

## In Confidence

Office of the Minister for National Security and Intelligence  
Cabinet External Relations and Security Committee

## Charting a new path for Aotearoa New Zealand's national security: Strengthening the design of our machinery of government (paper 2 of 2)

### Proposal

- 1 Following Cabinet's response to recommendations of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain on 15 March 2019 (the Royal Commission) in November 2021, this paper seeks agreement to the principles and scope of the work programme to strengthen machinery of government arrangements for national security, informing advice to Cabinet in late 2022 and 2023 on functions, powers and form.
- 2 It should be read alongside a companion paper, which sets the overall direction: *Charting a new path for Aotearoa New Zealand's national security: Developing our first National Security Strategy (paper 1 of 2)*.

### Relation to government priorities

- 3 This proposal is an essential part of the Government response to the Report of the Royal Commission. The 2020 Speech from the Throne outlined the importance of responding appropriately to the Royal Commission.
- 4 This work also aligns with Government's priorities to lay the foundations for a better future, creating a New Zealand where all people feel safe; to strengthen the Māori-Crown relationship; and to be a Government for all New Zealanders. This is a high priority for my National Security and Intelligence portfolio, as expressed in my priorities letter to the Department of the Prime Minister and Cabinet (DPMC).

### Executive Summary

- 5 The Royal Commission made three recommendations for the structure of New Zealand's national security: a Minister be given responsibility and accountability to lead and coordinate the counter-terrorism effort (**recommendation 1**); establish a national intelligence and security agency that is well-resourced and legislatively mandated to be responsible for strategic intelligence and security leadership functions (**recommendation 2**); and investigate alternative mechanisms to the voluntary nature of the Security and Intelligence Board (SIB) (**recommendation 3**).
- 6 In November 2021 Cabinet agreed that DPMC should consider these recommendations and the broader intent of the Royal Commission's report,

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across all national security risks, threats and opportunities, and provide analysis on the form necessary to embed those changes.

- 7 This paper seeks agreement to the principles and scope of a work programme for machinery of government change to respond to the Royal Commission, and enable implementation of a new National Security Strategy (Strategy).
- 8 Our existing system is a distributed model which relies upon mechanisms that do not impose formal responsibilities or specific accountabilities (for example, through ODESC or the “convening” role of DPMC) to support coordination across national security, including natural hazards. The Royal Commission identified the limitations of these structures – particularly in relation to the lack of clear accountabilities to manage threats and risks. Additionally, as discussed in Paper 1, a review of national security strategic policy settings (the Policy Review) has identified the constraints that arise from the system’s focus on *all hazards, all risks* as the defining scope for national security.
- 9 We now have an opportunity to set up our system for the future, building its effectiveness, accountability and inclusiveness, and bolstering our national security as a foundation for wellbeing. I recommend the following core principles for this process – to:
  - 9.1 build on the content and recommendations (both explicit and implicit) of the Royal Commission;
  - 9.2 consider New Zealand’s broad range of national security threats, risks, and interests, our unique operating environment, and the protection of New Zealanders at home and overseas from threats that would cause them harm;
  - 9.3 develop thinking:
    - 9.3.1 collaboratively with the national security system agencies and in engagement with wider communities;
    - 9.3.2 recognising the principles of and the government’s obligations under te Tiriti o Waitangi; and
  - 9.4 ensure the work aligns with wider policy settings including the review of strategic policy settings and development of a Strategy.
- 10 The work will consider a range of options to:
  - 10.1 strengthen Ministerial accountabilities and engagement in national security and intelligence;
  - 10.2 enhance governance and collective accountability at a chief executive level – considering arrangements for system governance and resourcing across the national security, hazard risk, and crisis and risk management systems. This broad scope reflects that, given the way the system is currently set up, we cannot peel off governance of the national security

system without ensuring that hazard risk governance and strategic risk leadership through ODESC are captured;

- 10.3 deliver stronger strategic and policy leadership for the national security system, building accountability, capability, foresight, integration, engagement and resilience – considering options:
    - 10.3.1 for key roles and functions across the system (including the options proposed by the Royal Commission for a new agency and/or national security advisor role), and any necessary mandate, tools and resources; and
    - 10.3.2 to enhance integration between the NZSIS and GCSB (including the possibility of a merger); and
  - 10.4 ensure that appropriate and relevant system oversight and monitoring is in place.
- 11 While this paper proposes a broad scope for further work, this does not assume substantial change is inevitable or necessary across all these domains. Ministers will be presented with advice that offers a range of options, extending from minimal to maximum change, along with their strategic and practical implications. Overall, in making choices, we must ensure a strategically coherent approach – including that our national security, hazard risk and crisis management systems as a whole are not left worse off by piecemeal change.
- 12 DPMC, with support from Te Kawa Mataaho (Public Service Commission) and other relevant agencies, will lead two phases of options development and advice. Cabinet will consider decisions on the system leader, aspects of system governance and some Ministerial engagement and accountabilities, in late 2022, as the first priority. The second phase will include more detailed system governance arrangements along with options on oversight and monitoring, detailed ministerial arrangements and other issues arising, in early 2023.
- 13 This is an ambitious timeframe to develop options for systemic machinery of government change. It is likely to require some funding decisions to be made ahead of Budget 2023, as well as limiting opportunities for community engagement to inform initial decision-making. I am comfortable this is justified to deliver on our Government's priority to respond appropriately to the Royal Commission, and support timely implementation of decision-making.

