

Budget Sensitive

Office of the Minister of Corrections

Office of the Minister of Justice

Chair, Cabinet Social Wellbeing Committee

Paper C: Responding to critical prison capacity pressures between now and 2021

Proposal

- 1 The prison system is currently stressed, and demand for prison places is projected to continue increasing. This paper outlines how critical capacity pressures on the prison network between now and 2021 can be managed so that the system can continue to meet basic standards of safety, security, and humaneness.
- 2 This will involve:
 - 2.1 funding 600 rapid build places to respond to unavoidable short-term pressures
 - 2.2 reducing the number of people in prison by:
 - 2.2.1 making operational changes to improve the way the system functions
 - 2.2.2 investing in housing services, and
 - 2.2.3 9(2)(f)(iv)
 - 2.3 identifying some further 'fallback' actions that can be used to respond to any further unexpected increases in demand for prison places.

Background

- 3 The current prison network has a safe maximum capacity¹ of 9,161, but there are currently more than 10,700 people in our prisons, meaning that the network is stressed, catering to around 1,600 additional people.

¹ Safe maximum capacity means that the prison network has:

- a small amount of reserve capacity (450 places) which can be used to absorb unplanned growth in the prisoner population, and
- a management buffer (400 places), which allows buildings to be taken out of service and maintained, prisoner movements to be managed, and allow segregation (e.g. between male and female, and high and low security prisoners) to be well managed
- disaster recovery capacity that be called upon in an emergency, such as if an earthquake or riot occurs.

- 4 At the moment:
 - 4.1 450 places normally available to provide resilience against unplanned growth are fully occupied
 - 4.2 400 places normally available as a management buffer are fully occupied – no planned maintenance that requires capacity outages has been carried out since 2015, and managing the movement and segregation of prisoners is now much more complicated
 - 4.3 750 of 900 places set aside for disaster recovery are fully occupied – these places are low quality, suitable only for temporary use, do not support rehabilitation outcomes, are inefficient and expensive to operate, and attract human rights criticism.
- 5 Using this capacity means that the prison network has almost no free capacity to respond to unplanned growth, or provide resilience against unplanned events or emergencies.
- 6 The 2017 Justice Sector Projection anticipates the prison population will peak at 11,600 during 2018, 12,224 in 2019, 12,734 in 2020, and 13,095 in 2021. This will see the gap between safe maximum capacity and demand for prison places growth substantially.

Table 1 – Capacity gap (expected annual peaks) – currently approved capacity additions only

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Safe Max Cap	9254	9661	9896	9896	9896	9896	9896	9896	9896	9896
2017 JSP	11600	12224	12734	13095	13489	13781	13893	14040	14140	14399
Gap	2346	2563	2838	3199	3593	3885	3997	4144	4244	4503

- 7 The figures above do not take into account the proposal to fund a further 920 police officers, set out in the paper *Striving Towards 1800 New Police*. These additional police officers are estimated to increase the demand for prison places by around 294 between now and 2021, increasing to around 646 by 2027.
- 8 *Paper D: Investment in new capacity to support a more Humane and Effective Criminal Justice System* sets out options to increase capacity in the prison system from 2021. Until then, we face a prison system under significant stress, with a high risk of failure if we do not act.

Supporting rehabilitation, and maintaining a safe, secure and humane network

- 9 The Department of Corrections (Corrections) is focused on providing a prison network that is focused on rehabilitation and reintegration. Corrections currently spends more than \$200 million on rehabilitation services each year, but network stress reduces the effectiveness of this investment. A stressed prison network limits access rehabilitation programmes, and makes it more difficult to house prisoners in facilities that are close to family and support networks, which can aide with rehabilitation.
- 10 Corrections also has statutory requirements to provide prison facilities that are safe, secure and humane.

- 11 Safe facilities allow the risk presented by prisoners to the public, prison staff and other prisoners to be managed, through a range of built and dynamic security features.
- 12 The secureness of prisons is determined by their ability to contain prisoners away from the public, both in terms of preventing prisoners from escaping, and preventing members of the public from interacting with prisoners outside of controlled visits.
- 13 Corrections is subject to requirements set out in the New Zealand Bill of Rights Act 1990 including an overarching requirement that people who are arrested or detained 'shall be treated with humanity and with respect for the inherent dignity of the person'. New Zealand is also a signatory to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). These set out what is generally accepted as being good principle and practice in the humane treatment of prisoners.
- 14 The ability of the prison network to meet requirements to be safe, secure and humane becomes compromised when the system is stressed. Risks associated with a stressed system include:
 - 14.1 a reduced ability to ensure staff safety
 - 14.2 increased risk of violent incidents including prisoner on prisoner assaults, assaults on prison staff
 - 14.3 increased risk of self-harm and suicide incidents
 - 14.4 an inability to deliver effective rehabilitative initiatives
 - 14.5 a reduced ability to respond to unexpected events (for example, earthquakes or prisoner unrest)
 - 14.6 an inability to house all prisoners in an environment and regime matched to their security rating
 - 14.7 an inability to separate prisoners who are on remand from those who have been sentenced, and young prisoners from adult prisoners, and
 - 14.8 increased damage to facilities.
- 15 Corrections works hard to mitigate the risks noted above, but significant stress impacts its ability to meet its statutory obligations. Corrections is not empowered to release people from prison in response to system stress, and is expected to house everyone who is sent to prison, regardless of the state of the prison network.
- 16 In the event of particularly severe stress on the system, Corrections' primary focus would be to ensure secure containment and the safety of its staff above all else. Further information about the measures Corrections can take to respond to stress in the network is included in Appendix A.
- 17 As a Government committed to operating a humane and effective prison system, we cannot allow the prison system to reach a state of stress where it fails to meet basic standards of safety, security, and humaneness.

