

Budget Sensitive

Office of the Minister of Corrections

Chair, Cabinet Social Wellbeing Committee

Paper D: Investment in new capacity to support a more effective criminal justice system and a safer New Zealand

Proposal

- 1 We have made a commitment to create a more effective criminal justice system and safer New Zealand, with specific commitments to:
 - 1.1 reduce the prisoner population by 30 percent over 15 years
 - 1.2 reduce the over-representation of Māori in the criminal justice system
 - 1.3 increase the number of Police.
- 2 To deliver on these commitments we need to improve the quality of the current prison capacity. Better quality capacity will mean more effective rehabilitation, and better justice outcomes. We also need enough capacity to ensure the prison system can be operated safely and will not fail the New Zealand public.
- 3 We need to think about the capacity we need in three phases. In the short term we need to ensure we can meet the immediate need, Paper C addresses this. In the medium term we need to have enough of the right capacity to support our goals and to keep us safe, the current paper discusses this. 9(2)(f)(iv)
- 4 Corrections plans and manages risk according to established safety and management policies, justice sector processes, and statutory requirements. Option 6 in this paper has been developed in line with the Justice Sector Projection, 9(2)(f)(iv) and by Corrections' view of facility design and effective network operation.
- 5 9(2)(f)(iv)
As the size of this reduction is not currently set out, this paper presents the need for capacity against the currently known options to reduce the prison population. While we could adopt a target setting approach, it seems prudent to take a conservative approach to our consideration of capacity decisions. Our decision on which option to pursue will need to be considered in light of the population reductions we believe are possible in the long term.

- 6 This paper sets out a range of capacity options that respond to the projected prisoner population. It makes available several choices which each have different implications and requests that we approve an option.

Background

- 7 Over the past 15 years Corrections has expanded the prison network in response to increasing demand. Corrections has also removed end-of-life capacity from the system where possible, to improve outcomes for prisoners, reduce costs, and ensure the system continues to be safe, secure and humane.
- 8 Waikeria Prison is an important site in the prison network due to its location at the centre of the expected population growth, with around 70% of the gap between supply and demand being in the central North Island. Waikeria has consistently been factored into plans for effective network function, although it is now run down and in need of replacement if it is to remain operating.
- 9 Plans to redevelop the Waikeria Prison site were put on hold in 2010 when the prison muster flattened off, but were reactivated in 2016 after an options analysis determined that this was the preferred response to the rapid growth in the prison population.
- 10 Following business case approvals in 2016, resource consenting and procurement activity in 2017, and site preparation and finalisation of documentation in the first three months of this year, a contract is ready to be signed with Cornerstone Infrastructure Partners (CIP) for the delivery of the replacement of Waikeria Prison. If the procurement progresses, the facility will be in service in late 2021, and will be operated by Corrections.
- 11 In this paper officials have introduced new options that align well with regional demand, have good rehabilitation credentials and allow a staged approach to capacity investment if we are prepared to accept additional cost and risk.
- 12 I think it is clear that the successful long term reform of the justice sector will require time, improved practice and sector settings, and investment in improved capacity. Through this combination we can begin to arrest the rate of growth, stabilise, and then drive the population down, supported by a prison network that is smaller and much better than it is today. We also must make decisions to respond to where we expect the prison population to be in 2021, these decisions need to move us towards a justice system that is more effective than it is today.

The attributes of high quality prison capacity, including regional demand alignment

Size and effectiveness

- 13 Not all prisons are the same. A prison's ability to support rehabilitation in a safe and humane environment is the result of the quality of the operating model for prisoner management, care, and rehabilitation, a design that enables it to be effectively implemented and its size.
- 14 International correctional philosophy favours smaller prisons over larger facilities on the basis that:

- 14.1 they can be built locally, allowing prisoners to be closer to their families
 - 14.2 staff morale is typically higher as management is more visible, and people are more likely to know each other meaning social cohesion is higher
 - 14.3 they rely on dynamic security features (e.g. greater use of guards) rather than automated systems, providing a better ability to monitor prisoner wellbeing.
- 15 Some large prisons can result in poor social environments and prisoner outcomes because they can be impersonal and focus on procedure rather than people. In the case of large prison design, this is typically prominent in 'warehouse' designs. In contrast a large prison that is well designed, creates small communities within a larger facility and has an operating model focused on rehabilitation and prisoner welfare shares many of the advantages of smaller prisons.

Factors that most profoundly impact facility effectiveness

- 16 The design of a prison facility and the way it operates has the most impact on its effectiveness. This includes the incorporation of important principles like normalisation – designing prisons to feel less institutional. Prisons that focus on normalisation reduce the chance of institutionalisation, and give prisoners a degree of autonomy and privacy.
- 17 Most of Corrections' recent capacity additions have adopted progressive design principles. Based on its experience developing and operating prisons in New Zealand, Corrections has a preference for applying these principles to medium-large scale facilities. This is because these facilities allow:
- 17.1 a full range of different rehabilitation services/interventions to be delivered on-site – it has been difficult at times for Corrections to provide appropriate rehabilitation services at its smaller prisons in its network due to the struggle with attracting staff to remote locations
 - 17.2 a range of accommodation options to be provided at one prison – this provides flexibility to house prisoners with different security classifications, and allows prisoners to demonstrate increasing levels of responsibility and autonomy as part of their rehabilitation, moving from higher security accommodation to lower security accommodation, to self-care units and potentially temporary release, as part of the rehabilitation process
 - 17.3 more training and educational opportunities, and support programmes (e.g. parenting programmes) to be provided one prison.

