within New Zealand. The Court of Appeal judgement notes that: "the exercise of the prerogative power of the Crown to raise and control armed forces is also controlled and, to an extent, abridged by the provisions of [Defence] Act". The judgement most particularly notes that in s5, the consent given by Parliament is qualified by

reference to the purposes for which the armed forces may be raised and maintained. It notes that while the s5 empowers, it does not oblige the Crown to maintain any or any particular armed forces or forces.

G.9 Both judgements examined s.11 of the Act, which specifies the constituent elements of the New Zealand Defence Force as the Navy, the Army and the Air Force, noting that the provisions do not require that all constituent elements of the Armed Forces be in fact armed. The Court of Appeal's judgement observed particularly that the Minister's power of control under s7 "significantly, is of the New Zealand Defence Force, not of its three constituent elements directly. The Court felt there was merit in the Crown's argument that the intention of the Act is that the Armed forces are a unitary whole under s 5.

Intrusion of the Courts in Matters of Government Policy

G.10 Both Justice Heron's judgement and that of the Court of Appeal make it clear that the extent to which the Armed Forces of New Zealand are armed, either as a unitary whole or its constituent parts, is not a matter of law, but a matter of government policy. Both judgements noted the view that it was not the role of the Courts to express opinions on the appropriateness or otherwise of the arming of defence forces. The Court of Appeal referred to the a 1964 decision of the House of Lords, which give clear direction, quoting Viscount Radcliffe:

If the methods of arming the defence forces and the disposition of those forces are at the decision of Her Majesty's Ministers.... it is not within the competence of a court of law to try the issue whether it would be better for the country that that armament or those dispositions should be different....it cannot be a matter of proof or finding that the decisions of policy on which they rest are or are not in the country's best interests. I may add that I can think of few issues which present themselves in less triable form.

G.11 Consequently, the Court of Appeal upheld Justice Heron's decision to strike out the proceedings because the issue was a matter of high policy in which the Courts do not become involved, and because the proceeding was not judged to be justiciable, i.e., it is "an issue in respect of which there is no satisfactory legal yardstick by which the issue can be resolved". (Ref B, para 27, p. 13).

ANNEX H:

RECOMMENDED DEFENCE STRATEGIC MANAGEMENT AND PLANNING PROCESSES

H.1 The strategic management and planning processes through which the Defence Organisation should work ought to be the critical driver for operational capacity and structure. These processes define what the Defence Organisation needs to do to meet Government's expectations. From an understanding of these processes, and the results they must deliver, it is possible to derive particular roles and responsibilities for key defence advisers and decision-making authorities including the Minister of Defence, higher-level Cabinet Committees, the Secretary and the CDF.

H.2 I have examined the Government's performance expectations, most particularly those relating to providing strategic direction, preparing and developing joint forces for responding to contingencies, providing high quality advice that supports government decision-making on defence policy and strategies, procurement, and defence outputs, and the effective and efficient direction, planning, management and accounting for Defence's resources, being a good employer and maintaining high standards of professionalism, including ethical standards. I have also examined the nature of management and planning challenges both particular to Defence, and those that are faced by other public and private sector organisations (See Annex E).

H.3 From these perspectives I have identified, at a macro-level, the core strategic management and planning processes that need to be undertaken by the Defence Organisation, and the key points where political direction or decision-making is required. I am aware that many of these processes are cyclical and iterative, and that within each there may be many sub-processes. Nonetheless, I have attempted to provide a simplified outline of Defence's strategic and planning processes in order to see more clearly how structures might be erected to manage their undertaking.

H.4 These process steps are listed and broadly defined in Table 1 Figure 1 overleaf. Recommendations on the type of responsibility (sole, prime or shared) are also presented.

Table 1: Defence Strategic Management and Planning Processes

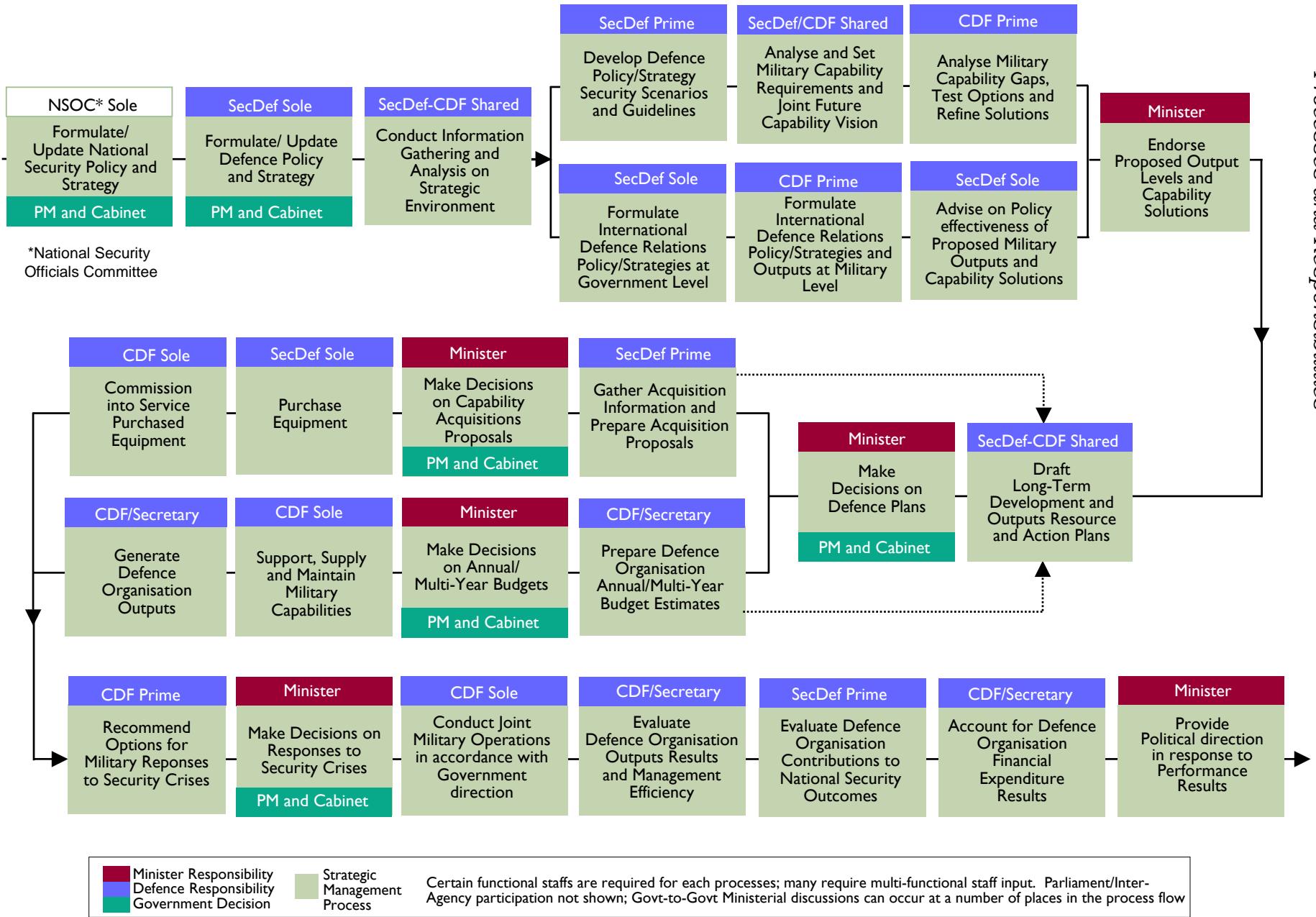
Short Title	Process Definition	Responsibility	Decision
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			Level
Formulate/ Update National Security Policy and Strategy	Using information about the security environment, and in accordance with political direction, identify New Zealand's national security interests, outcomes and policy objectives, identify strategic-level contributions from relevant departments and agencies and craft co-ordinated strategies to achieve national security objectives	National Security Officials Committee	Prime Minister and Cabinet (National Security Committee)
Formulate/ Update Defence Policy and Strategy	Develop advice on New Zealand's security interests, outcomes and policy objectives, strategies for securing those objectives within the broader context of national security policies and Strategies	Secretary Sole	Prime Minister and Cabinet
Conduct Strategic Environment Information Gathering and Analysis	Gather, analyse and disseminate assessments of information about strategic issues affecting New Zealand's security, and the future performance of military operations	Secretary/ CDF Shared	
Develop Defence Policy/Strategy Security Scenarios and Guidelines	Develop near term and longer-term scenarios of security events which could challenge national security and defence objectives, and guidelines for future defence policy, international defence relations, and military capability priorities and planning	Secretary Prime	
Formulate International Defence Relations Policy/Strategies at Government level	Develop advice on policy objectives for New Zealand's International Defence Relations and strategies for achieving those objectives, and integrate these with the broader national security policy and strategy	Secretary Sole	
Formulate International Defence Relations Policy/Strategies and Outputs at the Military Level	Develop advice on and plans for military resources, activities and initiatives to achieve International Defence Relations policy and strategies	CDF Prime	
Analyse and Set Military Capability Requirements and Joint Future Capability Vision	Using, National Security/Defence/IDR policy and strategy, scenarios, and military doctrine, conduct operational, policy and resource analyses to determine the military capabilities required to achieve defence policy objectives over the longer term, and a statement that presents a vision of the performance features of future NZDF capabilities and how these will be used and work in scenarios of future operations	Secretary/ CDF Shared	
Analyse Military Capability Gaps, Test Options and Refine Solutions	Identify and size gaps in military capability between current forces and required military capabilities; Identify and test operational/policy effectiveness and resource implications of equipment and non-equipment based options for resolving, and refine and define solution specifications	CDF Prime	
Advise on Policy Effectiveness of Proposed Military Outputs and Capability Solutions	Analyse and provide advice on the appropriateness of Military Outputs proposals and Capability solution specifications for achieving future defence policy objectives	Secretary Sole	