Managing pressure on the system

- 18 The two ways of relieving current pressure on prison capacity are:
- 18.1 investing in additional capacity (increasing the supply of places), and
 - 18.2 taking actions to reduce the number of people in prison (reducing demand for places).
- 19 Both of these approaches involve limitations and trade-offs. For example:
- 19.1 building new prison capacity is costly, particularly if this is required in a short timeframe, and requires building capacity in a construction sector that is already under significant pressure, and
 - 19.2 [REDACTED] 9(2)(f)(iv)
[REDACTED]
[REDACTED]
[REDACTED]
- 20 We believe our best course to address pressures between now and 2021 is to:
- 20.1 add 600 rapid build places to the prison network by the end of 2019 – this represents the minimum amount of new capacity that Corrections needs to respond to immediate demand
 - 20.2 reduce the prison population [REDACTED] 9(2)(f)(iv)
 - 20.2.1 operational changes to improve the way the system functions
 - 20.2.2 investment in housing services, and
 - 20.2.3 [REDACTED] 9(2)(f)(iv)
 - 20.3 identify some ‘fallback’ actions that can be used to respond to any further unexpected increases in demand.

Adding 600 places to the prison network

- 21 There is a critical need to increase the capacity of the prison network to address demand for places from the end of 2019. We are seeking approval for \$298 million to build 600 additional places through the rapid deployment of modular units.
- 22 Using rapid build modular units will allow an increase to prison capacity in a relatively short timeframe (around 24 months)². Rapid build cells are constructed overseas and then assembled at the prison site. These units can be dismantled at a future date if they are no longer required (e.g. because the prison population drops to a point where they are no longer required).
- 23 Rapid build units involve significant compromises, and are not suitable as a long-term solution to meeting demand for prison places. These units use up more land compared to

² Three rapid build units were funded in Budget 2017 and will bring 360 places into service at Tongariro and Rolleston prisons from December 2018).

large prison developments, reducing options for future developments. They also cost more to maintain over time, and can compromise the original design of prison sites.

- 24 Deploying units into existing 'brown field' sites requires careful consideration of land designation, resource consent, existing infrastructure and operational factors. Each prison site presents a number of challenges which affect the risk, cost and timeline for adding additional units.
- 25 The cost of the actual units only accounts for a small proportion of the total cost, with significant investment required to upgrade related site infrastructure (e.g. power, water, waste), ancillary functions (e.g. kitchens, laundries and health facilities), and to make physical space for the units (e.g. earthworks, perimeter fencing).
- 26 The three prison sites that have been identified as the most suitable to accommodate the 600 additional places are:
 - 26.1 Christchurch Women's Prison (1 unit = 120 beds)
 - 26.2 Christchurch Men's Prison (2 units = 240 beds), and
 - 26.3 Rimutaka Prison (2 units = 240 beds)³.
- 27 Further detail about the cost of these units is provided in the Financial Implications section of this paper.
- 28 If funding for these units is approved, they will be commissioned from July 2019 with all units in service by December 2019.

Additional resourcing for a capacity building programme

- 29 Corrections operates a Prison Capacity Programme to co-ordinate and manage the maintenance and development of capacity in the prison network. As demand for places in the prison system has increased over the last few years the programme has gradually expanded to identify and develop new capacity in the prison network (e.g. double bunking, bringing old buildings into service, small scale developments, and modular builds).
- 30 In November 2017, the Treasury Gateway Review Team recognised that there was a need to revise and restructure existing arrangements for the Prison Capacity Programmes, noting that: "The scope, size and nature of the Prison Capacity Programme lends itself to a portfolio approach to respond to the challenge of delivering an enhanced prisoner capacity across the network and ensuring that current and future policy initiatives aimed at reducing prisoner demand are appropriately coordinated".
- 31 The Treasury Review Team made two recommendations (classified as critical) in their report:

³ The three Christchurch prisons (Rolleston Prison, Christchurch Mens and Womens) share some operations such as laundry and kitchen services. Given the total increase in bed capacity in the Christchurch area over the next two years, this proposal includes some redistribution and optimisation of the shared operations, and related facilities between the three Christchurch sites.

- 31.1 Establish an appropriate Prison Capacity Portfolio Structure including governance, management and delivery arrangements for all phases, and
- 31.2 Expand the Prison Capacity Programme, Phase 1 team to include appropriate resource to manage delivery of the projects underway and planned.

32 In response to the above recommendations, a new Prison Capacity Portfolio structure and supporting governance has been developed. The funding requirement for this structure over the next four fiscal years is 9(2)(i). Further information on the case for this is provided in Appendix D. Corrections will investigate whether this cost can be met by reprioritising from within its existing baseline, but may need to come back to Cabinet for funding at a later date if a suitable funding source cannot be identified.

