



**Kāpuia**

Ministerial Advisory Group on the Government Response to the  
Royal Commission of Inquiry on the terrorist attack on Christchurch mosques

# Final report of **Kāpuia**

MAY 2024





As Kāpuia, our objective has been to work towards a New Zealand that is a safer and more inclusive country for everyone. We believe this is foundational both for prosperity here and for New Zealand's reputation overseas.

The Government has a responsibility to ensure government agencies (and especially national security agencies) are doing the right things, in the right way and doing them well. The Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain on 15 March 2019 (15 March RCOI) report strongly pointed the Government in this direction.

As you know, the previous Government accepted the 15 March RCOI report and recommendations in principle and established a coordinated response to the 15 March RCOI report and its recommendations in December 2020. In 2021, the then Government agreed to a phased work programme and fixed term funding, mostly to 30 June 2024. The resulting work programme led to significant progress in some areas, but we understand that risks to New Zealand's national security are increasing.

The report identified four key themes for change. These themes have also guided our work.

- Strong government leadership and direction are required.
- Government decision making needs to be engaged and accountable.
- Everyone has a role in making New Zealand safe and inclusive.
- New Zealand needs fit for purpose laws and policies.

Our most important advice to you [Lead Coordination Minister] remains that the Government response to the 15 March RCOI report and recommendations is not complete. To make all New Zealanders safer, there is a clear need to address the remaining gaps in the Government's response.

## Guided by the 15 March RCOI into the terrorist attack on Christchurch mosques

The recommendations of the 15 March RCOI report were intended to provoke a fundamental shift in how national security is undertaken and understood in New Zealand. As a roopu, we have worked consistently to ensure the 15 March RCOI report is acted on and results in real change and greater safety for all New Zealanders.

As part of its inquiry, the 15 March RCOI was asked to examine what relevant government agencies knew about the terrorist prior to the attack and whether there had been opportunities for these agencies to intervene. Its report looked at New Zealand's counter-terrorism effort and the wider national security system. It provided a snapshot of what was working and what was not; and if the agencies charged with protecting our national security were serving us well or not.

The 15 March RCOI report found at least 35 prior reviews of parts of New Zealand's national security system were completed between 2003 and 2019.<sup>1</sup> Although problems and gaps in the system were acknowledged, not all of them were addressed. In some cases, the same problems were identified in successive reviews without being addressed. This concern has become a touchstone for us. We do not want the 15 March RCOI report and recommendations to suffer the same fate.

<sup>1</sup> Volume 3, part 8, chapter 2.5 (50), page 418.

## Key issues Kāpuia is most concerned about

Kāpuia is aware that the current fiscal environment is a key driver for the Government and makes it difficult for some government responses to the 15 March RCOI to continue at this time. We have already seen important initiatives (eg. the 2023/24 He Whenua Taurikura National Counter Terrorism hui) conclude.

For this reason, we have drawn from our detailed assessment (Appendix A) to outline the things we remain most concerned about. We consider these to be priorities for ongoing government action. There are four areas we want to focus on in this report:

- establishing a National Security and Intelligence Agency
- building public trust and confidence in the national security system
- enhancing social cohesion to reduce discrimination and racism and to support national security
- the victims and their whānau must be remembered and supported.

These themes are interrelated and all need more action.



# Establishing a National Security and Intelligence Agency

The establishment of a National Security and Intelligence Agency (or similar) is vital to address structural problems in the national security system, and as identified by the 15 March RCOI report. Recommendation 2 identified the need for sector leadership and coordination, strategic policy advice, intelligence assessment and horizon scanning, system performance, an enhanced counter-terrorism effort and engagement with communities, civil society, local government and private sector on strategic intelligence and security issues.

Without further and transparent action from the Government, we fear history will be repeated and a future review will again highlight lessons previously identified but not adopted by the system. This is a risk for all New Zealanders.

In November 2023, we were informed by the Department of the Prime Minister and Cabinet (DPMC) of the outcome of a restructuring of the then National Security Group. At that time, we heard the changes made would strengthen DPMC's risk, governance and national security functions and integrate community engagement capabilities.

We are also aware that following the development of the *Secure Together Tō Tātou Korowai Manaaki, New Zealand's National Security Strategy 2023–2028*, the National Security Board (formerly the Security and Intelligence Board) was refreshed to improve system level leadership and accountability.

While we support the stated intentions of the DPMC restructuring this was completed recently behind closed doors, so we have no way of knowing if the changes will have the intended impact. We also do not believe they adequately address the problems the 15 March RCOI report sought to resolve, nor address the concerns we have previously raised.

All New Zealanders deserve that their safety and security is taken seriously by the Government. This is why we consider adequate and sustainable resourcing of the national security sector to be very important. The 15 March RCOI report identified the national security system in New Zealand has a history of being underfunded. We recognise the current fiscal environment. But these issues have implications for the long term safety and wellbeing of all New Zealanders. They are too important to get wrong.

We are concerned cost savings the Government has called for across the national security sector could further undermine social cohesion and national security. We consider the implications of these savings on the security and safety of New Zealand should be made transparent to the public.

#### KĀPUIA RECOMMENDATION

1. We recommend establishing a National Security and Intelligence Agency, or similar, to enhance the safety of all New Zealanders by urgently and independently addressing key elements of Recommendation 2.
  - a. A single agency must be given the leadership of (and levers to lead) the national security system. There is still no one agency responsible for either countering terrorism or wider national security. A lack of clear leadership and accountability was a key concern of the 15 March RCOI. We do not consider, based on the information available to us, that actions attributed to delivering on Recommendation 2 have met the expectations of the RCOI. This is a deep concern for us.
  - b. Ensuring a coordinated and long term view across the national security system, between agencies and linking to social cohesion. The release of the *National Security Strategy* has been a beginning, but while we see more cross agency discussions, we have not seen transparent, integrated and coordinated action across agencies, or in their ministerial engagements.

#### KĀPUIA RECOMMENDATION

2. We recommend, as the Government looks to wind down the coordinated response to the 15 March RCOI report into general work programmes, New Zealanders should receive assurance that cost savings will not compromise their national security. National security functions across agencies must be adequately and sustainably resourced to deliver a safer New Zealand.

# Building public trust & confidence in the national security system

We believe that building public trust and confidence in the national security system is pivotal to long term and sustainable change. Building public understanding and social licence allows the system to do what it needs to do to make all New Zealanders safer and also feel safer. There should be public assurances the system is operating well, but with the necessary safeguards also operating effectively. The recent Intelligence and Security Act review also raised many related issues, but the Government's response to that review is not yet available to us or the public.

To increase social licence for the security and intelligence agencies and their activities, New Zealanders must be confident that the culture of these agencies has and will continue to improve and that appropriate measures are in place to monitor this.

They should also include community voices into their considerations, respect human rights and have the wellbeing of New Zealand always at the heart of their work. Two recent reports released by the Inspector General of Intelligence and Security, have been deeply concerning to us and underscore that there is still work to do to build public trust.

The New Zealand Security Intelligence Service (NZSIS) *Know the signs* resource is helpful but must be coupled with adequate and accessible reporting systems to be effective.

There needs to be an accessible way to report concerns and the public need to be confident these concerns are quickly and appropriately triaged and acted on.

Kāpuia strongly supports the establishment of the New Zealand Police led single reporting system currently in development (Recommendation 12). If this cannot be implemented now (due to funding constraints), we believe it should be kept on a longer term work programme and revisited as soon as possible, and that the 105 call line is enhanced and staff are well trained to take calls of concern from the public including reporting hate motivated offending.

There are multiple facets to building trust and confidence in the system, we believe these include the following.

- Transparent performance monitoring and reporting. We need to be sure the system is doing the right things, is doing them well, and that the desired outcomes are being achieved.
- Effective, independent and multilayered oversight of the security and intelligence agencies and any other government agencies involved in collecting intelligence. The public needs to know that the use of any special powers are effectively safeguarded and being used in the right way. This concern was also highlighted in the recent review of the Intelligence and Security Act.
- Maintaining a wide range of perspectives within the national security system and ensuring the people working in national security (both staff and leaders) are representative of the diverse nation they serve.
- Formal mechanisms for ensuring input from voices outside of national security and government overall. We consider the advice from Kāpuia and from agencies' own reference groups has started to change how agencies think about the impact of policies on communities. This must continue, even with financial constraints, as it is a key mitigation against siloed and institutionalised thinking.
- Enhancing public understanding of national security and the national security system. Public discussions on national security and New Zealand's Security Threat Environment report 2023 have increased since 15 March 2019, but are still in their infancy. Ministers should take the lead on this, especially as prominent opportunities for discussion (such as the He Whenua Taurikura hui) will no longer be available.
- Public confidence about the systems in place. This includes when and how to access help or report concerns and confidence these concerns are being acted on.

## KĀPUIA RECOMMENDATION

3. We recommend the following gaps are addressed urgently.
  - a. Performance expectation setting (including performance indicators and reporting) across the wider national security system should be put in place. This should cover all agencies involved in national security and intelligence. Performance reporting should be shared with Ministers, Parliament and the public. New Zealanders need confidence that the national security system is doing the right things and is doing those things well, but without measures and reporting in place, there can be no real sense of progress in our safety and security as a nation.
  - b. Oversight (of legal powers being used) must be enhanced – either by the role of the Inspector General of Intelligence and Security being expanded to include other agencies collecting and assessing intelligence (to ensure they are doing the right things and doing them the right way), or through the establishment of another oversight body. To assist this, decisions on the response to the Intelligence and Security Act review should be made public as soon as possible.
  - c. A formal mechanism must be put in place for civic, local government and private sector engagement on strategic national security and intelligence issues.

# Enhancing social cohesion to reduce discrimination and racism and to support national security

Not all New Zealanders are experiencing our country equally.

In our communities we are hearing about increased abuse online, on the streets and in classrooms. Unchecked, we are all concerned these could provide pathways to radicalisation, and not just those who think they have a cause but also those looking for a cause. Women and children in our communities are bearing the brunt of this abuse. Many of them do not feel safe or supported.<sup>2</sup>

Actively working to enhance social cohesion (including through building genuine community engagement capability and further understanding of the value of our diversity) is an investment in the safety and wellbeing of New Zealand and should be seen as such.

## Social cohesion (and recognising the links to national security)

Traditionally, national security has been considered separate from social cohesion initiatives. The 15 March RCOI report drew these critical matters together, showing the deep connection and interdependencies between them.

The 2023 New Zealand *National Security Strategy* named social cohesion as a connected national security issue.

Without efforts to address the root causes of discrimination and racism, we are concerned societal divisions will deepen and create a more fertile ground for radicalisation.

We understand it is common for agencies to pull back to 'core business' during constrained fiscal environments. We have previously seen this can mean there is a focus back to single agency accountabilities, and that cross agency effort and longer term initiatives can be deprioritised. We strongly consider the Government should resist this tendency in the case of social cohesion. This is an area where we should act early.

We are concerned if these 15 March RCOI recommendations (including the implementation and monitoring of the social cohesion framework) are not attended to during the term of this Government, some New Zealanders will be 'left behind' in the country's efforts to become a safe and inclusive society for all.

We do not want special treatment for our communities, we want equal opportunities to be safer in New Zealand.

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2. A recent Independent Police Conduct Authority report following the murder of a young Muslim woman found that Police did not adequately take into account cultural and religious factors and did not provide her with appropriate support.([ipca.govt.nz](https://ipca.govt.nz)).



#### KĀPUIA RECOMMENDATION

4. We recommend there is an ongoing government focus on enhancing social cohesion and to reduce all forms of discrimination and racism in communities, acknowledging links to preventing and countering violent extremism.

Our education sector has huge potential to build social cohesion and to reduce racism, ableism, and all forms of discrimination. People from all walks of life come together through education and it provides a vital opportunity to build understanding of the many cultures and faiths in our country, creating opportunities for our future generations to celebrate difference and practice shared humanity.

#### KĀPUIA RECOMMENDATION

5. We recommend the school curriculum:
  - a. addresses racism and discrimination in classrooms
  - b. teaches the value of religious and ethnic diversity
  - c. continues to include critical literacy education (especially for online content)
  - d. builds understanding of New Zealand's histories.

## Community engagement

The way government agencies engage with the public has been a positive outcome from the 15 March RCOI report. From our first letter of advice in June 2021, we have consistently emphasised that community engagement must be genuine to be useful and that it is not just a 'nice to have'. We see quality engagement as a vital safeguard for avoiding policy mistakes and to make sound investments.

With many relationships between community and government now established, it is important for these to be maintained and that foundation built on. Not to further develop and utilise these relationships would, we consider, undermine the positive work that has already been done. It would break trust, increasing the risk of communities feeling marginalised and alienated. We know too, while communities are often keen to engage, that they may need resourcing to make this viable.

#### KĀPUIA RECOMMENDATION

6. We recommend there should be ongoing mechanisms for engagement between communities and government agencies, as this will support sound and effective policy and investments decisions.
7. We recommend that funding mechanisms are available to support community participation in engagement (especially with short term funding ending).

# The victims and their whānau must be remembered and supported

The 15 March RCOI report addressed broad questions of policy, law and system change, but never lost sight of why it was established and the devastating personal impacts of the attacks. Throughout our term, we have also kept the wellbeing of the victims and the whānau of the shuhada front of mind. We know the community appreciated the recent visits to Christchurch by the Prime Minister and yourself [Lead Coordination Minister], and that Minister Doocey will now be a local point of contact between the Government and the affected community.

As the Government continues to implement decisions on the 15 March RCOI recommendations, we believe it is essential to keep the immediately affected community from the mosque attacks at the centre of responses.

While support has been provided to the affected community overall, from our links to this community we understand that the support offered has not always been appropriate. Also, specific needs endure.

No comprehensive evaluation of the support so far provided has been undertaken. Without such an evaluation, it is difficult to tell if this investment has had the desired outcomes, and how to best support remaining needs.

## KĀPUIA RECOMMENDATION

8. We recommend that an assessment of current and future needs in the affected community be undertaken urgently. This should inform discussions with the community on its overall wellbeing but have a particular focus on mental health support needs.

Our key concern for this community is ensuring a commitment to the provision of ongoing mental health and trauma support for those who need it. The high level of need for mental health support in the community is also evidenced by initial data coming out of research from the University of Otago which found 61% of participants had experienced at least one mental health condition since the attacks.<sup>3</sup> The trajectory of trauma is individual (requiring a range of options) and the need for trauma support in this community will be a long term one.

Research shows that mental health outcomes and broader impacts of intentional disasters tend to be longer term and more pervasive than for natural disasters. We are also aware that due to the intergenerational impacts of trauma (already emerging for some families), there is a serious risk that without adequate support this trauma will be passed on.

International literature highlights that effective psychosocial responses span from community level support through to specialist mental health intervention.

We believe there is clearly an ongoing need in this community across that spectrum. Work to reduce access barriers to mainstream mental health services (including targeted referral pathways) has been helpful and must continue, but this needs to be coupled with community led initiatives (including those with a social and spiritual focus). We want to reiterate that this kind of recovery takes time, but that research shows post trauma growth is possible and people can and will recover with the right support.

ACC support was initially identified as the first point of call for this community, but it is not available to all (due to legislative eligibility) and is not the only answer. Some in the community have been focused on ACC eligibility rules, however we understand this legislation is unlikely to be changed and mental health support for this community must instead be provided to all who need it through an effective public health response.

3. The March 15 Project: Impacts and Recovery, The 15 March Project ([otago.co.nz](http://otago.co.nz))

Financial hardship is a potent trigger and exacerbating factor for mental health issues. University of Otago's research referenced above reinforces this reality, highlighting financial worries as one of the most significant and enduring concerns for families impacted by the terrorist attacks. When faced with financial strain (due to loss of primary incomes or businesses, medical bills and ongoing needs of dependants), the emotional and mental toll can be immense.

The 15 March RCOI report did not consider the question of financial support, compensation or ex gratia payments but stated, it would leave those questions 'for direct discussion between those affected whānau, survivors and witnesses and the government in light of the conclusions reached in this report.'<sup>4</sup>

We urge the Government to urgently undertake genuine discussions on compensation with the affected community as the RCOI suggested. Financial support is not a replacement for the lives lost, but it can alleviate some of the practical burdens faced by families as they navigate the long road to recovery.

By demonstrating a commitment to financial well-being alongside mental health support, the Government can send a powerful message that it stands with the affected community not only in times of crisis, but also during the long and complex process of rebuilding their lives.

## KĀPUIA RECOMMENDATION

9. We recommend that access to mental health support for those directly affected community is committed to for the long term. People need to be sure they will have access to professional support when they are ready for it; and that the support provided is individualised and flexible and understands and respects faith and cultural factors.
10. We recommend the Government urgently undertakes discussions with the affected community on compensation as suggested by the 15 March RCOI report and links these discussions to the needs assessment recommended above (Recommendation 8).

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4. *Ko tō tātou kāinga tēnei*, Report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain on 15 March 2019 (part 10, chapter 4.2, paragraph 7)

# Kāpuia

We believe in the value of ministerial advisory groups to support the delivery of government priorities and programmes. Our unique position of providing independent advice to the Lead Coordination Minister on the implementation of the entire 15 March RCOI work programme, including gaps and opportunities, has enabled us to look across agency workstreams and think strategically about the response.

We have been able to identify links across complementary work programmes and have encouraged agencies to work together where sensible. To support this, our hui have often included panel sessions with multiple agencies on crosscutting issues (such as on Intelligence and Information Sharing with New Zealand Police, NZSIS, and Government Communications Security Bureau (GCSB)), and have included discussion with six ministers.

A key strength of Kāpuia is our diversity, our roopu is made up of 28 members representing a range of ethnic and faith backgrounds, nationalities, ages, and includes members from civil society, academia, local government and the private sector. Government discussions with Kāpuia have not been a stand in for community engagement, however the unique mix of lived experience, expertise and our connections to many communities across New Zealand has offered valuable insights for government agencies.