Endorse Proposed Military Output Levels and Capability Solutions	On the advice of principal advisers, endorse annually proposed levels of military and defence outputs and military capability solution summaries	Minister	Minister
Prepare Defence Long-Term Development and Outputs Resource and Action Plans	Prepare, balance and integrate costed and performance milestone arranged Long-Term Development Plans, medium-term outputs resourcing and action plans	Secretary/ CDF Shared	
Make Government Decisions on Defence Plans	Present Defence Plans for Government endorsement	Minister	Minister/ Cabinet
Gather Acquisition Information and Prepare Acquisition Proposals	Gather information and prepare Acquisition Functional Specifications and business cases, and initiate development of acquisition strategies and project management plans, for equipment acquisitions	Secretary Prime	
Make Decisions on Proposed Capability Acquisitions	Present Proposed Capability Acquisitions (Equipment) for Government endorsement	Minister	Minister/ Cabinet
Prepare Defence Organisation Annual/Multi-Year Budget Estimates	Prepare Annual/Multi-Year operating budget allocation plans and financial estimates for MoD and NZDF outputs	Secretary Sole (for MoD) CDF Sole (for NZDF)	
Make Decisions on Annual/Multi-Year Budgets	Present annual/multi-year defence budget estimates proposals for Government endorsement	Minister	Minister/ Cabinet
Purchase Equipment	Develop equipment acquisition strategies, project management plans, negotiate acquisition contracts, and manage equipment acquisitions to acceptance into Service with NZDF customer	Secretary Sole	
Commission into Service Purchased Equipment	Prepare and action integrated logistics support plans for commissioning into service newly acquired equipment	CDF Sole	
Generate Defence Organisation Outputs	Manage resources and activities to deliver Defence Organisation outputs to agreed quality, quantity and cost standards	Secretary Sole (for MoD) CDF Sole (for NZDF)	
Support, Supply and Maintain Military Capabilities	Manage resources and activities to recruit, select, train, maintain, and sustain replacement forces to be available when required for new, or on-going operational deployments	CDF Sole	
Recommend Options for Military Responses to Security Crises	Identify and evaluate military options for responding to security crises; identify resource, direct and broader operational effectiveness, and defence policy and national security co-ordination implications, and provide advice to Government	CDF Prime	
Make Decisions on National Responses to Security Crises	Present national (including military) responses to security crises for Government decision, and provide political direction on actions, resources and priorities.	Minister	Minister/ Cabinet
Conduct Joint Military Operations in accordance with Government direction	Provide strategic command direction for, and conduct joint independent, combined or multinational military operations in accordance with government direction	CDF Sole	
Evaluate Defence Organisation Outputs Performance and	(1) Evaluate and measure delivery of Defence Organisation Outputs (2) Evaluate outputs results from military	(1) Secretary Sole (for MoD Outputs); CDF	

Management Efficiency	effectiveness and defence policy delivery perspectives (3) Evaluate management efficiency and effectiveness	Sole (for NZDF Outputs); (2) Secretary/ CDF Shared (3) Secretary/ CDF Shared	
Evaluate Defence Organisation Contributions to National Security Outcomes	Evaluate and measure defence policy and output contributions to the achievement of national security outcomes; evaluate strategic capacity issues of the Defence Organisation	Secretary Prime	
Account for Financial Expenditure and Non-Financial Performance Results	Account for financial expenditures, and prepare and submit financial expenditure and compliance reports. Prepare and submit non-financial performance on military and defence outputs delivery	Secretary Sole (for MoD) CDF Sole (for NZDF)	
Provide direction in response to Evaluation and Performance Results	Provide direction on resourcing, defence policy priorities etc to the Defence Organisation in response to Evaluation and Performance Results reporting	Minister	

Figure 1: Recommended Defence Strategic Management and Planning Processes and Responsibilities



ANNEX I:

RECOMMENDED NATIONAL SECURITY AND
DEFENCE GOVERNANCE STRUCTURES

I.1 It is the conclusion of this Review that there is a fundamental requirement for new national security and defence governance structures that reflect two critical concepts:

- the cross-governmental, multi-agency nature of national security in the 21st century; and
- the need for greater inclusiveness (both civilian and military, and joint and single Service) in decision-making forums to ensure all value-adding inputs of information can be contributed and to achieve greater ownership of the decision-making process and results.

I.2 These two concepts are reflected in the following recommended governance structures for New Zealand national security, and the management of the Defence Organisation outlined in Figure 1:

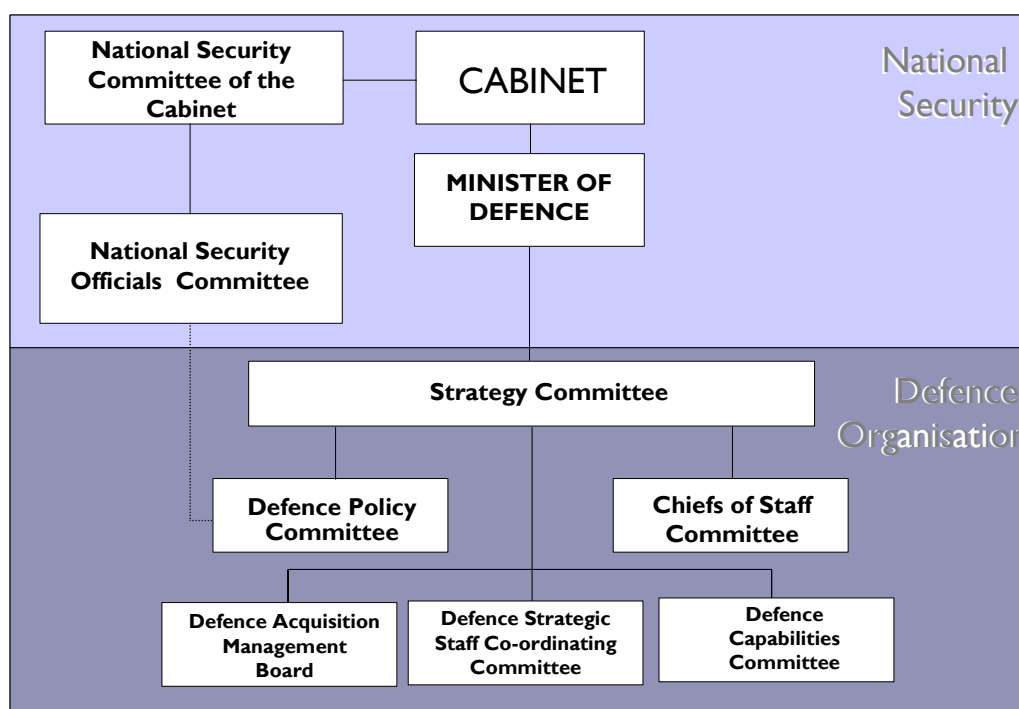


Figure 1: New Governance Structure for National Security and Defence

National Security Committee of Cabinet

I.3 It is suggested that a permanent Committee of Cabinet on National Security might be created. This Committee would have the following responsibilities:

- political direction on strategic priorities for shaping New Zealand's medium to long term national security environment; and
- guidance to Cabinet on decisions responding to security crises and emergencies and direction to relevant departments and agencies to carry out the components of any national response strategy.

I.4 The Prime Minister would chair the Committee with the Ministers of Defence, Foreign Affairs and Finance being permanent members and other Ministers invited as appropriate. The Secretaries of Department of Prime Minister and Cabinet, Defence, and Foreign Affairs, and the CDF would serve as principal advisers to the Committee.

National Security Officials Committee

I.5 It is also suggested a National Security Officials Committee might be set up with the following responsibilities:

- co-ordinating and consolidating national security policy and strategy advice to the Cabinet and Cabinet National Security Committee;
- providing the Cabinet with periodic assessments of national security risks as well as response capabilities;
- generating a top-level national security strategy for approval by Cabinet, identifying New Zealand's national security outcomes, policy objectives for each contributing department and agency, and the main contributory capabilities and initiatives;
- co-ordinating the implementation of Cabinet directives in response to specific threats to national security;
- serving as a centre of expertise for inter-departmental/agency processes and procedures and as an officials-level focus for networking with strategic partners on international security issues; and
- providing the overall management and evaluation framework within which the activities of each of the individual organisations concerned (including Defence) were conducted and assessed – this would reinforce the Government's growing emphasis on strategic outcomes.

I.6 The CE of the Department of Prime and Cabinet would serve as the Chair, with the Secretaries of Defence and Foreign Affairs, the Chief of the Defence Force, and other relevant Department CEs with a national security interest comprising the membership.

I.7 This Officials Committee would be supported by a small Secretariat of staff seconded from each of the permanent members of the

Committee, and the External Assessments Bureau. This Secretariat would be most logically located in the Department of Prime Minister and Cabinet.

Strategy Committee of the Defence Organisation

1.8 It is suggested that a transformed Defence Organisation would require a top-level management and decision-making body that is inclusive, covers the responsibilities and accountabilities of both constituent parts of the organisation. Working with the joint, integrated model of a defence organisation outlined in Annex J, this committee – the Strategy Committee – would integrate both senior military and civilian advisers and decision-makers. Its membership would include Secretary, the CDF, a Vice Chief, a Deputy Secretary of Defence, heads of Defence Evaluation and Acquisition Services, the Chief Financial Officer, the Joint Forces Commander, New Zealand, and the three Service Chiefs. For greater transparency, and to infuse other relevant perspectives, it is suggested that an appropriately qualified external director could also be included.