Reducing the prison population

33 The scale of projected demand for prison places between now and 2021 means that unless we start reducing the prison population in the short-term, we will be faced with the need to fund more expensive 'just in time' prison capacity.

34 9(2)(f)(iv)

35 We have started to explore what can be done to reduce the number of people in prison in the short-term under existing legislative settings. Three approaches have been identified, and estimated impacts have been developed for two of them.

Making operational changes to improve the way the system functions

36 In December Justice Sector Ministers established a cross agency project – the High Impact Innovation Project (HIIP), to identify and progress operational improvements that can be made to the criminal justice system to reduce the number of people in prison.

37 HIIP is well underway, and details of current and planned activities in this programme are summarised in Appendix B⁵.

38 There is high confidence from justice agencies that a reduction of 150 places can be achieved from HIIP changes. This estimate is relatively conservative, and reductions above this level are possible, however these are not sufficiently certain to be relied on for capacity planning purposes.

39 Achieving substantive reductions through the HIIP will require additional funding, and the programme is expected to seek funding from the Humane and Effective Justice Fund to develop new initiatives and expand the scale of its activity.

⁴ These figures take into account the impact of adding an additional 920 Police officers as proposed in Paper B – Striving towards 1800 new Police.

⁵ This programme builds on previous work undertaken by Corrections which has seen the number of people on electronically monitored bail more than double from 258 in January 2014 to 611 in January 2018. The number of people who have received home detention sentences also increased 13% over the same period.

Investment in housing services

- 40 Investment in housing has real potential to reduce the number of people in prison. Inadequate accommodation can result in someone being remanded in custody when they might otherwise have been granted bail, sentenced to home detention or granted parole. Corrections' analysis has identified that hundreds of people every year are denied bail, home detention or parole, largely due to a lack of suitable accommodation.
- 41 The Minister of Corrections has developed a bid as part of Budget 2018 to invest \$100 million over four years to provide housing and re-integrative services for 580 people who may otherwise go to, remain in, or return to prison if this service was not available.
- 42 The bid is estimated to result in a reduction in the prison population of 175, with high confidence that a reduction of at least 100 can be achieved.
- 43 In the event that this bid is not funded as part of Budget 2018, a smaller bid may be made for funding from the Humane and Effective Justice Fund to support some of this activity, but over a shorter period of time (e.g. for the first year only), with further funding sought in future Budgets.
- 44 Given the importance of housing in addressing pressures on the prison system, Corrections, the Ministry of Social Development and Housing New Zealand have established a joint programme of work to identify opportunities to better support the placement of offenders into public housing and co-ordinate the services provided by these agencies to offenders. Further information about this is provided in Appendix C.

9(2)(f)(iv)

- 45 [Redacted]
- 46 [Redacted]
- 47 [Redacted]
- 48 [Redacted]
- 49 [Redacted]

Fallback actions to respond to unplanned demand

- 50 While the actions outlined previously will address projected demand for prison places between now and 2021, the system will still be under significant pressure during this period. Any increase in demand beyond what has been predicted will place the system under severe pressure, and past experience has shown that demand for prison places can increase sharply and without warning.
- 51 It is prudent to identify fallback actions that can be implemented in the event of unexpected demand for prison places. The measures that have been identified are:
- 51.1 [REDACTED] 9(2)(f)(iv) [REDACTED]
[REDACTED]
 - 51.2 applying emergency double bunking of cells, and
 - 51.3 adding urgent additional capacity to the network.
- 52 [REDACTED] 9(2)(f)(iv) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- 53 Emergency double bunking would essentially involve putting extra mattresses on the floor of cells (as these are more secure than other rooms/facilities), and include basic amenities.
- 54 In the event of larger-than-expected surges in the prison population between now and 2022, Corrections may need to respond to urgent capacity gaps as they arise. If that were to happen urgent additional capacity may be required. While Corrections' first action in this situation would be to fund any additional urgent capacity by reprioritising existing capital, additional funding may also need to be sought.
- 55 In the event that these actions are required, the Minister of Corrections will provide a report to Cabinet advising of the action(s) that is being taken, associated financial pressures, and how implementation is being managed.

Consultation

- 56 The Treasury, Ministry of Justice, Police and State Services Commission have been consulted on this paper. The Department of Prime Minister and Cabinet has been informed of the development of this paper.