## Background

- 14 On 7 December 2020, Cabinet accepted *in principle* the recommendations of the Royal Commission [CAB-20-MIN-0516 refers]. The Royal Commission recommended significant structural change to our national security machinery of government, including the following:
- 14.1 Recommendation 1 – ensure a Minister is given responsibility and accountability to lead and coordinate the counter-terrorism effort;

- 14.2 Recommendation 2 – establish a new national intelligence and security agency that is well-resourced and legislatively mandated to be responsible for strategic intelligence and security leadership functions; and
- 14.3 Recommendation 3 – investigate alternative mechanisms to the voluntary nature of the SIB.
- 15 The report found other opportunities to strengthen national security arrangements, which were not included in its recommendations, including better information-sharing practices and oversight; and the capability to provide integrated and effective policy advice based on intelligence assessment and risk management frameworks (more examples are provided in **Appendix A**).
- 16 It was clear that more detailed work was required to give effect to the Royal Commission’s full intent. Our view would also need to expand beyond the Royal Commission’s principal focus on counter-terrorism, considering its recommendations at a broader system level across the range of risks, threats and opportunities New Zealand faces [CAB-20-SUB-0516 refers].
- 17 Cabinet agreed to a longer-term programme of work, including the Policy Review, as the first step towards a strategy and broader reform of the national security sector [SWC-21-MIN-0188]. The advice on machinery of government was to be developed in the second half of 2022 – following the Policy Review, to ensure that *form follows function*.
- 18 A companion paper (*Charting a new path for Aotearoa New Zealand’s national security: Developing our first National Security Strategy (paper 1 of 2)*) proposes a set of revised national security policy settings and the development of a new Strategy.

**Our status quo does not enable the strategic leadership that will deliver an effective national security system**

- 19 New Zealand’s current national security system<sup>1</sup> revolves around our existing ‘all hazards, all risks’ approach, resulting in an expansive definition of national security. We have a distributed model, with a wide ecosystem of agencies contributing to the management of threats, risks, and priorities (including emergencies) – as represented at a high level in **Appendix B**. Within this structure, however, to bring the system together and provide strategic leadership, we rely on mechanisms of coordination that do not impose formal responsibilities or specific accountabilities.
- 20 Elements of the system have evolved in a piecemeal way over decades, with tweaks made in response to individual reviews and events that have not necessarily considered the wider flow-on implications for the system. When considered as a whole, the system is not structured to allow us to proactively

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<sup>1</sup> The term ‘national security system’ is used here in its broadest sense, i.e. as the system or machinery of government that delivers national security work and outcomes. ODESC’s ‘National Security System’ (in Initial Caps) is more specifically the structures in place to support ‘all hazards, all risks’ whole-of-government strategic crisis management.

address the challenges of the contemporary strategic environment. I also acknowledge that there is a lack of trust by some parts of New Zealand, including those impacted by the 15 March 2019 attacks, Māori, or other community groups that have not had positive experiences of the national security system.

- 21 If Cabinet agrees to Paper 1, we will shift from our current definitions and scope to a more focused definition of New Zealand's national security, and towards a much more proactive, coherent and inclusive Strategy for delivery. This will have significant implications for our existing structures, including for the national security system, hazard risk system,<sup>2</sup> crisis and risk management, and wider systems of coordination and connection across government.
- 22 National security is foundational to New Zealanders' wellbeing and our ability to operate confidently in the world, and several different sectors contribute directly or indirectly to national security outcomes, so we need to ensure our system is well designed, governed and managed, with appropriate connections across all of government, and with wider society.

*Ministerial governance and accountabilities*

- 23 At the Ministerial level, national security issues are currently considered by the Cabinet External Relations and Security Committee (ERS), which has an emphasis on foreign affairs and meets monthly. There is no standardised process for ERS, or any other Ministerial group, to provide direction on priority national security issues at the pace or regularity required, or to consider issues raised by the National Security System's governance boards: SIB and the Hazard Risk Board (HRB).
- 24 The Royal Commission noted a lack of political ownership of the threat and risks of domestic terrorism, and that counter-terrorism was not well-understood by most politicians. Ministers were more actively engaged on other issues, such as natural hazards, and reluctant to lead a public discussion on national security and intelligence.
- 25 The Royal Commission recommended a Minister be given responsibility for a counter-terrorism portfolio. This reflects that responsibility for counter-terrorism is split between several portfolios (National Security and Intelligence, Police, and NZSIS/GCSB). The cross-portfolio split applies to most national security threats, so we need to consider options to clarify and strengthen Ministerial accountabilities without inadvertently creating new siloes.
- 26 We have made progress in building capability and engagement among Ministers and other parliamentarians, and I have appointed Hon Andrew Little as the Lead Coordination Minister for the Government's Response to the Royal Commission. We can do more to improve the clarity of national security

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<sup>2</sup> There currently is no defined hazard risk system in New Zealand, the closest being the emergency management system and NEMA's responsibility for some, but not all, hazard risks. A shift to two delineated systems: a national security system and a hazard risk system will be considered through the machinery of government work programme.

portfolios and accountabilities, and the structures and mechanisms to support Ministers to actively lead on these issues.

*Chief executive governance and accountabilities*

- 27 Two primary boards are responsible for governing the National Security System outside of crisis response:
- 27.1 SIB, which focuses on threats caused by malicious intent and intelligence issues; and
- 27.2 HRB, which focuses on civil contingencies and hazard risks.
- 28 The National Risk Register and National Risk Approach<sup>3</sup> are the boards' key mechanisms to support their governance of national risks. There are currently 42 national risks on the Register, most of which are assigned to a risk-coordinating agency. SIB governs 13 risks, and HRB governs 29.
- 29 Both boards are chaired by the Deputy Chief Executive, National Security Group, DPMC, and membership is comprised of relevant chief executives (or their delegates) across the public sector.<sup>4</sup> The boards' abilities to direct efforts across the system are limited. The Royal Commission focused on SIB, as the board governing the counter-terrorism effort, and described it as "essentially a voluntary collaboration mechanism", which was "not working effectively".
- 30 Initial sector workshops and chief executive interviews<sup>5</sup> have reinforced the need for change, with a strong sense that top-down strategic direction is needed to bring focus to the national security system. The boards should be enabled to drive the system approach to capability development, and to support the system to prioritise and balance collective imperatives with individual agency accountabilities. This will have significant implications for supporting mechanisms, resources and budget.

*National risk and strategic crisis management*

- 31 Paper 1 proposes a transition to an all-of-government National Risk Approach, with a national security system managing the subset of national security risks, complemented by hazard risk and crisis management systems.
- 32 The current expansive definition of national security means that all risks on the National Risk Register are captured under the umbrella of national security. The leadership of this function is provided by the national security system (through

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<sup>3</sup> The National Risk Approach underpins our 'all hazards, all risks' approach to managing nationally significant risks. It supports the system-level oversight and strategic governance of national risks. The approach focuses on 42 risks that could have a dramatic effect if they eventuate: not only are they likely to undermine national security and prosperity, but also damage our collective wellbeing if we are ill-prepared to respond to and recover from them.