The need for new capacity investment

Assumptions

- 18 In determining the extent of the capacity gap, and the investment required to address the gap, we need to factor in gains that can be achieved through short term non-capacity measures. 9(2)(f)(iv)

I have made a number of

assumptions about related decisions sought in accompanying papers that have an impact before 2021. These assumptions are as follows:

- 18.1 the 600 rapid build prison places recommended in *Paper C: Responding to critical prison capacity pressures between now and 2021* are approved
 - 18.2 9(2)(f)(iv)
 - 18.3 the 2018 Corrections Budget bid for additional housing services for prisoners is approved
 - 18.4 the 2018 Budget bid for 1,800 new Police is approved (as referenced in *Paper B: Striving towards 1,800 new Police*).
- 19 I want to stress that the 600 rapid build beds recommended in *Paper C* does not lift the prison network out of a state of stress and vulnerability to unplanned growth or emergencies and disasters. I also want to highlight that while Corrections has a lead role in the short term reduction initiatives it has no control over the factors that impact the long term growth of the prison population apart from its rehabilitation programmes.
- 20 The Safe Maximum Capacity used in the analysis below provides for disaster recovery, a reserve to cover fluctuations in the population and operational overhead capacity. This last item allows space for Corrections to efficiently move prisoners and provide the separation required between different groups such as accused and convicted prisoners without having to use stricter regimes such as limiting the time each group spends out of their cells. Total capacity assumes we are using all of this room to operate the network on a day to day basis. Both lines include a number of operational capacity increases that are already underway and funded.
- 21 I believe it is important for us to aim towards bringing the prison population back to the safe maximum capacity as a first step. After this is achieved work needs to continue to reduce the population in order to reduce double bunking and close older less fit for purpose areas.
- 22 The assumptions used in the Base Case are conservative so that we can be highly confident these reductions will occur. If we did not use high-confidence assumptions I would not be being prudent in the management of the risks we are exposed to as a government.
- 23 However, in accordance with good practice, officials have also tested more optimistic assumptions that would require us to take more risk, along with tests on positive and negative errors in the underlying population projection.
- 24 Table 2 below summarises each element, and shows in green the assumptions that have been overlaid on the 2017 JSP to determine demand for prisoner places over the next 10 years.

Table 2: Quantification assumptions

Element	Expected impact	Conservative impact assumption	Expected impact start	Expected impact fully realised
9(2)(f)(iv)				
Additional housing support	175 population reduction	100 population reduction	2019	2021
Additional Police numbers ¹	200 – 900 population increase	650 population increase	2019	2025
Population exceeds projection by 5%	n/a	720 population increase	2018	2021
Population less than projection by 5%	n/a	720 population decrease	2018	2021

¹ The conservative impact assumption was provided by Ministry of Justice

25 The full range of scenarios used to examine the projected prisoner population is as follows:

25.1 Base Case – 9(2)(f)(iv) the HIIP initiatives, and the impact of additional housing support, offset by an increase of 9(2)(f)(iv) by 2025 for the increasing Police numbers.

25.2 9(2)(f)(iv)

25.3 Positive projection error – By the end of 2021 there are 5% less prisoners than projected by the 2017 JSP.

25.4 Negative projection error – By the end of 2021 there are 5% more prisoners than projected by the 2017 JSP.

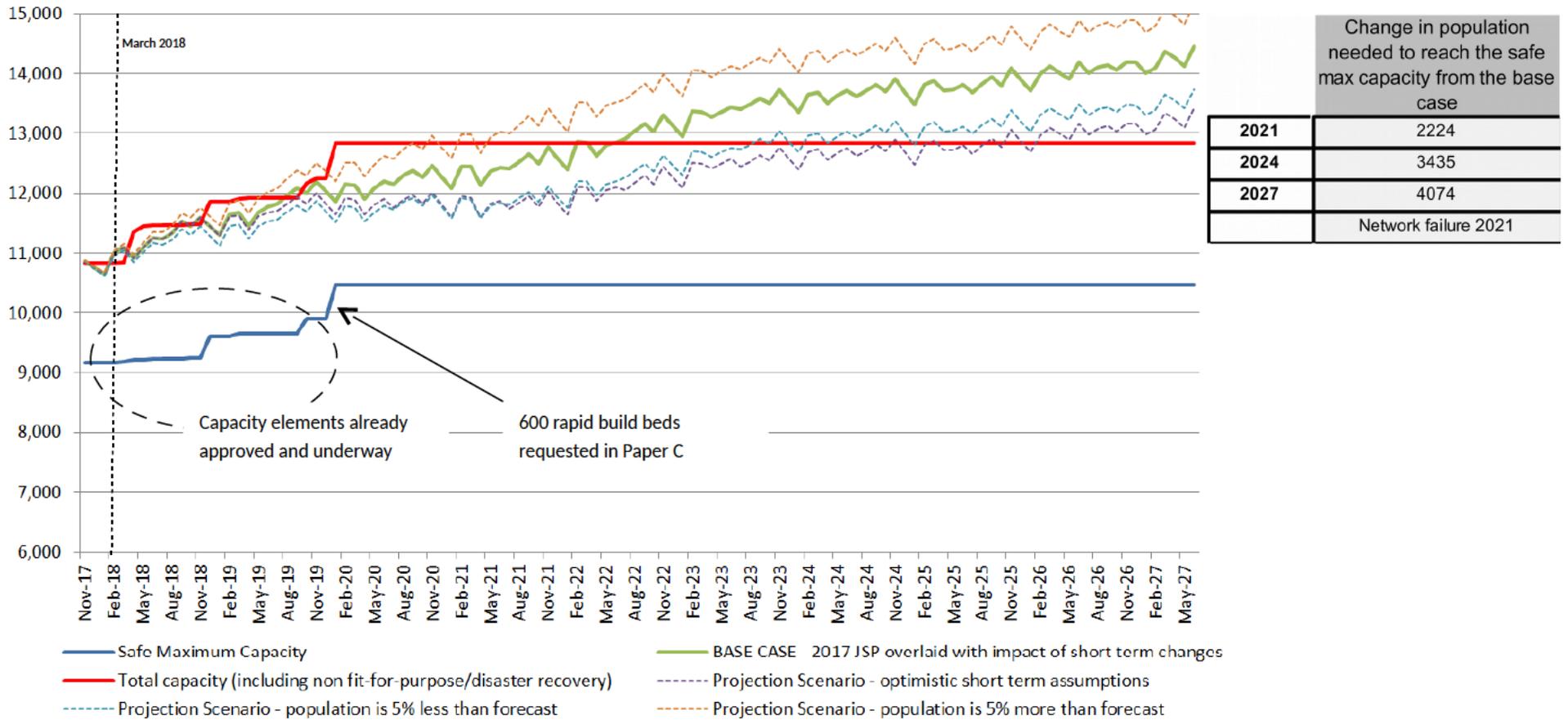
26 These four different views of the future prisoner population are then tested with a series of increasing capacity additions to determine the required extent and timing of the required capacity response that returns the prison network back to a safe, effective and resilient state as soon as practically possible.