1.9 The Minister would chair the Strategy Committee at least on a quarterly basis, or more frequently depending upon his or her preference. The Secretary and CDF would co-chair all other meetings of the Committee.

Defence Organisation Subordinate Committees

I.10 Five subordinate committees are recommended to co-ordinate and manage the products to be considered by the Strategy Committee. These are:

- *Defence Policy Committee* (chaired by the Secretary; membership: CDF, Deputy Secretary of Defence, Vice Chief, Director, Policy, Strategy and Plans) (consideration should also be given to including a staff member from the National Security Officials Committee Secretariat and the Ministry of Foreign Affairs and Trade);
- *Chiefs of Staff Committee* (chaired by CDF; membership: Vice Chief, Chief of Navy, Chief of Army, Chief of Air Force, Joint Forces Commander NZ and Secretary)
- *Acquisition Management Board* (chaired by the Secretary; membership: CDF, Deputy Secretary of Defence, Vice Chief, Head Acquisition Services, Director, Force Structure, Resources and Logistics)(consideration should also be given to including an independent external corporate sector director);
- *Defence Capabilities Committee* (co-chaired by the Deputy Secretary of Defence, and the Vice Chief; membership: Director Force Structure, Resources and Logistics, Head Acquisition Services, Director, Policy, Strategy and Plans); and
- *Defence Staff Co-ordinating Committee* (co-chaired by the Deputy Secretary of Defence, and the Vice Chief; membership: functional directors of the Defence Strategic Staff).

Annex J:

MODEL OF A JOINT, INTEGRATED DEFENCE ORGANISATION

J.1 A model of a more integrative structural arrangement has been developed by the Review as an example of arrangement possibilities. The model introduces a framework organisation – the New Zealand Defence Organisation (NZDO). This Organisation would receive political direction from the Minister of Defence, and be headed by the Secretary of Defence and Chief of the Defence Force with shared, prime and single-line accountabilities for strategic command and management as set out in Annex H.

J.2 The NZDO would comprise the New Zealand Defence Force with its three constituent arms - the Royal New Zealand Navy, the New Zealand Army, and the Royal New Zealand Air Force – together with the Joint Forces Headquarters, and a new Defence Corporate Headquarters/Office - the top-level arrangements of which are set out below in Figure 1.

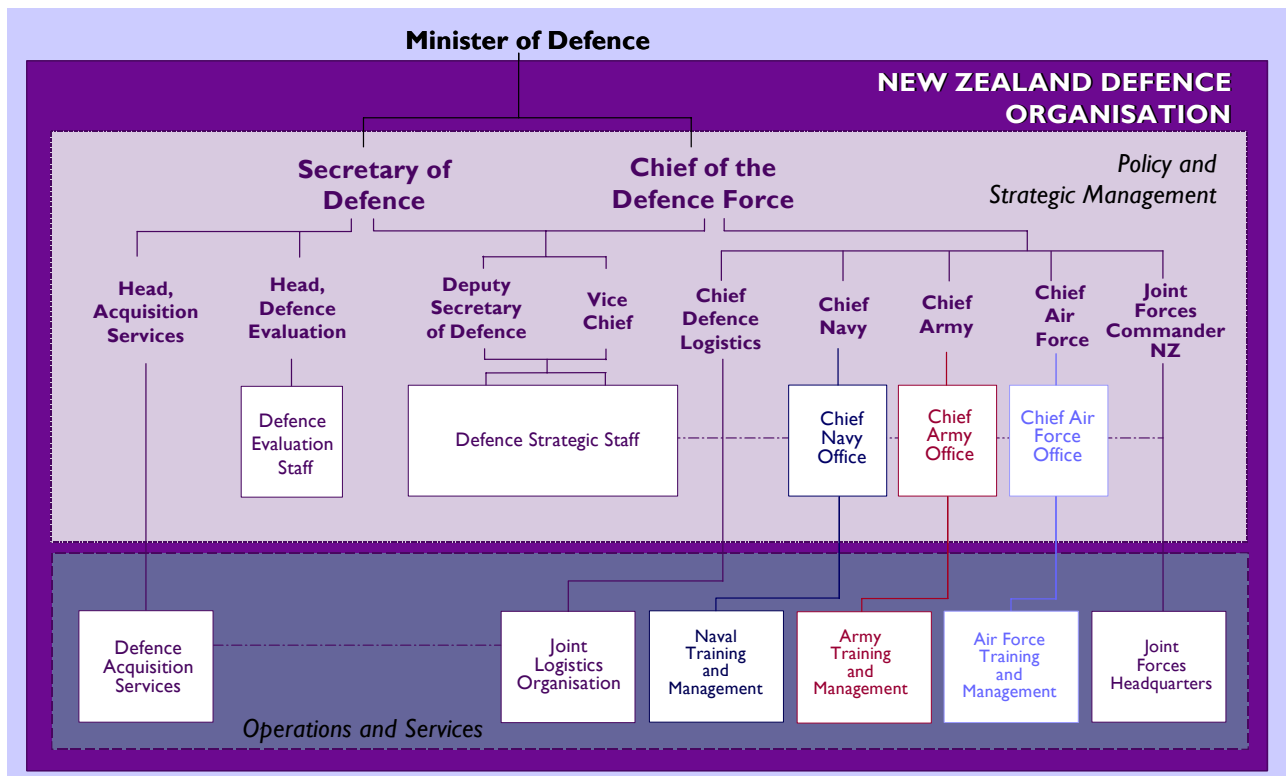


Figure 1: Joint Integrated Defence Organisation Model Top-Level Arrangements

A Defence Corporate Headquarters/Office

J.3 A Defence Corporate Headquarters/Office (DC HQ) would be the New Zealand Defence Organisation's corporate-level policy and management structure. This experimental title is used to signal that this model does not see the Ministry of Defence being subsumed into the Headquarters, New Zealand Defence Force, or vice versa. What is proposed is a new integrated strategic-level unit that would encompass the Secretary, the CDF, and principal staff officers/officials and their staffs. It would include a Deputy Secretary of Defence and Vice Chief as co-directors of an integrated civilian-military joint staff; Service Chiefs and their personal office staffs; the Head of defence evaluation and his or her staff; the Head of equipment acquisition services; and the Joint Forces Commander New Zealand. The DC HQ would be the organisational structure for policy and strategic management of the New Zealand Defence Organisation

Governance Structure

J.4 The DC HQ would be led and managed through the defence governance structure recommended in Annex I and set out below in Figure 2.

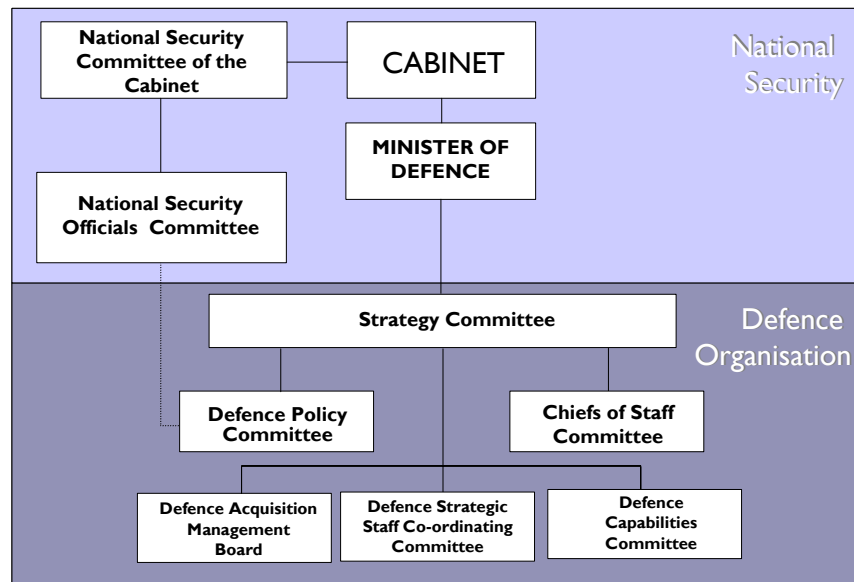


Figure 2: Governance Structure for Defence Organisation and DCHQ

Secretary of Defence

J.5 The Secretary of Defence would be the Government's principal civilian adviser on defence matters. This responsibility would be exercised directly with the Minister of Defence, through membership of the National Security Officials Committee. The Secretary would have shared, prime and single-line

responsibilities and accountabilities in accordance with the defence strategic management processes set out in Annex H and Table 1 below.

Table 1: Responsibilities of the Secretary of the Defence Organisation

Type of Responsibility	Responsibility
Sole	<ul style="list-style-type: none"> • Formulate/Update Defence Policy and Strategy • Formulate International Defence Relations Policy/Strategies at Governmental Level • Advise on Defence Policy effectiveness of Proposed Military Outputs and Capability Solutions • Prepare Defence Organisation (MoD) Annual/Multi-Year Budget Estimates • Purchase Equipment • Generate Defence Organisation (MoD) Outputs • Evaluate Defence Organisation (MoD) Outputs Performance and Management Efficiency • Report on Defence Organisation (MoD) Financial Expenditure Performance
Prime	<ul style="list-style-type: none"> • Develop Defence Policy/Strategy security scenarios and guidelines • Gather Acquisition Information and Prepare Equipment Acquisition Proposals • Evaluate Defence Organisation Contributions to National Security Outcomes
Shared	<ul style="list-style-type: none"> • Analyse and set military capability requirements • Draft Long-Term Development and Outputs Resource and Action Plans • Evaluate Defence Organisation Output Results from Military Effectiveness and Defence Policy results perspectives
Assist	<ul style="list-style-type: none"> • Formulate International Defence Relations Policy/Strategies and Outputs at Military Level • Analyse Military Capability Gaps, Test Options and Refine Solutions • Recommend Options for Military Responses to Security Crises

J.6 The Secretary would have prime responsibility for providing integrated civil-military defence policy and strategy advice to Government, and to the National Security Officials Committee. This responsibility would be managed primarily through the Defence Policy Committee, chaired by the Secretary. The Secretary would also be responsible for providing appropriate specialist advisers to the Minister and National Security Officials Committee

J.7 The Secretary would also be responsible for advising CDF and the Minister on the sufficiency of proposed NZDF current and future outputs and capabilities to meet defence policy objectives, and prime responsibility for evaluating the strategic capacity and contributions of the Defence Organisation to the achievement of national security outcomes. The Secretary would co-chair the Strategy Committee (in the absence of the Minister), and would be a full member of the Chiefs of Staff Committee. In exercising prime responsibility for the provision of acquisition services, the Secretary would chair the Acquisitions Management Board.