We believe that having a ministerial advisory group (largely comprising non-government people) actively participating in the policy process brings new and different perspectives to government decision making early in the process. It builds increased trust and confidence between government and communities, and it increases the transparency and accountability of government decision making.

We have heard directly from ministers and from agencies, that our advice and feedback were influential and added considerable value to policy development and decision making. We believe that this kind of external advice, alongside direct community engagement, leads to government decisions that are better informed and more relevant to the people they affect. This was a wider objective of the 15 March RCOI report.

You [Lead Coordination Minister] asked us how we have impacted or influenced the government response to the 15 March RCOI report. We have attached as an explanation of our influence (Appendix B), with some specific examples.

- The nature of engagement between government and the public by highlighting that engagement opportunities need to be authentic. In response, the Policy Community Engagement Tool was developed to support agencies to engage more effectively.
- Ministry of Social Development's approach to designing the Social Cohesion Framework by improving engagement on its development and highlighting the need for it to link to a monitoring framework.
- Quality of ethnicity data collected across the public sector by helping the Public Service Commission to refine the questions posed to government agencies for Papa Pounamu annual reporting.
- The increased amount of information released in the NZSIS 'Know the Signs' resource.

We have also considered some factors that made Kāpuia effective:

- clarity of purpose and a common commitment
- a range of skill sets relevant to the scope of work
- diverse perspectives and experiences
- a strong focus on monitoring both the implementation of initiatives and their wider community impact.

# Conclusion

Kāpuia has worked to the Lead Coordination Minister and with agencies to ensure a continued focus on addressing the 15 March RCOI report's 44 recommendations. However, we reiterate there is still work to be done to fully address all the recommendations, so New Zealanders have confidence in New Zealand's national security, feel safer and are well protected in the future.

We fear that without a continued focused effort and an urgent commitment to deliver on the RCOI recommendations, mistakes of the past will be repeated. This opportunity for system learning and fundamental change must not be lost.

We ask that the Government is accountable to New Zealand for its decisions – especially where it does not prioritise responses to the 15 March RCOI report.

New Zealanders deserve to be sure that the problems and gaps identified in its national security and social cohesion have been adequately addressed. All New Zealanders must be made safer now and better protected for the future.

## SIGNED BY THE MEMBERS OF KĀPUIA

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## Appendix A.

# Kāpuia's assessment of progress on all 44 recommendations

This document provides Kāpuia's advice on progress and gaps across the Government response to the Royal Commission of Inquiry (RCOI) recommendations and priorities

- **IT DRAWS ON WHAT THE RCOI CONCLUDED**  
What the RCOI recommended the Government do and what we can learn from the [RCOI Report](#)
- **IT PROVIDES A STATUS UPDATE**  
All progress and status update information included in this document is based on the information made available to Kāpuia in April 2024
- **IT INCLUDES KĀPUIA'S COMMENT**  
Kāpuia's advice by RCOI recommendation

# Contents

## PAGE

16	Recommendations to improve New Zealand's counter-terrorism effort
17	<b>Clarifying leadership and creating a new agency for intelligence and security.</b> Recommendations 1–3
22	<b>An integrated preventing and countering violent extremism and terrorism strategy</b> Recommendation 4
24	<b>Strengthened Parliamentary oversight of agencies</b> Recommendations 5, 6
26	<b>A new role for communities, civil society, local government and the private sector</b> Recommendations 7, 8
27	<b>Public sector agencies can and should share information more widely</b> Recommendations 9–11
30	<b>Making it easy for people to provide information, and to identify those who may need help</b> Recommendations 12, 13
32	<b>Better evidence-based solutions to prevent and counter extremism, violent extremism and terrorism</b> Recommendation 14
34	<b>We all have a role in making New Zealand safe and inclusive</b> Recommendations 15–17
37	<b>Fit for purpose laws and policies</b> Recommendation 18
39	Recommendations to improve New Zealand's firearms licensing system
40	<b>Recommendations to improve New Zealand's firearms licensing system</b> Recommendations 19–24
44	Recommendations to support the ongoing recovery needs of affected whānau, survivors and witnesses
45	<b>Ongoing support for affected whānau, survivors and witnesses required</b> Recommendations 25–27
48	Recommendations to improve social cohesion and New Zealand's response to our increasingly diverse population
49	<b>Strong government leadership and direction are required</b> Recommendations 28–30
52	<b>Data analysis, monitoring and evaluation</b> Recommendations 31, 32
53	<b>Workforce diversity and cultural competency</b> Recommendations 33–35
56	<b>Diversity and education</b> Recommendation 36
58	<b>Conversations about ethnic and religious diversity</b> Recommendation 37
59	<b>Improved community engagement across the public sector</b> Recommendation 38
61	<b>Fit for purpose laws and policies</b> Recommendations 39–42
64	Recommendations for implementation
65	<b>Strong government leadership and direction are required</b> Recommendation 43
66	<b>We all have a role in making New Zealand safe and inclusive</b> Recommendation 44

# Recommendations to improve New Zealand's counter-terrorism effort

# Clarifying leadership and creating a new agency for intelligence and security.

## Recommendations 1–3

### *The RCOI concluded*

‘New Zealand’s counter-terrorism effort is decentralised but coordinated. It is decentralised in that no single agency has overall responsibility for the effort. Instead, it is spread across multiple agencies, with each agency responsible for its own performance and contribution. Coordination comes from the Department of the Prime Minister and Cabinet. It does not have directive control over the individual agencies or their contribution to the overall work programme.’ (Page 422)

‘In New Zealand, prime ministers and ministers actively engage on national security issues that are well recognised by the public, such as natural hazards, biosecurity and border security. They rarely speak publicly about the terrorism threat or violent extremism.’ (Page 419)

‘Between 2007 and 2016 there were a series of events that both individually and collectively diminished public trust in confidence in National Security Agencies. The appetite of ministers to speak on national security issues also diminished.’ (Pages 412–4)

‘Leadership and coordination of New Zealand’s decentralised counter-terrorism effort is non-directive. The Department of the Prime Minister and Cabinet’s leadership role was never more than coordination of the multi-agency counter-terrorism effort.

Between 2014 and 2019 progress was made:

- a. a new ministerial portfolio for national security and intelligence was created in 2014;
- b. the Specialist Coordinator for the counter-terrorism effort role was established in 2016;
- c. the Intelligence and Security Act 2017 was passed (which reformed the intelligence and security agencies’ authorising environment);
- d. a National Risk Register was developed in 2018 (not yet been approved nor published by the government, the risk profiles are being used by officials to support a more strategic and proactive approach to risk management);
- e. a more clearly defined interagency counter-terrorism work programme was progressed by the Security and Intelligence Board in 2018 (largely driven by the Specialist Coordinator);
- f. the Security and Intelligence Board approved the Counter-terrorism Strategic Framework, and the High-Level Framework for the Prevention of Violent Extremism in 2018.

However, there have been significant challenges and, as just described, there are gaps in the leadership and oversight of the counter-terrorism effort that have yet to be addressed.’ (Page 443)

## 1 Ensure a minister is given responsibility and accountability to lead and coordinate the counter-terrorism effort

### *The RCOI concluded*

‘Current cross-agency governance and leadership arrangements are not working; and there is no minister responsible and accountable for the counter-terrorism effort.’ (Page 731)

### *Status update (April 2024)*

The strategic coordination across countering terrorism agencies is reporting to the Minister National Security and Intelligence.

It is understood officials are progressively briefing the Minister National Security and Intelligence and related portfolio ministers on each of the 12 core issues in the National Security Strategy.

Agencies are working more closely together (discussed further below).

### KĀPUIA’S COMMENT

First, we offer some general comments on the national security system as a whole, three years on since the RCOI report was submitted with the safety and security of all New Zealanders in mind.

Further, we appreciate that the national security environment is now more complex than in 2019.

Kāpuia considers it is very important that the lessons from the past, including from the 15 March attacks, are not lost and system gaps and problems do not continue. Throughout our work, Kāpuia has been influenced by the RCOI’s strong conclusion that there had already been numerous reviews, but the recommendations of those reviews had not been fully implemented nor the problems identified fully resolved.

Kāpuia considers a focus from the Government to resolve the problems and fill the gaps is necessary. We consider there especially needs to be an ongoing focus on enhancing social licence, system accountability and transparency, oversight, performance and enabling community voices to contribute to decision-making.

Kāpuia considers any cost savings expected across the national security sector – and those which could further undermine social cohesion – need to be well considered and the implications of these savings on the security and safety of New Zealanders should be transparent.

Kāpuia recommends as the Government looks to wind further responses to the 15 March RCOI report into agencies general work programmes and in the current environment of cost savings across the public sector, New Zealanders should receive assurance that cost savings will not compromise their national security. National security functions across agencies must be adequately and sustainably resourced to deliver a safer New Zealand. Some RCOI recommendations (including those on oversight and engagement) require additional investment not funding cuts.

On Recommendation 1. Kāpuia notes that countering terrorism and violent extremism strategic coordination is reporting to the Minister National Security and Intelligence and in the context of the recently published *National Security Strategy* (developed with public consultation). The Strategy outlines a range of national security threats, including terrorism and violent extremism.

## 2 Establish a new national intelligence and security agency that is well-resourced and legislatively mandated to be responsible for strategic intelligence and security leadership functions including:

- a. a chief executive who is designated as the intelligence and security adviser to the Prime Minister and to Cabinet and chairing the Security and Intelligence Board or the potential new governance body (Recommendation 3);
- b. operating as the sector lead and coordinator for strategic intelligence and security issues;
- c. developing a counter-terrorism strategy which includes countering violent extremism (Recommendation 4);
- d. providing strategic policy advice to the responsible minister(s) on intelligence and security issues;
- e. intelligence assessment and horizon scanning supported by deep expertise;
- f. leading the engagement with communities, civil society, local government and the private sector on strategic intelligence and security issues;
- g. ensuring the counter-terrorism effort conforms to New Zealand's domestic and international human rights obligations;
- h. leveraging the emergency management structures at the local and regional levels;
- i. system performance monitoring and reporting; and
- j. accountability to the minister for the performance of the counter-terrorism effort (Recommendation 1).

### The RCOI concluded

To improve New Zealand's counter-terrorism effort and prevent terrorist attacks in the future focus should be put on:

- ensuring that there is better leadership of, and support for, intelligence and security in New Zealand; and,
- increasing awareness and providing opportunities for meaningful engagement of all New Zealanders in preventing, detecting and responding to current and emerging threats of violent extremism and terrorism.' (Page 730)

To support the minister we recommend the establishment of a new national intelligence and security agency with its roles and functions set out in new legislation. This will deliver a more systematic approach to addressing extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism, especially if it is tasked with developing effective and comprehensive strategic policy advice. The chief executive of the new agency will be the national adviser on intelligence and security, with the agency having the advantage of focusing solely on the threats and intelligence issues currently addressed by the Security and Intelligence Board. This is a shift from what the Department of the Prime Minister and Cabinet currently does, operating across the spectrum of national security and all-of-government issues. Such a change would provide for the Department of the Prime Minister and Cabinet to focus on providing second opinion advice through its Policy Advisory Group, with the chief executive remaining the chair of the Officials' Committee for Domestic and External Security Coordination.' (Page 731)

'The two key assessment agencies were not well suited to provide assessments of emerging threats in New Zealand, had limited resources and neither had a dedicated horizon scanning capability.' (Page 604)

### Status update (April 2024)

In 2023, the following were published: *New Zealand's Security Threat Environment* assessment, the *National Security Long-term Insights Briefing*, the *National Security Strategy*, the *National Security Intelligence Priorities*.

#### July 2023

- The Lead Coordination Minister informed Kāpuia that DPMC and the Public Service Commission were developing advice for Cabinet on national security system reform proposals which was due to be considered ahead of the 2023 election. Decisions on this advice were not taken.
- The Chief Executive of DPMC informed Kāpuia that she had commenced a change process to the operating structure of the National Security Group in DPMC.



16 November 2023, the Chief Executive of DPMC wrote to the Chair of Kāpuia advising she was making changes to 'strengthen the risk, governance and national security functions, and to ensure the RCOI and Kāpuia work remained well supported' and that:

- the DPMC change process resulted in forming two groups – the National Security Group and the Risk and Systems Governance Group
- final organisational forms for these functions will depend on future government decisions about national security institutional structures, but these changes positioned DPMC well for the future.

In the *Briefing to the incoming Minister RCOI*, DPMC said: once the changes have bedded in and you have had the opportunity to see the new structure in operation, we will engage with you about whether further structural reform is needed to ensure the issues identified by the Royal Commission have been fully addressed.

On specific elements of Recommendation 2

- a. The Chief Executive of DPMC provides intelligence and security advice to the Prime Minister/Minister National Security and Intelligence.
- b. The Chief Executive of DPMC, supported by the Executive Director of the National Security Group, operate as sector lead and coordinator (and chairs the reformed Security Intelligence Board now the National Security Board) .
- c. DPMC published in 2021 – *New Zealand's Countering Terrorism and Violent Extremism Strategy* and has undertaken further work on a framework for preventing violent extremism.
- d. The new National Security Group in DPMC is tasked with providing strategic policy advice on intelligence and security issues.
- e. DPMC's Risk and Systems Governance Group is exploring options for developing strategic foresight capabilities and better integrating horizon scanning.
- f. DPMC's Risk and Systems Governance Group includes two engagement experts.
- g. Under the Intelligence and Security Act 2017 , the Inspector-General can conduct an inquiry into any matter relating to an intelligence and security agency's compliance with New Zealand law – including human rights law [S.158(1)(a)].
- h. Additional recent reviews of the emergency management system (including the North Island Severe Weather Event) have also recommended this, and DPMC's Risk and Systems Governance Group will coordinate the response.
- i. To date, performance indicators have to be developed for the *National Security Strategy* – which will apply across the national security system and be reported on.
- j. DPMC reports to the Prime Minister, the Minister National Security and Intelligence and the National Security Board on progress with the counter-terrorism effort.

## ■ KĀPUIA'S COMMENT

Kāpuia considers the establishment of a separate agency would provide new and independent thinking and should incorporate more diversity. The RCOI wanted to see leadership from well-informed ministers supported by effective policy and clear direction setting, transparency and regular reviews of the authorising environment. Together these support opportunities to enhance the social licence for the national security system and build greater trust and confidence in that system.

Kāpuia agrees with the RCOI report, that social licence is necessary for the exercise of government powers across national security, intelligence and countering terrorism and violent extremism. We have seen progress (with the release of the 2023 New Zealand Threat Environment Report and the revised National Security Intelligence Priorities) but much more effort is required. Kāpuia also agrees with the RCOI that there needs to be more public discussion of risks and threats, transparency of decision-making, comprehensive and well-resourced oversight of powers, measure of performance and reporting on this over time; and complemented by processes for community contributions. Without these New Zealanders cannot have the necessary trust and confidence in the system.

The two recently released Inspector General of Intelligence and Security reports have only heightened Kāpuia's concerns across the way key agencies previously acted, and the importance of changing internal cultures.

Kāpuia considers key elements that led to Recommendation 2 and which we consider as vital for a stronger national security system include:

- Greater separation between national security advice and the Prime Minister's Policy Advisory Group that provides second opinion advice. Establishing a National Intelligence and Security Agency would improve the expectation of contestable advice but must also be augmented by increasing the transparency and accountability of the system.
- The RCOI highlighted the importance of community voice – 'increasing awareness and providing opportunities for meaningful engagement of all New Zealanders'. Currently, community engagement across national security agencies appears decentralised. It was envisioned that a central dedicated focus on community engagement would both increase public trust in confidence in the national security system and improve the overall policy process.

Kāpuia is pleased to see there has been a continued focus by DPMC on the problems the RCOI report identified but taking account of the change process within DPMC and the more targeted focus of the new National Security Group and of the National Security Board, we note:

- R2 (a) to (f) and (j) – DPMC intends to deliver on the intent of these expectations

- R2(h) – DPMC intends to coordinate further work on roles and responsibilities across the emergency management system, including following recent reviews of that system
- R2(g) – the Inspector General of Intelligence and Security can report on this under the current Intelligence and Security Act 2017.

Kāpuia recommends establishing a National Security and Intelligence Agency, or similar, to enhance the safety of all New Zealanders by urgently and independently addressing key elements of Recommendation 2:

- A single agency must be given the leadership of (and levers to lead) the national security system. There is still no one agency responsible for either countering terrorism or wider national security. A lack of clear leadership and accountability was a key concern of the 15 March RCOI. We do not consider, based on the information available to us, that actions attributed to delivering on Recommendation 2 have met the expectations of the RCOI. This is a deep concern for us.
- Ensuring a coordinated and long-term view across the national security system, between agencies and linking to social cohesion. The release of the *National Security Strategy* has been a beginning, but while we see more cross agency discussions, we have not seen transparent, integrated and coordinated action across agencies, or in their ministerial engagements.

Kāpuia recommends the following gaps are addressed urgently.

- Performance expectation setting (including performance indicators and reporting) (R2(i)) across the wider national security system should be put in place. This needs to cover all agencies involved in national security and intelligence. Performance reporting should be shared to ministers, Parliament and the public. New Zealanders need confidence that the national security system is doing the right things and is doing those things well. Without measures and reporting, there can be no real sense of progress or indeed of regression in our safety and security as a nation.
- Oversight (of legal powers being used) must be enhanced – either by the role of the Inspector General of Intelligence and Security being expanded to include other agencies collecting and assessing intelligence (to ensure they are doing the right things and doing them the right way), or through the establishment of another oversight body.
- A formal mechanism must be put in place for civic, local government and private sector engagement on strategic national security and intelligence issues.