27 The following figures show the safe maximum and the total capacity set against the various population projections. The table to the right shows the population reduction that would need to be achieved by the long term reduction plan to stay at the safe maximum capacity and when the network would fail without intervention.

Scenario 1 – No investment beyond 600 rapid build beds recommended in Paper C

28 This is the “no action” scenario. The prison network operates under severe stress until the end of 2021, and network operation becomes unsustainable after that.

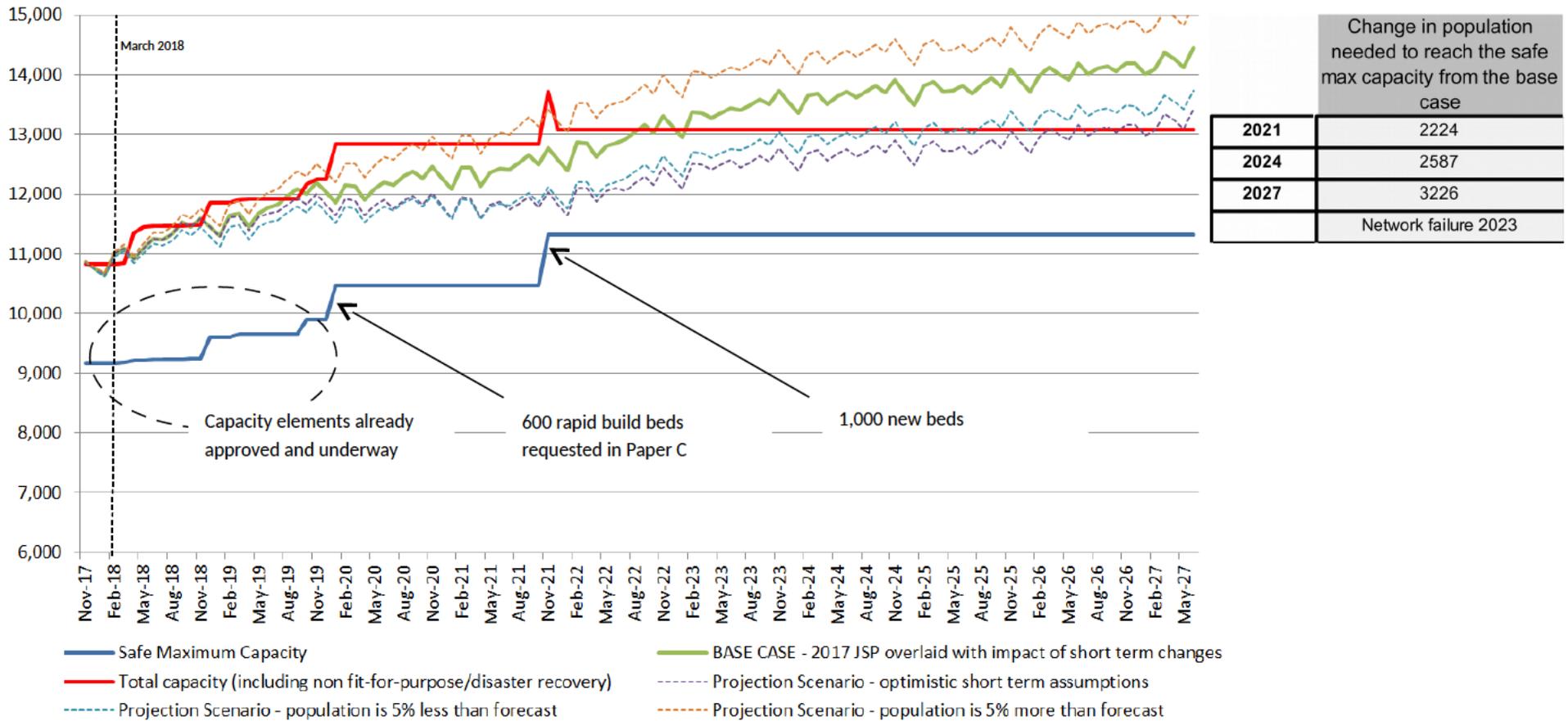
Figure 1: No investment beyond 600 rapid build beds



Scenario 2 – 1,000 additional prisoner places in service late 2021

29 The prison network is under severe stress until late 2021. Temporary respite occurs when 1,000 additional places are commissioned however that impact on total capacity is likely to be small because last resort capacity will need to be withdrawn from service due to its unsuitability, and also in accordance with industrial relations agreements that were reached so it could be used for a finite period. By 2023 network operation becomes unsustainable.

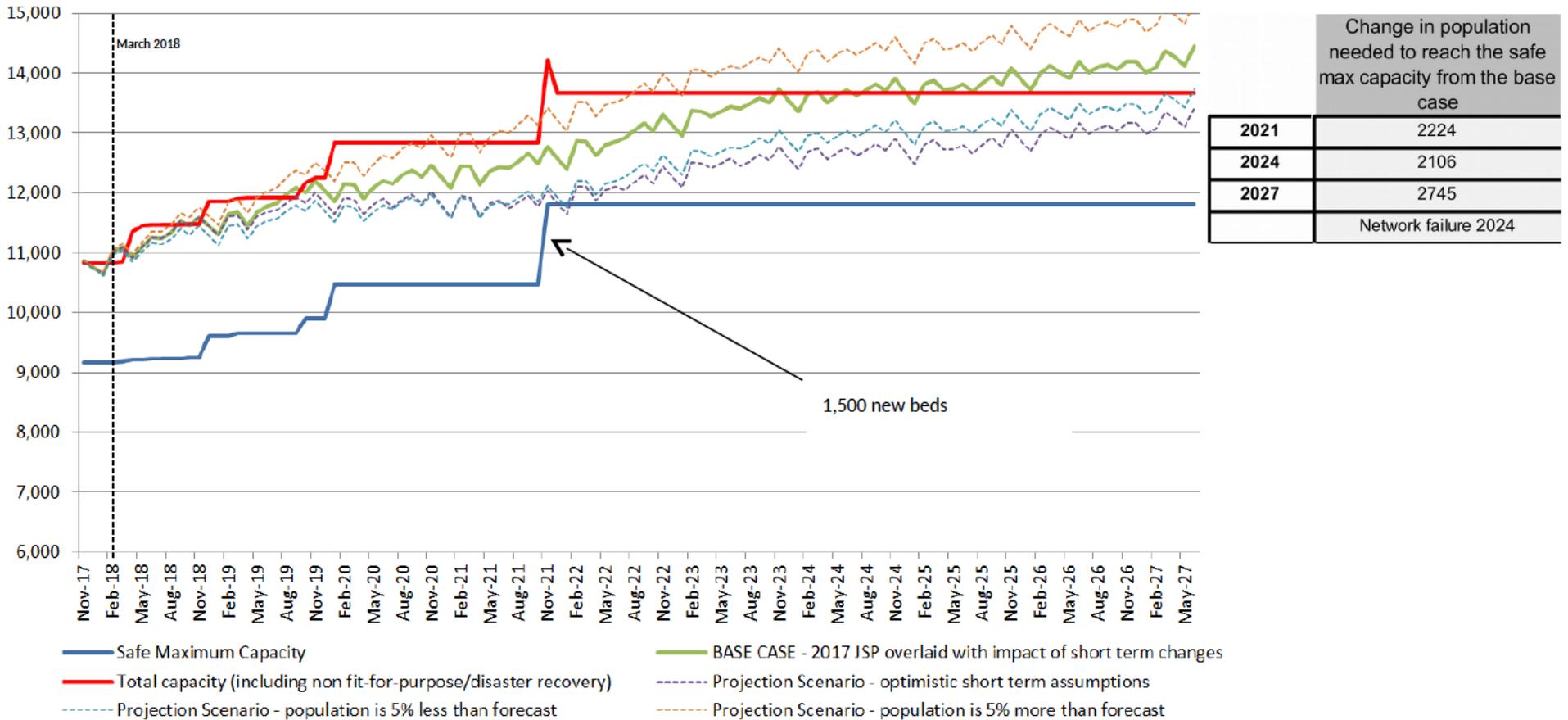
Figure 2: 1,000 additional prisoner places in service late 2021