<sup>4</sup> SIB is comprised of DPMC, GCSB, MBIE, MoD, MFAT, Customs, NZDF, NZ Police, and NZSIS. HRB is comprised of DPMC, DIA, FENZ, MBIE, MFAT, MfE, MoH, MPI, MoT, NZDF, NZ Police, NEMA, The Treasury, and the PM's Chief Science Advisor.

<sup>5</sup> Chief executives of the following agencies were interviewed in this initial tranche: MBIE, MoT, MFAT, NZ Police, MoD, Customs, DIA, GCSB and NZSIS.

the National Security Group of DPMC) and, as noted above, the approach is used by ODESC boards to govern nationally significant risks. This approach conflates all national risks with national security, even though there are risks that clearly fall outside these bounds. In some cases this can limit our ability to engage with the public through this mechanism. This approach will require reconsideration.

- 33 In a situation that requires national-level strategic crisis management, the Chief Executive of DPMC convenes the current National Security System under the banner of the “Officials’ Committee for Domestic and External Security Coordination” (ODESC). During a response, ODESC ensures that the lead response agency has the necessary support, that risks are well understood and monitored, and that information flows across the system and to Ministers. Unlike SIB and HRB, ODESC does not have standing membership and is instead composed of agencies with an interest in the specific crisis at hand.
- 34 As we consider changes to the national security system, and the distinctions and interactions between national security, hazard risk management, nationally significant risks, and crisis management, there will be flow-on impacts beyond core security and intelligence agencies. We need to provide for ongoing well-resourced mechanisms for strategic crisis and risk management, and we need to ensure that accountabilities and responsibilities are clear for this (as for the national security and hazard risk systems).
- 35 The machinery of government work programme will maintain alignment of purpose and outcomes with the National Emergency Management Agency’s (NEMA’s) Regulatory Framework Review Programme (also known as the “Trifecta”), which considers emergency management and civil defence legislation, regulatory systems and strategy.

*Agency roles and leadership*

- 36 At present, the core intelligence community is made up of the New Zealand Security Intelligence Service (NZSIS), Government Communications Security Bureau (GCSB), and DPMC’s National Assessments Bureau. A wider range of agencies have direct or indirect roles in security and intelligence matters (**Appendix B**).
- 37 DPMC has a convening role, which the Royal Commission found was based on DPMC’s direct relationship to the Prime Minister. The Royal Commission noted that there is no directive authority or statutory mandate for DPMC’s coordination of the national security system, and that there has been insufficient funding for coordination roles from successive governments. The assumption of a leadership and convening power, without a legislative or financial mandate, creates a reliance on relationships and goodwill, which was found to be a weakness in our system.
- 38 The Royal Commission considered systemic change is needed, with a new agency focusing solely on intelligence and security, and providing future-focused leadership from the centre. The Royal Commission said the new agency’s chief executive should be designated as the Prime Minister’s

intelligence and security advisor, and the agency should be well-resourced and legislatively mandated to lead on strategic intelligence and security. Appropriate functions (whether centralised or distributed) will be required to deliver on the Strategy, and any system leader will need an appropriate mandate, tools, relationships, and resources. This will also need to consider the relationships between any new agency and existing departments that continue to hold responsibilities in these areas.

- 39 The Royal Commission also alluded to the question of whether the GCSB and NZSIS should be amalgamated, which has been raised by previous reviews, although it did not provide specific views on this. While a merger has not been identified as a high priority, any flow-on implications of wider change or opportunities to improve integration should not be ruled out at this stage.

*Other machinery matters*

- 40 These are not the only issues that will need to be addressed. For example, regardless of form or degree of centralisation, the Strategy will challenge us to build a system with functions and structures that support a culture of engagement, accessibility, diversity and inclusion, and reflect a commitment to te Tiriti o Waitangi.
- 41 The periodic review of the Intelligence and Security Act 2017 (ISA) and the intelligence agencies (the NZSIS and GCSB), which is currently underway, will consider improvements to the legislation to ensure it continues to be clear and effective, as well as matters raised by the Royal Commission. This includes issues of scrutiny and oversight through mechanisms like the parliamentary Intelligence and Security Committee (the ISC), which will be directly relevant to our machinery of government.

**We now have an opportunity to set up our system for the future**

- 42 We need to deliver a more effective national security system that's open, accessible and trusted by New Zealanders, and a safer Aotearoa New Zealand. As outlined in **Appendix A**, and reflecting the Royal Commission report, the Policy Review has identified that systemic change is required to:
- 42.1 Deliver a system approach that builds capability, accountability and resilience;
  - 42.2 Prevent and mitigate national security threats by acting early;
  - 42.3 Work in partnership to foster collective understanding and approaches; and
  - 42.4 Prepare our workforce for the future.
- 43 We are now able to develop options for strategic and deliberate machinery of government change. This will be an opportunity to consider our system architecture and settings in a holistic and comprehensive manner, ensuring we can deliver on a Strategy in an effective way to address our current and future challenges, and respond to New Zealand communities' expectations for



meaningful change. Considering the gradual and often unsystematic evolution of the national security system over the last twenty years, this is a unique opportunity to enhance effectiveness and seek better outcomes for New Zealanders.

**Our process will build on the Royal Commission and the Policy Review, and be delivered collaboratively**

- 44 The machinery of government work programme will develop options to configure the national security system to best deliver on the Policy Review and its system priorities. DPMC is the lead agency, working with Te Kawa Mataaho (Public Service Commission) and other relevant agencies.
- 45 I recommend the following core principles to:
- 45.1 build on the content and recommendations (both explicit and implicit) of the Royal Commission;
  - 45.2 consider New Zealand's broad range of national security threats, risks, and interests, our unique operating environment, and the protection of New Zealanders at home and overseas from threats that would cause them harm;
  - 45.3 develop thinking:
    - 45.3.1 collaboratively with national security system agencies and in engagement with wider communities;
    - 45.3.2 recognising the principles of and government's obligations under te Tiriti o Waitangi; and
  - 45.4 ensure the work aligns with wider policy settings including the review of strategic policy settings and development of a Strategy.