### 3 Investigate alternative mechanisms to the voluntary nature of the Security and Intelligence Board including the establishment of an Interdepartmental Executive Board as provided for by the Public Service Act 2020 to, amongst other things:

- a. align and coordinate the work, planning and budgets across relevant public sector agencies addressing all intelligence and security issues;
- b. report to the Cabinet External Relations and Security Committee, including on current and emerging risks and threats, on a quarterly basis;
- c. in relation to the counter-terrorism effort:
  - i. recommend to Cabinet the strategy for preventing and countering extremism, violent extremism and terrorism developed by the national intelligence and security agency (Recommendation 4); and
  - ii. ensure the activities to implement the strategy for addressing extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism are identified, coordinated and monitored.

#### The RCOI concluded

‘Currently, the Security and Intelligence Board is essentially a voluntary collaboration mechanism for intelligence and security matters, including the counter-terrorism effort; it is not working effectively enough.’ (Page 732)

#### Status update (April 2024)

The released 2023 *Briefing to the incoming Lead Coordination Minister RCOI* advised the National Security Board provides strategic governance at a chief executive level of the efforts of the national security community, by driving and implementing the *National Security Strategy*. The Board has agreed a new work programme driven by the Strategy, new agency responsibilities for the 12 core national security issues, and it has expanded membership to reflect the broader array of national security challenges facing New Zealand.

In August 2023, the Security Intelligence Board was reformed as the National Security Board guided by the newly adopted *National Security Strategy*. As agencies’ work under the Strategy and to work across the 12 new core issues develops, the board will develop across collective governance, monitoring and ministerial assurance.

## KĀPUIA'S COMMENT

Improving accountability and leadership within the national security system were two areas the RCOI considered vital. The changes made to the National Security Board so far have been in line with this intent, but continued focus will be needed to ensure the Board continues to work effectively.

Kāpuia notes two reasons the RCOI recommended an Interdepartmental Executive Board were to have greater alignment across the national security system and to have a clear and unchallenged link to ministers. If the National Security Board is not established as an interdepartmental executive board, Kāpuia recommends there is public accountability for addressing transparency.

It is important the collective of national security chief executives and the public understand what the role of the National Security Board is and to whom it is accountable. So far, there is no publicly available information on what the National Security Board is considering or advising. This makes it impossible for the public to know if the Board is doing what it should be.

Kāpuia recommends this gap should be addressed.

# An integrated preventing and countering violent extremism and terrorism strategy

## Recommendation 4

### *The RCOI concluded*

'There needs to be a more effective system-wide, public-facing strategy to address extremism and prevent, detect and respond to current and emerging threats of extremism, violent extremism and terrorism. The strategy should be developed in collaboration with communities, civil society, local government, the private sector and the Advisory Group on Counter-terrorism.' (Page 735)

## 4 Develop and implement a public facing strategy that addresses extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism that:

- a. is led by the new national intelligence and security agency (Recommendation 2);
- b. is developed in collaboration with communities, civil society, local government and the private sector;
- c. sets the purpose and the direction of the strategy, with goals, milestones and performance measures;
- d. sets priorities for the counter-terrorism effort across Reduction, Readiness, Response and Recovery;
- e. defines roles and responsibilities for public sector agencies, communities, civil society, local government and the private sector to implement the strategy across Reduction, Readiness, Response and Recovery;
- f. has oversight from the responsible minister (Recommendation 1); and
- g. is reviewed within 3 years of publication in collaboration with public sector agencies, communities, civil society, local government, the private sector and the Advisory Group on Counter-terrorism (Recommendation 7).

### *The RCOI concluded*

'There is an absence of strategic analysis and advice across the counter-terrorism effort. Good public sector management practice includes following and implementing relevant regulatory frameworks, existing policy, operational guidance and administrative procedures in ways which give effect to their intended purposes.' (Page 441)

'In early 2020, DPMC released a countering terrorism and violent extremism national strategy overview. It is not the strategy we envisaged. Although it discusses the importance of connecting with communities to reduce and mitigate the risks of terrorism and violent extremism, it was produced without any substantive involvement by communities, civil society, local government and the private sector.' (Page 735)

### *Status update (April 2024)*

2020–2023. The RCOI report found that New Zealand's current Countering Terrorism and Violent Extremism Strategy (CTVE strategy), launched in 2020, was not developed with enough meaningful involvement from the public or specialist sectors outside of government. In response, DPMC has made significant changes such as developing a draft strategic framework on 'prevention' (one pillar of the current CTVE strategy) with extensive community and expert input. DPMC has also built stronger and more enduring relationships with community and expert stakeholders across New Zealand.

2023. Countering terrorism and violent extremism is a core issue in the National Security Strategy and overseen by the National Security Board.

The current CTVE strategy will be refreshed as part of DPMC's core business going forward. This refresh will give government an opportunity to shape the future strategic direction of New Zealand's counter-terrorism work, based on the current threat and risk environment. The lessons described in the Royal Commission report will be carried forward into the refresh of the strategy.

On Recommendation 4.

- a. DPMC leads this work.
- b. DPMC consulted widely on the development of draft strategic framework on 'prevention'.
- c. The proposed framework will take this further.
- d. and e. To progress, on reduction – He Aranga Ake is a multi-agency disengagement framework intended to support individuals who may pose a violent extremist or terrorist threat to a community or themselves due to identifying with ideologies associated with terrorism.
- f. Reports to Minister National Security and Intelligence.
- g. Review to come (see above).

## **KĀPUIA'S COMMENT**

DPMC has undertaken recent work on developing a draft strategic framework on 'prevention' with significant community and academic input. This included significant engagement on the draft strategic framework on 'prevention'.

Kāpuia considers this work is essential and cannot be done in isolation. Community and academic experts need to be involved in the development of the CTVE Strategy and related frameworks and action plans. Government is not an expert on our communities and if there is not adequate community involvement things will be missed.

Kāpuia recommends community voices and an engagement approach should be utilised for ongoing work (including when the CTVE Strategy is refreshed).



# Strengthened Parliamentary oversight of agencies

## Recommendations 5, 6

### *The RCOI concluded*

‘Improved oversight of the counter-terrorism effort will lead to better performance outcomes. Those who provide that oversight by monitoring and scrutinising the public sector agencies involved in the counter-terrorism effort need access to relevant information.’ (Page 737)

‘More debate on, and cross-party support for, national security issues, including the counter-terrorism effort, will help give these issues the attention they require. Strengthening the role of the Parliamentary Intelligence and Security Committee will provide a forum for that debate. Importantly, the Intelligence and Security Committee is currently unable to inquire into the activity of an intelligence and security agency or into any matter that is operationally sensitive. That means that its role is far more limited than that of its counterpart parliamentary committee in the United Kingdom. The equivalent United Kingdom parliamentary committee has access to highly classified information and has produced a number of reports that address the operational activities of intelligence and security agencies in the United Kingdom. The Parliamentary Intelligence and Security Committee should receive public submissions on the annual statement on extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism (Recommendation 17), adding to the public debate of counter-terrorism issues alongside recommendations 4, 15 and 16.’ (Page 737)

**5** Amend the Public Finance Act 1989 to require the intelligence and security agencies to provide performance information that can be the subject of performance audit by the Auditor-General.

### *The RCOI concluded*

‘Several reviews of components of the national security system have highlighted the light-touch approach to performance monitoring as an issue that should be addressed.’ (Page 438)

The current position is that there is still no performance framework in place to measure the efficiency and effectiveness of New Zealand’s intelligence community or counter-terrorism effort, or their delivery against the National Security and Intelligence Priorities. (Page 438)

### *Status update (April 2024)*

July 2023 – the then Minister of Finance agreed to propose legislative change to require the intelligence and security agencies to prepare performance information against the appropriations they administer when the Public Finance Act, or related security and intelligence legislation, is next amended. This intent will need to be confirmed by the current Government.

2023/4 – As an interim step – the GCSB, NZSIS, and the Office of the Auditor-General are implementing a new approach where the intelligence and security agencies trial voluntarily providing performance information which will be audited alongside the agencies’ annual financial information.

2024 – A trial audit of the agencies’ performance information will occur for financial year 2023/4, before standard auditing of agencies’ performance information begins in financial year 2024/5.

### **KĀPUIA’S COMMENT**

Kāpuia considers this information vital to understanding if the national security system is doing things well, as well as is doing things right (legal and financial).

Kāpuia considers that independent monitoring of the intelligence and security agencies’ performance is key to improving public trust and confidence. That the Office of the Auditor-General is trialling a voluntary reporting and audit system with the security intelligence agencies while waiting to make amendments to the Public Finance Act, seems like a good approach and in line with the intent of the RCOI. However, this is not necessarily, and yet to be seen, a systematic approach to enhancing performance.

Kāpuia recommends the decision to proceed with legislative change to amend the Public Finance Act. This would more closely align this response with the RCOI intent and should be linked to work required on performance measurement.

## 6 Strengthen the role of the Parliamentary Intelligence and Security Committee so that it can provide better and informed cross-parliamentary oversight of the national security system (including the counter-terrorism effort) and priority setting, and members can access sensitive information as necessary for such oversight.

### *The RCOI concluded*

‘Significant oversight of the Government Communications Security Bureau and the New Zealand Security Intelligence Service is specified in the Intelligence and Security Act. 88 Because the Intelligence and Security Act gives broad powers to the Government Communications Security Bureau and the New Zealand Security Intelligence Service to fulfil their functions and objectives, robust and multi-layered oversight is important. The Inspector-General of Intelligence and Security and the Parliamentary Intelligence and Security Committee are the primary external oversight mechanisms for the Government Communications Security Bureau and the New Zealand Security Intelligence Service.’ (Page 440)

### *Status update (April 2024)*

The Intelligence and Security Committee has met semi-regularly since 2022 (beyond the meetings required by the Intelligence and Security Act) to provide members a more informed understanding of national security issues and priorities. This has included briefings on key national security issues and discussions on the National Security and Intelligence Priorities, and examination of the national security sector Long-term Insights Briefing.

2023 – The independent statutory review of the Intelligence and Security Act (brought forward in response to the RCOI report) has been completed, including the role and responsibilities of the committee. The report was made public on 29 May 2023 after it was considered by the Intelligence and Security Committee and was tabled in Parliament.

DPMC is progressing the response to the review.

### **KĀPUIA'S COMMENT**

Kāpuia considers DPMC should make public its advice on the recommendations of this review.

Kāpuia recommends DPMC publicly advising the timeframe for the next phases of this work and what review recommendations will and will not proceed. This is important for transparency and to support building greater trust and confidence in government.

# A new role for communities, civil society, local government and the private sector

## Recommendations 7, 8

### *The RCOI concluded*

'All New Zealand sectors and communities are affected by the threat of terrorism. Communities, civil society, local government and the private sector should be involved in an advisory forum with its functions set out in legislation.

The legislation would provide that the advice from an Advisory Group on Counter-terrorism must be taken into account by the chief executive and the Security and Intelligence Board or its replacement (Recommendation 3).

The chief executive of the national security and intelligence agency should ensure an Advisory Group on Counter-terrorism includes representative membership from communities, civil society, local government and the private sector. The make-up of the Advisory Group on Counter-terrorism should include a gender balance, ethnic and religious diversity, a range of ages (youth, adults and elders) and geographical spread. What constitutes 'representative' will evolve as society, and the nature of threats, changes over time. The chief executive should consider whether there is a necessity for members of the Advisory Group on Counter-terrorism to be security cleared to an appropriate level. The Advisory Group on Counter-terrorism should regularly connect with other advisory groups that are set-up by public sector agencies involved in the counter-terrorism effort.' (Page 738)

## **7** Direct the chief executive of the new national intelligence and security agency (Recommendation 2) to establish an Advisory Group on Counter-terrorism:

- a. responsible for providing advice to the national intelligence and security agency and the Security and Intelligence Board or its replacement (recommendations 2 and 3); and
- b. with functions to be established, in legislation as soon as practicable, but without delaying its establishment.

### *Status update (April 2024)*

On recommendations 7 and 8.

Agencies are working more closely with their own advisory groups to incorporate a broader range of perspectives into their work and agencies retain the ability to convene additional advisory boards specific to a project (for example the *National Security Strategy* was developed with the input of an academic reference group).

### **KĀPUIA'S COMMENT**

On recommendations 7 and 8.

Kāpuia considers that there have been improvements in the way some government agencies have included community viewpoints (and via advisory groups) in policy development and decision making. However, these are not substitutes for a dedicated advisory group on counter-terrorism nor for an advisory group (which could also address wider national security matters) to provide its advice directly to the National Security Board.

Kāpuia recommends a dedicated advisory group on counter-terrorism is established. It is crucial that the national security system has independent voices (both academic and community) feeding into decision-making across countering terrorism, to ensure a wider range of perspectives are taken into consideration.

## **8** Direct the chief executive of the new national intelligence and security agency (Recommendation 2) to include in advice on the *National Security and Intelligence Priorities* and in the annual *threatscape report* (Recommendation 17), a summary of the advice provided in the preceding year by Advisory Group on Counter-terrorism (Recommendation 7) and the actions that have been taken in response to that advice.

### *The RCOI concluded*

The annual statement to Parliament on extremism and preventing, detecting and responding to current and emerging threats of extremism, violent extremism and terrorism priorities (Recommendation 17) should include a summary of the advice that has been provided by the Advisory Group on Counter-terrorism to the new national intelligence and security agency and other relevant public sector agencies and the actions that have been taken in response to that advice. (Page 738)

For status update and Kāpuia's comment, see Recommendation 7.

# Public sector agencies can and should share information more widely

## Recommendations 9–11

### *The RCOI concluded*

‘Information sharing between public sector agencies is critical to the effectiveness of the counter-terrorism effort.

A shift in public sector agencies’ approach to highly classified information, in particular ensuring that information is classified correctly and seeing the need to know principle as enabling rather than restricting, will allow more information to be shared easily between public sector agencies. We are not the first to form this view. In a 2018 Review of the New Zealand Security Classification System, the Inspector-General of Intelligence and Security made a number of recommendations to improve the classification system. These recommendations have not been implemented but remain relevant today.’ (Page 739)

**9** Direct the new national intelligence and security agency (Recommendation 2), and in the interim the Department of the Prime Minister and Cabinet, to improve intelligence and security information sharing practices, including:

- a. driving a change in approach to the need to know principle across relevant public sector agencies, with special attention given to local government including the emergency management structures at the local and regional level, to ensure it enables rather than just restricts information sharing; and
- b. overseeing the implementation, within six months, of recommendations in the 2018 Review of the New Zealand Security Classification System:
  - i. expanding the classification system principles to provide that no information may remain classified indefinitely and that, where there is doubt as to the classification level, information is classified at the lower level;
  - ii. revising and strengthening public sector agency guidance and developing training;
  - iii. adopting a topic-based approach to systematic declassification of historic records; and
  - iv. developing indicators of function and performance of the classification system.

### *The RCOI concluded*

The new national intelligence and security agency (Recommendation 2) will take a lead role in overseeing information sharing in a whole-of-system way to address the issues set out above.

In the interim, DPMC should (within the next six months) oversee the implementation of some of the recommendations of the Inspector-General of Intelligence and Security’s A Review of the New Zealand Security Classification System in 2018.

Those recommendations specifically related to the following aspects of security classification:

- a. expanding the classification system principles to provide that no information may remain classified indefinitely and that where there is doubt as to the classification level, information is classified at the lower level
- b. revising and strengthening public sector agency guidance and developing training
- c. adopting a topic-based approach to systematic declassification of historic records, and
- d. developing indicators of function and performance of the classification system.’ (Page 739–40)

### *Status update (April 2024)*

NZSIS’ Protective Security Requirements Unit led a project to update the New Zealand Classification System Policy. The policy, which came into effect on 1 July 2022, makes it easier for government agencies to understand the existing classification system and

apply classifications correctly. The Protective Security Requirements led project has formally concluded; work has moved to business as usual.

NZSIS and DPMC attended a June 2023 meeting with Kāpuia on preventing and countering violent extremism and information sharing online. There Kāpuia heard that the Protective Security project to overcome barriers to information sharing caused by the inconsistent use of the classification system has received positive feedback from agencies and there is already evidence to show that agencies are incorporating the new policy requirements.

From 2024 agencies mandated to follow the Protective Security Requirements are required to assess and report on their classification, information sharing and declassification capability each year as part of their Protective Security Requirements annual assurance.

Reviewing information sharing practices with emergency management at the local and regional levels sits with DPMC (9a). Engagement has occurred with agencies at the national level on improving their information sharing principles. This includes agencies involved in emergency management at local and regional levels (National Emergency Management Agency, NZ Police, Health, Fire and Emergency New Zealand).

The National Emergency Management Agency website advises: 'The Government has decided not to proceed with the existing Emergency Management Bill. The Minister intends to introduce a new Bill this term, alongside considering system improvements using existing mechanisms in the Civil Defence Emergency Management Act 2002 and non-legislative levers'.

## ■ KĀPUIA'S COMMENT

Kāpuia had been pleased that the Emergency Management Bill was introduced in part to address the issues raised by Recommendation 9(a). Kāpuia is concerned there is now no vehicle to address this, nor any announced timeframe.

Kāpuia considers it has been positive that policy changes were made, so the classification system is easier to use correctly. It is important that these policies are widely understood and utilised across agencies. However, it will also be important that this continues to be monitored, especially as changes to ways of working and agency culture will not happen on their own.

Kāpuia recommends, if the current approach does not produce the expected results, that the NZSIS should revisit ways that the classification system itself could be improved.

**10** Amend the Intelligence and Security Act 2017 with respect to direct access agreements, to require the new national intelligence and security agency, and in the interim the Department of the Prime Minister and Cabinet, to regularly report to the responsible minister for the counter terrorism effort on their establishment and implementation.

## *The RCOI concluded*

'Direct access agreements are made between the ministers of the relevant intelligence and security agency and the agency that holds the information. Consultation with the Privacy Commissioner and Inspector-General of Intelligence and Security is required (see Part 8, chapter 9). Limited progress has been made in finalising the direct access agreements envisaged in the Act.' (Page 572)

## *Status update (April 2024)*

The Independent statutory review of the Intelligence and Security Act reported on this, that on further consideration there was not a legal barrier.