Scenario 3 – 1,500 additional prisoner places in service late 2021

30 In this scenario the prison network is under severe stress until late 2021, and after a short period of improved but increasing risky operation the network becomes unsustainable in 2023.

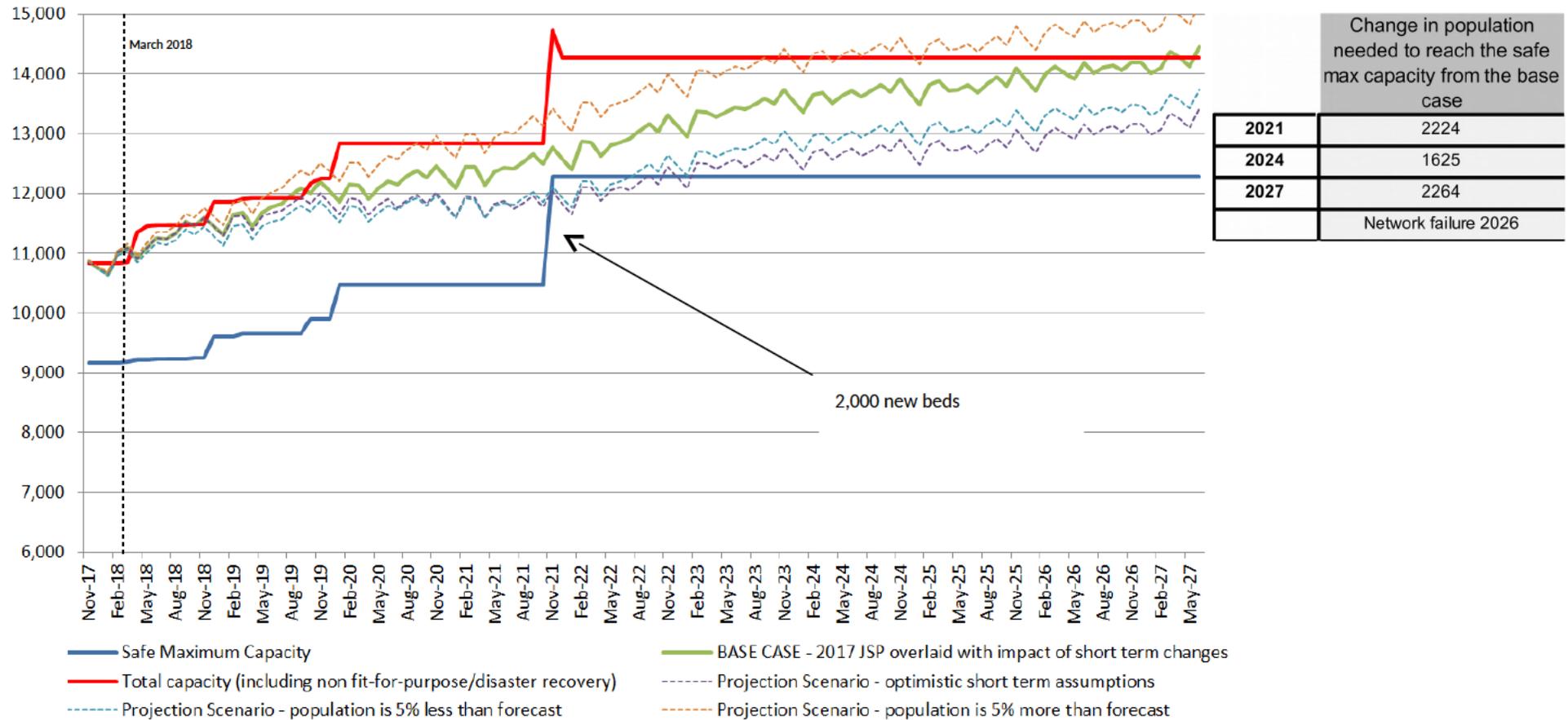
Figure 3: 1,500 additional prisoner places in service late 2021



Scenario 4 – 2,000 additional prisoner places in service late 2021

31 In this scenario the optimistic case for the short term change programme results in a return to safe maximum capacity for a 15 month period. In the base case safe maximum capacity is not achieved, falling around 500 places short. The prison network risk position degrades back to a severely stressed state towards the end of the decade. In the base case, by 2027 network operation becomes unsustainable.

Figure 4: 2,000 additional prisoner places in service late 2021



The required capacity response

- 32 In the Base Case - with the planning framework used by Corrections - 2,500 additional prisoner places of new capacity delivers the prison network back to safe maximum capacity in late in 2021.
- 33 If it is assumed that additional gains can be delivered by the short-term change programme then 2,000 additional prisoner places delivers a safe and effective prison network in late in 2021.
- 34 The options presented below provide a range of responses to address the capacity gap. We need to consider each of these responses against the amount of work that will be required from the justice sector reforms to reduce the prison population to a safe level.