**A wide range of options will need to be within scope**

- 46 To support a strategically coherent and systematic approach, we should consider a range of options. Clear parameters will ensure sufficient flexibility, while also providing certainty as to what will not be considered by this work programme.
- 47 I propose a broad scope – in developing an overall operating model for the national security system, the machinery of government work programme will consider options to:
- 47.1 Strengthen Ministerial accountabilities and engagement;
  - 47.2 Enhance system governance and collective accountability at a chief executive level;

47.3 Deliver stronger strategic and policy leadership for the national security system, building accountability, capability, foresight, integration, engagement and resilience; and

47.4 Ensure that appropriate and relevant system oversight and monitoring is in place.

48 We will consider overarching outcomes sought by the Royal Commission and the Policy Review – including the need for a culture of openness, inclusiveness and partnership, that reflects a commitment to te Tiriti o Waitangi, and cultivates a new conversation on Aotearoa’s national security. We will also need to continue to apply a lens of respect for international law and human rights, considering the appropriate checks and balances and division of functions. We will also take into account the experiences and differing approaches of our partners internationally, considering which elements would be appropriate for the New Zealand context.

49 The following topics are in and out of scope:

In Scope	Out of Scope
<i>Strengthen Ministerial accountabilities and engagement</i>	
Ministerial accountabilities for the national security system and for national security issues with system or sector implications (including but not limited to counter-terrorism)  This may include the need to clarify Ministerial accountabilities for areas that will now fall outside the new scope of national security	Ministerial accountabilities for agency-specific functions or responsibilities, that do not cut across multiple portfolios/agencies
Mechanisms to strengthen collective ministerial engagement in, and support Ministerial decision-making on, national security and intelligence (including what might be required if an Interdepartmental Executive Board replaces SIB)	
<i>Enhance governance and collective accountability at a system chief executive level</i>	
Arrangements for collective accountabilities of national security, hazard risk, and crisis and risk management issues, including: <ul style="list-style-type: none"> <li>a. The nature of SIB and HRB, and any flow-on implications for their sub-groups</li> <li>b. Linkages to Ministerial governance, where relevant</li> </ul>	Agencies’ internal governance arrangements  Other chief executive-level boards such as the Border Executive Board and the COVID-19 Chief Executives Board, unless there are any consequential impacts of changes to SIB and HRB that need to be addressed

In Scope	Out of Scope
Location, scope, and form of ODESC strategic crisis management mechanisms and the National Risk Approach in the system; the location and role of ODESC itself; and the connections between the national security, hazard risk systems, and crisis and risk management mechanisms	Detailed emergency or crisis management systems and processes that sit below ODESC systems – except where there is any need for alignment between this process and NEMA’s ‘Trifecta’ review
Mechanisms to identify and strengthen individual chief executive and agency accountabilities for national security and intelligence issues	Accountabilities of chief executives that are not related to national security
Mechanisms to improve connection to other systems (e.g. social, environmental and economic sectors)	
National security system funding arrangements and mechanisms for resourcing cross-system problems	
<i>Deliver stronger strategic and policy leadership for the national security system, building accountability, capability, foresight, integration, engagement and resilience</i>	
The identification, role and scoping of an <b>appropriate system leader</b> . This would include consideration of the role of the Chief Executive of DPMC as well as the Chief Executive of any new agency and/or any new national security advisor role	<p>The Chief Executive of DPMC’s functions/roles outside of national security</p> <p>Existing Government functional lead mechanisms e.g. Government Chief Information Security Officer, Government Chief Data Steward</p> <p>System leadership under the emergency management system (which is being considered under NEMA’s ‘Trifecta’ work)</p>
<p>Functions and accountabilities required to deliver strategic and policy leadership of the national security system, including consideration of:</p> <p>a. <b>Scope and appropriate placement of national security functions across the system</b>, including the extent to which centralisation, distribution, or coordinating mechanisms are required – particularly:</p> <ul style="list-style-type: none"> <li>• Strategic policy and legislative stewardship;</li> </ul>	

In Scope	Out of Scope
<ul style="list-style-type: none"> <li>• Policy leadership on national security issues (for example, counter-terrorism, foreign interference, the Pacific, cyber, and critical national infrastructure), and mechanisms of connection to other systems;</li> <li>• Risk management;</li> <li>• National intelligence, including prioritisation, horizon scanning, strategic warning, assessment, and integration (including with risk assessment and policy development);</li> <li>• Communications and transparency;</li> <li>• Community and international engagement;</li> <li>• System capability development;</li> <li>• Stewardship of evidence, data and insights;</li> <li>• System performance and monitoring; and</li> <li>• Workforce, including diversity and inclusion</li> </ul> <p>b. <b>Potential form / models</b> to deliver on the above and on the intent of the RCOI, including the option of a new agency</p> <p>c. <b>Practical implications</b>, e.g. appropriate resourcing to ensure the models can deliver effectively, and delivery implications (e.g. steps towards change management)</p> <p>d. <b>Necessary mandate</b> required to support an agency and/or system leader (including but not limited to any legislative requirements)</p>	
<p>Consideration of any options (including the possibility of a merger) to enhance integration, resource use and prioritisation within current arrangements between the NZSIS and GCSB</p>	
<p><i>Ensure that appropriate and relevant oversight and monitoring is in place</i></p>	
<p>Oversight and monitoring structures across the national security system, taking into account any potential changes to system architecture. This would include consideration of:</p> <p>a. Scope for parliamentary structures such as the role of the ISC across the system</p>	<p>ISA review matters, e.g. consideration of ISC's existing statutory role, tools and levers – noting, however, that any relevant recommendations of the ISA review will need to be incorporated into the work programme</p>

In Scope	Out of Scope
<ul style="list-style-type: none"> <li>b. Independent statutory oversight for any new agency and/or the system as a whole</li> <li>c. Independent advisory groups or similar</li> <li>d. Monitoring of implementation of the Strategy</li> </ul>	Outside of any recommendations by the ISA review, other Parliamentary or independent oversight structures such as the Ombudsman, Privacy Commissioner, Auditor-General, and Independent Police Conduct Authority

50 The range of structural areas covered by the scope above allows exploration of all potential linkages and interdependencies, but does not suggest there will inevitably be substantial change across all domains. Each dimension or national security issue will have its own considerations, and the analysis process and outcomes might not be uniform across all of them.