The report was made public on 29 May 2023 after it was considered by the Intelligence and Security Committee and was tabled in Parliament.

DPMC provided a more in-depth briefing to the roopu at the July 2023 Hui. At that hui DPMC informed the roopu that while the Intelligence and Security Act review departed from the language of Recommendation 10, it made other recommendations to address the substance of the RCOI's concerns.

DPMC is progressing the response to the Review.

## ■ KĀPUIA'S COMMENT

Kāpuia considers agencies working together collaboratively and sharing information as needed, is vital.

Kāpuia notes the conclusion of the Intelligence and Security Act review and that DPMC will be progressing a response to these.

Kāpuia recommends that decisions on the response to the Intelligence and Security Act review should be made public as soon as possible.



**11** Direct chief executives of public sector agencies involved in the counter-terrorism effort to consider whether they have an appropriate number of their employees that have security clearance and ensure that those staff have appropriate access to facilities and information management and technology systems to be able to review relevant material as required.

*The RCOI concluded*

‘Public sector agencies involved in the counter-terrorism effort should consider whether they need more staff who have security clearance to access highly classified information. Agencies should ensure that their security cleared staff are able to easily access facilities and information management and technology systems to be able to review relevant highly classified information as required.

This, however, should not be undertaken in place of shifting the public sector mindset to see the need to know principle as enabling. Rather, it should be undertaken in conjunction with that shift in mindset to ensure that information is able to be shared and accessed more effectively.

Special attention should also be given to the need to know principle as it applies to local government including the emergency management structures at the local and regional level.’ (Page 740)

*Status update (April 2024)*

The Security Vetting Unit at NZSIS has worked on a process improvement project to ensure the security vetting process is more efficient and effective.

The GCSB is leading work with other agencies and suppliers to facilitate the implementation and support of secure information systems for a number of government agencies. This work has begun delivering more robust systems to those government agencies.

**KĀPUIA’S COMMENT**

Kāpuia considers, and as the RCOI concluded, the intent of Recommendation 11 will only be met in the context of the culture change intended under Recommendation 9. Additional facilities and technology can be added as resources allow, but if that fundamental culture change has not occurred intelligence will not be able to be used effectively by the people who need to inform decisions and policy.

# Making it easy for people to provide information, and to identify those who may need help

## Recommendations 12, 13

### *The RCOI concluded*

'A key reason for holding regular public conversations about extremism and preventing, detecting and responding to current and emerging threats of terrorism and violent extremism (Recommendation 15) is to ensure that everyone understands their role in the counter-terrorism effort.

This includes knowing what to look out for and how to contribute, including reporting concerning behaviours or incidents.' (Page 741)

**12** Develop and promote an accessible reporting system that enables members of the public to easily and safely report concerning behaviours or incidents to a single contact point within government.

### *The RCOI concluded*

'We would expect that the government would publish annual reports on the extent of public reporting and how the reported information was used.

People will be confident about reporting potentially harmful behaviours if they know what to look for.' (Page 742)

### *Status update (April 2024)*

August 2022 – Cabinet approved funding to develop a business case for a preferred approach to implementation of this recommendation. This looked at the design of the reporting system, the scope of behaviours and harms that would be covered by the reporting channels, and options for implementation.

NZ Police has prepared advice for the Minister of Police ahead of the upcoming meeting of RCOI Responsible Ministers, called by the Lead Coordination Minister of the Government's Response to the RCOI.

NZ Police advice notes that the cross-agency business case and associated funding request still requires consideration and decisions from ministers, and that NZ Police are unable to advance this issue from within baseline budget or from a business-as-usual position.

### **KĀPUIA'S COMMENT**

Kāpuia considers the public needs clarity about how and where to report any concerning behaviour identified.

All avenues for this needs to be safe and accessible (including for speakers of languages other than English). Without a clear avenue for reporting, we risk missing opportunities to analyse information – which together could provide a useful picture and potentially help prevent future attacks.

Kāpuia also considers any avenue for reporting must be cognisant of and occur alongside broader social cohesion work to ensure that a focus on potential threats does not result in some communities being over reported on.

Kāpuia understands that establishing the single reporting system proposed by NZ Police would involve a significant investment. This proposed reporting system remains a priority.

Kāpuia notes that NZ Police already has a non-urgent call number (105) in addition to its urgent call number (111). The 2023 Police Briefing to Incoming Minister indicates that pressures are already mounting on this service and if a new single reporting system is not developed, Kāpuia considers the 105 system would require additional investment.

Kāpuia recommends that, even if it takes longer to stand up than would be ideal, developing this proposed reporting tool should remain on the table and be worked to over time.

**13** Develop and publish indicators and risk factors that illustrate for the public specific behaviours that may demonstrate a person's potential for engaging in violent extremism and terrorism and update them regularly as the threatscape evolves.

### *The RCOI concluded*

'Success will require public knowledge of current risks and threats and a simple pathway to allow people to report concerning behaviours or incidents to a single point within the public sector that is promoted and visible.

From there, the information would be passed on to the relevant agency (or agencies) whether it is a public sector agency or non-government agency for assistance.' (Page 741)

### *Status update (April 2024)*

NZSIS released *Kia mataara ki ngā tohu – Know the signs: a guide for identifying signs of violent extremism* in October 2022. The guide is intended to be used as an engagement tool and will be updated over time as part of usual activities.

NZSIS attended a Kāpuia subgroup meeting in June 2023, where members were encouraged to hear that NZSIS was seeing a notable change in lead reporting following the release of the indicators with an increase in higher quality leads which have clearly been guided by the indicators.

NZSIS noted that their analysts are consistently assessing the threat environment and changes will be made to the indicators as the threat environment evolves as part of usual activities.

### **KĀPUIA'S COMMENT**

Kāpuia considers the development and publication of these indicators has been a meaningful outcome of the RCOI response. Kāpuia significantly influenced the way the indicators were published.

Kāpuia considers that a diverse range of people and perspectives having input into the indicators will make them more robust and reduce the risk of an omission or of certain communities being targeted.

Kāpuia recommends the NZSIS should include community-led consultation and engagement as the indicators are updated.

Kāpuia notes separately (but in line with the intent of this recommendation) it has been positive to hear during the course of our work that, for example, collaboration between the NZSIS and the NZ Police has increased and that these agencies meet daily to exchange information and share leads.

# Better evidence-based solutions to prevent and counter extremism, violent extremism and terrorism

## Recommendation 14

### *The RCOI concluded*

‘New Zealand needs to develop its own evidence-based solutions to prevent and counter extremism, violent extremism and terrorism, built on lessons from global experience. We conclude that it would be beneficial to foster a capability in New Zealand to conduct research and collaboration into these matters in New Zealand. If this happens, we would expect that over time, these researchers would establish a network that could collaborate with overseas counterparts. The Canadian Network for Research on Terrorism, Security and Society is an example of an established organisation that provides research grants on issues related to counter-terrorism. The funding for this Network has diverse sources, including the Canadian government.

We considered recommending the establishment of a new government research institute to undertake New Zealand-specific research and collaboration. However, we decided that this would be both expensive and perhaps ineffective. Such an agency would take time to establish and build capacity. It is likely to be more effective to draw on existing researchers who may have an interest in counter-terrorism issues. Consequently, we recommend that the government establish a mechanism to provide contestable research grants to New Zealand academics and researchers. We recommend that the new national intelligence and security agency (Recommendation 2) should be the fund holder for the contestable research grants, with research priorities decided by a panel comprising officials from that new agency and the Advisory Group on Counter-terrorism (Recommendation 7), with the Advisory Group representatives holding a majority membership of that selection panel.’ (Page 743)

## 14 Establish a programme to fund independent New Zealand-specific research on the causes of, and measures to prevent, violent extremism and terrorism with the following provisions:

- a. the national intelligence and security agency (Recommendation 2) should be provided with a multi-year appropriation for research funding;
- b. research priorities and grant recipients should be selected by a panel comprising officials from the new national intelligence and security agency (Recommendation 2) and representatives from the Advisory Group on Counter-terrorism (Recommendation 7), with Advisory Group representatives forming the majority of the selection panel; and
- c. grant recipients should be encouraged to publish and present the results of their research at the annual hui on issues related to extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism (Recommendation 16)

### *The RCOI concluded*

New Zealand has limited availability of external advice on counter-terrorism.

‘New Zealand’s National Security Handbook observes that ‘local government, quasi-government agencies, and the private sector have increasingly important roles in the public sector’.

Think tanks focused on national security issues are an example of such ‘quasi-government agencies’. They are an established feature of the national security landscape overseas.

Such organisations can encourage and inform public debate, facilitate interaction between the private and public sector and offer contestable external advice to government and public sector agencies.

We did not observe similar relationships between the New Zealand national security system and think tanks in relation to counter-terrorism. Although there are think tanks in New Zealand that focus on national security issues, such as the Centre for Strategic Studies, they do not appear to be utilised by public sector agencies involved in the counter-terrorism effort in the ways that such bodies are in other countries.’ (Page 442)

### *Status update (April 2024)*

The National Centre of Research Excellence for preventing and countering terrorism and violent extremism (the Centre) was established in June 2022 and Professor Joanna Kidman and Distinguished Professor Emeritus Paul Spoonley were appointed as co-directors.

The He Whenua Taurikura Masters Scholarships were created to encourage and support postgraduate research and 17 postgraduate scholarships have been awarded since 2022.

### **KĀPUIA'S COMMENT**

Kāpuia considers that New Zealand-specific research to help inform public discussion is an ongoing need. It is important to continue to build on over time, as this will be key to finding solutions that work and are appropriate in the New Zealand context.

Kāpuia recommends ongoing funding be provided for New Zealand-specific research on the causes of and measures to prevent violent extremism and terrorism.

# We all have a role in making New Zealand safe and inclusive

## Recommendations 15–17

### *The RCOI concluded*

‘There is insufficient public discussion of and awareness about New Zealand’s National Security and Intelligence Priorities. There is also limited discussion about extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism in New Zealand. New Zealanders have important roles and contributions to make but this is neither clear nor publicly discussed. Public conversations about New Zealand’s National Security and Intelligence Priorities and countering extremism and terrorism will not only increase awareness and knowledge about the threats and risks facing New Zealand but will also enhance some of our other recommendations (including development of a national counter-terrorism strategy, Recommendation 4). The conversations will address the balance to be struck between the privacy of individuals and the safety of individuals and communities. It should increase the social licence of public sector agencies to address extremism. The conversations will also reinforce how diversity and inclusiveness contribute to social cohesion and wellbeing.’ (Page 744)

## 15 Create opportunities to improve public understanding of extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism in New Zealand, led initially by the Minister for National Security and Intelligence, and including ongoing public discussions on:

- the nature of New Zealand’s counter-terrorism effort, including current risks and threats and how public sector agencies protect New Zealanders from the threat and risk of terrorism;
  - who is involved in the counter-terrorism effort and their roles, recognising that communities, civil society, local government and the private sector are all part of the counter-terrorism effort, including, but not limited to, being important sources of information;
  - the need to strike the balance between the privacy of individuals and the safety of individuals and communities and to understand the social licence for public sector agencies to engage in counter-terrorism and countering violent extremism activities;
- supporting the public to understand how to respond when they recognise the concerning behaviours and incidents that may demonstrate a person’s potential for engaging in violent extremism and terrorism; and
  - how social cohesion, social inclusion and diversity contribute to an effective society.

### *The RCOI concluded*

‘We see the first of these conversations (Recommendation 15) initiating what will become a cycle of information sharing, public engagement and scrutiny. It will enhance transparency. This initial public conversation (Recommendation 15) should commence in 2021 to inform the subsequent annual hui (Recommendation 16), the annual threatscape report and the National Security and Intelligence Priorities discussion (Recommendation 17).’ (Page 744)

### *Status update (April 2024)*

The establishment of the National Centre of Research Excellence (Recommendation 14) assisted in addressing this recommendation. 2 annual hui (Recommendation 16) have provided opportunities to increase public information and understanding of New Zealand-specific elements of violent extremism and terrorism.

The national security sector’s Long-term Insights Briefing provides an opportunity for the public to gain greater awareness of national security risks, challenges and opportunities.

The Long-term Insights Briefing was tabled in Parliament in 2023, and the Intelligence and Security Committee conducted select committee examination. The Long-term Insights Briefing and further information can be found at [dpmc.govt.nz](https://dpmc.govt.nz)

In March 2023 DPMC launched a Preventing and Countering Violent Extremism Strategic Fund to support civil society and community organisations to deliver initiatives to counter, violent extremism and radicalisation.

New Zealand’s National Security Strategy was launched in August 2023, to guide New Zealand’s approach to national security. It takes on board lessons from the RCOI. The Strategy includes information on how New Zealand is working to prevent national security threats across a range of core issue areas, including terrorism and violent extremism.

On 5 April 2024 DPMC announced that the 2023/2024 He Whenua Taurikura Hui would not proceed.

### KĀPUIA’S COMMENT

Kāpuia considers that improving public understanding of these issues is key to obtaining the long term buy-in (both publicly and politically) required to address them. As the RCOI recommended, this should be led



by the Minister for National Security and Intelligence, especially while these discussions are still developing at a national level. The first 2 He Whenua Taurikura hui (Recommendation 16) have provided a platform for ministerial speeches on national security and countering terrorism.

Kāpuia considers with the third He Whenua Taurikura hui now cancelled and no further funding for future hui currently known, it is even more important that the Minister for National Security and Intelligence leads in these public discussions.

**16** Direct the chief executive of the new national intelligence and security agency (Recommendation 2) to host an annual hui, to bring together relevant central and local government agencies, communities, civil society, the private sector and researchers (Recommendation 14) to create opportunities to build relationships and share understanding of countering violent extremism and terrorism.

#### *The RCOI concluded*

'There was an absence of a widespread or regular national public dialogue on New Zealand's national security and counter-terrorism effort. There was very little engagement between those responsible for the counter-terrorism effort and the public before 15 March 2019. This meant there was not a well-informed public discussion on the terrorism threat and risk, or information on how to identify threats.' (Page 421)

There has been little informed public debate about the threat of domestic terrorism, what is done on behalf of the public by the public sector agencies involved in the counter-terrorism effort and how the public can contribute.' (Page 441)

#### *Status update (April 2024)*

Two counter-terrorism hui were held in 2021 and 2022.

These hui have brought together experts, members of the business sector, community representatives, government officials and members of the community affected by March 15. They have contributed to building a public conversation about national security issues in New Zealand and built relationships between government, community and business representatives.

On 5 April 2024, DPMC announced that the 2023/2024 He Whenua Taurikura hui would not proceed.

#### **KĀPUIA'S COMMENT**

Kāpuia considers the first two counter terrorism hui have raised the profile of work to counter and prevent violent extremism. These have been important as many

people in New Zealand do not know the extent of the online and in person abuse and discrimination that some communities are regularly facing. These hui have also been an important time and place for government, the community, NGOs and researchers to come together.

Kāpuia recommends funding should be secured for future He Whenua Taurikura hui or similar. This is especially important while we build a national discussion on preventing violent extremism. We do not want the focus and the progress made already to be lost.

**17** Require in legislation:

- the Minister for National Security and Intelligence to publish during every parliamentary cycle the National Security and Intelligence Priorities and refer them to the Parliamentary Intelligence and Security Committee for consideration;
- the responsible minister (Recommendation 1) to publish an annual threatscape report; and
- the Parliamentary Intelligence and Security Committee to receive and consider submissions on the National Security and Intelligence Priorities and the annual threatscape report.

#### *The RCOI concluded*

The threat of domestic terrorism was not a priority for the National Assessments Bureau, and it did not provide any assessments solely focused on domestic terrorism.' (Page 448)

'In December 2018, a paper to the Security and Intelligence Board proposed the 'production by [the Combined Threat Assessment Group] of an annual New Zealand terrorism threat assessment to inform security posture and as a key input to support determination of counter-terrorism priorities.' (Page 451)

#### *Status update (April 2024)*

The 2023 National Security Intelligence Priorities were released on 4 August 2023.

The Security Threat Environment report was released on 11 August 2023.

The Intelligence and Security Committee convened to discuss the National Security Intelligence Priorities before they were finalised and released.

Requiring the publication of the National Security Intelligence Priorities in legislation was considered in the independent statutory review of the Intelligence and Security Act 2017.

Further decisions on this recommendation will be made as part of the response to the review.

## ■ KĀPUIA'S COMMENT

Kāpuia considers the publication of the Security Threat Environment report to be a positive step to increase both transparency and public awareness and understanding. So far agencies have been delivering on the intent of Recommendation 17 without legislation, but a legislative mandate should be considered to ensure the longevity of this programme of work.

## Fit for purpose laws and policies Recommendation 18

### *The RCOI concluded*

‘Legislation is an important tool in any counter-terrorism effort.’ (Page 619)

The Terrorism Suppression Act has never been subject to a comprehensive review of whether it is fit for purpose. A regular review of the Act, say every five years, should be provided for in the legislation. This will de-politicise any such review and enable any changes to the threatscape to be carefully considered regularly.

What has also been missing to date is a holistic assessment of the nature of the risk associated with the pre-criminal space in which potential terrorists operate. New Zealand does not have precursor terrorism offences, which means that it is not an offence to be planning or preparing a terrorist attack (part 8, chapter 13). An informed debate is necessary about whether the Terrorism Suppression Act strikes the appropriate balance between:

- a. providing the counter-terrorism agencies with the means to disrupt planning and preparation for terrorist attacks; and
- b. the risk of over-criminalisation.

To enable such a debate, the Terrorism Suppression Act should be reviewed as soon as possible to ensure it is fit for purpose, with a particular focus on the lack of precursor terrorism offences.