Capacity response option assessment

- 35 The 2018 assessment takes a fresh look at options, their ability to address the fundamental need, and their time, cost, quality, and delivery risk attributes.
- 36 The regional demand assessment was made based on the current analysis that around 70% of the gap between demand and supply for prison beds occurs in the central North Island including Auckland. By mid-2022 this is expected to be around 2,400 prisoners.
- 37 The assessment has been applied to the following potential capacity response options:
 - 37.1 No action
 - 37.2 Refurbishment of current facilities at Waikeria
 - 37.3 A distributed mini-prison option
 - 37.4 Two optimised regional prison development options
 - 37.5 Two Waikeria Corrections and Treatment Facility options
- 38 The detailed assessment matrix is set out below in Table 3.

Individual Response Option assessment

Table 3 – Capacity response options assessment

Option / Attribute	Capacity gap in 2022 with this option	Date that this option enters service	On current projection, date where beds run out with this option	How well this option meets regional demand	Build cost of this option (future costs include escalation) (note costs are indicative for Options 0 to 4)	On-going asset related operating cost.	Rehabilitation quality	Delivery risk associated with this this option
0 Minimum upkeep	2,751	n/a Terminate current procurement.	2021	Poor – no extra beds	RMA compliance and ancillary works Note: termination of Waikeria procurement costs up to \$25m \$80m	\$1m p.a.	n/a	n/a
1 Refurbish existing Waikeria Prison Top Jail (no increase in beds)	2,751	2022 Terminate current procurement. Implement refurbishment, site upgrade and ancillary works.	2021	Poor – no extra beds	9(2)(i)	9(2)(i)	Poor. No change to building form is permitted under the new designation.	Extensive structural strengthening required to meet code. Must be withdrawn from service for two years while work occurs – prisoners housed in temporary facility.
1a Replace Top Jail with Waikeria 500 bed regional prison and 100 bed mental health facility	2,751	2024 Terminate current procurement. Implement traditional D&C procurement at Waikeria.	2021	Poor – no material increase in beds	9(2)(i)	9(2)(i)	Good. Includes additional mental health support.	Manageable.
2 Deliver 15 additional 130 bed regional prisons – 2000 beds total	2,751	2022-2028 Terminate current procurement. Implement large land and consenting project, develop design, then manage 15 regional procurement and construction management projects.	2021	Good	9(2)(i)	9(2)(i)	Average. Lacks scale to provide full rehabilitation services, and to sustain specialist workforce to manage high and complex needs.	Very high delivery risk. Likely to require government support to navigate the RMA process. Land acquisition and RMA processes must be initiated and successfully completed on a very broad scale. High uncertainty around market appetite and ability to deliver.
3 Deliver four additional 500 bed regional prisons – 2,000 beds total	2,751	2024-2026 Terminate current procurement. Implement four traditional D&C procurements, first build at Waikeria.	2021	Good	9(2)(i)	9(2)(i)	Good. Waikeria regional facility would deliver additional mental health support.	Land acquisition and RMA processes must be initiated and successfully completed – this is likely to require government assistance to be successful. Significant uncertainty around market appetite and ability to deliver.
4 Deliver Waikeria Facility at 1,000 beds, with second stage of two additional 500 bed regional prisons – 2,000 beds total	1,903	2021 & 2025 Complete current procurement with reduced scope. If required by the prison population outlook in 2020, implement two traditional D&C procurements in parallel.	2023	Good	9(2)(i)	9(2)(i)	Good. Waikeria design upgraded to deliver additional mental health support.	Waikeria element delivered by Cornerstone Infrastructure Partners. Minor renegotiation required to fix terms. Decision around the requirement for second stage of regional prison investments made in 2020 at latest. Uncertainty around market appetite and ability to deliver regional prison elements.
5 Waikeria Corrections and Treatment Facility at 1,500 beds	1,422	2021 Complete current procurement.	2024	Good	9(2)(i)	9(2)(i)	Good. Waikeria design upgraded to deliver additional mental health support.	Delivered by Cornerstone Infrastructure Partners. Terms negotiated. Fixed cost and completion date.
6 Waikeria Corrections and Treatment Facility at 2,000 beds	941	2021 Complete current procurement	2026	Good	9(2)(i)	9(2)(i)	Good. Waikeria design upgraded to deliver additional mental health support.	Delivered by Cornerstone Infrastructure Partners. Terms negotiated. Fixed cost and completion date.

- 39 The observations that can be made of the analysis in Table 3 are as follows:
- 39.1 Further temporary rapid build accommodation is not included in the options mix. This decision was due to the lack of rehabilitation support in the design and because there are few additional sites available in the network that do not have complex integration and RMA issues.
 - 39.2 Refurbishing the current Waikeria Top Jail does not add capacity. Also while the existing site can be refurbished the form cannot be altered due to the conditions received from the Environment Court. This means the Top Jail cannot practically be improved to better support rehabilitation.
 - 39.3 A distributed regional mini-prison model has high delivery risk, firstly through land acquisition, then the RMA (which requires a case by case demonstration of need and that there are no better alternative sites available), then through market procurement and construction management. 9(2)(f)(iv)
 - 39.4 Of the regional prison options, the distributed regional mini-prison model is the least reliable from an in-service date and cost perspective. Site by site, these very small prisons would also lack the scale to provide best practice design features and to sustain the specialist workforce required to deliver rehabilitation and intensive treatment services.
 - 39.5 New regional prisons have long timeframes for land acquisition, consenting, procurement, construction, and entry into service. When implemented with a high quality design and a progressive operating model, they have good rehabilitation credentials.
 - 39.6 Two small regional prison strategies are shown in Table 3:
 - 39.6.1 Option 3 has four regional prisons of 500 places each in Waikeria, Tauranga, Whangarei, and Nelson entering service in 2025-2026. This configuration is flexible and could be made up of prisons with different sizes. The most readily deliverable prison would be a replacement for Waikeria.
 - 39.6.2 Option 4 has the Waikeria Corrections and Treatment Facility entering service in late 2021 at 1,000 prisoner places, with the requirement for the following stage based on the government's outlook in 2020. The second stage - if committed – would involve two additional regional prisons of 500 places each in Whangarei and Nelson entering service in 2025.
 - 39.7 While none of the Waikeria options that would be delivered by the current procurement with CIP fully return the network to a safe and resilient state, they do provide the fastest way to add capacity with good rehabilitation credentials.