51 Ministers will be presented with advice that offers a range of options, extending from minimal to maximum change, along with their strategic and practical implications. The spectrum of choices must ensure a strategically coherent approach – that our national security and hazard risk systems as a whole are not left worse off by piecemeal change, and are supported by an all-of-government National Risk Approach and crisis management mechanisms.

52 A programme of this nature will inevitably have legislative and funding implications, to be considered in Budget 2023 (and likely beyond, depending on phasing). If funding is not available in the Budget, elements of the work programme will need to be reconsidered or funded through reprioritisation of existing baselines.

53 The statutory review of the ISA is in progress and scheduled to report back by the end of September 2022. This may introduce other machinery of government issues, which I propose are incorporated into the work programme when known. Additionally, there will be other reviews, such as the coordinated review of the New Lynn attacks, that will be completed this year or in 2023. It is unclear what, if any, impacts these may have, but it is possible the findings or recommendations will be relevant.

54 There will also continue to be policy work that may be relevant to the machinery of government programme, which could be factored into ongoing work as appropriate. For example, the Treasury is leading the response to Recommendation 5 of the Royal Commission, which proposed amendments to Public Finance Act 1989 to enhance scrutiny of the NZSIS and GCSB. Additionally, on 7 June 2022, ERS agreed to cyber security policy recommendations including development of a work programme supporting the creation of a “single front door” for the private sector and individuals to report cyber incidents and access advice and guidance [ERS-22-MIN-0018 refers].

**Phasing**

55 It will not be possible to address all of the items within scope at once, and some will be higher priorities than others. Key factors include:

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- 55.1 The priority to understand as early as possible the potential breadth of change involved for the higher cost proposals, to inform future Budgets (e.g. options involving a new agency are likely to present the highest costs);
- 55.2 Some options (e.g. scope of oversight or certain Ministerial accountabilities) cannot be developed in detail until there is clarity on the approach to a new agency and to the boards, and the scale of change involved; and
- 55.3 Similarly, some options (e.g. any changes to statutory oversight) cannot be developed in detail until the recommendations of the ISA review are known.

56 I propose that the detailed options would be considered in two phases:

Phases	Detailed focus on options
Phase 1 – reporting back by late 2022	<b>New agency and/or system leader:</b> The response to this recommendation of the Royal Commission’s is a high priority for me, and Kāpuia (the Ministerial Advisory Group on the Government’s Response to the Royal Commission) has advised that greater momentum is needed. It is also likely to be the highest expense intervention, take time to deliver, and will drive the development of other options.
	<b>System governance</b> i.e. any changes to SIB and HRB, and to ODESC and the National Risk Approach at a high level: System governance should be prioritised early to support the boards to drive system improvements early on, and to ensure that the consequential impacts of change can be worked through. However, it is likely that the details will need to be fleshed out in the second phase, to enable the focus in Phase 1 to be on system leadership/agency questions.
	<b>Some aspects of Ministerial engagement and accountabilities:</b> Options will be considered at a high level only, including the potential for formal and informal groups, and any initial strengthening of accountabilities
Phase 2 – reporting back in early 2023	<b>System governance:</b> Detailed arrangements and costings for changes to SIB, HRB, ODESC and the National Risk Approach.
	<b>Oversight and monitoring:</b> This would include both statutory oversight and performance monitoring.
	<b>Detailed Ministerial arrangements:</b> Including more detailed mechanisms to strengthen both engagement and accountabilities.
	<b>Any other issues arising:</b> For example, this would include any other machinery options arising from the ISA statutory review.

57 While the phases above will deliver the substantive decisions required to set the direction of travel, I expect that work will be ongoing throughout 2023 (and beyond) to deliver on that direction.

## Next Steps

- 58 Once Ministers have agreed to the principles and scope of the machinery of government work programme, DPMC will work with Te Kawa Mataaho and other relevant agencies to:
- 58.1 develop a Terms of Reference for my approval; and
  - 58.2 convene an interagency working group and appropriate chief executive-level governance arrangements.
- 59 Announcements of key aspects of these arrangements would be included with the Strategy, as these measures will help significantly in delivering on Royal Commission recommendations and evolving our national security system to meet current and future challenges.
- 60 From July until late 2022, DPMC, supported by the cross-agency working group, and engaging with Kāpuia and the wider national security system agencies, will develop a set of system objectives (what we want to achieve through system design change), identify a longlist of viable options for change, and assess those options prioritised for the first phase of decisions. This work will inform the development of initiatives for Budget 2023, and the longlist of options should be available in time to provide broad parameters at the Budget invitation stage.
- 61 This phase of work will also be informed by public engagement on the national security policy settings and Strategy. This will cover the early stages of options analysis, with a more focused partnership approach with iwi/Māori and wider communities as we move towards detailed options.
- 62 I propose to report back to Ministers in late 2022 seeking initial decisions on options for system leadership functions, powers and form, (including whether to establish a new agency), system governance and some changes to Ministerial arrangements. This will also inform ongoing Strategy development.
- 63 I note this is a very ambitious timeframe for systemic machinery of government changes to be considered. It will likely require some funding decisions to be made ahead of Budget 2023, and opportunities for community engagement on initial decision-making will be limited. I consider these implications are justified against this Government's priority, and the clearly expressed expectations of New Zealand communities, to make progress against the Royal Commission's recommendations.
- 64 I will propose a more detailed package of options to Ministers in early 2023, including the response to any design change recommended by the independent review of the Intelligence and Security Act 2017.
- 65 Implementation timelines will depend on the options chosen and the resourcing implications for their delivery, but this schedule could support some initial changes being made from early 2023, and work towards establishment of any new structures in mid-2023, depending on Cabinet's decision-making. Longer-



term timeframes for implementation will depend on the scope of change, but I anticipate that this will be a multi-year process.