There are a number of issues with the Intelligence and Security Act, some of which limit the activities of the intelligence and security agencies. These should be prioritised in the scheduled legislative review. There should be a particular focus on whether any associated limits on the intelligence and security agencies are justified in light of their objective to contribute to the protection of New Zealand's national security. For the most part, the issues we have identified with the Intelligence and Security Act (part 8, chapter 14) can be resolved during the scheduled legislative review. The exception is section 19 of the Intelligence and Security Act, which we consider requires urgent legislative attention for reasons explained in chapter 14 of Part 8. New Zealand Police had been strongly advocating for a whole-of-government counter-terrorism strategy and for changes to counter-terrorism legislation at the Security and Intelligence Board for a considerable period (see part 8, chapters 3 and 13).

We also recommend that other legislation relating to counter-terrorism be reviewed and updated. For example, relevant legislation should be reviewed and amended to enable New Zealand to accede to and implement the Budapest Convention on Cybercrime.’ (Page 745)

**18** Review all legislation related to the counter-terrorism effort (including the Terrorism Suppression Act 2002 and the Intelligence and Security Act 2017) to ensure it is current and enables public sector agencies to operate effectively, prioritising consideration of the creation of precursor terrorism offences in the Terrorism Suppression Act, the urgent review of the effect of section 19 of the Intelligence and Security Act on target discovery and acceding to and implementing the Budapest Convention.

### *The RCOI concluded*

‘The ways in which New Zealand’s general criminal law and the Terrorism Suppression Act operate have left a pre-criminal space in which potential terrorists can plan and prepare acts of terrorism without committing criminal offences. This space is larger than members of the public might expect, and its broad scope has significant implications for the counter-terrorism agencies.’ (Page 553)

### *Status update (April 2024)*

March 2023 – the Ministry of Justice provided Kāpuia an update on the completed and progressing workstreams under Recommendation 18 of the RCOI report.

Progress to date has included:

- The Counter-Terrorism Legislation Act 2021 became law on 4 October 2021. It amends the Terrorism Suppression Act 2002, the Search and Surveillance Act 2012, and the Terrorism Suppression (Control Orders) Act 2019 – to implement a single broad policy to better prevent and respond to terrorism by ensuring designation, offence, and control order provisions apply effectively to conduct that is, or that creates, an unacceptable risk of terrorism.
- The Security Information in Proceedings (repeals and amendments) Bill and the Security Information and Proceeding Bill were made law on 28 November 2022. These bills create a consistent framework for using security information in court. The Bills respond to the recommendations made by the Law Commission in its report The Crown in Court: A Review of the Crown Proceedings Act and National Security Information in Proceedings.
- The Terrorism Suppression Act was amended in 2021 to create precursor offences (as recommended by the RCOI).
- Introducing the Counter-terrorism Acts (Designations and Control Orders) Amendment Bill to progress urgent changes to the designations scheme of the The Terrorism Suppression Act.

- The Ministry began a review of the Search and Surveillance Act 2012. In June 2022, the Ministry completed the 1st phase of engagement and wider engagement on the Search and Surveillance Act review is expected to be undertaken during 2024.
- Statutory review of the Anti-Money Laundering and Counter-terrorism Financing Act.
- The review of the Intelligence and Security Act has been completed.

At the March 2023 Kāpuia hui the Ministry also outlined its proposal for the next stage of work on Recommendation 18 – to step back and do a stocktake of the whole system.

Since then, the Ministry has worked extensively across government, with 12 agencies, to get a clear understanding of where the issues are with the broader regulatory and legislative counter-terrorism system after the specific changes 2020–2022. As a result, it briefed the new Minister of Justice in December 2023 on the main issues that were identified. He has agreed the Ministry should further brief him in quarter 2 of 2024.

The Ministry is working on briefing the Minister on policy options for progressing the review within this timeframe.

## ■ KĀPUIA'S COMMENT

Kāpuia considers it positive the Ministry of Justice review has been looking across counter-terrorism and the wider national security system. For the national security system to have effective and fit for purpose legislation, all parts of the system and how they fit together must be considered.

Kāpuia considers it will be important all legislation has clear safeguards, be proportionate and be cognisant of both privacy and human rights. Legal frameworks need to be adaptable and constantly reviewed (including with a community lens) to ensure they remain fit for purpose and any unintended impacts on the public can be both understood and mitigated.

Kāpuia recommends the stewardship approach the Ministry of Justice is taking towards national security legislation should be maintained, and as an ongoing piece of work.

# Recommendations to improve New Zealand's firearms licensing system



# Recommendations to improve New Zealand's firearms licensing system

## Recommendations 19–24

### *The RCOI concluded*

‘Our terms of reference restricted us from inquiring into or making recommendations on amendments to firearms legislation. In addition, amendments to the Arms Act 1983 were passed in 2019 and 2020. The scope for recommendations in relation to firearms is, therefore, more limited than would otherwise be the case. It is nonetheless critical that policies remain fit for purpose. The firearms licensing system needs to be exacting to ensure that the risk of inappropriate people having firearms is mitigated. There are a number of issues with New Zealand's firearms licensing system, not all of which have been addressed by the recent legislative amendments. To address these issues, we recommend changes that will result in a more efficient and effective, risk-based firearms licensing system, including:

- a. the consistent application of the fit and proper person test across police Districts;
- b. more highly skilled and better trained licensing staff who can exercise evaluative judgements about risks and how to deal with them, supported by better policies and operational guidance; and
- c. improved risk-based management of applicants who have recently arrived in New Zealand, including by requiring applicants who have lived outside of New Zealand for substantial periods of time in the 10 years preceding the application to produce police or criminal history checks from countries in which they have previously resided.’ (Page 448)

## 19 Direct New Zealand Police (or other relevant entity) to make policies and operational standards and guidance for the firearms licensing system clear and consistent with legislation.

### *The RCOI concluded*

‘The operation of the firearms licensing process was constrained by three external factors:

- a. the resources available;
- b. the structure of section 24 of the Arms Act, which created different decision paths for granting and refusing licence applications; and
- c. the drift of the District Court judgments that were in favour of those challenging refusals or revocations of firearms licences.’ (Page 285)

### *Status update (April 2024)*

Recommendations 19–23 are being addressed as part of the NZ Police Arms Transformation Programme.

NZ Police improved some processes and practice around firearms licensing ahead of RCOI findings (including new training and resources, a new quality assurance process, and an extra step in the approval process with a senior constabulary member of staff). Work has continued on the processes for firearms licensing, supporting staff, and working towards a permanent (as opposed to casual) workforce.

The Firearms Safety Code was published in November 2022 and has been used for firearms safety courses since March 2023.

An updated Shooting Club Guide was released in December 2022 alongside the NZ Police Shooting Range Manual.

Dealer ammunition storage and display guidance was released in January 2023.

Ongoing work around quality assurance will lead to key performance indicators for the firearms business unit.

Changes to the Arms Regulations require applicants for firearms licences to give additional information including to provide a list of countries travelled to or visited, including stays of 14 days or more in the five years preceding application.

This work has moved onto its next phase of continuing service improvement as part of business-as-usual activities.

### **KĀPUIA'S COMMENT**

*Comment covers recommendations 19, 20, 21, 22, 23.*

Kāpuia considers there have been significant improvements to the firearms licensing system in response to the RCOI report. It is now crucial that these improvements are sustained.

Kāpuia is concerned to see that part of the Government's coalition agreement with the ACT Party included a possible repeal of parts of the Arms Act 1983, especially as it relates to clubs and ranges. We note that the Prime Minister has stated recently that public safety will be a condition for any review. Kāpuia considers that the changes made to firearms legislation and regulations following the 15 March attacks were the right ones (especially in respect of automatic weapons). Kāpuia strongly recommends against loosening our current public protections as this will significantly increase the risk to New Zealanders.

Kāpuia recommends safeguards around firearms licensing are too important to get wrong and we need to ensure this system is resourced well enough to function to a high standard.

Kāpuia recommends ongoing training of staff, alongside performance measures and regular reviews will be essential, to ensure that the system continues to be fit for purpose into the future.

## 20 Direct New Zealand Police (or other relevant entity) to introduce an electronic system for processing firearms licence applications.

### *The RCOI concluded*

'The firearms licensing process is old-fashioned. It involves paper files, parts of which are sent by mail to vetting officers and then returned by mail to the district arms officer. Such a system is inefficient for firearms licensing staff. As well, it is not susceptible to effective monitoring and performance review. These inefficiencies meant district firearms staff spent a disproportionate amount of time on administrative tasks, at the expense of time available to assess the merits of firearms licence applications.' (Page 277)

### *Status update (April 2024)*

The new electronic Firearms Licensing system was completed in November 2020. This means that licence application forms are now writable PDF documents which are received electronically through the NZ Police internet site or by email. Where an applicant elects to print the PDF and hand write an application form these are scanned and entered in the NZ Police case management system when received.

An online firearms registry went live in June 2023. The requirement for the registry is found in the Arms Legislation Act 2020.

### **KĀPUIA'S COMMENT**

*See comment under Recommendation 19.*

## 21 Direct New Zealand Police (or other relevant entity) to ensure firearms licensing staff have regular training and undertake periodic reviews of the quality of their work.

### *The RCOI concluded*

Licensing staff were not trained to go beyond what is in the *Firearms Licence Vetting Guide*.

There were no training opportunities to learn how to better assess difficult and marginal applications.

Licensing staff were not trained to say 'no' to applications. (Page 278)

### *Status update (April 2024)*

A phased learning and development programme to address this was approved in December 2021.

- Phase 1 (complete and now part of business as usual) ensured there was a consistent approach to learning across all teams and closed any knowledge or skill gaps within existing staff.
- Phase 2 to look at the future learning and development for firearms staff aligned to the new regulator role requirements.
- Phase 3 to focus on implementation and handover to the Regulator business as usual team.

### **KĀPUIA'S COMMENT**

*See comment under Recommendation 19.*

## 22 Direct New Zealand Police (or other relevant entity) to introduce performance indicators that focus on the effective implementation of the firearms licensing system. Key indicators should include:

- a. **regular performance monitoring of firearms licensing staff to ensure national standards are met; and**
- b. **public confidence in the firearms licensing system is increased (as measured by New Zealand Police citizens' satisfaction survey reports or similar mechanism).**

### *The RCOI concluded*

'The firearms licensing process was further affected by the absence of training and performance monitoring of firearms licensing staff responsible for administering the process.' (Page 286)

'There was no system of performance review and no mechanism for identifying vetting officers whose interviewing practice had become entirely controlled by the *Firearms Licence Vetting Guide* or, to use the language of the Arms Manual, 'stereotyped'.' (Page 278)

'Providing dedicated firearms training and review resources to ensure New Zealand Police employees have the skills and knowledge to create trust and confidence in New Zealand Police across the country.' (Page 283)

### *Status update (April 2024)*

In March 2020 a quality and assurance process for firearms licence application files was implemented. The process involved two stages of review and approval for completed files at a district level and the independent review of randomly selected files by a national firearms team. Quality and assurance processes are now a standard part of the firearms licensing process.

NZ Police implemented a Quality Assurance Information Framework, which is completed on a weekly basis in every district.

In March 2022, the 1st public survey relating to firearms licensing was deployed to approximately 1000 members of the public and 1700 recently renewed or approved firearms licence holders. This survey formed a baseline to measure public trust and confidence in firearms licensing.

The two cohorts in the survey had significantly different perceptions of firearms oversight. Nearly 70% of public surveyed had trust and confidence in the approach the NZ Police use to manage firearms licensing in the community while for firearms licence holder trust this was just under 43%.

## ■ KĀPUIA'S COMMENT

See comment under [Recommendation 19](#).

**23** Direct New Zealand Police (or other relevant entity) to require two new processes in the case of applicants who have lived outside of New Zealand for substantial periods of time in the 10 years preceding the application:

- a. applicants should be required to produce police or criminal history checks from countries in which they have previously resided; and
- b. Firearms Vetting Officers should interview family members or other close connections in other countries using technology if the applicant does not have near relatives or close associates living in New Zealand.

### [The RCOI concluded](#)

'The firearms licensing process was affected by a failure to ensure that the guidance given by policy and operational documents addressed more than the typical applicants who had lived their lives in New Zealand and had backgrounds that could be easily checked.

As a result, there was a lack of coherent guidance as to how to deal with those who had only recently come to New Zealand.

There was no policy requiring such applicants to produce their criminal history reports from home jurisdictions and no specific guidance to licensing staff on how to apply referee requirements where a near-relative referee could not be interviewed in person.' (Page 286)

### [Status update \(April 2024\)](#)

The [Arms Regulations](#) were updated on 1 February 2022 to require a criminal record check of the applicant for each country in which they resided for over six months (not necessarily consecutive) in the past 10 years, at the applicant's cost (regulation 15(m)).

The [Arms Regulations](#) were updated on 1 February 2022 to require a firearms licence applicant to provide the name and address of the applicant's spouse/partner, or (in the absence of spouse/partner) a near relative of the applicant who knows the applicant well (even if the relative resides overseas), of whom inquiries can be made about whether the applicant is a fit and proper person to be in possession of a firearm (regulation 15(f) and 15(h), (i), (j) & (k)).

Internal NZ Police instructions on requirements for interviewing applicants and referees has been completed and technology for video interviews is available. Video interview training has been embedded as standard practice.

## ■ KĀPUIA'S COMMENT

See comment under [Recommendation 19](#).

**24** Introduce mandatory reporting of firearms injuries to New Zealand Police by health professionals.

### [The RCOI concluded](#)

'Although we see no fault in the way in which this information was dealt with by the Southern District Health Board and the Accident Compensation Corporation, consideration should be given to requiring automatic reporting of firearms injuries. Such an injury may say something about the fitness of a person to hold a firearms licence and this is particularly so if there is a history of similar incidents. In the absence of a reporting requirement or practice, such information will often not come to the attention of New Zealand Police, who remain responsible for administering firearms licensing.' (Page 376)

### [Status update \(April 2024\)](#)

Amendments to the [Arms Act 1983](#) came into effect on 24 December 2020 introducing new requirements and obligations for health practitioners.

Since then, health practitioners have been required to consider notifying NZ Police if they have reason to believe their patient is a firearms licence holder and their health condition will impact on the safety of the patient or the public. This is under [section 92](#) of the Arms Act 1983.

The Firearms Safety Authority encourages voluntary reporting of firearms injuries by health professionals and health practitioners and has been working to

educate health practitioners through a variety of channels, relevant and targeted to health practitioners, about their requirements. This includes:

- [website updates](#) for health practitioners and [new webpages](#) for licence holders ([firearmssafetyauthority.govt.nz](http://firearmssafetyauthority.govt.nz))
- [webinar](#) with RNZCGP ([rnzcgp.org.nz](http://rnzcgp.org.nz))
- [article](#) in NZ Doctor ([nzdoctor.co.nz](http://nzdoctor.co.nz))
- [podcast](#) with GoodFellow Unit ([goodfellowunit.org](http://goodfellowunit.org)).

The Firearms Safety Authority will continue to engage with health practitioners and relevant organisations to increase the educational material available.

NZ Police and the Ministry of Health undertook targeted engagement on Recommendation 24 in March 2022.

These engagements highlighted the challenging trade-off between the privacy of an individual's information and the wider public good of reporting a potential risk.

Informed by the engagements NZ Police and the Ministry of Health have developed options for making it mandatory for health professionals to report firearms injuries, details can be found at [police.govt.nz](http://police.govt.nz)

## ■ KĀPUIA'S COMMENT

Kāpuia considers that meeting the intent of Recommendation 24 comes back to enabling good coordination between agencies. If the NZ Police do not have information about these kinds of incidents it is impossible for them to ensure those with firearms licences are safe enough to continue to hold one.

While we acknowledge the tension between the privacy of health information and public safety, Kāpuia recommends incidents involving firearms pose such a great risk that any firearms related injuries should be reported.

# Recommendations to support the ongoing recovery needs of affected whānau, survivors and witnesses



# Ongoing support for affected whānau, survivors and witnesses required

## Recommendations 25–27

### *The RCOI concluded*

‘We heard from affected whānau, survivors and witnesses of the 15 March 2019 terrorist attack that, in addition to the grief and suffering they are dealing with, they also face the complexities of navigating the Public sector systems of support. We heard that there is a lack of coordination between Public sector agencies.’ (Page 750)

‘We did not consider that the question of financial support, compensation or ex gratia payments fitted easily within our Terms of Reference. We leave them for direct discussion between those affected whānau, survivors and witnesses and the government in light of the conclusions reached in this report.’ (Page 752)

**25** Direct the Ministry of Social Development to work with relevant public sector agencies including the Accident Compensation Corporation, Immigration New Zealand, the Ministry of Justice, New Zealand Police and non-government organisations to facilitate coordinated access to ongoing recovery support for affected whānau, survivors and witnesses of the 15 March 2019 terrorist attack, including assigning each whānau, survivor or witness a continuing single point of contact who will navigate all required public sector support on their behalf.

### *The RCOI concluded*

‘Some affected whānau, survivors and witnesses will need ongoing wellbeing support for years to come. We understand some support for some affected whānau, survivors and witnesses has been either not offered or scaled back. The Government must not shy away from delivering support on an ongoing basis in an effective, efficient and culturally appropriate manner.

To reduce the burden arising from the lack of coordination in public sector support, each affected whānau, survivor and/or witness should be assigned a continuing single point of contact or navigator. While some navigator services were provided in the initial period following the terrorist attack, support has since

significantly diminished. Services are provided in a light-touch way with less face-to-face engagement. (Page 750)

### *Status update (April 2024)*

Recommendation 25 relates to the Ministry of Social Development's role in facilitating coordinated access to ongoing recovery for affected communities. A key part of this ongoing recovery support was provided through the Kaiwhakaoranga Specialist Case Management Service (Kaiwhakaoranga Service) and the Christchurch Mosques Attack Welfare Programme (Welfare Programme).

To date, the service has supported the affected community to access over 40 government agencies and NGOs including health and wellbeing, immigration, legal, social and community cohesion, financial, education, training, housing advocacy, whānau services and employment.

Funding for both the Kaiwhakaoranga Service and the Welfare Programme is time-limited and is scheduled to end on 30 June 2024.

A formal decision on the future of the Kaiwhakaoranga Service and Welfare Programme has not yet been made.