Chief of Defence Force

J.8 The CDF would be the principal military adviser to the Minister and the Cabinet National Security Committee. He would also be a member of the National Security Officials Committee (if a such body were established). The CDF would be responsible for providing appropriate NZDF specialist advisers to the Minister, and National Security Officials Committee. He would be the co-ordinating point for all NZDF staff providing advice to the Minister and the national security committees.

J.9 The CDF's accountabilities and responsibilities are set out in Table 2 below. The CDF would co-chair the Strategy Committee in the absence of the Minister. The CDF would continue to have prime management responsibility for the overall operational effectiveness and efficiency of the NZDF and the assets, personnel and facilities that make up the NZDF. He would exercise this responsibility in conjunction with the Service Chiefs, and the Joint Forces Commander NZ.

Table 2: Responsibilities of the CDF of the Defence Organisation

Type of Responsibility	Responsibility
Sole	<ul style="list-style-type: none"> • Command of the NZDF • Prepare Defence Organisation (NZDF) Annual/Multi-Year Budget Estimates • Support, Supply and Maintain Military Capabilities • Generate Defence Organisation (NZDF) Outputs • Conduct Joint Military Operations in accordance with Government Direction • Commission into Service Purchased Equipment • Evaluate Defence Organisation (NZDF) Output Results and Management Efficiency • Report on Defence Organisation (NZDF) Financial Expenditure Performance
Prime	<ul style="list-style-type: none"> • Formulate International Defence Relations Policy/Strategies and Outputs at Military Level • Analyse Military Capability Gaps, Test Options and Refine Solutions • Recommend Options for Military Responses to Security Crises
Shared	<ul style="list-style-type: none"> • Analyse and set military capability requirements • Draft Long-Term Development and Outputs Resource and Action Plans • Evaluate Output Results from Military Effectiveness and Defence Policy results perspectives
Assist	<ul style="list-style-type: none"> • Develop Defence Policy/Strategy security scenarios and guidelines • Gather Acquisition Information and Prepare Equipment Acquisition Proposals • Evaluate Defence Organisation Contributions to National Security Outcomes

J.10 The CDF would exercise command over the components of the NZDF, as the first-ranked military officer of the NZDF. This command function would be exercised through the Service Chiefs. Other responsibilities would be

authorised through directives to the Service Chiefs, the Vice Chief and the Joint Forces Commander New Zealand and other senior officers designated as Outputs Managers. CDF would chair the Chiefs of Staff Committee.

J.11 The CDF would be responsible for bringing to the Minister his professional advice, drawn from his own assessments and the collective advice of the Chiefs of Staff Committee. Where there was not a consensus within the Chiefs of Staff Committee, the CDF would be required to represent to the Minister the diversity of views. The CDF would also be responsible for independent evaluations of the achievement and retention of professional military standards of the forces under his command. The CDF would be a member of the Acquisition Management Board, and the Defence Policy Committee to contribute military professional advice on defence policy and strategy issues and the military capability requirements of the NZDF.

Service Chiefs

J.12 The roles and responsibilities of the current Chiefs of Staff for the Royal New Zealand Navy, the New Zealand Army, and the Royal New Zealand Air Force would be modified. As part of a significantly more joint NZDF, the Service Chiefs would be responsible for:

- contributing professional advice from a professional land, maritime or air perspective into strategic management processes;
- managing the activities to recruit, select and train personnel, and maintain equipment and infrastructure that supports or is contributed to front-line force elements so that such units can achieve and hold a level of capability for assignment to the Joint Forces Commander NZ when required for operational missions;
- assessing and advising on the overall effectiveness of forces and formations for which they are accountable; and
- maintaining the highest professional standards and ethos of forces and formations for which they are accountable; and

J.13 The Service Chiefs would retain small personal advisory and support offices as part of the DC HQ, although most of their current HQ staffs would be incorporated into the joint Defence Strategic Staff. These staffs, working in joint, integrated structures, would contribute single Service, and maritime, air and land perspectives into the common work environment of that Staff. Service Chief would tender their professional advice directly as members of the Strategy and Chiefs of Staff Committees.

J.14 The Service Chiefs would retain the right to request access to the Minister. The right would involve formal notification of CDF. It is expected this would only be exercised in exceptional circumstances, since the Minister's

participation in the Strategy Committee, which would include the Chiefs as members, would give them frequent opportunity to express their professional views at the highest level.

Joint Forces Commander NZ

J.15 The Joint Forces Commander NZ (JFCOMNZ) would retain his current roles and responsibilities assigned under the C² Project and in the subsequent directives issued to him by CDF. It is expected that these responsibilities would evolve further following any review of alignment of output responsibilities between the CDF, the Chiefs of Staff, JFCOMNZ and the Land, Maritime and Air Component Commanders recommended in Chapter 7.

J.16 Regardless of the outcome of any realignment of output responsibilities, as the Operational-level commander, JFCOMNZ has relevant inputs to make in respect of the strategic management of the Defence Organisation, (for example in respect of the effectiveness and capability of current forces assigned to him). To provide these inputs, the JFCOMNZ would be a member of the Strategy Committee. He would also be an adviser to the National Security Officials Committee if this body were established.

Vice Chief

J.17 The NZDF would have a Vice Chief who would be the second-ranking military officer, after CDF. He would be deputise for CDF in his absence. The role would reflect his or her strategic level responsibilities within the Defence Corporate Headquarters.

J.18 The Vice Chief would be responsible, with the Deputy Secretary of Defence, to the CDF and the Secretary for providing integrative and joint leadership of the Defence Strategic Staff and its activities and results. The Vice Chief would also be responsible for maintaining consultative arrangements with the Service Chiefs in respect of the activities of the Defence Strategic Staff, and to include their input where relevant into the Staff's work priorities. To carry out these roles, the Vice Chief would be a co-chair the Defence Capability Committee with the Deputy Secretary. He would be a member of the Strategy Committee, the Chiefs of Staff Committee, and Defence Policy Committee, and the Acquisitions Management Board.

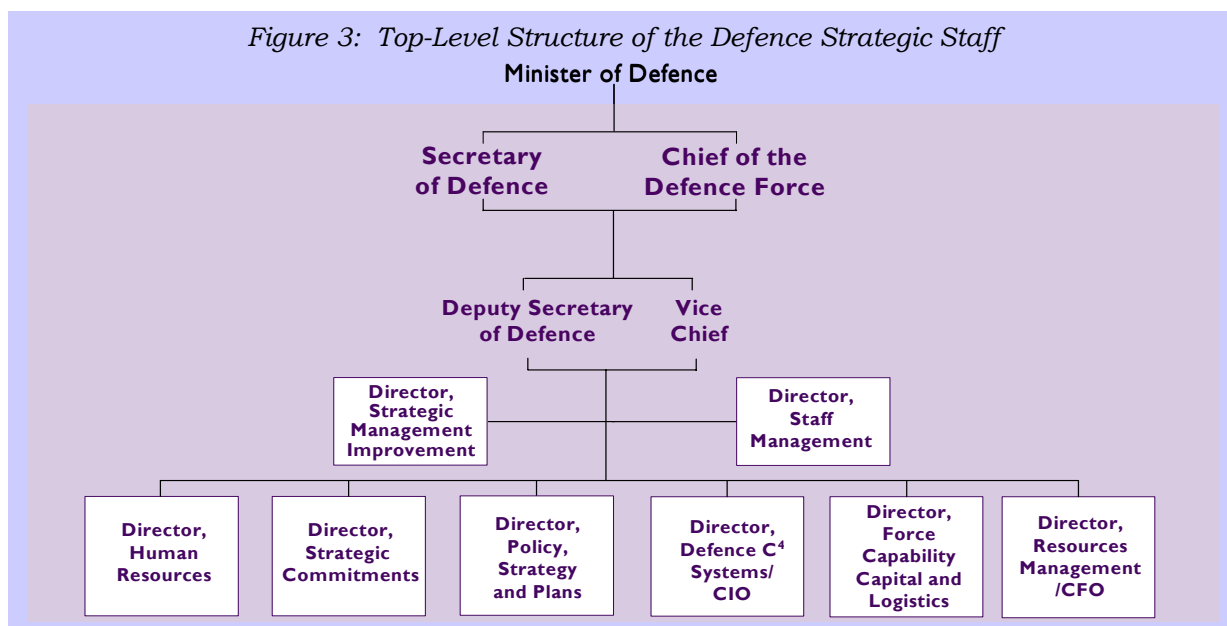
Deputy Secretary of Defence

J.19 The NZDO would have a Deputy Secretary of Defence who would be the NZDO's second-ranked public servant. He or she would deputise for the Secretary in his absence. With the Vice Chief, the Deputy Secretary would be responsible to the Secretary and the CDF for integrative leadership, and the results, of the Defence Strategic Staff. The Deputy Secretary would also be responsible for maintaining consultative arrangements with the Heads of

Acquisition Services and Defence Evaluation to ensure their input into the Defence Strategic Staff's work activities. To carry out these roles, the Deputy Secretary would co-chair the Defence Capability Committee. He would be a member of the Strategy Committee, the Defence Management Board, the Defence Policy Committee and the Acquisitions Management Board.

