

## In Confidence

Office of the Minister of Corrections

Chair, Cabinet Legislation Committee

## Government Response to the Report of the Justice Committee on the Ombudsman's report, *Kia Whaitake | Making a Difference: Investigation into Ara Poutama Aotearoa | Department of Corrections*

### Proposal

- 1 This paper seeks approval to the Government's response to the Justice Committee report and recommendation that the Government consider renewing the Department of Corrections - Ara Poutama Aotearoa (Corrections) Hōkai Rangi 2019–2024 strategy (Hōkai Rangi).

### Relation to government priorities

- 2 The Government is required to respond to the recommendations of any select committee report under Standing Order 256(1) and any petition referred to a Minister under Standing Order 380(4)(b) within 60 working days of the referrals. A response to the recommendation from this report is therefore due no later than Monday 16 December 2024.

### Background

- 3 Under the Crimes of Torture Act 1989, the Ombudsman is one of four agencies designated as a national preventive mechanism.<sup>1</sup> The Ombudsman examines the treatment and conditions of people in places of detention in New Zealand to ensure people are treated fairly, safely, and humanely. The Ombudsman may make recommendations for improvements.
- 4 The Justice Committee (the Committee) has been considering the Ombudsman's report, *Kia Whaitake | Making a Difference: Investigation into Ara Poutama Aotearoa | Department of Corrections* (Kia Whaitake) and issued its final report in September 2024. The Committee's report is attached as **Appendix One**.
- 5 At a hearing on 20 September 2024, the Committee heard evidence from the Ombudsman on four key issues (see **Appendix One** for further detail):
  - a. **Process for managing oversight reports** - the Ombudsman found that Corrections lacked clear lines of accountability and responsibility, including for monitoring progress in implementing remedial actions.
  - b. **Legal obligations** - the Ombudsman suggested that Corrections has adopted a narrow approach to the legislation it is governed by.

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<sup>1</sup> The other three are: the Independent Police Conduct Authority, the Children and Young People's Commission and the Registrar of the Court Martial of New Zealand.

- c. **Culture and leadership** - the Ombudsman stated that the senior leadership at Corrections is overly optimistic about performance.
- d. **Workforce** - Corrections has faced significant staffing shortages for a prolonged period.

### The Justice Committee report findings

- 6 The Committee agreed with the Ombudsman that not enough progress has been made since their report's release. It raised concerns that Corrections was still facing the same systemic, organisational, and cultural issues.
- 7 The Committee noted and agreed with the Ombudsman that:
  - 7.1 Corrections must take stronger action to improve its governance and accountability mechanisms to ensure the fair, safe, and humane treatment of prisoners, and
  - 7.2 progress in implementing recommendations made by the Ombudsman will be monitored as a part of the Committee's regular scrutiny of Corrections.
- 8 The Committee made one recommendation, that the Government consider renewing Hōkai Rangi.

### Government Response to the Justice Committee's recommendation

- 9 Corrections welcomes the Committee's report. It has accepted all the Kia Whaitake recommendations made to Corrections in full and agrees there are areas of improvement that will require strategic effort over a sustained period. It has also provided a response to the findings of Kia Whaitake.<sup>2</sup>
- 10 I have sought advice from Corrections on the Committee's recommendation to renew Hōkai Rangi. Hōkai Rangi was released in August 2019 in response to the Waitangi Tribunal's 2017 report, *Tū Mai te Rangī!* Hōkai Rangi expressed Corrections' commitment to addressing the significant overrepresentation of Māori in the corrections system and identified six pou<sup>3</sup> and outlined specific actions associated with them.
- 11 I am advised that, prior to receiving this recommendation, Corrections was already in the process of refreshing the Hōkai Rangi strategy. This was signalled in Corrections' Chief Executive's Statement of Intent 2022-2026<sup>4</sup>.
- 12 The refreshed Hōkai Rangi will be a departmental strategy that sets the foundation for positive change. It will:
  - a. provide a clearer narrative on Corrections' strategic context;
  - b. outline Corrections three interconnected organisational outcomes, including a commitment to reducing Māori overrepresentation; and

<sup>2</sup> [https://www.corrections.govt.nz/resources/inquiries\\_and\\_reviews/kia\\_whaitake\\_-\\_making\\_a\\_difference\\_investigation\\_into\\_ara\\_poutama\\_aotearoa\\_department\\_of\\_corrections](https://www.corrections.govt.nz/resources/inquiries_and_reviews/kia_whaitake_-_making_a_difference_investigation_into_ara_poutama_aotearoa_department_of_corrections)

<sup>3</sup> Partnership and Leadership; Whakapapa; Humanising and Healing; Whānau; Incorporating a Te Ao Māori worldview; and Foundations for Participation.

<sup>4</sup> [https://www.corrections.govt.nz/\\_data/assets/pdf\\_file/0020/46604/Statement\\_Of\\_Intent\\_2022-2026.pdf](https://www.corrections.govt.nz/_data/assets/pdf_file/0020/46604/Statement_Of_Intent_2022-2026.pdf)

c. retain the six original pou (key focus areas), which guide how Corrections works.

13 Corrections anticipates that the refreshed Hōkai Rangi will be released before the end of 2024.

14 This information has been provided in the Government response to the Report from the Justice Committee. This report is attached as **Appendix Two**.

### **Timing of the Government response**

15 The Government response must be presented to the House no later than 5:00pm on Monday 16 December 2024.

### **Cost of Living Implications**

16 The Government response does not have cost of living implications.

### **Financial Implications**

17 The Government response does not have financial implications.

### **Legislative Implications**

18 The Government response does not have legislative implications.

### **Impact Analysis**

#### *Regulatory Impact Statement*

19 Regulatory impact analysis requirements do not apply to this paper.

#### *Climate Implications of Policy Assessment*

20 A Climate Implications of Policy Assessment (CIPA) is not required for this paper.

### **Population Implications**

21 Hōkai Rangi is expected to positively impact on Corrections' interconnected organisational outcomes, including reducing the overrepresentation of Māori in the corrections system.

### **Human Rights**

22 The Government response is not inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Use of External Resources**

23 No external resources were used in the development of this paper.

### **Consultation**

- 24 The Ministry of Justice, New Zealand Police, The Ministry for Māori Development and Te Arawhiti were consulted. The Public Service Commission and Department of the Prime Minister and Cabinet were informed.

### Proactive Release

- 25 I intend to proactively release this Cabinet paper 30 working days after final Cabinet decisions have been made. Any information that may need to be withheld will be done in line with the provisions of the Official Information Act 1982.

### Recommendations

The Minister of Corrections recommends that the Cabinet Legislation Committee:

- 1 **note** that on 20 September 2024 the Justice Committee released its report to the House entitled *Report of the Ombudsman, Kia Whaitake | Making a Difference: Investigation into Ara Poutama Aotearoa | Department of Corrections* (attached as Appendix One).
- 2 **note** that the select committee recommended that “the Government consider renewing the Hōkai Rangi 2019–2024 strategy.”
- 3 **note** that the Government response must be presented to the House by Monday 16 December 2024.
- 4 **approve** the Government response to the Report of the Justice Committee (attached as Appendix Two).
- 5 **invite** the Minister of Corrections to present the Government response to the House in accordance with Standing Order 256.

Authorised for lodgement.

Hon Mark Mitchell

Minister of Corrections