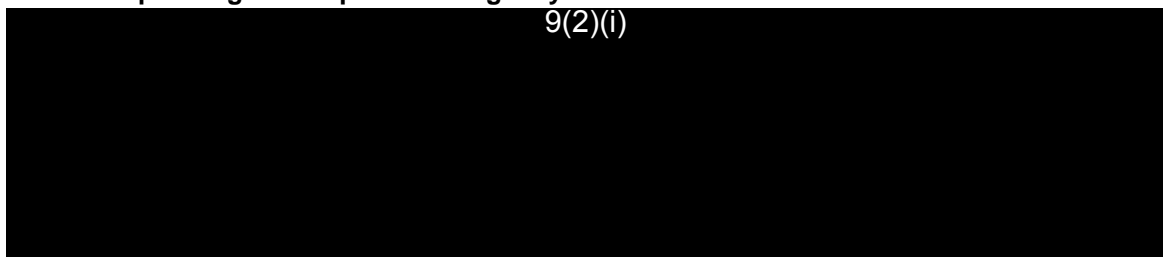
Financial Implications

Capital Cost

- 57 The capital cost of the 600 prisoner places, and the associated infrastructure upgrades is **9(2)(i)**⁶. The cost of the accommodation units accounts for around 50 percent of this cost, with significant investment required to upgrade related site infrastructure (e.g. power, water, waste), ancillary functions (e.g. kitchens, laundries and health facilities), and to make physical space for the units (e.g. earthworks, perimeter fencing).
- 58 Corrections has identified that it can provide \$100 million of self-funding towards the capital cost. This increase over the \$70 million previously advised to Cabinet reflects infrastructure and other enhancements that were in Corrections' capital plan, and which are now necessary in the short-term to facilitate the addition of the new units.
- 59 Whilst the construction cost estimate above includes an appropriate construction contingency of 10 percent based on the current known scope of works, there remains considerable risk associated with current construction market conditions, unforeseen ground conditions and in-ground service requirements.
- 60 As such, it is proposed that tagged operating and capital contingencies as detailed in Table 2 be established as a pre-commitment against the Budget 2018 operating and capital allowances, and that Cabinet authorise the Minister of Corrections and Minister of Finance jointly to make decisions on the approval of expenditure against these contingencies, with the contingencies expiring on 30 June 2019.

Table 2: Operating and Capital Contingency

9(2)(i)



Asset Related Operating Costs

- 61 Corrections also requires operating funding to commission the new capacity and for its asset related operating costs (such as capital charge, depreciation, rates and insurance, and facilities maintenance costs). These are detailed in Table 3.

Table 3: Asset Related Operating Costs for the 600 Rapid Build Places

	\$m – increase/(decrease)				
	2017/18	2018/19	2019/20	2020/21	2021/22 and outyears
Commissioning	-	2.4	10.4	-	-
Capital charge ⁷	-	1.6	11.8	12.0	12.0

⁶ This represents a \$48 million increase from the cost estimate in December 2017 [CBC 17-MIN-0079], reflecting future enhancements that are required to facilitate the addition of new units. The cost estimate excludes the \$3 million previously approved by Cabinet for site feasibility work.

⁷ The capital charge does not have an impact on the Crown's operating balance.

Depreciation	-	-	11.3	15.0	15.0
Rates, insurance and FM costs	-	-	6.8	9.0	9.0
Total Asset Related Operating	-	4.0	40.3	36.0	36.0

Human Rights

- 62 It is not expected that the proposals outlined in this paper will raise any issues of inconsistency with the New Zealand Bill of Rights Act 1990 and Human Rights Act 1993.
- 63 The human rights implications of policy proposals referenced in paragraph 48 will be examined in a forthcoming paper from the Minister of Justice that will outline these proposals in detail.

Legislative Implications and Regulatory Impact Analysis

- 64 Legislative implications and any Regulatory Impact Analysis associated with the proposals referenced in paragraph 48 of this paper will be addressed in an options paper to be provided by the Minister of Justice in early May 2018.

Gender Implications

- 65 While men and women are just as likely to be victims of crime, men are disproportionately represented in the criminal justice system, and make up around 93% of the prisoner population.
- 66 The number of women in the criminal justice system is increasing at a faster rate than for men; with the number of female prisoners has grown at around twice the rate as that of male prisoners over the last five years.
- 67 Actions to reduce pressure on the prison network between now and 2021 are likely to benefit men as a group more than women, though women are also disadvantaged by stress in the prison system.

Disability Perspective

- 68 Stress in the prison system has the potential to negatively impact prisoners with specific disability-related needs (including mental health and behavioural needs).
- 69 Actions to reduce pressure on the prison network between now and 2021 will help Corrections to ensure that prisoners can continue to access the services and facilities they need to meet their specific health and disability-related needs.

Publicity

- 70 The actions outlined in this paper will form part of a public announcement related to Waikeria Prison, and the Government's plans to significantly reform the criminal justice system.

Recommendations

- 71 The Minister of Corrections and Minister of Justice recommend that the Committee:
- 1 **note** that the prison network faces an immediate capacity crisis that must be addressed, with the prison population currently exceeding safe maximum capacity by around 1,600, and projected to grow to 3,199 above this level by 2021;
 - 2 **note** that *Paper D: Investment in new capacity to support a more Humane and Effective Criminal Justice System* sets out options to increase capacity in the prison system from 2021, but that until then we face a prison system under severe pressure;
 - 3 **note** that our prison system will fail to be safe, secure, and humane, if it becomes severely stressed, and that this would be unacceptable for a Government that is committed to operating a humane and effective prison system;
 - 4 **note** that our best course to manage pressure between now and 2021 involves:
 - 4.1 adding 600 rapid build places to the prison network by the end of 2019
 - 4.2 **9(2)(f)(iv)**
[REDACTED]
 - 4.3 identifying further 'fallback' actions that can be used to respond to any further unexpected increases in demand;