Defence Strategic Staff (DSS)

J.20 A joint, integrated staff would be created of civilian and military staff members in staff units aligned to the major strategic management processes outlined in Annex H. This staff would be drawn from the current staffs of the MoD divisions and the single Service and CDF staffs of the HQ NZDF. The DSS would be the critical hub through which most of NZDO strategic management processes and products would be staffed and managed. It would support the work of the Strategy Committee, the Defence Policy and Defence Capabilities Committees and the Acquisition Management Board. The top-level structure of the DSS is outlined in Figure 3 below, and indicative activities for each component of the structure are presented at Appendix A to this Annex.



Defence Human Resources

J.21 A Defence Human Resources Directorate would be responsible for human resources policies for both NZDF military and civil staff and MoD staff members, future human resources requirements planning, and professional education policy and planning.

Strategic Commitments

J.22 A Strategic Commitments Directorate would be responsible for operations monitoring to support to CDF's and the Secretary's advice

responsibilities, and advice to the National Security Committees, strategic-level intelligence; strategic-level contingency and immediate planning; inter-departmental relationship management for crisis responses; NZDF Joint/Combined exercising/training policy and planning, and military preparedness reporting and analysis.

Policy, Strategy and Plans

J.23 A Policy, Strategy and Plans Directorate would be responsible for formulating defence/military policy and strategies, and defence planning guidance documents and papers to support the CDF's and Secretary's advice responsibilities and advice to the National Security Committees; international defence relations policy, strategies and management; conducting futures assessments and generating security scenarios, constructing and integrating/updating the Long-Term Development and Outputs Resource and Action Plans.

C4 Systems

J.24 A C4 Systems Directorate would be responsible for policy, planning and assurance of the Defence Communications and Information Environment, the Joint Information Support Agency, and managed acquisition for all C4I systems for the Defence Organisation, including the Defence Corporate HQ. The NZDO's Chief Information Officer would head the Directorate.

Force Capability, Capital and Logistics

J.25 A Force Capability, Capital and Logistics Directorate would be responsible for setting military capability requirements, analysing military capability gaps, testing options and refining solutions, through-life costing estimation and analyses, capital and resourcing plans for capability solutions, war-gaming, simulation and operational analyses to support requirements specification and development; oversight and management of the Defence Organisation's science and technology research policy and activity; and strategic-level logistics policy and planning to support the Joint Logistics Organisation.

Resource Management

J.26 A Resource Management Directorate would be for resources allocation programming for the Defence Organisation's Development and Outputs Plans, preparing budget estimates, forecasting and reporting, internal audit and risk management, financial accounting, treasury function, and financial management systems development. The Chief Financial Officer of the NZDO would head the directorate.

Defence Strategic Staff Management

J.27 A Staff Management Directorate would integrate most overhead support functions from the existing MoD and HQ NZDF. This staff would be responsible for the overhead support to the Defence Strategic Staff (and also

Acquisition policy and Defence Evaluation staffs). It would provide financial management and services for Defence Strategic Staff budgets and management plans; a Secretariat for the NZDO Committees structure; an administrative support centre; military and civilian personnel management services for Defence Strategic Staff personnel; a Security Office, and management of buildings and facilities for the Staff.

Strategic Management Improvement

J.28 A Strategic Management Improvement Directorate would be responsible for continuous organisational and management practices improvement, knowledge management for the NZDO, and public communications, and political/community liaison. The head of this Directorate could be denoted as the Chief Knowledge Officer.

Working Practices

J.29 Both within and between each staff area of the Defence Strategic Staff, the selected groupings support and encourage cross-functional teamwork collaborative approaches. Key specialists from related functions would be drawn together – for example, costing analysis on the one hand, and war-gaming, and operational analysis on the other, are both brought into the directorate with responsibility for setting military requirements and developing solutions to meet those requirements. More logical internal alignments, and bringing civilian and military perspectives and inputs into one integrated structure would improve information flows, by removing vertical boundaries.

Defence Evaluation

J.30 The Defence Corporate Headquarters would include a Defence Evaluation Staff. This would be a joint and integrated staff, working through a Head, Defence Evaluations, directly to both CDF and the Secretary. This staff would assist the CDF and the Secretary in meeting their respective responsibilities for evaluation of outputs performance and management efficiency, the Secretary's prime responsibility for evaluating the effectiveness of defence contributions to national security outcomes, and the CDF's responsibility for evaluating the achievement and retention of professional military standards.

J.31 The Defence Evaluation Staff would be responsible for evaluating:

- the impacts upon defence policy over time of the annual delivery of NZDO outputs and capital investments and other capability enhancements;
- the cumulative impacts of defence policy achievements and NZDO outputs upon progress towards achieving strategic outcomes for national security;
- NZDO (strategic-level) efficiency and effectiveness; and
- Professional standards and outputs performance of NZDF current military capabilities.

J.31 A military sub-unit headed by the NZDF's Senior Military Evaluator would operate within an integrated civilian-military Defence Evaluation Staff. It would be responsible for an annual programme of professional military evaluations under simulated operational conditions of selected NZDF capabilities. This sub-unit would also be responsible for contributing relevant military expertise to the wider policy, outputs and efficiency/effectiveness evaluations carried out by the Defence Evaluation Staff.

J.32 While primarily focused on assessments of defence outputs and defence policy results, the Defence Evaluation Services area should remain separate from the Defence Strategic Staff's defence policy advice and guidance, and outputs and investment proposals tasks. This is an important distance in terms of independence of evaluation. It is also important because it is recognised that the demands of defence policy, outputs and investment planning activities in the Defence Strategic Staff are likely to be intense and if Policy/Outputs Evaluation staff were one component of the Defence Strategic Staff, there is a risk of them simply becoming part of that staff.

J.33 At the same time, to ensure the maintenance of strategic capacity for such focused evaluations, the Defence Evaluation Staff would be made up of qualified civilian and military staff, with experience and qualifications in the Policy, Strategy and Plans Directorate of the Defence Strategic Staff as prerequisite. Rotations between the two staffs would cross-fertilise both areas with personnel with knowledge of what is required in both sets of staff processes.

Equipment Acquisition Services and Advice

J.34. The management of acquisition of military equipment with a value of more than \$NZ7m would be carried out by an integrated civilian-military staff organisation, accountable to the Secretary of Defence. The role of an Acquisition Services Division would be to provide project management services for major military purchases. This service should be focused on supplying in the most affordable manner, equipments that most closely meet the military performance needs specified by the Defence Strategic Staff and agreed by Government.

J.35 An Equipment Acquisition Services Division would also be responsible for providing "acquisition advice to support defence investment cases for major equipment", with clearly defined procedures to ensure that this advice is provided at an appropriate point in the decision-making process on equipment choices, once performance goals for military equipments to meet capability requirements are firmed up. This advice should be restricted to issues of acquisition feasibility, strategies and plans and playing a leading role in evaluating proposals and tenders.

Joint Logistics Organisation

J.36 A Joint Logistics Organisation would provide a unified framework for defence logistics management functions. While achieving efficiencies in common and joint logistic support to the three Services, it would also include centres of excellence appropriate for the specialised support needs of each Service, for example, air worthiness certification for RNZAF air assets.