### **KĀPUA'S COMMENT**

The RCOI Report acknowledged that some victims, witnesses and families of the shuhada would need long-term support and this must continue to be a priority and key focus for the Government.

Kāpuia considers it is vital that whatever formal decisions are made on the future of the Kaiwhakaoranga Service, long-term and appropriate support is needed for those accessing services.

Kāpuia considers that the Government must commission a full picture of the remaining needs in the affected community, which can only be obtained by discussing these needs with the community itself.

Kāpuia recommends that an assessment of current and future needs in the affected community be undertaken urgently. This should inform discussions with the community on its overall wellbeing but have a particular focus on mental health support needs.

Kāpuia considers that three to five years cannot be considered long-term. The mounting research on trauma both in New Zealand and internationally, from experience of other terror attacks and from the long-term impact of other events such as the Christchurch Earthquakes and witnessing the need continuing to emerge in the community from the 15 March attacks (including intergenerational aspects of trauma) all point towards the long-term support being needed.

Kāpuia considers that any support available also needs to be multifaceted as both the affected community and the trajectory of trauma are diverse. There will never be one solution appropriate for everyone, and to be effective, support needs to be tailored to the individual.

Kāpuia recommends that access to mental health support for this directly affected community is committed to long-term. People need to be sure they will have access to professional support when they are ready for it; and that the support provided is individualised and flexible and understands and respects faith and cultural factors.

Kāpuia recommends learnings from Ministry of Social Development's case management work supporting this community should be integrated into mainstream services to improve outcomes for others in New Zealand accessing support. One example of this is the interagency approach delivered by the Kaiwhakaoranga Service, which made support for people in the affected community more effective. Each agency's work could complement the work of the (sometimes many) other agencies involved with a family or individual.

Kāpuia recommends an evaluation of the effectiveness of the Kaiwhakaoranga Service (focused on the perceptions of what was successful and what was not from the affected community) should be undertaken. Learnings should also be applied to any large-scale support needs in the future, or where there were similar community impacts (such as in the case of the LynnMall attack).

**26** Investigate establishing a Collective Impact Network and Board or other relevant mechanism that enables public sector agencies, non-government organisations and affected whānau, survivors and witnesses to agree a specific work programme to provide ongoing wrap-around services to affected whānau, survivors and witnesses.

#### *The RCOI concluded*

'We see a long-term role for navigators to work with affected whānau, survivors and witnesses to coordinate public sector support and help to reduce the complexities of dealing with multiple agencies.

This should also include consideration of establishing a Collective Impact Network and Board or other appropriate mechanism that enables public sector agencies, non-government organisations and affected whānau, survivors and witnesses to agree on a specific work programme to provide ongoing wrap-around services to affected whānau, survivors and witnesses. Deciding the optimal organisational form would be best worked through by Te Kawa Mataaho Public Service Commission in conjunction with relevant public sector agencies.' (Page 750)

#### *Status update (April 2024)*

The Collective Impact Board established in May 2021 under Recommendation 26, and formally ended on 25 November 2023.

The Board's secretariat recently provided an update to Kāpuia which advised the completion of all themes on the Board's work programme and the finalisation of their insights and recommendations report. This is the Collective trauma response and recovery – lessons from 15 March Mosque attacks report.

These documents, along with the Annual Report (June 2023) and final Annual Report (November 2023), have recently been provided to Hon Louise Upston, Minister for Social Development and Employment.

The final Annual Report (November 2023) has now been published on the Board's website.

#### **KĀPUIA'S COMMENT**

Kāpuia considers that while the Collective Impact Board was established it took time to start delivering and did not fully achieve everything it set out to do.

Kāpuia recommends the Ministry of Social Development should undertake an assessment of the effectiveness of the Collective Impact Board. This could be completed in conjunction with the evaluation of the Kaiwhakaoranga Service recommended by Kāpuia under Recommendation 25 and should also be centred on the voice and perspectives of the affected community.

**27** Direct the Department of the Prime Minister and Cabinet in collaboration with relevant public sector agencies to discuss with affected whānau, witnesses and survivors of the 15 March 2019 terrorist attack what, if any, restorative justice processes might be desired and how such processes might be designed and resourced.

#### *The RCOI concluded*

'We were asked to consider combining any further legal processes that affected whānau, survivors and witnesses may wish to go through into a single restorative process to support affected whānau, survivors and witnesses in their recovery. For example, this could include a restorative justice process with those affected whānau, survivors and witnesses who wish to engage with the individual, noting that such a restorative justice process would require the individual being willing to take part.

There may be further legal and other processes that affected whānau, survivors and witnesses wish to engage in too. It is critical that affected whānau, survivors and witnesses are engaged with

in an empowering way – that is, they are given the opportunity to collaborate in the design and delivery of such processes. This may require special legislation. This will help minimise the trauma that may come with participating in further processes in which they need to share their stories and evidence, while supporting their recovery and ensure a fair and just outcome.’ (Page 751)

#### *Status update (April 2024)*

DPMC will provide advice to the minister on Recommendation 27 in the coming months, recommended decisions will likely be included in the forthcoming cabinet paper.

#### **KĀPUIA'S COMMENT**

Recommendation 27 has not yet been addressed. No information has been made publicly available, and there have not been discussions with the affected whānau, witnesses and survivors. Nor has there been any discussions on financial compensation.

Although not a recommendation of the RCOI, Kāpuia recommends the Government urgently undertakes discussions with the affected community on compensation as suggested by the RCOI and link these discussions to the recommended needs assessment.

Kāpuia considers that to progress Recommendation 27, the affected community needs to be consulted, and there needs to be clarity about the intended process and outcomes of a process. We also consider that the possibility of compensation needs to be on the table. Although the RCOI did not include this in the recommendation, it was also not ruled out and the RCOI report noted that it would leave the question of compensation ‘for direct discussion between those affected whānau, survivors and witnesses and the government in light of the conclusions reached in this report.’

Kāpuia recommends that the Government outlines an approach for responding to Recommendation 27 soon.

# Recommendations to improve social cohesion and New Zealand's response to our increasingly diverse population

## Strong government leadership and direction are required

### Recommendations 28–30

#### *The RCOI concluded*

‘Societies that are polarised around political, social, cultural, environmental, economic, ethnic or religious differences provide conditions in which radicalising ideologies develop and flourish. Social cohesion is desirable for many reasons, one of which is that it is critical to preventing the development of harmful radicalising ideologies and downstream violent extremism. Improvements in the approach of public sector agencies towards promoting social cohesion will make a significant contribution to the prevention of extremism and thus violent extremism. In a Covid-19 Recovery environment there will be increased stress and an economic downturn, potentially increased inequalities and heightened vulnerabilities.

The recommendations are designed to assist with building a New Zealand where all people feel recognised, respected, and accepted, free from prejudice and discrimination and have the resources, skills and knowledge to meaningfully participate in decision-making processes. New Zealand has seen considerable social change in recent decades. Successive governments have recognised Te Tiriti o Waitangi as a founding document of New Zealand’s constitutional arrangements. The Waitangi Tribunal established in 1975 provides an avenue for historical and contemporary claims under Te Tiriti o Waitangi to be considered. Specific laws include recognition of the principles of Te Tiriti o Waitangi. Case law has also provided recognition of Te Tiriti o Waitangi in decision-making processes. Te Arawhiti, a departmental agency of the Ministry of Justice, was established to ensure that the Crown meets its Te Tiriti o Waitangi settlement commitments. The Public Service Act recognises the role of the public sector to support the Crown in its relationships with Māori under Te Tiriti o Waitangi. The next step will be to see government action that focuses on upholding Te Tiriti o Waitangi.

Government leadership is now also required to drive a social shift to see New Zealand society embrace the opportunities that social cohesion and New Zealand’s changing demographics bring.’ (Page 753)

**28** Announce that the Minister for Social Development and Employment and the Ministry of Social Development have responsibility and accountability for coordinating a whole-of-government approach to building social cohesion, including social inclusion.

#### *The RCOI concluded*

‘It is difficult to see how a discussion on social cohesion will occur if not led by ministers initially. As well, the input of communities, civil society, local government and the private sector will be vital to the success of the development of policies and programmes of work.’ (Page 682)

‘Before 15 March 2019, there was no leadership and coordination of New Zealand’s approach to building social cohesion or social inclusion at either the ministerial or public sector agency level. Initial action was taken in September 2019 by Cabinet to identify a responsible ministerial portfolio and public sector agency to coordinate government action on social inclusion. By June 2020 this coordination of effort was starting to bear fruit with the development of an initial social inclusion framework and recognition that it would benefit from further targeted feedback from some stakeholders. Explicit agreement that social inclusion is to be included as a goal in the government’s thinking and planning for the post Covid-19 Recovery is also positive.’ (Page 682)

#### *Status update (April 2024)*

In December 2020, Hon Radhakrishnan was announced as having responsibility and accountability for the whole-of-government approach to building social cohesion.

The Ministry of Social Development is working with a cross-agency group to ensure a coordinated shift towards greater social cohesion over time.

#### **KĀPUIA’S COMMENT**

*Comments covers recommendations 28, 29, 31, 37.*

Maintaining and improving social cohesion is key to improving both the safety and wellbeing of all New Zealanders. Funding for social cohesion work needs to be committed to, and for the long-term, so that planning can be effective and we can get the best value from investment.

Kāpuia considers that the Ministry of Social Development did an excellent job on engagement in developing the Social Cohesion Framework. Kāpuia is concerned that it does not matter how good the Framework is if it is not used or evaluated.



Kāpuia recommends there is an ongoing government focus on enhancing social cohesion, to reduce all forms of discrimination and racism in communities and acknowledging links to preventing and countering violent extremism.

Kāpuia recommends that building on the Ministry of Social Development's investment in the Social Cohesion Framework should be a priority and that implementing and monitoring progress of this framework needs to be funded adequately for it to have real impacts for New Zealanders. A whole of society change is required.

Kāpuia considers it is vital a minister drives public discussion, to increase the understanding of social cohesion and work across government. The intent of these recommendations was to enable broad discussion on social cohesion across the nation led by a minister.

Kāpuia recommends ministerial-led public conversations to enhance social cohesion and address racism in communities is a gap in the government response that should be immediately addressed.

## 29 Direct the Ministry of Social Development to discuss and collaborate with communities, civil society, local government and the private sector on development of a social cohesion strategic framework and monitoring and evaluation regime.

### *The RCOI concluded*

'Social cohesion remains an abstract term that is not well understood. As well it has become linked with ideas of assimilation. This is unfortunate. Social cohesion is an inclusive term that includes all of New Zealand's communities, and is about respecting and discussing communities' differences and developing some shared norms and experiences. We see social cohesion as enabling everyone to belong, participate and have confidence in public institutions. Public sector agencies are reluctant to talk about social cohesion as it has not been a government priority and even now government effort is focused on social inclusion, which is only one component of social cohesion.' (Page 682)

'The limited nature of a national dialogue about social cohesion was raised by communities, domestic and international experts and our Muslim Community Reference Group. A consistent view was that there is a need for a broad public discussion on what it means, the benefits, how it relates to acknowledging and upholding Te Tiriti o Waitangi and how it might be used to underpin policy development and service delivery.' (Page 682)

'A draft framework has been developed to bring a common understanding, vision and outcomes for social inclusion across government. A monitoring and evaluation regime is being scoped. Public discussion about the draft framework with a targeted group of

stakeholders is planned. Missing are the voices of communities, civil society, local government and the private sector. There should be a national dialogue on social cohesion, including social inclusion, to inform the development of a framework and monitoring and evaluation regime.' (Page 754)

### *Status update (April 2024)*

Recommendations 29, 31 and 37 focus on the Ministry of Social Development's role in the improvement of social cohesion and inclusion and responding to New Zealand's diverse population.

The Ministry of Social Development conducted five phases of community engagement between July 2021 and March 2022 (significantly informed by Kāpuia's initial advice) to inform the development of a whole-of-government approach to social cohesion. These phases included joint engagement with Ministry of Justice and Department of Internal Affairs, targeted engagement with stakeholders from diverse communities, Māori engagement and community hui.

Following the engagement process, the Ministry of Social Development implemented a number of products and resources to strengthen social cohesion in New Zealand, including:

- release of [Te Korowai Whetū Social Cohesion tools and resources](#)
  - strategic framework
  - measurement framework
  - *Social cohesion in Aotearoa: baseline report summary*
  - information sheets for individuals, communities, business sector, cultural sector, and central and local government
- implementation of [Te Korowai Whetū Social Cohesion community fund](#) which provided \$2 million to support local and community-based social cohesion initiatives
- creation of a policy guide to support government policy analysts in incorporating the strategic framework and developing a whole-government-approach to strengthening social cohesion.

The Ministry of Social Development intends to report back on the measurement framework (scheduled for the end of 2024).

### KĀPUIA'S COMMENT

*See comment under Recommendation 28.*

**30** Investigate the machinery of government options for an agency focused on ethnic communities and multiculturalism and establish a fit for purpose organisational design that will encompass the current functions expected of the Office of Ethnic Communities and enable the new responsible public sector agency to focus on and deliver the following functions:

- a. advise the government and public sector agencies about priorities and challenges that affect ethnic communities' wellbeing;
- b. collate and use data to analyse, monitor and evaluate public sector efforts to improve the wellbeing of ethnic communities, what those efforts should be and how they should be prioritised; and
- c. develop an evaluation framework that incorporates performance indicators that examine the impact and effectiveness of government policies and programmes on the wellbeing of ethnic communities.

#### *At the time of the RCOI report*

'By 15 March 2019, the resources of the Office of Ethnic Communities were run-down. Its influence, visibility and standing with communities and in the public sector were constrained. Limited sector leadership was being exercised.' (Page 683)

#### *Status update (April 2024)*

The new Ministry for Ethnic Communities was established on 1 July 2021.

Ministry for Ethnic Communities is the government's chief advisor on ethnic communities, ethnic diversity, and the inclusion of ethnic communities in wider society.

It works with communities, other government agencies and a range of organisations to help increase social cohesion and ensure Aotearoa New Zealand is a place where everyone feels welcome, valued and empowered to be themselves. It also provides services and support directly to ethnic communities.

The ministry has the following priorities.

- Promoting the value of diversity and improving the inclusion of ethnic communities in wider society.
- Ensuring government services are provided equitably and in ways that are accessible for ethnic communities.
- Improving economic outcomes for ethnic communities, including addressing barriers to employment.
- Connecting and empowering ethnic community groups.

#### KĀPUIA'S COMMENT

Kāpuia considers the establishment of the Ministry for Ethnic Communities was important and it links closely to and supports the other social cohesion recommendations.

Kāpuia recommends stable and adequate funding for the Ministry for Ethnic Communities for its work to be effective.

# Data analysis, monitoring and evaluation

## Recommendations 31, 32

### *The RCOI concluded*

'It is necessary to collect better information on New Zealand's population and the implications of the changing ethnic and religious demographics. This will explain the benefits and impacts demographic changes on society and provide an evidence base to understand the important linkages between social cohesion, social inclusion and diversity on the one hand, and wellbeing and economic and business prosperity on the other.

The linkages are complex and critical to New Zealand's future success as a nation, partly a result of our small population and geographic isolation. The collection and analysis of data will require people with the skills, influence and resources to shape social and economic policy across the public sector so that it promotes policies that advance social cohesion in a rapidly diversifying society.' (Page 756)

'Cabinet agreed social inclusion will be included as a goal in the government's planning for the post Covid-19 Recovery and a social inclusion framework is being developed. Work is underway on exploring measures and indicators of social inclusion, alongside other existing measurement frameworks including the Living Standards Framework. It is important that this work encompasses social cohesion indicators.

More evaluation of the effectiveness of government policies and programmes is necessary. New Zealand academic research points out that the lack of evaluation inhibits the adaptation of national policies as society changes. The resistance to independent evaluation seems entrenched in the incentives of the public management system. Evaluation is critical to understand the impacts of policies over the medium and long term and to improve public services.' (Page 757)

**31** Prioritise the development of appropriate measures and indicators (such as the Living Standards Framework) of social cohesion, including social inclusion.

### *Status update (April 2024)*

Please see comments under [Recommendation 28](#).

### **KĀPUIA'S COMMENT**

See comment under [Recommendation 28](#).

**32** Require public sector agencies to prioritise the collection of data on ethnic and religious demographics to support analysis and advice on the implications of New Zealand's rapidly changing society, inform better policy making and enhance policy evaluation.

### *The RCOI concluded*

'To build social inclusion in a rapidly diversifying society, public sector agencies need to be able to collect the right data on New Zealand's population to enable analysis of the implications of New Zealand's changing ethnic and religious demographics and the development of appropriate policy responses.' (Page 756)

### *Status update (April 2024)*

Data on religion is not currently widely collected by government agencies. Stats NZ is working with the Ministry for Ethnic Communities to better understand what specific religious demographic data may help to inform policy making, and whether existing data sets may help to respond to this need.

Stats NZ collected some ethnic data in the [2023 Census](#) and will consider the information to be collected in the 2028 Census.

Stats NZ has been developing a new mandated ethnicity standard that will require government agencies to collect data on ethnicity in a consistent way, making the data more useful for policy making.

Completion of the ethnicity data standard review and availability of an updated data standard for implementation has been pushed out beyond the original 2024 timeframe. Stats NZ is now anticipating the review will be completed by the end of this year, with implementation (ie. when the standard is ready for agencies to use) following from 2025. Originally, Stats NZ had hoped implementation would also begin during 2024.

### **KĀPUIA'S COMMENT**

Kāpuia considers this work is progress, but that ongoing attention to the collection and analysis of this data will be critical to create a picture and identifying patterns over time. This includes data on faith.

Kāpuia considers that appropriate mechanisms to share this data both between agencies and with communities will also be key to it having a positive impact.