Adding 600 places to the prison network

- 5 **note** that rapid build units can add 600 additional places to the prison network by the end of 2019, and that this represents the minimum amount of new capacity that Corrections needs to respond to increased demand from 2019;
- 6 **agree** that the Department of Corrections procure 600 rapid build places and associated infrastructure, to be in service by December 2019;
- 7 **delegate** to the Chief Executive of the Department of Corrections that authority to enter into construction contracts to support the delivery of the capacity in recommendation 6;
- 8 **note** that costs associated with this procurement are included in the Budget 2018 package, to be confirmed by Cabinet on 9 April 2018
- 9 **delegate** authority to the Minister of Corrections and Minister of Finance to review and approve the main contracts associated with the modular units as they are finalised, including contracts for the units themselves, their installation, earthworks, infrastructure and support building upgrades at the Christchurch and Rimutaka Prison sites
- 10 **note** that the significant increase in activity to develop and manage prison capacity means that a new Prison Capacity Portfolio approach is required, at an expected cost of \$20 million over the next four years
- 11 **note** that the Department of Corrections will investigate whether this cost can be met by reprioritising from within its existing baseline, but may need to come back to Cabinet for funding at a later date if a suitable funding source cannot be identified

Reducing the prison population

- 12 **note** that we can avoid the need to invest in further capacity between now and 2021 if we begin reducing the prison population, [REDACTED] 9(2)(f)(iv)
- 13 **note** that Justice Sector Ministers have established a cross agency project – the High Impact Innovation Project, to progress operational improvements to reduce the number of people in prison, and that this is estimated to reduce the prison population by at least 150;
- 14 **note** that investment in housing has the potential to reduce the number of people in prison, and that the Minister of Corrections has developed a bid as part of Budget 2018 for \$100 million over four years which would provide housing and re-integrative services and reduce the prison population by 100 – 175
- 15 **note** that the Department of Corrections, the Ministry of Social Development and Housing New Zealand have established a formal work programme and are working together on opportunities to better support the placement of offenders into public housing and co-ordinate the services provided by these different agencies to offenders;
- 16 [REDACTED] 9(2)(f)(iv)
- 17 [REDACTED]
- 18 [REDACTED]

Fallback actions

- 19 **note** that past experience has shown that demand for prison places can increase sharply and without warning, and that such an increase would place the system under severe pressure;
- 20 **note** that Justice Sector agencies have identified the following actions that can be taken in the event of an unexpected surge in demand for prison places:
- 20.1 [REDACTED] 9(2)(f)(iv)
- 20.2 applying emergency double bunking of cells, and
- 20.3 adding urgent additional capacity to the network – with additional funding potentially required;

21 **note** that in the event of an unexpected increase in demand for prison places the Minister of Corrections will report to Cabinet advising of the action(s) that are being taken to address this, and how risks related to these are being managed;

Authorised for lodgement

Hon Kelvin Davis, Minister of Corrections
Hon Andrew Little, Minister of Justice

Appendix A – How the Department of Corrections responds to increasing pressure on the prison system

The Department of Corrections (Corrections) is required to provide prison facilities that are safe, secure and humane.

Safe facilities allow the risk presented by prisoners to the public, staff and other prisoners to be managed, through both built and dynamic security features. Ensuring the safety of the public is the first principle of the corrections system, set out in of the Corrections Act (2004).

The security of prisons is determined by their ability to contain prisoners away from the public, both in terms of preventing prisoners from escaping, and preventing members of the public from interacting with prisoners outside of controlled visits.

The Department of Corrections is subject to requirements set out in the New Zealand Bill of Rights Act, including an overarching requirement that people who are arrested or detained 'shall be treated with humanity and with respect for the inherent dignity of the person'.

New Zealand is also a signatory to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). These set out what is generally accepted as being good principle and practice in the humane treatment of prisoners. Rules that are relevant to the accommodation of prisoners include that:

- different categories of prisoners should be kept separate – e.g. remanded and sentenced prisoners, young prisoners and adult prisoners
- prisoners should be accommodated in separate rooms when sleeping, and it is not desirable to have two or more prisoners in a single cell, though acknowledgement is made that more than one person may need to be placed in a cell where special circumstances apply
- all accommodation should meet health requirements and address climatic conditions, including appropriate amounts of air, minimum floor space, lighting, heating and ventilation.

Corrections is expected to house everyone who is sent to prison, either on remand or to serve a custodial sentence, regardless of the state of the prison network. Corrections is not empowered to release people from prison in the event that the number of people coming into the system exceeds the number it is designed to house.

The requirements above can be compromised when the prison network becomes stressed. Risks associated with system stress include:

- a reduced ability to ensure staff safety
- increased risk of violent, self-harm and suicide incidents
- an inability to deliver effective rehabilitative initiatives
- a reduced ability to respond to unexpected events (for example, earthquakes or prisoner unrest)
- an inability to house all prisoners in an environment and regime matched to their security rating and separate prisoners who are on remand to those who have been sentenced
- reduced opportunity for prisoners to engage in prison employment, and
- increased damage to facilities.

Corrections works hard to mitigate these risks, however significant levels of system stress impact its ability to deliver its statutory obligations and core objectives.

How many people can the prison system safely hold?