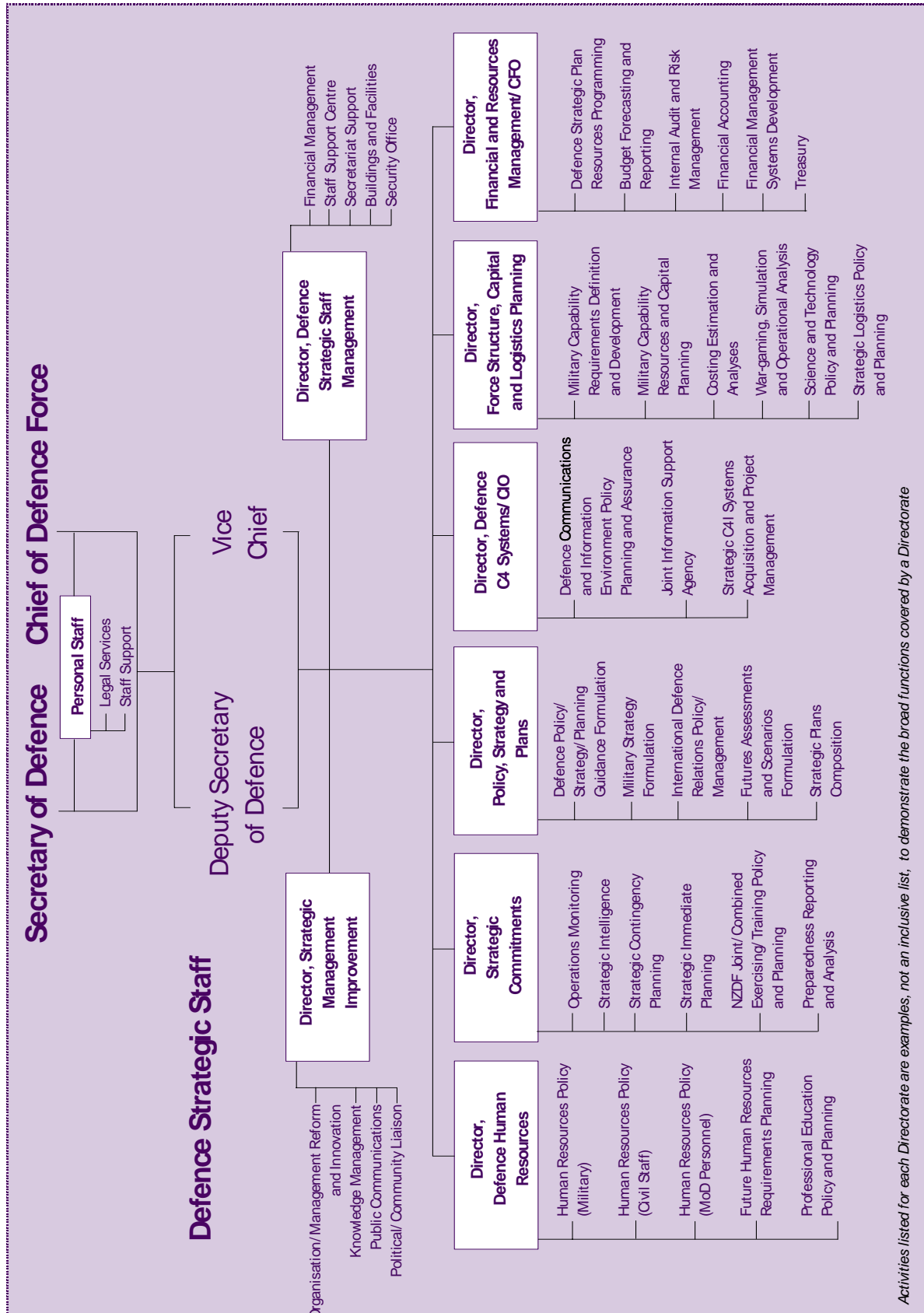
J.37 A Joint Logistics Organisation would be responsive to the needs of single Services as they generate and sustain force elements at directed levels of capability, and to the needs of the Joint Forces Commander New Zealand, in generating and sustaining operational levels of capability. In acquiring through-life logistics support for equipment once in-service, a Joint Logistics Organisation would be expected to develop and maintain where appropriate effective partnering relationships with the Equipment Acquisition Services Division

Joint Forces Headquarters

J.38 The current set of responsibilities as defined through the 2000-2001 C2 Project, and as has been modified over the settling in period since the JF HQ was established in July 2001 for the Joint Forces Headquarters would be retained with until full consideration was given to redefinition of NZDF outputs responsibilities as proposed in Chapter 7.

J.39 As with the need to achieve a improved alignment between NZDF internal and external outputs and those managers assigned responsibility for them, it would also be necessary to achieve an improved alignment between the responsibilities and tasks of the JF HQ functional branches, and a Defence Corporate Headquarters.

Appendix A: Defence Strategic Staff Activities



Activities listed for each Directorate are examples, not an inclusive list, to demonstrate the broad functions covered by a Directorate

ANNEX K:

AN APPROACH TO SEPARATED RESPONSIBILITIES AND ACCOUNTABILITIES BETWEEN THE SECRETARY AND THE CDF

K.1 Should it be necessary to formalise single-line rather than shared, prime and sole accountabilities and responsibilities between the Secretary and the CDF, the review has referred to the strategic management processes identified in Annex H as the basis for recommending single-line accountabilities, including new accountabilities to strengthen the Secretary's defence policy advice roles.

K.2 Using generalised functions or existing organisational structures to define roles tends to reinforce vertical structures. Responsibilities and accountabilities become aligned to those structures. If these structures are themselves wrongly aligned, using them to define roles will simply compound the error. By contrast, business processes are better suited for defining roles because they focus on results to be achieved and reflect the work that the overall defence organisation for which an individual can be made responsible and held accountable.

K.3 I also note the requirements and intent of the Public Finance Act in aligning responsibility and accountability of resource management with the responsibility and accountability for departmental/ agency outputs. Bearing all these issues in mind, the Review proposes the following refined single-line accountabilities if the concept of shared/prime/sole accountabilities are not considered acceptable.

Secretary Responsibilities and Accountabilities
<ul style="list-style-type: none">• Advice on Defence Policy and Strategy• Production of Strategic Environmental Scans• Production of Security Scenarios and Planning Guidance• Advice on International Defence relations policy/ strategies at the Government level• Specification of Military Capability Requirements• Advice on Defence policy effectiveness of proposed annual/multi-year military outputs and long term development plan proposals• Resource management of Ministry of Defence Outputs• Acquisition of major equipment/ upgrade/ refurbish major equipments (>\$7m)• Advice on Defence policy implications of military response options

- Advice on the Defence policy effectiveness of military outputs purchased – policy, performance, cost
- Evaluation of effectiveness and efficiency of New Zealand Defence Force functions and activities
- Report on financial governance/ non-financial performance against Ministry of Defence outputs
- Advice on effectiveness of NZDF/MoD contributions to National Security Outcomes

CDF Responsibilities and Accountabilities

- Command of the NZDF, generating military forces to agreed levels of performance
- Advice on Defence Policy and Strategy
- Advice into Strategic Environmental Scanning/analysis
- Advice on International Defence Relations and strategies at the Military level
- Analysis of Military Capability Gaps, and development and selection of Military Capability solutions
- Integrated Plans for Capital and Military Outputs Expenditures and Milestones
- Resource Management of New Zealand Defence Force Outputs
- Introduction into Service and maintenance of military equipment, lands and facilities
- Support, supply and maintenance of military capabilities
- Advice on military response options to security crises
- Strategic direction and conduct of joint operations
- Evaluation of Professional Military Standards
- Evaluation of NZDF Outputs delivery
- Report on financial governance/non-financial performance against NZDF outputs

Definitions

Resource Management

Resource management is defined as the allocation and management of resources (primarily financial) to deliver results

Resources Allocation

the macro-level responsibility and accountability for allocating resources (finance) against agreed outputs, functions or capital item, to purchase an agreed delivery of service, level of performance or capital item and is an integral component of Resources Management

Financial Management

Responsibility and accountability for the detailed internal financial management (budget, investment/ expenditure, reconciliation, cost capture) of a resource allocation against the intent of purchasing the agreed product and is integral component of Resources Management

Capability Requirements Specification

Analyses and assessments to determine the military capabilities required by the New Zealand Defence Force to meet defence policy objectives over the longer term.

Capability Development

Analyses and assessments to identify current capability deficiencies and mismatches, identify options and develop detailed, costed solution profiles to address deficiencies and mismatches.

Equipment Acquisition

Preparation of business cases for investment in equipment that meets the specifications of capability solution profiles, negotiation of contracts and management of projects to acquire equipment.

Capability Commissioning

All actions to take receipt of new equipment, provide integrated logistics support for new or substantially changed capabilities.

ANNEX L:

CULLED STRUCTURAL OPTIONS

L.1 A wide range of structural options for defence organisations can be considered. For each option, there are many variations where one or more features can be varied from the option's central defining feature or features. Every option will have its own utility and advantages and disadvantages.

L.2 It has been beyond the practical scope of this review to examine all conceivable options. The following note is included in the Annexes to this report merely as an indication that possibilities other than the one incorporated in the text have been looked at.

Option 1: A National Security Organisation, headed by a Minister for National Security

L.3 I have noted the changes in national and international security over the last decade, including the watershed event of the Sept 11 attacks in terms of transnational threats. I have commented on the need for a much more comprehensive approach to national security. I have taken account of the Parliamentary Select Committee's 1999 Defence Beyond 2000 report's observations in respect of the broader utility of military forces for the spectrum of operations other than war. I have also noted the need for greater co-ordination and communication between a number of departments and agencies with a national security interest in the course of carrying out this review

L.4 One approach to addressing these needs might be an integrated "super-department" that would draw together the Ministry of Defence, the New Zealand Defence Force, and the national security components of other departments, for example, the Fisheries resource protection and enforcement, the arms control and international security division of the Ministry of Foreign Affairs, Customs and Quarantine Services, the Secret Intelligence Service, the Government Communications Security Bureau. A Minister for National Security, possibly supported by subordinate Ministers, could head such a "super-department".

L.5 There are a number of difficulties with such a concept. They include:

- determining which current government departments and agencies should be included in a super-department on a permanent basis;

- potentially damaging effects on the strategic capacity of retained departments and agencies by drawing off parts into a super-department (skilled personnel, overhead support requirements, etc);
- creating a very wide span of control for a Minister of National Security, with multiple complex sub-areas requiring high levels of knowledge;
- highly dissimilar organisational cultures would be drawn into the super-department creating potential for debilitating conflict and competition; and
- significant expense in separating off components from current departments and agencies, and creating a “super-department”.

L.6 The purpose of such a “super-department” and Minister would be to ensure that proper co-ordination and management of resources for all aspects of national security. This goal can be achieved, without the necessity of formally “re-grouping” such a wide variety of departments, through increasing the emphasis on a whole of government approach to security vulnerabilities, through high level inter-agency co-ordination, with a National Security Committee and officials committee providing the necessary proactive policy/strategy direction. Interoperability between relevant departments can be forged through consensus and common understanding, without diluting primary responsibilities.

Option 2: A Single Unified Defence Force

L.7 Question marks are routinely raised over the requirement to retain separate military services based on land, maritime, and aerospace operating environments. It is often argued that there would be significant savings, particularly in duplicated overhead and support areas if the Royal New Zealand Navy, the New Zealand Army, and the Royal New Zealand Air Force were merged into one unified military service. Other advantages are put forward, including greater flexibility in using military personnel, fewer senior appointments, removal of vertical hierarchies and cultures.