## Risks

- 66 The machinery of government work programme is closely interlinked with the Strategy development, outlined in Paper 1. It also has **significant interdependencies** with the independent review of the Intelligence and Security Act 2017, and the NEMA Trifecta. A change in the timing or scope or unclear outcomes from any of these projects could impact on the timing for this work programme, or risk the projects getting out of step. While officials are working to ensure that timeframes, purpose, and workstreams for all projects are aligned, there remains a risk of delays.
- 67 This work programme is being led by the DPMC's National Security Group. There are two key issues or risks:
- 67.1 Firstly, any **significant event** that requires activation of the National Security System may require redeployment of staff and other resources. If this occurs, I will discuss options for delaying or rescopeing pieces of work with responsible Ministers; and
- 67.2 Secondly, the **work programme is led by an agency likely to be directly impacted** by decisions arising from the review, leading to the potential for real or perceived conflicts of interest. I consider it appropriate that DPMC continue to lead this work, recognising its relevant expertise and convening role within the system. Te Kawa Mataaho (the Public Service Commission) will provide a supporting role to DPMC, alongside regular consultation with SIB and HRB chief executives. In addition, there will be a formal cross-agency working group and appropriate governance arrangements, and DPMC will seek Kāpuia's feedback regularly.

## Financial Implications

- 68 There are no direct financial implications associated with this paper, and the development of the machinery of government options will be met within baselines – acknowledging, however, that some reprioritisation of effort alongside current resourcing will be required to deliver on a more ambitious timeline.
- 69 However, the implementation of any agreed machinery of government changes makes some assumptions about the availability of new funding in Budget 2023 and beyond. If assumed funding is not included in the Budget package, elements of the work programme will need to be funded through reprioritisation of existing baselines or reconsidered, which may impact implementation, including how some Royal Commission recommendations are implemented.



## Legislative Implications

- 70 There are currently no legislative implications associated with this paper, but as identified above the outcome of any machinery of government work programme is likely to require legislative change to support implementation. Accordingly, a potential Bill has been included in the 2022 Legislation Programme with a priority of 5 for 2023 (drafting instructions to be provided to the Parliamentary Counsel Office in 2023).

## Impact Analysis

### *Regulatory Impact Statement*

- 71 Impact analysis is not required at this stage.

### *Climate Implications of Policy Assessment*

- 72 This proposal has no climate implications.

## Population Implications

- 73 At this stage the proposals of this paper do not have direct population implications. The machinery of government work programme responds to events that had a devastating impact on New Zealanders, especially Muslim communities, and will look to contribute to a safer and more inclusive New Zealand. The public engagement process will engage certain population groups that have been marginalised from national security discourse in the past.

## Human Rights

- 74 There are no human rights implications arising specifically from this paper. The machinery of government work programme ultimately aims to strengthen our system's ability to uphold and protect the enjoyment of basic rights, and the safety and security of our communities.

## Consultation

- 75 Kāpuia has a very strong interest in machinery of government change and is keen to be closely engaged as the process continues. Kāpuia has provided the following formal comments to officials:
- 75.1 Machinery of government change is mentioned right throughout the Royal Commission recommendations, especially in the form of a new National Security and Intelligence Agency;
  - 75.2 Kāpuia considers it important that sufficient resourcing and priority is dedicated to this workstream, and will seek further updates on this later in 2022; and

- 75.3 The work would benefit from clear and transparent timeframes to support agencies in dedicating enough time and effort to this foundational work, and communities in monitoring the Government's progress and adherence to its own work plan.
- 76 Officials have committed to an ongoing engagement process with Kāpuia (and with communities, as covered in Paper 1). International engagement will also be undertaken.
- 77 This paper was prepared by DPMC, and the following agencies have been consulted:
- Crown Law Office; Department of Corrections; Department of Internal Affairs; Fire and Emergency New Zealand; GCSB; Ministry of Business, Innovation and Employment; Ministry of Defence; Ministry for Ethnic Communities; Ministry for the Environment; Ministry of Foreign Affairs and Trade; Ministry of Health; Ministry of Justice; Ministry for Primary Industries; Ministry of Social Development; Ministry of Transport; NEMA; New Zealand Customs Service; New Zealand Defence Force; New Zealand Police; NZSIS; Office of the Prime Minister's Chief Science Advisor; Te Kawa Mataaho (Public Service Commission); The Treasury; and Waka Kotahi.
- 78 The Policy Advisory Group within DPMC was advised.

### **Communications**

- 79 Announcements of key aspects of these arrangements will be included in the Strategy, as these measures will help significantly in delivering on Royal Commission recommendations and evolving our national security system to meet current and future challenges. Paper 1 provides more detail on how communities will be engaged in the next stages.

### **Proactive Release**

- 80 I intend to proactively release this paper, with any necessary redactions, within 30 business days of decisions being confirmed by Cabinet.

### **Recommendations**

The Minister for National Security and Intelligence recommends that the Committee:

- 1 note that the Report of the Royal Commission of Inquiry into the Terrorist Attack on Christchurch Mosques (the Royal Commission) made three explicit recommendations regarding the need for structural change to our national security machinery of government, which the Government has agreed to in principle:
  - 1.1 Ensure a Minister is given responsibility and accountability to lead and coordinate the counter-terrorism effort;

- 1.2 Establish a new national intelligence and security agency that is well-resourced and legislatively mandated to be responsible for strategic intelligence and security leadership functions; and
  - 1.3 Investigate alternative mechanisms to the voluntary nature of the Security and Intelligence Board (SIB);
- 2 note that in November 2021 Cabinet agreed to a long-term programme of work to address all 44 recommendations of the Royal Commission, including changes to our national security system design [SWC-21-MIN-0188], with advice on machinery of government recommendations scheduled to be provided in the second half of 2022;
- 3 agree that the core principles for the machinery of government work programme are to:
- 3.1 build on the content and recommendations (both explicit and implicit) of the Royal Commission;
  - 3.2 consider New Zealand’s broad range of national security threats, risks, and interests, our unique operating environment, and the protection of New Zealanders at home and overseas from threats that would cause them harm;
  - 3.3 develop thinking:
    - 3.3.1 collaboratively with national security system agencies and in engagement with wider communities;
    - 3.3.2 recognising the principles of and the government’s obligations under te Tiriti o Waitangi; and
  - 3.4 ensure the work aligns with wider policy settings including the review of strategic policy settings (Policy Review) and development of a National Security Strategy;
- 4 agree that the machinery of government work programme will consider within scope options to:

<p><b>a. Strengthen Ministerial accountabilities and engagement</b></p>	<ul style="list-style-type: none"> <li>• Accountabilities for the national security system and for national security issues (including but not limited to counter-terrorism)</li> <li>• Engagement – for example, through formal and informal forums</li> </ul>
<p><b>b. Enhance governance and collective accountability at a system chief executive level</b></p>	<ul style="list-style-type: none"> <li>• Collective accountabilities for national security, hazard risk, and crisis and risk management issues, including the nature of the Security and Intelligence Board and Hazard Risk Board and sub-groups</li> </ul>

	<ul style="list-style-type: none"> <li>• Location, scope and form of ODESC, ODESC crisis management mechanisms and the National Risk Approach</li> <li>• Individual chief executive and agency accountabilities</li> <li>• Mechanisms of connection to other systems</li> <li>• System funding arrangements</li> </ul>
<p><b>c. Deliver stronger strategic and policy leadership for the national security system, building accountability, capability, foresight, integration, engagement and resilience</b></p>	<ul style="list-style-type: none"> <li>• Identification of an appropriate system leader, considering roles of relevant chief executives and/or any new national security advisor</li> <li>• Functions and accountabilities required to deliver a system approach including scope, appropriate placement, form (including option for any new agency), practical implications, and mandate required</li> <li>• Options to enhance integration between the NZSIS and GCSB (including the possibility of a merger)</li> </ul>
<p><b>d. Ensure that appropriate and relevant system oversight and monitoring is in place</b></p>	<ul style="list-style-type: none"> <li>• Oversight and monitoring structures for the national security system including: <ul style="list-style-type: none"> <li>○ Scope of Intelligence and Security Committee and independent statutory oversight</li> <li>○ Independent advisory groups</li> <li>○ Monitoring of implementation of the National Security Strategy</li> </ul> </li> </ul>

5 note that a number of overarching outcomes sought by the Royal Commission and Policy Review will be considered as part of this scope, including the need for a culture of openness, inclusiveness and partnership, that reflects a commitment to te Tiriti o Waitangi, and cultivates a new conversation on Aotearoa’s national security;

6 agree that any relevant recommendations of the statutory review of the Intelligence and Security Act 2017, which is scheduled to report back by the end of September 2022, are also incorporated into scope if required;

7 note that implementation of any agreed machinery of government changes will require funding through Budget 2023 and future Budgets, and that if assumed funding is not included in the Budget package, the work programme will need to be funded through reprioritisation of existing baselines or reconsidered;

8 direct the Department of the Prime Minister and Cabinet to work with Te Kawa Mataaho and other relevant agencies to develop a Terms of Reference for the project, for the approval of the Minister for National Security and Intelligence;

- 9 invite the Minister for National Security and Intelligence to report back to ERS:
  - 9.1 in late 2022 with overall proposals for machinery of government options, including:
    - 9.1.1 detailed, fully costed options for a new agency and/or system leader;
    - 9.1.2 initial considerations for system governance, and Ministerial accountabilities and engagement; and
  - 9.2 in early 2023 with further advice on remaining elements of machinery of government changes (namely detailed system governance arrangements, oversight, monitoring, detailed Ministerial arrangements, and any other issues arising).

Authorised for lodgement

Rt Hon Jacinda Ardern

Minister for National Security and Intelligence

## Appendix A

### What outcomes have we been asked to achieve?

The RCOI report noted that the machinery of government recommendations should enable:

- **well-informed ministers** (with thorough understanding of the immediate, medium-term and longer-term terrorism risks and threats)
- **capability to develop effective and comprehensive strategic policy advice on** extremism and terrorism, together **with integrated advice** based on both intelligence assessments and risk management frameworks
- a governance body to set **system performance standards** and accepted best practice in the New Zealand context, against which to monitor performance and measure effectiveness and compliance with human rights obligations
- effective leadership of the security and intelligence side of the national security system with **clear accountabilities and responsibilities**
- **transparent purpose and direction setting**, set out in a counter-terrorism strategy, with well-defined accountability for the development, implementation and monitoring of that strategy
- **regular reviews of the authorising environment**, including the legislative framework for countering-terrorism and violent extremism
- **enhanced social licence** as a result of the consequences just outlined along with high levels of engagement with communities, civil society, local government and the private sector.

Other reviews into aspects of the national security system over the past 15 years (e.g. the Couchman, Murdoch, Performance Improvement Framework and Cullen-Reddy reviews) have identified similar themes, informing their recommendations at the time.

The Policy Review has also identified our national security system priorities, required to achieve our vision and protect and advance our national security interests. System change is required to:

- **deliver a system approach that builds capability, accountability and resilience** – building capabilities, connections and system structures to promote resilience and a more strategic approach to national security that effectively prevents and mitigates threats. This will require clear leadership and accountability at the agency, sector and system level
- **prevent and mitigate national security threats by acting early** – anticipating and identifying national security threats to enable government to take a proactive approach, and to respond effectively where prevention is not possible
- **enhance transparency and work in partnership to foster collective understanding and approaches** – working with tangata whenua, broader New Zealand society, and international partners to better understand, prepare for and respond effectively to national security threats
- **prepare our workforce for the future** – delivering the skills, capability, capacity and diversity of the national security workforce to better serve and reflect all of New Zealand



# Cabinet External Relations and Security Committee

## Minute of Decision

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

### Charting a New Path for Aotearoa New Zealand's National Security: Strengthening the Design of the Machinery of Government

**Portfolio**                      **National Security and Intelligence**

On 19 July 2022, the Cabinet External Relations and Security Committee:

- 1        **noted** that the Report of the Royal Commission of Inquiry into the Terrorist Attack on Christchurch Mosques (the Royal Commission) made three explicit recommendations regarding the need for structural change to national security machinery of government:
  - 1.1      ensure a Minister is given responsibility and accountability to lead and coordinate the counter-terrorism effort;
  - 1.2      establish a new national intelligence and security agency that is well-resourced and legislatively mandated to be responsible for strategic intelligence and security leadership functions;
  - 1.3      investigate alternative mechanisms to the voluntary nature of the Security and Intelligence Board;
  
