



# COVERSHEET

<b>Minister</b>	Hon Tracey Martin	<b>Portfolio</b>	Children
<b>Name of package</b>	Proactive release of Transforming our Response to Children and Young People at Risk of Harm: Paper Five: Youth Justice	<b>Date of issue</b>	02 August 2019

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
5 November 2018	Transforming our Response to Children and Young People at Risk of Harm: Paper Five: Youth Justice	Office of the Minister for Children
31 October 2018	SWC-18-MIN-0152 – Cabinet Social Wellbeing Committee Minute	SWC Committee Secretary

<b>Information withheld</b>	
<p>Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest in making the information available has been identified that would outweigh the reasons for withholding it.</p>	
<b>Section of the Act</b>	<b>Reason for withholding</b>
Section 9(2)(g)(i)	The release may undermine the future ability of Ministers to provide free and frank advice on Budget expenditure options. The importance of this process means it is not outweighed by the public interest in transparency.
Section 9(2)(f)(iv)	Maintain constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

BUDGET SENSITIVE

Office of the Minister for Children

Chair, Cabinet Social Wellbeing Committee

**TRANSFORMING OUR RESPONSE TO CHILDREN AND YOUNG PEOPLE AT RISK OF HARM**

**PAPER FIVE: YOUTH JUSTICE**

**Proposal**

- 1 This paper proposes investment in new small community-based youth justice facilities to provide sufficient placements for 17 year-olds and services and interventions to lift the quality of practice in youth justice placements. These changes are in line with evidence of best practice for the management of young people who offend, and with the new legislative requirements under the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 (National Care Standards) and the Oranga Tamariki Act 1989 (the Act).

**Executive summary**

- 2 Youth Justice is one of the core functions of the Oranga Tamariki operating model which is shown in the diagram below.



- 3 Oranga Tamariki—Ministry for Children (Oranga Tamariki) is one of the agencies responsible for the care and management of children and young people subject to proceedings as a result of accused, or proved, criminal offending. The Act is changing from 1 July 2019 to include most 17 year-olds in the youth justice system, instead of the adult criminal justice system. Seventeen year-olds charged with serious offences will continue to

be processed through the adult court system.<sup>1</sup> Under the new legislative framework Oranga Tamariki will assume responsibility to accommodate 17 year-olds in its residential youth justice facilities. This is unless circumstances apply which result in the 17 year old being housed in the youth unit of a prison. Legislative changes also established the National Care Standards, and a new section, 7AA, which recognises and provides a practical commitment to the principles under the Treaty of Waitangi (te Tiriti o Waitangi).

4 Through Budget 2018 Oranga Tamariki was funded to manage the increased volume of young people who would require youth justice services while in the community, for example funding for additional staff to manage community based orders.

5 Through Budget 2019 Oranga Tamariki will request funding to manage the increased volume of young people who require custodial youth justice services. These custodial services include suitable physical placements, and the accompanying services to meet their needs.

6  9(2)(g)(i)

7  9(2)(g)(i)

8 Importantly, justice sector agencies will continue to invest in measures to prevent young people entering the formal justice system and in measures that prevent them being detained or placed in the custody of the Oranga Tamariki chief executive.

9 The residential capacity shortfall is a unique opportunity to set a new direction for the residential youth justice system. I am therefore seeking broad agreement to investment in a new type of residential youth justice capacity for young people – small (five bedrooms), community-based facilities which are designed and operated through partnerships, including with iwi and Māori organisations.

10 The new facilities will be considerably different to the current youth justice residences which house 30 to 50 young people in relatively isolated locations and are institutional in look and feel. They will also be different to Remand Homes in that their design will mean they can house young people with higher levels of need. I am also seeking agreement that a Care and Protection Residence in Auckland is repurposed for youth justice residential purposes, and other small properties are sought for redevelopment.

11 This approach strikes an appropriate balance between the need for capacity in a short time-frame and establishing optimal types of capacity. If demand for capacity reduces over time, the less suitable placements will be disestablished and repurposed if possible.

12 Residential youth justice services must meet the requirements of the National Care Standards. To meet these requirements, and to improve the quality of youth justice interventions, I am also seeking agreement to investment in the following areas:

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<sup>1</sup> Those 17 year olds who are accused of committing offences that carry a maximum sentence of 14 years or more imprisonment will be transferred to the adult courts following applicable pre-trial processes taking place in the Youth Court. The Youth Court will also retain discretion to transfer other cases to the adult jurisdiction for sentencing.

- 12.1 Workforce and practice approaches – increasing frontline capacity and capability to meet the needs of young people.
  - 12.2 Infrastructure – establishing spaces in current Youth Justice Residences to facilitate uplift in the quality and effectiveness of service provision.
  - 12.3 Services and interventions – delivering new high quality interventions which meet young people's needs.
- 13 This paper seeks agreement to the policy direction of the proposed investments in youth justice services. Detailed decisions, including about phasing and scaling, will be addressed through the Budget 2019 process.