# Workforce diversity and cultural competency

## Recommendations 33–35

### *The RCOI concluded*

‘Public discussion on diversity – what it is, its benefits, and what it means for multiculturalism and Te Tiriti o Waitangi – is largely absent. The public sector workforce is diversifying, and this must continue to be a priority for all public sector agencies (especially for those public sector agencies involved in the counter-terrorism effort, where workforce diversity figures are low and need to be addressed more actively). An aspect of this will be supporting workforce diversity at the 1st, 2nd and 3rd tiers.

Papa Pounamu is a worthwhile venture that must continue to promote and require diversity of the public sector's workforce. The Public Service Act includes some new mechanisms that will assist with transparency of public sector actions in relation to their diversity and inclusion workforce strategy and plans. Given the issues in recruiting and retaining a diverse workforce in the public sector agencies involved in the counter-terrorism effort, annual reports (rather than 3-yearly as envisaged by the Act) providing an overview of progress on the Papa Pounamu commitments would be beneficial. They should include the identification of areas where those public sector agencies are performing well, areas where improvements can be made and critical insights across all agencies about where to direct their efforts. Annual reporting on all public sector agencies' progress would be valuable too.

Ensuring that the public sector workforce is culturally competent must remain a priority. All public sector agencies require a much better understanding of the nature and extent of New Zealand's diverse population so they can develop effective and equitable policies and programmes. While work is underway, more could be done to boost these efforts. New Zealand's education system provides an opportunity to empower young people by providing them with tools to understand and embrace diversity. School programmes that offer these opportunities should remain a priority for New Zealand's education system to ensure future generations are equipped to participate fully and flourish in New Zealand's future. Since the 15 March 2019 terrorist attack, there have been a number of further developments reflecting greater priority being given to embracing and supporting New Zealand's increasing diversity. How impactful these initiatives might be is yet to be seen.’ (Page 699)

**33** Direct the chief executives of the public sector agencies involved in the counter-terrorism effort to continue focusing efforts on significantly increasing workforce diversity, including in leadership roles, and in consultation with the Advisory Group on Counter-terrorism (Recommendation 7).

### *Status update (April 2024)*

In November 2021 the Public Service Commissioner wrote to all chief executives involved in counter-terrorism efforts asking for a significant focus on increasing diversity in their collective workforces.

In December 2021, the Security and Intelligence Board (now National Security Board) discussed this letter and directed the National Security Workforce Directorate to collate progress information and draft a collective response.

GCSB and NZSIS launched their first Diversity and Inclusion Strategy in March 2018. An updated Strategy (2021–2025) now focuses on three areas – growing diversity, cultivating and inclusive culture, and building diversity and inclusion capability. This work is supported by the agencies focus on targeting recruitment strategies.

At the March 2023 Kāpuia hui the NZSIS advised there had been good progress with improving diverse workforce (currently at 20%) and that a chief advisor Māori role had been established to support the NZSIS and GCSB to improve diversity and to improve engagement with Māori.

This work was previously led out of DPMC working with Te Kawa Mataaho as needed.

Te Kawa Mataaho note that this recommendation could be considered as integrated through the work that all Public Service Leadership Team agencies do in their diversity and inclusion space (diversity and inclusion initiatives and diversity and inclusion plans for example).

Te Kawa Mataaho are working through with DPMC on what the best approach for ascertaining how agencies involved in counter-terrorism are progressing increases in their workforce and senior leadership.

## KĀPUIA'S COMMENT

Kāpuia considers there has been an increase in workforce diversity within some agencies involved in the counter-terrorism effort, however a continued focus will be required to make a more significant and lasting change. This focus needs to include not only entry level positions but supporting pathways into leadership.

Kāpuia notes the Advisory Group on Counter-terrorism (Recommendation 7) has not yet been established. This effort therefore needs to be undertaken in consultation with community voices from outside of the national security system.

Kāpuia considers the requirements of the current security clearance vetting system mean people who have moved to New Zealand more recently may not be able to hold a security clearance. So applicants from many communities are excluded and this hampers efforts to increase diversity within these agencies.

Kāpuia recommends this approach to vetting is reviewed.

## 34 Encourage the Public Service Commissioner to publish an annual report that:

- provides a comprehensive view of progress by the public sector on the Papa Pounamu commitments including the identification of areas where those public sector agencies are performing well, areas where improvements can be made and critical insights across all agencies about where to direct their efforts; and
- prioritises reporting on progress made by the public sector agencies involved in the counter-terrorism effort.

### *The RCOI concluded*

'There are now mandatory requirements for public sector agencies to plan and report on diversity including the 5 Papa Pounamu workforce diversity priority commitments.

This will provide transparency regarding the actions the public sector leadership is taking and help identify areas for improvement. This is a major shift and will support the public sector workforce to have the competencies to engage with communities.

While work is underway, more could be done to boost these efforts. Current requirements focus on the individual agencies with a 3-yearly report provided by the Public Service Commissioner to the minister. What is missing is an overarching publicly available annual report that provides a comprehensive view of progress by public sector agencies involved in the counter-terrorism effort on the Papa Pounamu commitments. Independent annual reports that provide a comprehensive view on all public sector agencies' progress would be valuable too.' (Page 758)

## Status update (April 2024)

The Public Service Leadership Team (comprising of 39 public service executives) has committed to increasing diversity in all public service agencies through the Public Service Diversity and Inclusion programme.

The *Te Kahu Tuatini State of the Public Service* published in December 2022 shows ethnic diversity increasing in the Public Service [this is the most recent data available].

- European 64.9% (66.1% in 2021)
- Māori 16.7% (16.4% in 2021)
- Pacific 10.6% (10.2% in 2021)
- Asian 13.4% (14.9% in 2021)
- Middle Eastern, Latin American, African 2.1% (1.8% in 2021).

A Diversity and Inclusion report has been drafted for 2023 and will be released before the end of April 2024 and published on the [Te Kawa Mataaho website](#).

This year Te Kawa Mataaho is taking a wider view beyond Papa Pounamu priority areas in order to report on progress of all elements of the Public Service diversity, equity and inclusion work programme.

Alongside this report, Te Kawa Mataaho are also providing an update on how agencies involved in counter-terrorism are progressing in relation to the Papa Pounamu priority areas. This update will be published at the same time as the system report on the Te Kawa Mataaho website.

## KĀPUIA'S COMMENT

*Comment covers recommendations 34 and 35.*

Kāpuia considers the 'State of the Public Service' report has done a good job of creating a baseline to measure workforce diversity, but we need to see sustained progress against this baseline (including into leadership roles) to make a sustained change. Staff retention is also something which needs careful attention – to support retention the Public Service needs to be somewhere that all people feel included and valued.

## 35 Encourage the Public Service Commissioner to continue focusing efforts on significantly increasing workforce diversity and attracting diverse talent for Public service leadership roles at the 1st, 2nd and 3rd-tiers.

### *The RCOI concluded*

'Overall, the New Zealand public service is diversifying. At June 2019 the demographics of the total public service largely reflected those of the New Zealand population. However, the position is different in respect of chief executives and those in senior leadership positions (first, second and third tiers).' (Page 758)

### *Status update (April 2024)*

Public Service leadership is reported through the Public Service Leadership Dashboard. Most recent information is from October 2022. The dashboard outlined that:

- Māori now hold 14.5% of tier1–3 leadership roles, with the actual number having doubled since 2016. 18% of chief executives identify as Māori.
- Women now hold 55.8% of senior management roles, up from 38.9% in (June 2010). Half of chief executive roles are filled by women.
- Pacific representation in our workforce and leadership roles continues to increase. The number of Pacific managers has doubled (June 2017 to June 2022) and is now at 6.9%.
- We've seen a recent increase in Asian representation at chief executive level, now at 8%.
- Work to better understand the needs of Asian, Rainbow and disabled public servants (including leaders) is underway.
- More than 600 leaders have been through common core development run through the Leadership Development Centre.

The Papa Pounamu focus area 'fostering diverse leadership' has been rolled across the public service for financial year 2023–4.

Agencies are expected to report on what they are doing to support under-represented groups in their workforce (including into leadership positions) and thereby improve workforce diversity.

Agencies will be integrating their planned approach for diversity, equity and inclusion and will have clear actions in addressing these areas for improvement in senior leadership.

Te Kawa Mataaho currently collect public service-wide data and this includes reporting on senior leadership (tiers 1–3).

This data can be found at [publicservice.govt.nz](https://publicservice.govt.nz)

### **KĀPUIA'S COMMENT**

*See comment under Recommendation 34.*



# Diversity and education

## Recommendation 36

### *The RCOI concluded*

‘New Zealand’s education system provides an opportunity to empower young people by providing them with tools to understand and embrace diversity. School programmes that offer these opportunities should remain a priority for New Zealand’s education system to ensure future generations are equipped to participate fully and flourish in New Zealand’s future.’ (Page 699)

‘New Zealand’s education system provides a foundation set of skills for young people to understand and appreciate ethnic and religious diversity.’ (Page 695)

‘[Religious studies in New Zealand schools] have the potential to increase the cultural competency of New Zealand school students. If this potential is realised, students will carry these competencies into adulthood.’ (Page 696)

## 36 Invest in opportunities for young New Zealanders to learn about their role, rights and responsibilities and on the value of ethnic and religious diversity, inclusivity, conflict resolution, civic literacy and self-regulation

### *The RCOI concluded*

‘New Zealand’s education system provides an opportunity to empower children and young people by providing them with skills to understand diversity, consider more inclusive approaches and self-regulate. Education can also provide young people with the skills to participate in society more effectively which contributes to social cohesion. This should remain a priority for New Zealand’s early childhood and education system.

For younger members of society, schooling is an important way to increase knowledge and understanding of New Zealand’s history, culture, diversity and its future opportunities. Our young people take new knowledge and information back into their whānau and communities and have conversations with them – as has been seen in community conversations on the use of plastics and climate change. For young and older members of whānau and communities, those previously challenging conversations are becoming more familiar.

As New Zealand looks ahead there is an opportunity to build and enhance our social infrastructure and resilience in the same way that physical infrastructure is being

invested in. There is a strong case for increased focus on teaching the benefits of diversity and social inclusion. (Page 759)

### *Status update (April 2024)*

Social cohesion, inclusion and safety are woven through the education system and are now enshrined in the Education and Training Act 2020.

Aotearoa New Zealand’s Histories and Te Takanga Te Wā were finalised in 2022 and taught in all schools and kura by 2023.

In 2023, the Kōwhiri Whakapae framework on social and emotional learning practice tools was launched. Oral language and literacy and maths tools are planned to be launched in 2024. The rest of the refreshed curriculum is planned to be implemented in early 2026.

In 2021–2022, three social and emotional learning programmes for young children in early learning settings were piloted in seven regions across New Zealand (ENGAGE, the Alert programme and Incredible Beginnings). On 27 April 2023 it was announced the ENGAGE programme, developed at the University of Otago, had received a \$19.7 million boost in government funding to expand the programme, following successful trials in Dunedin, Auckland and the Bay of Plenty.

A permanent Community Learning Hubs team has been established with around 30 Hubs operating in Auckland, Hamilton, Wellington, Palmerston North and Christchurch.

‘Cultural capability’ was included in 2021 as a new priority for regionally-allocated professional learning and development for teachers to support the provision of more responsive and rich learning experiences for all ākonga.

The release of multiple teaching resources (*Aya the butterfly*, *Welcome home*, and *Open day at the mosque*).

Rollout of Positive Behaviour for Learning School-Wide in 43% of primary and 57% of secondary schools.

Implementation of Talanoa Ako, which empowers Pacific parents, families and communities with the skills, knowledge and confidence they need to champion children’s education.

The development and piloting of the Tu’u Mālohi programme, which strengthens wellbeing for Pacific parents, learners, families and communities

### KĀPUIA’S COMMENT

Kāpuia considers the changes that have been made in education in response to Recommendation 36 have been positive but must continue and will need time to embed before we can tell if they are having a significant

impact. For this reason, Kāpuia recommends that evaluation will be important to ensure the changes are improving outcomes for all children and young people in education.

Kāpuia considers the education system should be recognised as a vital opportunity to support social cohesion and to reduce racism, as it is a key opportunity for many communities to come together and as such can build understanding between people and groups.

Kāpuia considers it is important to recognise that while there is a lot to celebrate, many children from diverse backgrounds continue to experience racism, ableism and discrimination in education settings and that this can come from other students but also from teachers. This is clearly evidenced in the 2023 Education Review Office report, *Education for all out children: embracing diverse ethnicities*, and must be addressed as a priority so that all children in New Zealand feel safe in their schools.

Kāpuia recommends the school curriculum:

- addresses racism and discrimination in classrooms
- teaches the value of religious and ethnic diversity
- continues to include critical literacy education (especially for online content)
- builds understanding of New Zealand's histories.

# Conversations about ethnic and religious diversity

## Recommendation 37

### *The RCOI concluded*

‘Public conversations about embracing diversity and encouraging social cohesion should be led by political leaders and the government. There should be transparent conversations where information is available to everyone. These conversations need to include all communities – across the length and breadth of the country, both rural and urban. Enduring change will take time and investment, so these conversations will need to be ongoing.’ (Page 760)

**37** Create opportunities for regular public conversations led by the responsible minister – the Minister for Social Development and Employment – for all New Zealanders to share knowledge and improve their understanding of:

- a. social cohesion including social inclusion, and the collective effort required to achieve these; and
- b. the value that cultural, ethnic and religious diversity can contribute to a well-functioning society.

### *Status update (April 2024)*

This recommendation is linked to the broader social cohesion work and will be progressed in alignment with that.

See comments under [Recommendation 28](#).

### **KĀPUIA'S COMMENT**

See comment under [Recommendation 28](#).

# Improved community engagement across the public sector

## Recommendation 38

### *The RCOI concluded*

‘Community engagement is important to inform policy development and design effective and equitable policies and services. Public sector agencies engage with communities in many ways and there are helpful national and international guidelines to assist public sector agencies to design appropriate community engagement strategies and plans. While public sector agencies involved in the counter-terrorism effort generally engage with individuals and communities from time to time, there appeared to be limited coherent community engagement strategies and plans in place.

In relation to public sector agencies involved in social cohesion and social inclusion policies and programmes, we observed interaction at the agency level on specific policies and programmes with communities but did not examine the effectiveness of those engagements. As indicated earlier, we did however observe that communities were substantively involved in neither the design of the social cohesion programme initiated in 2017 nor the development of the September 2019 and June 2020 Cabinet papers.

There are substantial opportunities to significantly improve the depth and effectiveness of community engagement undertaken by public sector agencies with communities, civil society, local government and the private sector in the development of policy and the design and delivery of government services.’ (Page 684)

### **38** Require all public sector community engagement to be in accordance with New Zealand’s Open Government Partnership commitments and in particular:

- a. require agencies to be clear about the degree of influence that community engagement has on associated decision-making by indicating to communities where the engagement sits on the International Association for Public Participation IAP2 Public Participation Spectrum; and
- b. encourage agencies to undertake more ‘involve’ and ‘collaborate’ levels of engagement in accordance with the International Association for Public Participation IAP2 Public Participation Spectrum.

### *The RCOI concluded*

‘Community engagement processes have been limited and poor.’ (Page 665)

‘In 2013, New Zealand signed up to the Open Government Partnership. That Partnership is about strengthening democracy in New Zealand by ensuring that citizens can contribute and influence what government does and how it does it. As part of that Partnership, New Zealand committed to ‘develop a deeper and more consistent understanding within the New Zealand public sector of what good engagement with the public means’.

The International Association for Public Participation sets out good practice for engagement. It includes a set of core values, suggesting that public participation should:

- a. be based on the belief that those who are affected by a decision have a right to be involved in the decision-making process
- b. include the promise that the public’s contribution will influence the decision
- c. promote sustainable decisions by recognising and communicating the needs and interests of all participants, including decision-makers
- d. seek out and facilitate the involvement of those potentially affected by, or interested in, a decision
- e. seek input from participants in designing how they participate
- f. provide participants with the information they need to participate in a meaningful way
- g. communicate to participants how their input affected the decision.

The purpose of these core values is to ‘help make better decisions which reflect the interests and concerns of potentially affected people and entities.’ (Page 656–7)

### *Status update (April 2024)*

The Policy Project within DPMC was commissioned to develop a new Policy Community Engagement Tool, drawing on their Community Engagement Guidance and referencing the International Association of Public Participation’s resources.

The 1st edition of the tool was launched in December 2021. The draft Policy Community Engagement Tool was initially mandated for Government agencies involved in the Response to the RCOI report.

Kāpuia had an online workshop in June 2023 to discuss examples of best practice before sharing them with DPMC and the Public Service Commission later that month.

The Public Service Commission published its Long-term Insights Briefing in 2022 with a focus on enabling active citizenship and public participation. It refers to the Policy tool for enhancing social cohesion as recommended by Recommendation 38 of the RCOI.

The Public Service Commission is the lead agency for New Zealand’s Open Government Partnership (OGP) National Action Plan 4. This plan has a commitment to adopt a community engagement tool to promote the

OGP values of transparency, accountability and public participation. The Public Service Commission is in the process of working on developing guidance towards this.

## ■ KĀPUIA'S COMMENT

Kāpuia raised the need for genuine and effective consultation in our first Letter of Advice (July 2021). That advice had a significant influence on how agencies (and especially Ministry of Social Development) engaged on the RCOI work programme from that point on.

Kāpuia considers that improved engagement between government and the community has been a key positive outcome of the response to the RCOI report and we continue to emphasise the importance of agencies speaking with a range of voices from communities rather than only with the known voices.

Kāpuia considers now that links have been established and the value of effective consultation has been recognised, it is imperative that this momentum is continued. The Policy Community Engagement Tool (developed with key input from Kāpuia) is a good resource to support agencies to do this. The Government is not an expert on the many communities across New Zealand and better engagement with all communities will result in better policy and outcomes for all New Zealanders.

Kāpuia recommends there should be ongoing mechanisms for engagement between communities and government, to support sound and effective policy and investments decisions.

