



NEW ZEALAND DEFENCE FORCE

SUBMISSION TO MINISTER COVER SHEET

<b>Title</b>	POLICE REQUEST TO REMOVE PROTEST VEHICLES FROM THE VICINITY OF PARLIAMENT				
<b>Tracking No</b>	NZDF Tracking # 2022-033 <i>(for OCDF use only)</i>		Minister's Tracking # <i>(for Minister's office)</i>		
<b>Importance of the Issue</b>	High	Moderate	✓	Routine	
<b>Urgency for Attention/Sign-off</b>	URGENT		Request ministerial response by: <i>(include date if timing for sign-off is critical)</i>		
<b>Contacts</b>	Colonel s. 9(2)(g)(i)	Tel: s. 9(2)(a)	A/H: s. 9(2)(a)		
<b>Purpose</b>	The purpose of this note to is advise of a NZ Police request for New Zealand Defence Force (NZDF) support to assist in the removal of protest vehicles in the vicinity of the Parliament buildings, and to seek Ministerial direction for this support.				
<b>Recommendations</b>	<p>It is recommended that you:</p> <ul style="list-style-type: none"> <li>a. <b>Note</b> the request for NZDF support from NZ Police.</li> <li>b. <b>Note</b> this support can legally be provided under the Defence Act and the Land Transport Act.</li> <li>c. <b>Note</b> the limited number of vehicles and crews, and subsequent extended duration for the NZDF to complete the task.</li> <li>d. <b>Note</b> the range of risks including the low trained state of NZDF personnel and almost certain extensive damage to private property.</li> <li>e. <b>Note</b> my intention is <u>not to</u> accept this task as a result of the operational limitations and risk.</li> <li>f. <b>Provide direction</b> regarding conducting the task, should it be felt by Government that the NZDF should undertake the removal of protest vehicles from the vicinity of Parliament</li> </ul>				
<b>MoD/NZDF Consultation</b>	Required/Not required <i>(provide reasons):</i>				
<b>Minister's Comments</b>					
<b>Minister's Action</b>	Signed/Noted/Agreed/Approved/Declined/Discussion required				
	Referred to:				
<b>Minister's Signature</b>				<b>Date:</b>	

KR SHORT  
Air Marshal  
Chief of Defence Force

14 February 2022



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NEW ZEALAND

NTM 2022-033

14 February 2022

Minister of Defence

## **POLICE REQUEST TO REMOVE PROTEST VEHICLES FROM THE VICINITY OF PARLIAMENT**

### **Purpose**

1. The purpose of this note is to advise of a NZ Police request for New Zealand Defence Force (NZDF) support to assist in the removal of protest vehicles in the vicinity of the Parliament buildings, and to seek Ministerial direction for this support.

### **Task Request**

2. Police have requested the NZDF support to remove vehicles from the vicinity of Parliament; including from Lambton Quay, Molesworth Street, and Aitken Street. There are approximately 180 vehicles and trailers of different types. The request follows Police not being able to secure commercial operators to move the vehicles. Police would remain the lead agency throughout the operation, with NZDF limited to providing logistic support in the form of towing/recovery resources.

### **Legal Basis**

3. The NZDF would legally be able to conduct this task under Section 9(1)(a) of the Defence Act 1990 and, as we would be working under the direction of the Police, under Section 113(1) and 113(2)(c) of the Land Transport Act 1998.

### **Proposed Plan**

4. The Police intention is to secure the site around Parliament, removing the protestors and vehicles from the surrounding area; this will also include establishing a secure holding area for the vehicles once removed. Police will be responsible for cordon and security of both sites at all times. Police advise that the NZDF task will be limited to the conduct of vehicle removal by towing vehicles from their current location to the holding area. It is planned that NZDF will work in a secure environment, provided by Police, and there is no planned engagement by NZDF with the public or protestors.

5. The NZDF does not have purpose built equipment to complete this job. In assessing the task the NZDF considered the use of the 1089 Heavy Recovery Vehicles and a Heavy Equipment Transporter, with crews (of up to 12 personnel in total). The 1089 is not designed to tow locked vehicles (including with locked/engaged drivetrains/brakes) in an urban environment – using the 1089 as envisaged by the NZ Police will almost certainly cause significant damage to the vehicles being towed. They are solely designed for extraction of military vehicles (wheeled and tracked) over short distances in battlefield situations or field environments. Furthermore, due to Op PROTECT, the trained state of personnel in recovery is very low; the crews have no experience conducting an urban operation such as this.

6. Depending on the final number of vehicles on the site—as it is anticipated some may leave of their own volition—the removal of vehicles from the Parliament site could take a number of days. Based on existing Op PROTECT commitments and availability of staff the soonest the NZDF will be able to respond is 12 February.

### Risks

7. There are a range of risks to the NZDF. They have been assessed and where possible mitigated. They are as follows:

- a. **Experience and Training of NZDF Personnel.** The trained state of the small number of heavy vehicle recovery crews is very low due to the ongoing involvement in Op PROTECT. Further training will be required before my personnel will be able to safely and effectively undertake a task such as this.
- b. **Damage to Private Property.** It is almost certain that there will be extensive damage to private property, including vehicles and possibly streets/roads. There is a risk that the NZDF, or its personnel, would be subject to legal claims for any damage that occurs to vehicles in the towing process; particularly as NZDF does not have immunity under the Public Service Act from civil liability for good faith actions or omission in the performance or exercise of duties or powers, as is held by many agencies. Additionally NZDF cannot rely upon the immunities conferred upon the NZ Police. This could be mitigated by asking Ministers for the Crown to accept vicarious liability for the damage our people would cause, however this would not negate NZDF reputational risk.
- c. **Protest Escalation.** There is a risk that NZDF heavy recovery personnel may be subject to verbal/physical abuse should protest action escalate or the cordon be breached. NZ Police remain lead agency and responsible for the security and safety of NZDF personnel. However, in the event that NZDF personnel are confronted our personnel will rely upon New Zealand domestic law provisions for self-defence creating additional legal and reputational risk.
- d. **Reputational Risk.** It is probable that the employment of the NZDF in a response to civil protest action will negatively impact the reputation of the organisation and government. This risk is compounded by the damage to property likelihood. Therefore, while not legally required, noting my assessment of the operational limitations, ministerial direction is sought to undertake this task.
- e. **Waiving Post-MIQ Stand-Down.** Currently I impose a seven day stand-down period on all staff completing duty at MIQ, in order to reduce the risk of spreading COVID-19 within the NZDF. The recovery crew will need this requirement waived to be able to commence work from Saturday (12 Feb), rather than Friday next week (18 Feb). While infection prevention protocols have been followed while working at MIQ, this does increase the risk of these individuals being a vector for COVID-19. In order to mitigate this risk, these individuals will be limited in their interactions with other NZDF personnel.

## Recommendations

8. It is recommended that the Minister:
  - a. **Note** the request for NZDF support from NZ Police.
  - b. **Note** this support can legally be provided under the Defence Act and the Land Transport Act.
  - c. **Note** the limited number of vehicles and crews, and subsequent extended duration for the NZDF to complete the task.
  - d. **Note** the range of risks including the low trained state of NZDF personnel and almost certain extensive damage to private property.
  - e. **Note** my intention is not to accept this task as a result of the operational limitations and risk.
  - f. **Provide direction** regarding conducting the task, should it be felt by Government that the NZDF should undertake the removal of protest vehicles from the vicinity of Parliament



**KR SHORT**  
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