New Zealand's prison system is designed to operate within a safe maximum capacity – currently set at 9,161. The safe maximum capacity level is defined in a set of operating policies endorsed by Cabinet in 2016, which is intended to ensure that the prison network is resilient to certain risks and uncertainties, and able to operate effectively and efficiently.

When the network is operating within safe maximum capacity, it has:

- a small amount of reserve capacity (450 places) which can be used to absorb unplanned growth in the prisoner population
- a management buffer (400 places), which allows buildings to be taken out of service and maintained, prisoner movements to be managed, and allow segregation (e.g. between male and female, and high and low security prisoners) to be well managed
- disaster recovery capacity (900 places) that be called upon in an emergency, such as if an earthquake or riot occurs, and is only required to be suitable for short-term occupancy.

A network operating within the safe maximum capacity also supports prisoner rehabilitation, by ensuring that there are sufficient facilities to deliver programmes (e.g. programme rooms, treatment units), and providing some flexibility for prisoners to be placed in facilities where the programmes they need are available, and/or where they can be closer to family.

What happens when the system exceeds safe maximum capacity?

When demand for prison places exceeds the safe maximum capacity (as it has for the past three years), the Department of Corrections is able to respond by utilising the reserve capacity, management buffer, and (if no better options exist) the disaster recovery capacity.

Utilising these places significantly increases pressure on the network, and requires that Corrections take steps to increase the capacity of the network to return to a safe maximum level.

Operating above safe maximum capacity also places operational pressures on the system. Managing more prisoners than a prison is designed for means additional pressure on prison staff, both in terms of the amount of daily activity that must be managed (e.g. more meals, more prisoner transfers), and managing the increased tensions that can develop when a prison is stressed.

Managing increased pressures can mean reducing 'unlock hours' – the time when prisoners are allowed to be out of their cells each day, and increasing the number of staff at a site.

As part of employment agreements with frontline prison staff, there is a provision available for the payment of an allowance to staff if prison sites exceed operational capacity and are required to use emergency beds. The allowance has not been triggered to date.

A number of prisons in the network are subject to 'designations' – limits on the number of prisoners that can be held at a site in line with resource consents. These place restrictions on how some prison sites can be used, and mean that accommodating more prisoners within the network means shifting additional prisoners to prison sites that are not subject to designations⁸, or seeking new (larger) designations for sites, which is costly and time consuming.

⁸ The prisons that are not currently subject to a designation (cap) are Mount Eden Corrections Facility, Tongariro Prison, Rolleston Prison, Christchurch Men's Prison, Christchurch Women's Prison, Manawatu Prison, Arohata Women's Prison, Rimutaka Prison, Hawkes Bay Prison, Invercargill Prison, Northland Regional Corrections Facility, Whanganui Prison, and Spring Hill Corrections Facility.

How can Corrections increase the capacity of the prison network?

Options to increase capacity in the prison system include:

- double bunking cells in existing facilities
- bringing old facilities that have previously been retired back into service
- adding new buildings to existing sites (extra buildings or rapid build units)
- building new large-scale prison facilities.

Each of these measures comes with limitations and drawbacks.

Double bunking should ideally be limited to prison cells above a certain size – previously Correction's policy has been to only double-bunk cells that are 7m² and larger in size. However Corrections has now double-bunked all of these larger cells, and has recently been forced to start double bunking smaller cells.

Double bunking should also ideally be applied to a limited proportion of cells in the prison network, to limit the risk of prisoner-on-prisoner assaults, which increases when prisoners less-suited to sharing a cell are placed together. Currently around 30% of cells in the prison estate are double bunked.

A further 422 emergency places are currently being introduced into the network, mostly through double bunking of self-care units. Self-care units are residential style accommodation designed to be used primarily by prisoners who are nearing release, and are designed to assist with reintegration by increasing residents' personal responsibility and self-reliance before their release from prison. Double bunking these units is less than ideal (as it will significantly undermine their purpose), but reflects the trade-offs involved in housing additional offenders within the existing network.

Bringing old facilities into service can provide additional capacity, but involves a number of compromises. In particular, older facilities were built at a time when rehabilitation was not a focus in New Zealand and can make delivering rehabilitation programmes/services very difficult. These facilities can also increase safety risks to staff (as they may lack modern security features), and can be more expensive to operate.

Older facilities that have been brought back into service recently include:

- the top jail at Waikeria Prison (280 places) – this building was constructed between 1911 and 1918. Part of it has been assessed as posing a serious earthquake risk and has been tagged for demolition (though Corrections has received a temporary dispensation to continue using the building until better accommodation can be developed).
- the top jail at Rimutaka Prison (112 places) – this facility was brought back into service to accommodate an overflow of female prisoners from Arotaha Prison. It is currently in the process of being double-bunked.

Adding new buildings to the prison network is easier than building new prisons, but can be costly, particularly if these facilities are required in a relatively short timeframe. These types of buildings also use up more land compared to large prison developments, and impact on the design and operation of prisons, including the long-term planning of the prison network. Small scale developments also cost more to maintain over time than large scale developments.

Small scale developments that have recently been completed or are underway include:

- a new building at Arohata Women's Prison which will come into service shortly (69 places)
- Building C at Mt Eden Correctional Facility (245 places) by October 2019

- three rapid-build modular units (360 places) at Rolleston Prison (x2) and Tongariro Prison (x1) by December 2018.