## **Background**

- 14 While the youth justice system is significantly smaller than the adult system, it plays an important part in preventing the escalation of offending from childhood through to adulthood.
- 15 Significant work over the last two decades has resulted in moving away from high detention rates, and has created a focus on restorative and diversionary approaches for young people, their families, whānau and victims of offending by young people.

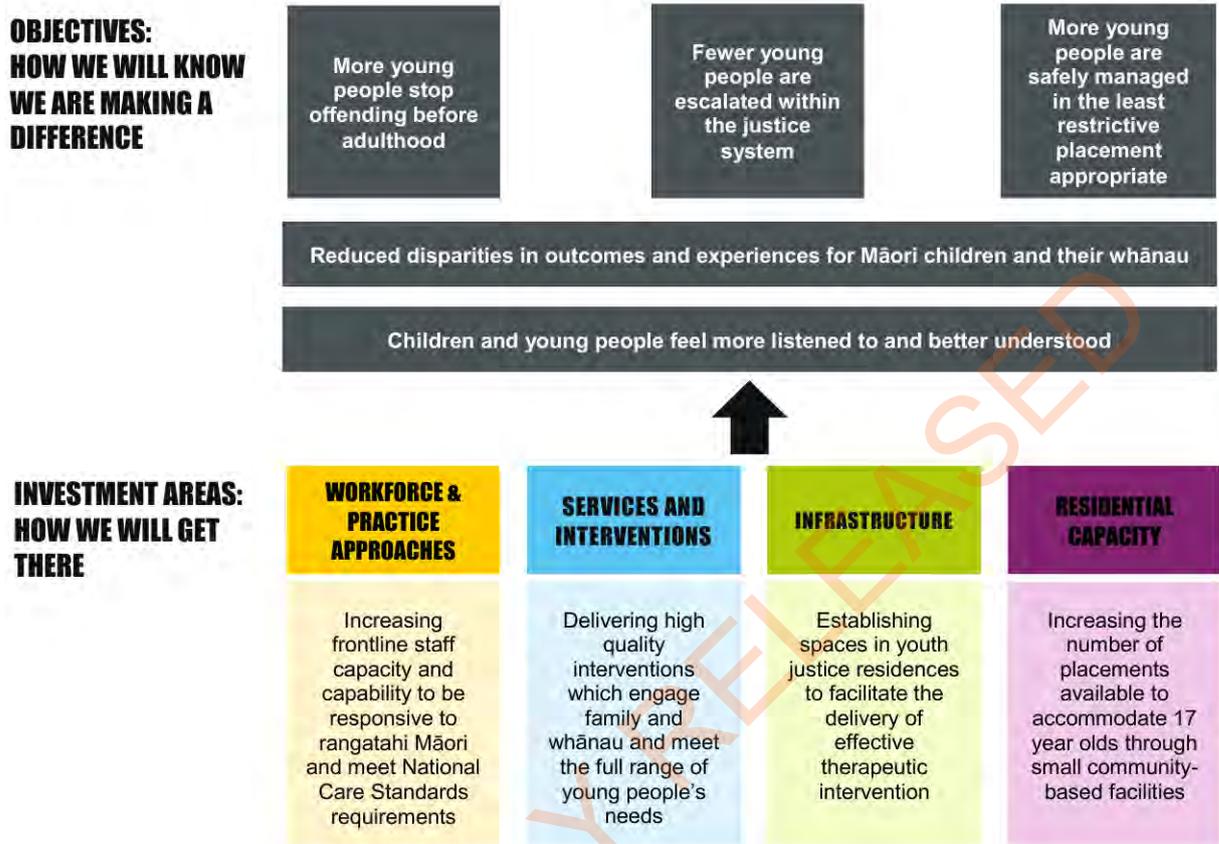
### *Youth justice services are undergoing significant improvement in line with justice sector reform*

- 16 Since the formation of Oranga Tamariki there has been significant work to improve the youth justice system for young people, and to be ready to manage 17 year-olds who will be introduced into the system on 1 July 2019. This work has included the establishment of new community remand homes as an alternative to detention in a Youth Justice Residence.
- 17 The first Child and Youth Wellbeing Strategy is being developed which will seek to achieve the Government's vision of making New Zealand the best place in the world to be a child. Hāpaitia te Oranga Tangata: Safe and Effective Justice (Hāpaitia te Oranga Tangata) was launched in August 2018 which will target the wellbeing of all people in New Zealand's justice system.
- 18 An effective youth justice system, which provides services to some of New Zealand's highest needs young people, is required to achieve the Government's aims in these areas. The proposals in this paper will support that goal.