Key considerations

40 In making our decision there are key factors we should take into account.

40.1 On current expectation the prison network fails at the beginning of 2022. If we decide that the current Waikeria procurement will not be progressed at any scale there are no high quality capacity alternatives of reasonable scale that can be delivered into service before 2025.

40.2 9(2)(f)(iv)

40.3 Extra time will be needed for small new regional prisons. Significant cost, programme and delivery risks exist which require time and investigation effort and resources to define. Difficulties in the land acquisition and consenting processes could add two years to time frames for new regional prisons. The government would need to provide Corrections with assistance in these areas.

40.4 Option 3 could be configured to start with a replacement facility at Waikeria as well as further mental health beds on the existing site. It is possible this could be in service as early as 9(2)(i). The requirement to commit to the remaining three facilities could be deferred until 2020, while Corrections proceeded with land acquisition and preparatory RMA activity to ensure the remaining facilities could be in-service by 2025-2026.

40.5 Option 4 combines the programme, cost, and delivery risk advantages of the current Waikeria replacement (but at a reduced scale) with a follow-up second tranche of regional capacity that is well aligned to regional capacity deficits. This option provides a capacity response that will be in service in 2021 and makes it possible to defer the second tranche of new regional capacity if our population reduction plans are successful enough that the capacity is not required.

40.6 If we choose not to progress the Waikeria procurement, a number of Crown procurement costs and risks are created. The Treasury has advised Corrections that consideration should be given to the following areas:

40.6.1 The costs involved in cancelling the current procurement, currently estimated to be up to 9(2)(i)

40.6.2 The increased fiscal risks in the alternative capacity options

40.6.3 The potential impairment of the reputation of the Crown as a procuring entity

40.6.4 The tight capacity in the construction market

40.6.5 The potential impairment of investor confidence in doing business in New Zealand

40.6.6 The potential negative impact on the Crown major infrastructure procurement programme as a whole

- 41 Due to our concern about more effective management and treatment of those prisoners in our care with high and complex needs, I directed officials to present options for further enhancement of the mental health elements of any replacement for Waikeria Prison.
- 42 Officials proposed doubling the capacity to manage and treat prisoners with mental health needs up to and including forensic-level care. This would take the site capacity from 30 places to 60 places, and would include an associated expansion of the staff facilities to support side-by-side operation with specialist health staff from Regional Health. This would cost [REDACTED] 9(2)(i) [REDACTED]. I have included the cost of this upgrade in the costings for Options 3, 4, 5, and 6 in Table 3. This increase could be scaled up if required.

Human Rights Implications

- 43 There are no human rights issues associated with the proposal outlined in this paper.

Legislative Implications and Regulatory Impact Analysis

- 44 There are no legislative or regulatory impact implications associated with the proposal outlined in this paper.

Gender Implications and Disability Perspective

- 45 There are no gender implications and no disability perspective issues associated with the proposal outlined in this paper.

Consultation

- 46 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.

Communications

- 47 This is a significant decision for this Government. I propose that I lead the communications of the Government's decision on redeveloping the Waikeria Prison, in conjunction with the Minister of Justice, who will be responsible for leading communications [REDACTED] 9(2)(f)(iv) [REDACTED]. Announcements will be made immediately after the Cabinet decision.
- 48 If a decision is taken to proceed with the procurement of a replacement of Waikeria Prison:
- 48.1 Execution of the Project Agreement and Financial Close will result in reporting obligations (under stock market disclosure rules) for the CIP consortium members. In addition, CIP consortium members anticipate announcing the transaction in internal publications, as well as forward

work statements. Corrections officials would work with CIP to jointly develop a plan for these communications.

- 48.2 Corrections will develop a local regional communications strategy to engage with staff at the current Waikeria Prison, local stakeholders including the local Councils, iwi, local community and service providers. This will include staff and community briefing days where CIP will be available to answer queries that staff and the local community may hold.

Recommendations

- 1 **Note** that from a Corrections perspective there is a requirement for 2,000 additional high quality prisoner beds in service before the end of 2021 unless policy changes reduce the prison population.
- 2 **Agree** that either:
 - 2.1 Corrections is funded for a 2,000 bed construction to meet the 2,000 bed gap by 2021

Or:
 - 2.2 Corrections is funded for a 1,000 bed construction

and
 - 2.3 9(2)(f)(iv)
- 3 If recommendations 2.2 and 2.3 are agreed then:
 - 3.1 **Note** the financial implications, next steps and approvals that are required in Appendix 1;

and
 - 3.2 **Agree** the additional recommendations that are in Appendix 2.

Authorised for lodgement

Hon Kelvin Davis

Minister of Corrections

APPENDIX 1 - FINANCIAL IMPLICATIONS, NEXT STEPS, AND APPROVALS

Delivery Method

- 1 The delivery method that achieves 1,000 prisoner places of high quality capacity at Waikeria in the required timeframe, and with costs and risks that are well known, is the continuation of the in-progress procurement for the Waikeria Corrections and Treatment Facility. This would proceed at a smaller scale and with improved mental health capacity and capability.
- 2 Corrections has firm costings for 1,000 prisoner places, and has made an allowance of **9(2)(i)** to further upgrade mental health capability and capacity.

Finalisation of Design

- 3 A team of experts from across the sector will be convened to ensure the overall finalisation of the design meets the Government's expectations. This team will focus in particular on design features to support a best practice operating model in the following areas:
 - Rehabilitation;
 - Intensive treatment for addiction, violence and sexual violence;
 - Management of high and complex mental health needs; and
 - Vocational training and practical skill building to improve the prospects of jobs on release.
- 4 I propose that this team formally reports back to a nominated group of Ministers and seeks their approval of the design before Corrections seeks permission from the Minister of Finance and myself to enter into the Project Agreement.

Procurement Process

- 5 Following a successful community consultation and Environment Court process, the necessary Resource Management Act planning approvals to enable delivery of the new facility were granted by the Environment Court on 1 March 2018.
- 6 The commercial documentation is in an advanced state, and following the design finalisation process outlined above, a contract can be signed with the preferred bidder Cornerstone Infrastructure Partners (CIP).
- 7 This paper seeks approval for:
 - Corrections to complete the current procurement process;
 - Updated operating and capital contingencies to reflect the expected costs of the new facility; and
 - Appropriations and capital injections for 2017/18, as charges against the updated operating and capital contingencies.