L.8 The Canadian Forces embarked on this total integration option – unification – in the early 1970s. After three decades, the concept was re-evaluated, and the Canadian Forces returned to maintaining three military services, within a broader joint strategic and operational-level framework.

L.9 The Canadians found that their experiment had demonstrated there had been an insufficient understanding of the crucial dynamics of conducting military operations and managing the defence function. The expected benefits and synergies were not evenly spread across all levels of military operations and defence management activities, (strategic national, strategic military, operational and tactical) and across all types of military activity (combat, combat support and combat service support elements).

L.10 At the tactical level of combat and combat support activities of military operations, performance is fundamentally environmental-specific. Even though such forces are working within a broader joint environment, and receive support from that broader environment, for the soldier, sailor, or aircrew member, the immediate operating environment defines their work, and the dangers and risks they must face. The ethos and culture needed to support self-sacrificing performance in high-risk situations is centred upon the professional skills and knowledge particular to that immediate operating environment.

L.11 Unification at the tactical level of military forces are likely to lead to significant compromises in professional skills and knowledge and performance standards. Over time, the compromises at the tactical level will inevitably have a knock-on effect at the operational and strategic levels, as members progress to those levels with less experience and knowledge in their tactical-level operating environments to contribute at these higher levels of leadership and management.

L.12 The benefits and synergies of jointness are most effectively achieved at the operational and strategic national and strategic military levels. The Canadian experiment, their follow-on re-organisation, and the evolutionary track taken by other relevant international peers shows that these benefits can be gained without amalgamating military services. This evolutionary track involves introducing and embedding joint structures and organisational concepts into strategic and operational levels of a defence organisation. At these levels, significant gains in efficiency, reduced duplication, synergy and interoperability are achievable.

L. 13 The NZDF has already started, albeit later than the defence organisations of other strategic partners, to follow this path with the establishment of the Joint Forces Headquarters, and the position of the Joint Forces Commander, New Zealand. In 2002, the NZDF is exploring the feasibility of moving to a Joint Logistics Organisation, and both of these concepts, along with other joint structure concepts that have been built into the review's model outlined at Annex J. These initiatives, together with others suggested in this review, are more likely to achieve the Government's objectives than attempting to unify the three Services.

Option 3: A Single Integrated Civil-Military Defence Organisation with a single Departmental Head

L.14 This structural option would be based upon a military force supported by a civil-military strategic-level organisation, with a single Departmental head, who would carry both command responsibility for the military force and could be accountable also for defence policy and strategy, the long-term strategic capacity of the military force and all aspects of departmental management and operations. Two possibilities exist for a single Departmental head – either a military officer or a civilian public

servant. Examples of this arrangement suggest that military officers typically head such Defence organisations – for example, France, Italy, Germany, Singapore.

L.15 This option has two components – a single integrated civil-military defence organisation, and such an organisation being headed by a senior military officer or civilian official. I see many advantages in moving to an integrated civil-military defence organisation, particularly at the strategic level, and such strategic-level structures are incorporated into the review. In the context of this note, the issue of particular concern is the concept of a single Departmental head.

L.16 Concentrating responsibility and accountability for the overall defence organisation and national military force in a single military officer is not a concept that sits easily with New Zealand's political traditions, or national values or culture. By the same token a civilian lacking personal professional knowledge in evaluating military operational risks, as the sole head of the defence command structure would be unacceptable to military professionals. New Zealand has followed the Anglo-American tradition of seeking pluralism of views in national security decision-making, with the practice of professional advice being provided in a balanced way by both a senior civilian public servant and the most senior military officer. This arrangement recognises that there are risks of incomplete advice being tendered to Government with a sole principal adviser, be that person a military officer or a civilian public servant. The concept of two senior advisers and leader/managers recognises the particular professional skill sets, knowledge and experience that a military officer brings to strategic command, management and advice roles. Equally, it recognises the skill sets, knowledge and experience that a senior public servant qualified in national security affairs, brings to departmental leadership, management and advice roles. Given that some form of duality is best suited to our circumstances, and has been accepted for more than 40 years, there would have to be major advantages to warrant a move to a defence organisation with a single head. Such advantages are not apparent at this time.

Other Precedents

L.17 Other structural options have been considered, and summary points are highlighted below.

New Zealand Fire Service

L.18 The structural arrangements and accountabilities of the New Zealand Fire Service include a civilian Fire Service Commission chaired by a major public figure, other external civilians and the professional Chief Fire Officer. A mixed civilian/professional fire service officer Secretariat supports the Commission. The Chairman of the Commission is responsible for negotiating budgetary matters and for resource management. The Department of Internal Affairs provides a policy linkage between the Government, the Commission and the Fire Service. This approach if applied

to the Defence Organisation, would place the operational force at some distance from the Government and it is almost certain both Ministers and Parliament would be uncomfortable with such a weakening of political control.

New Zealand Police

L.19 The structural arrangements and accountabilities of the New Zealand Police are based around a single organisation, single professional officer CE (the Police Commissioner) reporting direct to a Minister, without a civilian department, or CE. There is no legal requirement that the Commissioner has to be a sworn police officer, but there has been only one exception in the last 50 years (even though Governments have considered the possibility more than once in the past decade). If this model were applied to the Defence Organisation, the head would be a military professional. While there would be nothing to stop a military officer as a single head from employing civilians in relevant positions in the defence organisation, there would be a risk that over time, such civilian input and presence could be marginalised. It is also to be questioned whether Ministers or Parliament would be happy with the possible emergence of a doctrine of “military operational independence” to match the Police Commissioner’s “constabulary independence”.

Ministry of Foreign Affairs and Trade

L.20 The structural arrangements and accountabilities of the Ministry of Foreign Affairs reflect the fact that the Ministry operates under two Acts – one for domestic purposes (State Sector Act), and one for overseas (Foreign Service Act). In the Defence situation, this would enable the domestic-based Ministry to be headed by a civilian public servant, and the NZDF, when deployed overseas, to be commanded by the CDF through the Joint Forces Commander NZ. All military staffs would have to be seconded to the Ministry with responsibilities to the Ministry CE and to their military Services. There would be a grey area as to the status of the bulk of the NZDF while it was based in New Zealand and to the relationship between the CDF as its commander and the Ministry CE. This approach contains the same problems outlined in Option 3 above. Furthermore, there is a risk for the Joint Command, and the remainder of the NZDF to be distanced from the domestic Ministry, causing the same problems of separating policy and operations alluded to earlier in the review.

L. 21 Such an approach probably works successfully in MFAT because essentially only one profession and one culture is involved. Because of this single entity situation, there is no argument as to who the CE should be, and it makes little difference organisationally whether Foreign Affairs staffs are at home or abroad. The case would be very different in Defence.

Ministry of Health and District Health Boards

L.22 The structural arrangements and accountabilities for the Health function include a Ministry of Health with a single civilian head, responsible for health policy advice, output definition, funding allocation, standards setting and evaluation. The District Health Boards are responsible for applying the resources provided and managing the professional staff to produce health services.

L.23 In Defence terms, this approach would be likely to perpetuate the problems identified by the submissions to this review. It would also involve the risks associated with Option 3, entrench the distance between policy and operations, and sever the alignment between resource management responsibility and accountability. It is not a starter.

ANNEX M:

ATTRIBUTES AND PRACTICES OF HIGH PERFORMING ORGANISATIONS

M.1 I have asked for this Annex to be prepared to indicate the developments that are taking place in organisational thinking as applied to the achievement of “jointness” in the business world. It highlights features of high performing public and private sector organisations in both delivering results and in how they adapt and situate their structures, cultures, policies and processes to cope with expected future demands and challenges. These features should characterise any new organisational model for New Zealand defence.

M.2 The most obvious feature of organisations is their structural arrangements. However, such arrangements are only one aspect of a much more dynamic picture of capacity that underwrites high, average or low performance. A variety of features contribute to organisational capability and each works with all others to create a synergy. In fact, high performing organisations are evolving away from emphasising organisational charts and structures because as work changes more frequently, such structures (and their silo-ed job descriptions) become obstacles to using personnel resources to best effect.

M.3 This Annex examines a number of these key features including Corporate Culture and Values, Governance Structures and Mechanisms, Organisational Focus, Management Structures and Processes, Structural/Process Alignment, and Interoperability with Strategic Partners.

Corporate Culture and Values

M.4 An organisation’s culture comprises the shared philosophies, beliefs, assumptions, ethics, values, standards and patterns of behaviour of its members. It encompasses shared ways of thinking about the problems of the organisation. Culture is the binding glue of all other features of an organisation. This dynamic has become particularly apparent when despite clear change management plans, new structures and processes, etc, organisations have failed to achieve the transformation they sought because they did not address culture change.

M.5 An organisation’s culture lies at the foundation of high performance. Three features typify the culture of high performing organisations:

- clearly stated and strongly adhered to corporate values such as high levels of commitment to the organisation, to teamwork, collaboration, contribution and commitment, innovation, continuous learning and improvement, openness and honesty, reliability, etc;
- a common vision of the purpose of the whole organisation shared by all members, and the direction in which the organisation is heading, and a continuous commitment to sustaining both the shared nature of the vision, and the relevance of the vision to both internal members, and external clients and stakeholders; and
- policies for recruiting, selecting, paying, training, developing and organising the organisation's workforce that sustain and reinforce corporate values.

Governance Structures and Mechanisms

M.6 Governance mechanisms are a key aspect of an organisation's control system. They provide the processes and vehicles through which direction is provided on actions to be taken, and through which decisions are taken. They define the roles and authorities of individuals in the decision-making process. Most organisations usually have external governance mechanisms, managed by external stakeholders that incorporate internal leaderships and decision-making processes and participants.

