



Letter of Advice: 2023/03

23 March 2023

Hon Andrew Little

Lead Coordination Minister for the Government Response to the report of the Royal Commission of Inquiry on the Christchurch mosque attacks

Cc: The President, the Law Commission

E Te Minita, Tēnā Koe,

### **Hate speech, incitement and hate crime**

As you will appreciate from our 3 February letter of advice this year, the speed of the Government's response to the Royal Commission's (RCOI) recommendations on hate speech, incitement and hate crime are of deep concern to Kāpuia. The roopu strongly believes that all New Zealanders should be equally protected under New Zealand law and in practice - including the affected community in Christchurch, all ethnic and faith communities, individuals no matter their gender, and all other vulnerable communities including the rainbow and disability communities. Kāpuia considers these protections should be a fundamental human right in Aotearoa New Zealand.

But these issues of hate speech through to hate crime are live issues in communities in Aotearoa New Zealand and need urgent attention. Individuals and communities are being emotionally or physically harmed every day, they are not clearly protected in law (or through its application). Additionally, all New Zealanders should be able to understand the legal consequences of harmful actions.

We understand the reasons the Government withdrew the Human Rights (Incitement on Ground of Religious Belief) Amendment Bill and referred the full set of issues to Te Aka Matua o te Ture | the Law Commission, together with a specific review of protections in the Human Rights Act for transgender people, non-binary people and people with diverse sex characteristics.

However, we expected these issues would urgently be addressed together and are concerned one issue is being prioritised ahead of the other due to funding constraints. We were also concerned to learn from our kōrero with Law Commission President Amokura Kawharu at our March hui that even the first project will not be scoped until mid-next year, with no timeframe available for the substantive work following.

Kāpuia is deeply disappointed the Government referred this incredibly important mahi to the Law Commission without ensuring there was adequate resource to deliver it, nor a timeframe to work to. We consider this has put the Law Commission in an unacceptable position - of having to choose between individuals and communities that should be protected in New Zealand law. In addition, the long timeframe of the Law Commission's work will impact on other work critical to the success of the RCOI response.

**IN CONFIDENCE**

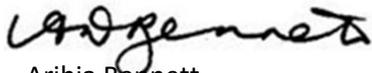
We recommend the Government urgently increases the funding available to the Law Commission, so the Commission can commence work on addressing the barriers to providing legal protections for all individuals and communities, as well as bring forward the review of matters relating to hate speech, incitement and hate crime.

We also request that the Government agrees clear and immediate timeframes for these workstreams with the Law Commission, as a standard Law Commission deep dive multi-year project is unacceptable to individuals and communities currently experiencing harm. These timeframes, together with information about when and how the public can input into this work should then be published on the Law Commission website.

We encourage you to share this letter to the Prime Minister, the Minister of Justice, the Minister of Finance and other ministers responsible for the Government's response to the RCOI report. We have also written separately to you on matters related to national security reforms.

As always, we value the opportunity to support and encourage the Government's response to the RCOI report - to building a safer and more inclusive Aotearoa New Zealand.

Ngā mihi



Arihia Bennett  
Chair | Kāpuia

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