8 The key project milestones are detailed in Table 1.

Table 1 Key Project Milestones for the Waikeria Corrections and Treatment Facility

Activity	Date
Contract signed	August 2018
Building construction commences	October 2018
Works completion testing complete	October 2021
Works completion certificate issued	October 2021
Operational commissioning complete	February 2022
First prisoner received	March 2022
Prisoner build up complete – 1,000 places	July 2022

9 The contract with CIP will procure:

- A new prison facility to accommodate 1,000 prisoners on the Waikeria Corrections and Treatment Facility site, to be delivered by October 2021.
- All infrastructure required to service the Waikeria Corrections and Treatment Facility such as potable and firefighting water, back-up power supply, ICT backbone infrastructure and utility services, including integration with existing site utility services where necessary.
- Central services functions provided out of the Waikeria Corrections and Treatment Facility to service prisoners accommodated at the Waikeria Corrections and Treatment Facility as well as the adjacent existing Waikeria low security facility.
- The finance required for the delivery of the Project.
- 25 years of asset management (AM), and facilities maintenance (FM) for the Waikeria Corrections and Treatment Facility, which includes the provision of AM and FM services for the new buildings, and the contractor supplied technology, furniture and fittings.
- All electronic security required to operate the Waikeria Corrections and Treatment Facility, including the provision and maintenance of hardware and software, and ongoing lifecycle management.

Financial Implications

- 10 In November 2016 Cabinet agreed to establish a tagged operating and capital contingency for the purpose of funding the Waikeria Corrections and Treatment Facility [CAB-16-MIN-0622 refers]. At that time Cabinet also noted that the drawdown against the operating and capital contingencies would need to be re-profiled to reflect the shift from a traditional design and build delivery approach to a PPP arrangement.
- 11 Although the facility is reducing in size, the capital cost of delivering it has increased from the capital cost signalled to Cabinet in November 2016. This is due to the allowance of 9(2)(i) for the expanded and enhanced mental health

services at the facility, and the cost impacts of a heated and constrained construction market¹.

- 12 Overall the capital cost via the PPP for the 1,000 prisoner places facility is expected to be 9(2)(i). From a capital impact perspective over the ten years to June 2027, the capital impact is approximately 9(2)(i) above the existing capital contingency in Table 1.
- 13 The updated operating and capital contingencies, reflecting the expected costs of the 1,000 prisoner place facility, upgraded mental health services, and the payment profile of the PPP arrangement, for the ten years to June 2027 are detailed in Table 2². Approval for the appropriations and capital injections for 2017/18, as charges against the operating and capital contingencies in Table 2, are sought in this paper.

Table 2: Updated operating and capital contingencies (ten years to June 2027)

Waikeria Corrections and Treatment Facility	\$m – increase/(decrease)					
	2017/18	2018//19	2019/20	2020/21	2021/22	2022/23
Operating contingency	9(2)(i)					
Capital contingency	9(2)(i)					

Waikeria Corrections and Treatment Facility	\$m – increase/(decrease)			
	2023/24	2024/25	2025/26	2026/27
Operating contingency	9(2)(i)			
Capital contingency	9(2)(i)			

Next Steps and Ministerial Approvals

- 14 Cabinet previously approved that the Minister of Corrections and the Minister of Finance jointly approve the execution of the Project Agreement by Corrections [CAB-16-MIN-0622 refers]. The Chief Executive of Corrections was delegated authority to conduct the PPP procurement process including:
- Selecting the Preferred Bidder;
 - Finalising the Project Agreement with the Preferred Bidder;
 - Executing the Project Agreement following approval to do so by the Minister of Corrections and the Minister of Finance; and
 - Bringing the Project Agreement to Financial Close.
- 15 I now propose that Cabinet also approve that myself, the Minister of Justice, the Minister of Health and the Minister of Finance review and approve the design report back described in paragraphs 3 and 4 above, before the Minister of

1 As outlined in paper “Making the Prison Network More Safe, Humane and Effective: Paper Two: Waikeria Corrections and Treatment Facility”, considered by CBC as Cabinet’s delegate on 20 December 2017.

2 The updated operating and capital contingencies over the full term of the PPP (to 2047) are provided in the recommendations in Appendix 2.

Finance and myself approve the execution of the Project Agreement by the Chief Executive of Corrections.

- 16 Corrections will also enter into a number of ancillary agreements in order to bring the Waikeria Corrections and Treatment Facility into service. This includes agreements relating to the ancillary site works to improve site access and site services that will enable the new facility to operate. I propose that the Chief Executive of Corrections be delegated authority to enter into such ancillary agreements.
- 17 The Ministerial approvals in paragraphs 14 and 15 will be sought by Corrections within three months of Cabinet's consideration of this paper.
- 18 Corrections' negotiations with CIP are in an advanced state, and subject to changes to the Project Agreement to reflect the confirmed size of the new facility and the enhancements to increase the provision of mental health services and the above Ministerial approvals, the Project Agreement is ready for execution.
- 19 The approval sought to execute the Project Agreement will specifically address the negotiated outcome on value for money, and will also request the appropriation for the remaining funding from the updated contingencies outlined in Table 2.

Ancillary Works

- 20 A number of significant ancillary works are required to support the Waikeria Corrections and Treatment Facility. These include the safety and access improvements on the local road which were approved by Cabinet in December 2017 [CBC-17-MIN-0080 refers]³ and also:
 - Infrastructure improvements required by the Resource Management Act designation, including:
 - Upgrade to wastewater infrastructure (owned by Waipa District Council);
 - Upgrade of the intersection of State Highway 3 with the road leading to the Waikeria Corrections and Treatment Facility.
 - Upgrade to the local electrical distribution company's power network.
- 21 The works above needs to be completed prior to the Waikeria Corrections and Treatment Facility comes into service. However further work is required to develop the design solutions for the works, and confirm costs. As the assets that are being improved / upgraded are not owned by Corrections, the expenditure will be operating rather than capital in nature. Allowance for the cost of the ancillary works **9(2)(i)** has been included in the operating contingency in Table 2.