Large scale prison facilities are the most efficient and cost-effective way to add quality capacity to the prison network. They are less costly in the long-run than small-scale developments, but require a significant lead-in time to develop and build - typically five years from planning to completion. The Waikeria Corrections and Treatment Facility is the only large-scale development currently in progress.

What happens if no more capacity is added but the prison population keeps growing?

Where it is not possible to increase the capacity of the prison network by building new facilities (for example, because this would take too long, or is considered to be too costly), the capacity levers that Corrections has to respond to increasing pressure include:

- utilising Police Jails as prison facilities – Corrections has the ability to utilise around 125 beds in Police Jails under a memorandum of understanding with Police, and is currently making use of these from time to time
- loosening segregation and/or security requirements to allow prisoners who would normally be housed in separate units to be housed in the same unit – e.g. putting remand and sentenced prisoners in the same unit, 9(2)(f)(iv)
- undertaking further double bunking
- 9(2)(f)(iv)
- re-opening further retired capacity – retired Corrections facilities represent the lowest quality accommodation available, and take approximately 12 months to be made operational (at a significant cost) – consideration is currently being given to using units at the previously closed New Plymouth Prison, and a retired part of Tongariro Prison
- considering triple-bunking some cells
- utilising Court cells as prison facilities
- 9(2)(f)(iv)
- utilising rooms designed for other purposes (e.g. rehabilitation programme rooms, gymnasiums and whare) for prisoner accommodation
- utilising Corrections vehicles as temporary cells
- requesting assistance from the military – Corrections has a memorandum of understanding with the New Zealand Defence Force that allows the NZDF to provide operational and logistical support to Corrections.

In a situation where demand significantly exceeds the capacity of the prison network, Corrections would do its best to accommodate prisoners in a way that best meets its obligations to provide secure, safe and humane containment. However, in the absence of new facilities, the need to maintain secure containment is likely to become the primary focus above all else.

What would happen in the event of a natural disaster if the prison network is already over safe maximum capacity?

When the prison network is operating within safe maximum capacity there are 900 places set aside for disaster recovery. However, if these and other reserves are full (as is currently the case) when a disaster happens, Corrections will need to rapidly add capacity to its network.

This would include using the approaches outlined above, and would depend on the nature and scale of any disaster.

As capacity would need to be realised quickly, it is reasonably likely that a first response would involve putting mattresses into cells, gymnasiums and other facilities at unaffected prisons, and transferring prisoners there from damaged prisons. This assumes that transporting prisoners would be possible in such a situation.

In the event of a State of Emergency the Corrections Act provides an ability for the Minister of Corrections to requisition any land or building so that it can be used as a prison. Corrections can also request assistance from the military in such a situation, as referenced above.

Appendix B – High Impact Innovation Programme: Summary of current and planned activities

Initiative	Description
Remand Triage	Follows a trial in 2017 and involves funding additional police prosecutors dedicated to deal more efficiently with prosecution files for remand accused prisoners.
Bail Options	Introduces dedicated senior advisor roles to prison sites to support eligible defendants to make robust and safe applications for Electronically Monitored Bail (as an alternative to remand). Supported accommodation options for women on EM Bail have been introduced in Hamilton (Anglican Action) Auckland (MUMA and the Salvation Army) and Christchurch (the Salvation Army).
Parole Ready	Roles have been created to help progress prisoners through their rehabilitative/reintegrative pathways quicker and work to bring forward scheduled Parole hearings, so prisoners can be considered for Parole sooner. Work is also being done to examine where released prisoners are recalled to prison to identify opportunities to strengthen release planning/incident management to reduce the likelihood or recall occurring.
<i>Initiatives in development</i>	
Enabling bail at the earliest opportunity	The aim of this initiative is to improve the process for advising the court on bail and how this can be made as quick and efficient as possible, and facilitate rapid bail decisions, while maintaining a robust and safe process. A pilot is expected to be operational in the second quarter of 2018.
Scheduling court activity	The aim of this initiative is to improve the collective process between Police Prosecutions and court staff (working with the judiciary) to schedule court appearances more effectively to reduce court delays for those remanded in custody. A trial is planned for mid 2018.
Bail navigation	The aim of this initiative is to create a navigation/support function to work with bailed defendants to reduce the likelihood of further offending or breach of condition while on bail. This will include identifying barriers to achieving bail. A trial is expected to be operational in the second quarter of 2018.

Appendix C – Joint agency work on housing

In December 2017, the Department of Corrections, the Ministry of Social Development and Housing New Zealand reported to Ministers on opportunities to support prisoners' re-integration into society, in the context of the Government's goal of reducing the prison population. Four key opportunities have been identified:

- strengthening information sharing between agencies to minimise delays in the placement of people in public housing
- improving processes for housing higher risk people, including pre-approving addresses that are suitable for child sex offenders
- better coordinating the services provided by multiple agencies, including tenancy management, probation and wrap-around supports, so that re-integration goes more smoothly
- more closely aligning Corrections and Work and Income case management of prisoners who are preparing for release.