- 2        **noted** that on 24 November 2021, the Cabinet Social Wellbeing Committee agreed to a long-term programme of work to address all 44 recommendations of the Royal Commission, including changes to the national security system design, with advice on machinery of government recommendations scheduled to be provided in the second half of 2022 [SWC-21-MIN-0188];
  
- 3        **agreed** that the core principles for the machinery of government work programme be to:
  - 3.1      build on the content and recommendations (both explicit and implicit) of the Royal Commission;
  - 3.2      consider New Zealand's broad range of national security threats, risks, and interests, unique operating environment, and the protection of New Zealanders at home and overseas from threats that would cause them harm;
  - 3.3      develop thinking:
    - 3.3.1    collaboratively with national security system agencies and in engagement with wider communities;
    - 3.3.2    recognising the principles of and the government's obligations under te Tiriti o Waitangi;

3.4 ensure the work aligns with wider policy settings, including the review of strategic policy settings (the Policy Review) and the development of a National Security Strategy;

4 **agreed** that the machinery of government work programme will consider within scope options to:

<p>a. Strengthen Ministerial accountabilities and engagement</p>	<ul style="list-style-type: none"> <li>• Accountabilities for the national security system and for national security issues (including but not limited to counter-terrorism);</li> <li>• Engagement, for example through formal and informal forums.</li> </ul>
<p>b. Enhance governance and collective accountability at a system chief executive level</p>	<ul style="list-style-type: none"> <li>• Collective accountabilities for national security, hazard risk, and crisis and risk management issues, including the nature of the Security and Intelligence Board and Hazard Risk Board and sub-groups;</li> <li>• Location, scope and form of ODESC, ODESC crisis management mechanisms and the National Risk Approach;</li> <li>• Individual chief executive and agency accountabilities;</li> <li>• Mechanisms of connection to other systems;</li> <li>• System funding arrangements.</li> </ul>
<p>c. Deliver stronger strategic and policy leadership for the national security system, building accountability, capability, foresight, integration, engagement and resilience</p>	<ul style="list-style-type: none"> <li>• Identification of an appropriate system leader, considering roles of relevant chief executives and/or any new national security advisor;</li> <li>• Functions and accountabilities required to deliver a system approach, including scope, appropriate placement, form (including option for any new agency), practical implications, and mandate required;</li> <li>• Options to enhance integration between the NZSIS and GCSB (including the possibility of a merger).</li> </ul>
<p>d. Ensure that appropriate and relevant system oversight and monitoring is in place</p>	<ul style="list-style-type: none"> <li>• Oversight and monitoring structures for the national security system, including:                         <ul style="list-style-type: none"> <li>○ scope of Intelligence and Security Committee and independent statutory oversight;</li> <li>○ independent advisory groups;</li> <li>○ monitoring of implementation of the National Security Strategy.</li> </ul> </li> </ul>

5 **noted** that a number of overarching outcomes sought by the Royal Commission and the Policy Review will be considered as part of this scope, including the need for a culture of openness, inclusiveness and partnership, that reflects a commitment to te Tiriti o Waitangi, and cultivates a new conversation on Aotearoa New Zealand’s national security;

6 **agreed** that any relevant recommendations of the statutory review of the Intelligence and Security Act 2017, which is scheduled to report back by the end of September 2022, also be incorporated into scope if required;

7 **noted** that:

7.1 implementation of any agreed machinery of government changes will require funding through Budget 2023 and future Budgets;



- 7.2 if assumed funding is not included in the Budget package, the work programme will need to be funded through reprioritisation of existing baselines or reconsidered;
- 8 **directed** the Department of the Prime Minister and Cabinet to work with Te Kawa Mataaho Public Service Commission and other relevant agencies to develop a Terms of Reference for the project, for the approval of the Minister for National Security and Intelligence;
- 9 **invited** the Minister for National Security and Intelligence to report back to the Cabinet External Relations and Security Committee:
- 1.4 in late 2022, with overall proposals for machinery of government options, including:
- 1.4.1 detailed, fully costed options for a new agency and/or system leader;
- 1.4.2 initial considerations for system governance, and Ministerial accountabilities and engagement;
- 1.5 in early 2023, with further advice on the remaining elements of machinery of government changes (namely detailed system governance arrangements, oversight, monitoring, detailed Ministerial arrangements, and any other issues arising).

Janine Harvey  
Committee Secretary

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**Present:**

Rt Hon Jacinda Ardern (Chair)  
Hon Grant Robertson  
Hon Andrew Little  
Hon David Parker  
Hon Nanaia Mahuta  
Hon Stuart Nash  
Hon Peeni Henare  
Hon Michael Wood  
Hon Dr David Clark  
Hon Kieran McAnulty

**Officials present from:**

Office of the Prime Minister  
Officials Committee for ERS



# Cabinet

## Minute of Decision

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### Report of the Cabinet External Relations and Security Committee: Period Ended 22 July 2022

On 25 July 2022, Cabinet made the following decisions on the work of the Cabinet External Relations and Security Committee for the period ended 22 July 2022:

ERS-22-MIN-0028	<b>Charting a New Path for Aotearoa New Zealand's National Security: Developing the First National Security Strategy</b> Portfolio: National Security and Intelligence	CONFIRMED
ERS-22-MIN-0029	<b>Charting a New Path for Aotearoa New Zealand's National Security: Strengthening the Design of the Machinery of Government</b> Portfolio: National Security and Intelligence	CONFIRMED
ERS-22-MIN-0027	<b>Options for New Zealand Non-Military Contributions in Support of the Global Coalition to Defeat ISIS</b> Portfolio: Foreign Affairs	CONFIRMED
ERS-22-MIN-0026	<b>Supporting Improved Sexual and Reproductive Health and Rights for People in Pacific Island Countries</b> Portfolio: Foreign Affairs	CONFIRMED
ERS-22-MIN-0025	<b>Strengthening the Local Government Official Information and Meetings Act 1987</b> Portfolio: Local Government	CONFIRMED
ERS-22-MIN-0024	<b>Managing National Security Risks in Procurement in the Public Sector</b> Portfolio: Economic and Regional Development	CONFIRMED

Rachel Hayward  
Acting Secretary of the Cabinet