³ A new non-departmental other expense appropriation in Vote Corrections has been established for this expenditure. The scope of the appropriation is limited to infrastructure improvements that are either a condition of the Resource Management Act designation, or otherwise necessary to enable, the development of the Waikeria Corrections and Treatment Facility.

APPENDIX 2 – ADDITIONAL RECOMMENDATIONS

Delivery Method

1. **Agree** that the in-progress procurement of the Waikeria Corrections and Treatment Facility be managed to completion by the Department of Corrections, at a capacity of 1,000 prisoner places, with additional mental health capacity and capability;

Design of the Waikeria Corrections and Treatment Facility

2. **Note** that a formal design report will be provided to the Minister of Corrections, the Minister of Finance, the Minister of Justice and the Minister of Health for their approval before the Department of Corrections seeks permission to enter into the Project Agreement for the Waikeria Corrections and Treatment Facility;

Cost of the Waikeria Corrections and Treatment Facility

3. **Note** that the estimated capital cost of the Waikeria Corrections and Treatment Facility, at a capacity of 1,000 prisoner places, is expected to be 9(2)(i)

Operating and Capital Contingencies

4. **Note** that Cabinet agreed to set aside the following tagged operating and capital contingencies in November 2016 for the purpose of funding the proposed expansion of Waikeria Prison:

Operating Contingency

Initiative Name	\$m – increase/(decrease)					
	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23 & outyears
Prison Capacity Build Programme – Waikeria Prison Development	9(2)(i)					
Total Operating	9(2)(i)					

Capital Contingency

Initiative Name	\$m – increase/(decrease)				
	2017/18	2018/19	2019/20	2020/21	2021/22 only
Prison Capacity Build Programme – Waikeria Prison Development	9(2)(i)				
Total Operating	9(2)(i)				

5. **Note** that from a capital impact perspective, over the ten years to June 2027, the capital impact is 9(2)(i) above the total capital contingency in recommendation 4 above;

6. **Note** that there is currently no funding in the Budget 2018 package for this additional capital impact and the Budget 2018 capital allowance will need to be increased by 9(2)(i) to give effect to the decision in recommendation 1 above;
7. **Agree** to increase the Budget 2018 capital allowance by 9(2)(i) to give effect to the decision in recommendation 1 above;
8. **Agree** to update the operating and capital contingencies, *Prison Capacity Build Programme – Waikeria Prison Development*, in recommendation 4 above for the changes in Table 1 overleaf;

Waikeria Corrections and Treatment Facility

9. **Authorise** the Minister of Corrections, the Minister of Finance, the Minister of Justice, and the Minister of Health jointly to approve the design of the Waikeria Corrections and Treatment Facility;
10. **Note** that the Project Agreement will represent Crown borrowing for the purposes of the Public Finance Act 1989 – the approval of the Minister of Finance to this borrowing will be formally sought prior to entry into the Project Agreement;
11. **Note** that the Minister of Corrections and the Minister of Finance have delegated authority to act on behalf of the Crown to approve the execution of the Project Agreement;
12. **Note** that the Chief Executive of the Department of Corrections has delegated authority to:
 - execute the Project Agreement following approval to do so by the Minister of Corrections and the Minister of Finance; and
 - bring the Project Agreement to Financial Close;
13. **Note** that as a condition of the current RMA designation for Waikeria Prison the Department of Corrections is required to undertake a series of ancillary works and activities, including improving the safety of access to the Waikeria Corrections and Treatment Facility and Waikeria Prison and the environmental performance of both these facilities;;
14. **Delegate** to the Chief Executive of the Department of Corrections the authority to enter into such agreements that are necessary to support the ancillary works related to the Waikeria Corrections and Treatment Facility and Waikeria Prison;

15. **Approve** the following changes to appropriations and capital injections to enable the Department of Corrections to meet the costs for 2017/18 related to completion of the procurement process for the Waikeria Corrections and Treatment Facility in recommendation 1 above;

Vote: Corrections Minister of Corrections	\$m – increase/(decrease)				
	2017/18	2018/19	2019/20	2020/21	2021/22
Non-Departmental Other Expense: Waikeria Corrections and Treatment Facility (funded by revenue Crown)	9(2)(i)				
Departmental Output Expense: Prison-based Custodial Services (funded by revenue Crown)					
Department of Corrections: Capital Injection					
Total Operating					
Total Capital					

16. **Agree** that the changes in appropriations and capital injection in recommendation 15 above will be charged against the operating and capital contingencies, *Prison Capacity Build Programme – Waikeria Prison Development*,
17. **Agree** that the changes in appropriations and capital injection for 2017/18 in recommendation 15 above be included in the 2017/18 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;
18. **Authorise** the Minister of Corrections and the Minister of Finance jointly to make final decisions on the approval of expenditure against the operating and capital contingencies, *Prison Capacity Build Programme – Waikeria Prison Development*.

Table 1: Changes to the Operating and Capital Contingencies

Operating Contingency

	\$m – increase/(decrease)									
Initiative Name	2017/18	2018//19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
Prison Capacity Build Programme – Waikeria Prison Development	9(2)(i)									
Total Operating	9(2)(i)									

	\$m – increase/(decrease)									
Initiative Name	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	2034/35	2035/36	2036/37
Prison Capacity Build Programme – Waikeria Prison Development	9(2)(i)									
Total Operating	9(2)(i)									

	\$m – increase/(decrease)									
Initiative Name	2037/38	2038/39	2039/40	2040/41	2041/42	2042/43	2043/44	2044/45	2045/46	2046/47
Prison Capacity Build Programme – Waikeria Prison Development	9(2)(i)									
Total Operating	9(2)(i)									

Capital Contingency

	\$m – increase/(decrease)									
Initiative Name	2017/18	2018//19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
Prison Capacity Build Programme – Waikeria Prison Development	9(2)(i)									
Total Capital	9(2)(i)									

	\$m – increase/(decrease)									
Initiative Name	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	2034/35	2035/36	2036/37
Prison Capacity Build Programme – Waikeria Prison Development	9(2)(i)									
Total Capital	9(2)(i)									

	\$m – increase/(decrease)									
Initiative Name	2037/38	2038/39	2039/40	2040/41	2041/42	2042/43	2043/44	2044/45	2045/46	2046/47
Prison Capacity Build Programme – Waikeria Prison Development	9(2)(i)									
Total Capital	9(2)(i)									