M.7 Both in the private and public sectors, organisations have become increasingly more specialised, focusing on core activities. At the same time, the greater interdependencies have evolved between organisations associated with the delivery of particular public or commercial services and results. Consequently, effectiveness and efficiency of performance increasingly depends upon broader governance models that can reduce decision gridlock between different organisations with different but complementary responsibilities for delivering a shared result.

M.8 Governance structures for high performing organisations are characterised by:

- clearly-defined decision-making processes that identify the key decisions to be made, specify how decisions are made, and the decision roles (recommend, agree, input or decide) of participants;
- decision-making processes, timings and roles of participants are aligned with and are part of the organisation's strategic management processes;
- decision processes that manage and co-ordinate the points of intersection between different organisations that contribute larger solutions and results.
- decision processes and structures that are based on contributing partnerships between complementary organisations;

- high levels of factual data, understandings of cause and effect to support decision-making rather than instinct, authority or anecdotal evidence; and
- decision-making authority aligned as closely as possible with the participants responsible and accountable for the results of decisions.

Organisational Focus

M.9 Some organisations focus on high performance; others do not aim as high. The focus of an organisation will influence and be reflected in its internal management structures, processes, control mechanisms, and culture. For example, low performing organisations tend to focus on organisational survival and not making mistakes, managing internal disputes, and serving internal constituencies. By contrast, high performing organisations tend to be:

- highly mission and results-focused in terms of the needs of the organisation's external customers/clients and stakeholders;
- focused on continually enhancing understanding of what is valued by the organisation's external customers/clients and stakeholders and shaping the corporate culture to support a focus on all customers; and
- recognising the needs of internal customers that must be met as a priority if the organisation is to successfully achieve its mission.

Management Structures

M.10 Structures reflect organisational size, diversity of results being delivered, the content, complexity, interdependence and location of the work. Throughout the 19th and 20th century, organisations became increasingly structured around divisions based on type goods or services, and the functions to be performed in delivering them. Such structures were hierarchical and vertical. Separate cultures, knowledge, and work practices defined and sustained such divisions. Rank equalled authority. High value was placed on control, certainty, loyalty to unit, discipline, and contractual styles of management.

M.11 Such structures worked well in the past. However, they are less and less effective in coping with today's challenges and those of the future. The conditions that underpinned the efficiency of such structures (certainty, stability and excess of customer demand) no longer exist. Workforces and customer expectations and powers have changed. Globalisation and technological developments have also changed the start-up and performance demands for new and existing organisations.

M.12 The Public Sector in most advanced democracies, including New Zealand, has been buffeted by the same winds of change. The 1980s Public

Sector reforms were the first major recognition of these changing organisational dynamics. Unfortunately, the application of a “one-size-fits-all” formula for all organisations, in some cases, generated only partial improvements while introducing new rigidities and costs.

M.14 Operating in the contemporary public and private sector environment, high performing organisations have undertaken or are engaged in processes to reconfigure their organisational structures. Changes are designed to deal with the high transaction costs, gridlocks, and opportunity costs of vertical, hierarchical structures. Consequently, high performing organisations are developing management structures that are characterised by:

- expanding partnering networks with suppliers, government agencies, and private organisations, locally, regionally, nationally and internationally;
- a focus on building and communicating a powerful and compelling whole-of-organisation mission that gives all members of the organisation a clear and motivating reason for their commitment;
- a de-emphasis of vertical hierarchies that separate people, tasks, processes and places, by the persistent use, re-use, and reconfiguration of cross-functional, and cross-divisional teams focused on results to be delivered;
- re-organised groupings of subject matter specialists that support cross-functional teams, and develop and expand their specialist skills for continued contribution to the work of teams;
- less emphasis on rigid and minutely adjustable micro-managed control of processes and staffs, tactics of information with-holding, and greater emphasis upon setting of performance standards and results expectations;
- an emphasis on semi-permeable organisational boundaries achieved through re-aligned planning and budgeting processes;
- compensation systems, selection and promotion criteria, career paths, performance appraisals and training and development that focus on supporting organisational network/team rather than vertical structures;
- re-designed management and work responsibilities that are less specialised and more over-lapping;
- use of collaborative information tools, the use of knowledge transfer agents seeded in all parts of the organisation, and emphasis upon a knowledge management capability to share people, information and best practices across vertical hierarchies; and
- corporate values that stress collaboration over confrontation and competition, cross-functional skills and knowledge and the ability to contribute to teams, continuous learning and ability to apply learning to

new work; interpersonal relationship networks that cross the whole of the organisation.

Management Processes

M.15 An organisation delivers results through a network of interdependent value-adding processes. Processes are developed and used throughout an organisation as the vehicle through which inputs of resources and direction are translated into results. Processes delineate what inputs, and actions need to be taken to achieve results. They also contain additional information about control mechanisms such as decision-making points and types of decisions to be made, legal requirements, and the environmental constraints and opportunities in which processes are carried out.

M.16 As the strategic environment has become more complex, less predictable, and more variable for most organisations, high-performing organisations have:

- transformed their strategic planning processes into the processes by which the entirety of strategic management is facilitated;
- expanded strategic planning from a narrow focus to be the management integrator and co-ordinator for all organisational processes and results;
- examined the nature of results to be delivered and work to be undertaken to institute common processes where they are needed, and retain specialised and different processes where they are essential; and
- connected all work areas into strategic planning processes, and involved staffs in continual effectiveness assessments to prevent failure and enhance results, rather than managing only by focusing on correcting poor results.

Structure/Processes Alignment

M.17 Processes and structures are the two engines of organisational performance. If they are not running in harmony with each other, then, not surprisingly, performance is compromised if not stopped altogether. In the past, it was possible to achieve this essential harmony by synchronising processes to structures in organisations where there was particular processes that related only to one part of an organisation, and where there are few if any interdependencies between the parts.

M.18 However, in responding to today's changed operating environments, organisations have had to evolve the processes through which they generate results. Processes and their associated work-flows have become increasingly integrated. Co-ordinated inputs are required from many parts of an organisation. Equally, similar processes are often carried out by different parts of the same organisation, with each carrying out actions differently to

suit their particular culture, values, and internal priorities. This has led to duplication, increased cycle times for delivery of organisational-level results, limited learning opportunities, poor organisational-level information for resource allocation and priority-setting, etc.

M.19 As organisations have reconfigured and co-ordinated their processes to address these inefficiencies, they found that these new ways of working cut horizontally across the vertical structures. This resulted in an inability to maximise the best effect from horizontally intertwined work processes.

M.20 The dynamic has been well described by management educators Michael Hammer and Steven Stanton when they observed: *“The power in most companies still resides in vertical units and those fiefdoms still jealously guard their turf, their people and their resources. The combination of integrated processes and fragmented organizations has created a form of cognitive dissonance in many businesses: the horizontal processes pull people in one direction; the traditional vertical management systems pull them in another. Confusion and conflict ensue, undermining performance...we have seen a number of companies make the leap to process management...They have appointed some of their best managers to be process owners and they have given them real authority over work and budgets. They have shifted the focus of their measurement systems from unit goals to process goals...they have made fundamental changes to their cultures, stressing teamwork and customers over turf and hierarchy. They have emerged from all these changes as true process enterprises – companies whose management structures are in harmony, rather than at war, with their core processes – and they have reaped enormous benefits as a result”*. (Harvard Business Review, Nov-Dec 1999, pp. 108-109).

M.21 In harmonising and synchronising management processes and structures, high performing organisations used their processes as the lead driver. In doing so, such organisations have:

- recognised that reformed strategic management processes are not the cause of dysfunction and determined that such processes should not be simply overlaid on existing organisational units;
- reconfigured, but not necessarily replaced vertical organisational structures that share common processes, to be able to contribute effectively to cross-functional teams and to provide subject matter specialists to teams;
- made senior executives responsible not for vertical units, but for core strategic planning and management processes and accountable for the deliverables from each process; and

- evolved their internal control/decision-making processes and responsibilities across the organisation to recognise the collaborative nature of decision-making.

Interoperability and Relationships Management with Strategic Partners

M.22 A major feature of down-sizing, and “right-sizing” changes in the 1980s and 1990s focused public and private sector organisations on their “core” activities, functions, and performance results. In-house functions and results that were diverting resources and focus from the prime advantage of a business or public sector organisations were identified. Other options for delivery of these functions and results were adopted, including out-sourcing to third party organisations whose advantage lay in specialist skills, knowledge resourcing or location.

M.23 While performed by third-parties with greater efficiency and at less cost, many such functions still deliver products and services that are important inputs to the core tasks for businesses and public sector organisations. This has created an important set of inter-relationships between third-party providers of goods and services, and the customers of these goods and services. These a dependency relationships – each requires the other to act in good faith, and with “situational awareness” of the delivery challenges of the other.

M.24 At the same as strategic relationships are becoming a normal feature of modern business and public sector management, such relationships are also increasingly likely to have international and global dimensions on the one hand, and regionalised and localised dimensions on the other. Furthermore, functionally effective relationships are increasingly required between a mixture of national governmental as well as business organisations.

M.25 In high performing organisations, high priority is placed upon managing relationships with strategic partners, be they local, regional, national, international, multinational business, and/or governmental. This priority is reflected in efforts to:

- maintain a strong awareness of the partner business activity, and continuous assessment to identify ways in which own practices can be improved to assure seamless interactions with partners;
- develop interoperable, secure and responsive communications, data exchange, resources management systems with strategic partners; and

- develop and share similar or commonly-used processes and decision practices that allow easy integration into the decision-making processes of strategic partners.