To progress this work, Corrections, the Ministry of Social Development and Housing New Zealand have established a formal work programme, which includes but is not limited to the opportunities listed above, and is overseen by the Deputy Chief Executives of the three agencies.

The work programme has resulted in several significant developments, including:

- working to formalise an agreement to clarify roles and responsibilities, and put in place appropriate information sharing arrangements, in respect of the provision of emergency housing assistance for released offenders serving orders and sentences in the community. This agreement will help to ensure that risks are communicated and are managed appropriately between agencies
- the identification of potential public housing developments that could be suitable for people leaving prison, including those who are not currently paroled due to a shortage of accommodation
- developing processes to track the housing services that are being provided by multiple agencies to people under Corrections management and gain a clearer understanding of their impacts.

This work supplements several existing joint-agency initiatives, including the purchase of 250 additional public housing places over the next four years exclusively for people with a Corrections history, and a two year trial that enables community housing organisations to provide additional services to tenants with complex needs, the majority of whom have a Corrections history.

The Department of Corrections, the Ministry of Social Development and Housing New Zealand will continue to brief the relevant Ministers on progress with the work described above, and will facilitate further advice to Cabinet as and when required.

Appendix D – The need for a portfolio approach to develop prison capacity

A portfolio approach to prison capacity is required to ensure all prison capacity change initiatives are optimised, resources are mobilised in the most effective and efficient way and the right capacity initiatives are in place to ensure sufficient capacity is available to meet current and forecast prisoner numbers.

The scope of Phase 1 of the Prison Capacity Programme has increased significantly since its establishment, from approximately 341 beds to be provided over an 18 month period to over 2000 beds needed over a 42 month period. This excludes the Waikeria and Mount Eden Corrections Facility developments. Whilst the team to deliver these beds has grown slightly over this time, this growth has been organic and incremental; rather than a full review of the structure with a view as to whether it was still fit for purpose. Dedicated and sufficient resources have not been available in critical areas, such as developing new strategies and operational and asset responses within a very dynamic environment.

The Gateway Review Team for the Waikeria Prison Development highlighted the need to revise and restructure the existing Prison Capacity Programme arrangements. “The scope, size and nature of the Prison Capacity Programme lends itself to a portfolio approach to respond to the challenge of delivering an enhanced prisoner capacity across the network and ensuring that current and future policy initiatives aimed at reducing prisoner demand are appropriately coordinated”.

The proposed structure comprises three programmes dedicated to delivery of capacity; a programme aimed at initiatives to reduce growth in the prison population; and a separate group aimed at optimising the current solutions and analysing new responses that may be required as well as portfolio management. This has resulted in a funding gap of **9(2)(i)** over the next four years to implement this proposed new structure.

Current funding for the Agile Programme (formally part of Phase 1) ends on 31 December 2018. To ensure that Corrections has the continued ability to respond quickly and appropriately to urgent capacity gaps (through agile mechanisms such as increased double bunking or utilisation of non-Departmental capacity) this team needs to be extended through to 2021. This makes up **9(2)(i)** of the projected funding gap over the next four years. It should be noted that as these agile capacity options are identified, additional funding may be required. The first point of call will always be Corrections’ existing capital plan, but given the call on this plan associated with modular units, this may not be achievable and additional funding may be sought as a result.

One of the purposes of the Prison Capacity Strategy Optimisation and Shared Services team is to focus on optimising the current solutions and analysing new responses that may be required, allowing the programme teams to focus on delivering their current scope. In this way, changes and/or new responses can be fully analysed, scoped and reviewed for strategic alignment, before being added to a programme(s) scope in a controlled and managed way. The Strategy and Optimisation team will add value by remaining aligned with the corporate strategy; ensuring that if the strategy changes, the programmes’ viability is reviewed and adapted accordingly.

The team will also provide insight to the Executive Sponsor in relation to the next pressure points, areas of convergence, identification of risks, and advice as to suitable responses/strategies to any overheating in procurement activities.

In addition to the above, the Strategy, Optimisation and Shared Services team would also be a central hub of shared services and resources for the programmes within the portfolio, in addition to the dedicated resources allocated to each programme where it is deemed necessary. These

shared services and resources would be utilised across the various programmes as required (co-ordinated by the Strategy, Optimisation and Shared Services team, which has overall responsibility for portfolio resource planning).

These resources would include: Workforce Management; Procurement; Finance; Modelling & Analysis; Services (Resource Management, Facilities Management [FM], Electronic Security [ES]). Some of these are existing resources, for example, there is a dedicated RMA/stakeholder lead within the Prison Capacity Programme Phase 2 team currently. This resource will remain available to the Prison Capacity Programme Phase 2 team but will be located within the Strategy and Optimisation team as a shared resource.

While a limited number of the above functions have been serviced, to a lesser scale, from within the Phase 1 team (such as the Workforce Management and Operational Readiness Leads), funding for this small number of roles also ends on 31 December 2018. The remaining funding gap for the Strategy Optimisation and Shared Services team equates to 9(2)(i) over the next four years.

9(2)(i)

This represents a small overhead, that if excluded would end up increasing programme-by-programme costs. The table below shows how the 9(2)(i) would be spread over the next four financial years.

	17/18	18/19	19/20	20/21	21/22	Total
Operating expenditure	■	■	■	■	■	■