Kāpuia recommends that funding mechanisms are available to support community participation in engagement (especially with short-term funding put in place following the release of the RCOI report ending).

# Fit for purpose laws and policies

## Recommendations 39–42

### *The RCOI concluded*

‘We were told that New Zealand has become tolerant of harmful discriminatory expression in which ethnic and religious communities, including Muslim communities, are regularly subject to hate speech and hate crime online and offline. In December 2019, the Human Rights Commission published a report *Kōrero Whakamauāhara: Hate Speech* that provided an overview of the legal framework on hate speech, it includes definitions of hate speech and considers different legal approaches in New Zealand and around the world. It is intended as a resource to help New Zealanders have an informed, inclusive and respectful discussion about the complex and contentious issue of hate speech, as well as provide an accessible introduction to the subject in national and international law.’ (Page 716)

‘The current laws do not appropriately recognise the culpability of hate-motivated offending, nor do they provide a workable mechanism to deal with hate speech. There has been a tendency to see hate crime and hate speech as different phenomena and the recording of hate-motivated offending as a separate issue that can be left to be dealt with by New Zealand Police practice. As we have explained, we see them as related, sitting on a spectrum of harmful behaviours and as warranting systematic review and reform.’ (Page 762)

## 39 Amend legislation to create hate-motivated offences in:

- the **Summary Offences Act 1981** that correspond with the existing offences of offensive behaviour or language, assault, wilful damage and intimidation; and
- the **Crimes Act 1961** that correspond with the existing offences of assaults, arson and intentional damage.

### *The RCOI concluded*

‘An inclusive society must act against behaviours that are harmful and divisive. This requires unacceptable behaviour to be called out and, in certain circumstances, criminalised. New Zealand’s legal system does not adequately deal with hate crime and hate speech. The current laws do not appropriately recognise the culpability of hate-motivated offending, nor do they provide a workable mechanism to deal with hate speech. Change is required to both the law and New Zealand Police practice.

This could be achieved in New Zealand by amending sections 4 (offensive behaviour or language), 9 and 10 (assault), 11 (wilful damage) and 21 (intimidation) of the Summary Offences Act 1981 and sections 188–194, 196–197 and 202C (assaults), 267 (arson) and 269 (intentional damage) of the Crimes Act 1961 to reflect the additional culpability of hate-motivated offending.’ (Page 762)

### *Status update (April 2024)*

The Minister of Justice attended the Kāpuia hui in December 2022. At that time, it had recently been announced that Cabinet had agreed to refer all issues, except incitement on the grounds of religious belief to the Law Commission.

Following feedback, including from Kāpuia, on 8 February 2023, Prime Minister Chris Hipkins announced the withdrawal of the Human Rights (Incitement on Ground of Religious Belief) Amendment Bill, and that this issue would also be referred to the Law Commission.

The Law Commission attended the March 2023 Kāpuia hui and informed it that this work would be undertaken in two phases but that these phases were not able to be commenced simultaneously due to resourcing. The roopu then wrote a letter of advice to the Lead Coordination Minister outlining concern that the Commission’s insufficient resourcing for this work would increase the timeframe for possible legislation change.

The 2023 Election Coalition Agreement between the National Party and the New Zealand First Party included a policy to stop the Law Commission’s work on hate speech legislation.

In March 2024, the Minister of Justice withdrew the reference to hate speech and asked the Commission to narrow its review to hate crime only. This means the Commission’s work will now focus on whether the law should be changed to create standalone hate crime offences.

This work will begin when a commissioner becomes available.

### **KĀPUIA’S COMMENT**

*Comment covers recommendations 39, 40, 41.*

Kāpuia is disappointed work on reviewing these laws and making them fit for purpose has not progressed.

Kāpuia considers these three recommendations are closely linked. As work on Recommendation 40 has been stopped, it is difficult for us to see how Recommendations 39 and 41 can be effectively addressed. This means that faith communities will continue to have no protection under current laws which is a serious concern to Kāpuia.



Kāpuia considers the lack of legal protections makes work on (and funding for) social cohesion initiatives even more fundamental as this could be a way, over time, to reduce some instances of hate-motivated offending and speech and improve the safety of all New Zealanders.

On the Department of Internal Affairs related proposal for [Safer Online Services and Media Platforms](#), Kāpuia recommends that the Department of Internal Affairs' work should continue as it supports the broad intent of this set of recommendations by requiring social media platforms to take responsibility for the content they provide.

Kāpuia recommends it is important that what is deemed 'safe enough' is carefully considered, and perspectives from diverse communities are taken into account. We also recommend that this should not be left up to the media platforms, and instead this will require oversight to work effectively.

**40** Repeal section 131 of the Human Rights Act 1993 and insert a provision in the Crimes Act 1961 for an offence of inciting racial or religious disharmony, based on an intent to stir up, maintain or normalise hatred, through threatening, abusive or insulting communication with protected characteristics that include religious affiliation.

#### *The RCOI concluded*

'Section 131 of the Human Rights Act 1993, which criminalises certain types of hate speech, is not fit for purpose.

The section as written unacceptably impinges on the right of freedom of expression. The words 'excite hostility against or bring into contempt' set a low liability threshold. It has invited rewriting by the courts, but in a way that has resulted in considerable uncertainty. It does not provide a credible foundation for prosecution.

We propose a reframed offence that more accurately target behaviour warranting criminal prosecution and encompass hate speech directed at religious affiliation.

This should be included in the Crimes Act, rather than the Human Rights Act, to reflect the seriousness of the offence and increase the resulting penalty. It should be framed to focus on stirring up or provoking hatred against a group of persons defined by protected characteristics, which should include religious affiliation.

Sharpening the focus of the section 131 offence would mean that the offence would not discharge New Zealand's obligations under article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. Substantial compliance could be achieved if the definition of 'objectionable' in section

3 of the Films, Videos, and Publications Classification Act 1993 was amended to include racial superiority, racial hatred and racial discrimination.' (Page 762)

#### *Status update (April 2024)*

As noted under [Recommendation 39](#) above.

In line with the 2023 Election Coalition Agreement between the National Party and the New Zealand First Party the Law Commission's work on hate speech legislation has been removed from its work programme.

#### **KĀPUIA'S COMMENT**

See comment under [Recommendation 39](#).

**41** Amend the definition of 'objectionable' in section 3 of the [Films, Videos, and Publications Classification Act 1993](#) to include racial superiority, racial hatred and racial discrimination.

#### *Status update (April 2024)*

The Royal Commission's recommendations on legal responses to hate include Recommendation 39 (on hate motivated offences), Recommendation 40, which was to create a provision in the Crimes Act 1961 for an 'offence of inciting racial or religious disharmony' and Recommendation 41, which was to 'expand the definition of 'objectionable' in the Classification Act to include racial superiority, hatred, and discrimination'. The issues in these recommendations were collectively referred to the Law Commission in February 2023.

In accordance with the National-NZ First Coalition Agreement, the Minister of Justice agreed in December that the Government would not make any change to hate speech legislation and instructed the Law Commission to remove a review of legislation from its forward work programme.

This means that Recommendation 40 of the Royal Commission will not be implemented. This decision also impacts on Recommendation 41, as without changes to hate speech legislation, expanding the definition of 'objectionable' in the Classification Act in this way would create a legal inconsistency.

Update on broader work.

- The Department of Internal Affairs undertook public consultation in mid-2023 on the [Safer Online Services and Media Platforms](#) proposals, which seek to modernise New Zealand's approach to regulating media and online content platforms (including social media). The Department intends to publish a summary report of feedback received on the proposals in April 2024.

- The Minister of Internal Affairs is currently considering advice from officials about the content regulatory system.

## ■ KĀPUIA'S COMMENT

See comment under *Recommendation 39*.

## 42 Direct New Zealand Police to revise the ways in which they record complaints of criminal conduct to capture systematically hate-motivations for offending and train frontline staff in:

- identifying bias indicators so that they can identify potential hate crimes when they perceive that an offence is hate-motivated.
- exploring perceptions of victims and witnesses so that they are in a position to record where an offence is perceived to be hate-motivated; and
- recording such hate-motivations in a way which facilitates the later use of section 9(1)(h) of the Sentencing Act 2002.

### *The RCOI concluded*

'In our discussions with communities, we heard many stories of the lack of data about hate-motivated offences and harmful behaviour.

New Zealand Police have made progress in improving their records in relation to hate-motivated offending and work on this is continuing.

There are, however, still some shortcomings that could be addressed by further improvements to recording systems and additional training.' (Page 763)

### *Status update (April 2024)*

In July 2021, NZ Police received additional funding to formally establish the programme Te Raranga – the NZ Police response to hate crime, hate speech and hate incidents.

Te Raranga is a 4-year partnering programme to drive improvements in frontline practice to recognise, record, respond to and resolve hate crime and hate incidents and hate speech, and deliver a service more responsive to victims. NZ Police has been actively engaging with its advisory group on this work.

The programme also provides access to a restorative process for people who have suffered harm and those that cause harm.

Training on identifying hate crimes has been integrated into training modules for use throughout the NZ Police.

## ■ KĀPUIA'S COMMENT

Kāpuia considers it a positive step for the NZ Police to now be collecting this data, but also that abuse to and attacks on people of faith as well as diverse ethnicities is ongoing.

Kāpuia considers that for the data and analysis of it to have further impact, this information must be released publicly.

Kāpuia considers seeing this data would give the wider public the opportunity to understand what communities regularly impacted by hate-motivated offending are facing. If New Zealanders do not live in or have close links to communities that experience hate-motivated crime they currently have very limited opportunity to build understanding and empathy for this serious issue.

Kāpuia recommends the NZ Police should publish this data and use it to support better funding allocation and support to areas that have higher rates of hate-motivated offending.

# Recommendations for implementation

## Strong government leadership and direction are required Recommendation 43

**43** Ensure a minister is given responsibility and accountability to lead and coordinate the response to and implementation of all our recommendations and announce the appointment.

### *The RCOI concluded*

The recommendations we make cover a number of public sector agencies and ministerial portfolios.

As we have explained, we see our recommendations are a package. As such they would be best implemented under the leadership of one minister who would coordinate with all ministers responsible for the implementation of the recommendations. The same minister would be responsible for communicating the Government's implementation plan and providing regular progress reports to New Zealanders.

Advice provided by public sector agencies on the Government's implementation plan should be proactively released.' (Page 765)

### *Status update (April 2024)*

Following the 2023 election, Hon Judith Collins was appointed as the new Lead Coordination Minister. Minister Collins attended the February 2024 hui.

Hon Andrew Little was the previous Lead Coordination Minister and regularly attended Kāpuia hui since the roopu was established.

### **KĀPUIA'S COMMENT**

Kāpuia considers that having a Lead Coordination Minister has been important to drive the Government's RCOI work programme and maintain its focus especially as the RCOI recommendations are broad and require agencies to work together.

Kāpuia considers that leadership from the Lead Coordination Minister will become even more vital to continue momentum as the centrally coordinated RCOI work programme comes to an end in June 2024.

## We all have a role in making New Zealand safe and inclusive Recommendation 44

### *The RCOI concluded*

‘To assist social change, rebuild trust and confidence in public sector agencies and particularly those involved in the counter-terrorism effort and enhance social licence of the counter-terrorism effort, communities, civil society, local government and the private sector should be involved in the design of the government’s implementation plan. The members of our Muslim Community Reference Group could assist although wider community involvement will also be required.

We cannot see how trust can be rebuilt within ethnic and religious communities without their active participation in the design and implementation of the solutions we have proposed. We have engaged with affected whānau, survivors and witnesses and Muslim communities and their views have informed our recommendations. Engagement of the kind we have participated in and which we envisage for the future goes beyond current public sector practice of inform or consult. It requires involvement, collaboration and empowerment of New Zealanders as we described in chapter 5. It will also mean a substantial commitment of time and resources and perhaps a mindset change. But it will have the advantage that the outcome will have the support of those whose trust is critical to securing a safer and more inclusive New Zealand.’ (Page 765)

## 44 Establish an Implementation Oversight Advisory Group that:

- includes representatives of communities, civil society, local government, the private sector, affected whānau, survivors and witnesses and our Muslim Community Reference Group;
- provides advice to the responsible minister on the design of the government’s implementation plan and its roll-out; and
- publishes its advice to enhance transparency.

### *Status update (April 2024)*

At the February hui Minister Collins indicated to Kāpuia that members terms would not be extended past the current end date of 9 June 2024.

The Minister has commissioned Kāpuia to develop a report on the success and remaining gaps in the RCOI response, key areas Kāpuia has influenced and advice for establishing a similar advisory group in the future and asked to receive it in time for consideration ahead of her Cabinet paper.

### **KĀPUIA’S COMMENT**

Kāpuia considers that the establishment of a Ministerial Advisory Group has had a significant and positive influence on the trajectory of the RCOI work programme and is disappointed it has been disestablished while work on the RCOI response remains ongoing.

Kāpuia’s full assessment of its influence and its advice for the establishment of any similar advisory groups in the future is included in its final report.

## Appendix B.

# An explanation of our influence



## General impacts and influence of Kāpuia

### Letters of advice

Kāpuia has regularly sent letters of advice to the Lead Coordination Minister which have been referenced by a number of agencies and the former Lead Coordination Minister. Agencies also requested copies of the March 2023 Kāpuia letter of advice on national security reform. Our letters are all published on [DPMC's website](#).

### Ministerial awareness

Ministers in the prior Government were aware and appreciative of Kāpuia advice. Ministers were known to ask officials if they had talked to Kāpuia on March 15 RCOI-related matters as agencies presented work to them. Kāpuia has met with six portfolio ministers since its establishment.

### Official reactions to the June 2022 Kāpuia Red, Amber, Green status

Agencies took on board Kāpuia's red, amber or green assessment of RCOI recommendations and themes. These status rankings created a lot of meaningful dialogue between agencies especially when there were discrepancies in agencies own assessments of progress.

### Development of the Response Outcomes Framework

In October 2022, Kāpuia provided advice to the former Lead Coordination Minister that the RCOI work plan should be nested within a strong theory of change that identified the outcomes that the Government expected to deliver through the March 15 RCOI response. This advice directly resulted in the development of the Response Outcomes Framework that aimed to measure the impact of the response over time – but this has not further proceeded.



## INFLUENCE OF KĀPUIA

### Social cohesion

**R28. R31.** The first Kāpuia letter of advice (July 2021) called for authentic consultation on RCOI recommendations 28 and 31. This directly led to the Ministry of Social Development extending consultation timeframes and adopting a double-diamond engagement model for the social cohesion framework. Ministry of Social Development incorporated Kāpuia feedback on document accessibility and necessary links to a monitoring framework. Ministry of Social Development wrote to Kāpuia in September 2021 to highlight the influence Kāpuia had on its engagement approach.

**R29.** Ministry of Social Development drew on Kāpuia's calls for funding for community participation in the RCOI response to support establishing Te Korowai Whetū, a community fund which provided \$2 million to support local and community-based social cohesion initiatives.

**R33.** Kāpuia has consistently highlighted to the security and intelligence agencies the importance of increasing workforce diversity. GCSB and NZSIS have made noticeable progress and acknowledge that this is the start of a journey.

**R34.** Following Kāpuia feedback in 2021, the Public Service Commission refined questions to government agencies for Papa Pounamu annual reporting. This improved the quality of ethnicity data collected across the Public sector.

**R38.** Following the July 2021 Kāpuia letter of advice, a community engagement tool was developed and rolled out across agencies working on the 15 March RCOI response.

## INFLUENCE OF KĀPUIA

### Community safety

**R42.** In December 2022 the NZ Police advised Kāpuia it greatly appreciated the input it received from the roopu on its draft training package. As a result, Police incorporated advice from Kāpuia on the importance of having a wide range of perspectives (including lived experience) in its training.

**R41.** Following the April 2022 Kāpuia hui (where the importance of the Content Regulatory Review and amending the definition of "objectionable" were made apparent), the Department of Internal Affairs sought and received permission from ministers to bring forward initial public consultation.

## INFLUENCE OF KĀPUIA

### National security system

**R1. R2. R3.** The July 2021 Kāpuia letter of advice called for authentic consultation directly increased public engagement on national security. DPMC undertook four months of public engagement on the *National Security Strategy* and on proposed national security sector reforms.

**R10. R18.** The Intelligence and Security Act reviewers attended three Kāpuia hui in 2022. They advised in September 2022 that Kāpuia views on the importance of human rights and increasing transparency had influenced their thinking.

**R12.** The July 2021 Kāpuia letter of advice on the importance of interagency coordination was reflected in NZ Police and the Content Team at Department of Internal Affairs working together on the business case for a single reporting tool. The September 2021 Kāpuia letter then called for investment in the RCOI and helped to provide impetus in 2022 for new business case funding.

#### **R18.**

- Kāpuia feedback that human rights and indigenous perspectives be included in the UN Cyber Convention was integrated into advice to Cabinet in December 2021.
- Kāpuia feedback influenced the design of extensions to the control orders regime (specifically earlier intervention in a wider range of contexts).
- Kāpuia feedback on amendments to the Search and Surveillance Act were included in advice from Police.

## INFLUENCE OF KĀPUIA

### Preventing and countering violent extremism and terrorism

**R4.** DPMC integrated a 'uniquely Aotearoa New Zealand approach to preventing and countering violent extremism' into the draft framework following Kāpuia feedback (November 2021). DPMC advised that Kāpuia feedback reinforced views heard from public conversations.

**R4(d).** At the 2022 He Whenua Taurikura hui, NZ Police reflected Kāpuia's feedback from June 2022 and noted He Aranga Ake is dependent on strong community links and building connectiveness, community and whānau.

**R13.** The NZSIS substantively reviewed the 2022 draft public version of indicators of violent extremism following initial consultation with Kāpuia. The then Director-General of the NZSIS noted that Kāpuia feedback was instrumental in the way the indicators were presented to the public.



# Kāpuia

Ministerial Advisory Group on the Government Response to the  
Royal Commission of Inquiry on the terrorist attack on Christchurch mosques



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