### *Oranga Tamariki youth justice services have a set of objectives to reduce reoffending among young people*

- 19 Five objectives have been identified to achieve a youth justice system which effectively places the wellbeing of young people and their family and whānau at the centre of the system, alongside community safety and the interests of victims.
- 20 To achieve the identified objectives, residential youth justice services need to be further developed to provide interventions which are more therapeutic and whānau-focused to more effectively meet the complex range of young people's risks and needs. Additionally, transformation of other parts of the Oranga Tamariki operating model with a focus on prevention will have positive impacts on the youth justice function. In particular, the benefits expected from transformed Care services, and the new Intensive Intervention and Transition functions include prevention or reduction of young people's offending.

21 The diagram below shows the identified objectives and proposed areas of investment.



**Most 17 year-olds subject to the justice system will be managed as young people, and not adults, from 1 July 2019**

- 22 On 1 July 2019 the Act is changing to include most 17 year-olds in the youth justice system, instead of the adult criminal justice system. Seventeen year-olds charged with serious offences will continue to be processed through the adult court system.<sup>2</sup> Under the new legislative framework Oranga Tamariki will assume responsibility to accommodate 17 year-olds in its residential youth justice facilities. This is unless circumstances apply which result in the 17 year old being housed in the youth unit of a prison, and that the chief executive of Oranga Tamariki has not agreed to detain this young person on behalf of the chief executive of the Department of Corrections (Corrections).
- 23 There are different categories of 17 year-olds, and legislative tests, which apply to their placement in a youth facility or an adult facility. These are detailed in a table attached at Appendix A.
- 24 Including 17 year-olds in the youth justice system, as required by new legislation, provides an opportunity to rethink how we support 17 year-olds and make the most of this change. This includes greater opportunities to be diverted from the formal justice system, access to a wider range of therapeutic, restorative and age-appropriate interventions, and pursuing

<sup>2</sup> Those 17 year olds who are accused of committing offences that carry a maximum sentence of 14 years or more imprisonment will be transferred to the adult courts following applicable pre-trial processes taking place in the Youth Court. The Youth Court will also retain discretion to transfer other cases to the adult jurisdiction for sentencing.

opportunities to keep young people connected to their culture, or to form connections to their culture.

- 25 The introduction of 17 year-olds into the youth justice system provides Oranga Tamariki with an opportunity to better align our system with best practice and support more therapeutic approaches for young people.

### **Demand for residential youth justice placements will exceed supply when 17 year-olds are introduced into the youth justice system**

- 26 Oranga Tamariki currently has access to 170 residential youth justice placements.<sup>3</sup> The placements are to house young people who have been:
- 26.1 arrested and waiting to appear in the Youth Court (s235 of the Act)
  - 26.2 remanded in the custody of the Oranga Tamariki chief executive by the Youth Court (s238 of the Act)
  - 26.3 placed on a Supervision with Residence Order (s311 of the Act)
  - 26.4 remanded in the custody of the Oranga Tamariki chief executive by the adult courts (s173, 174 and 175 of the Criminal Procedure Act 2011)
  - 26.5 sentenced to imprisonment under the Corrections Act 2004, where detention in a residence is approved by the chief executive of Oranga Tamariki and the chief executive of Corrections (s34A of that Act).
- 27 These placements are currently spread across different types of facilities:
- 27.1 146 in four youth justice residences
  - 27.2 24 in community-based remand homes and facilities each housing up to five young people. This includes Mahuru, a service led by Ngāpuhi Iwi Social Services.
- 28 Oranga Tamariki has modelled the number of placements that will be required when 17 year-olds are included in the youth justice system, and the expected build-up of demand over time. As a result of the system managing small numbers, and it being difficult to predict how 17 year-olds will be managed under a new legislative framework, this type of modelling is challenging. However, we estimate that Oranga Tamariki will require approximately 320 placements in total to meet demand. This is 150 placements more than current capacity.
- 29 Through funding provided in Budget 2018, 50 placements are being added to Oranga Tamariki capacity. This consists of 40 placements in community-based remand homes and 10 placements in the Youth Justice Residence in Palmerston North (Te Au Rere a te Tonga). This will increase the total Oranga Tamariki capacity to 220, leaving a shortfall of 100 placements. It is expected that, with current settings, demand for placements will exceed funded supply by the end of 2019. Further detail about the modelling is attached at Appendix B.
- 30 Through Budget 2018, \$3 million was also granted to develop a business case for new residential capacity.

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<sup>3</sup> More information about the number and characteristics of young people in youth justice placements is included in a diagram attached at Appendix B. This diagram includes 17 year olds.

## There is a range of approaches to creating new capacity

- 31 There are different levers which can be used to create the capacity required to accommodate 17 year-olds. The diagram below indicates the range of options available. The options described are not mutually exclusive, and can be pursued in different combinations to create placement capacity.



### *Reducing demand for placement capacity*

- 32 Young people remanded in custody waiting for their proceedings to be completed account for the majority of young people in youth justice residential placements. Approximately 80 percent of young people who are placed in a youth justice residential placement are only remanded, and do not go on to receive a custodial sentence. The high numbers of young people being remanded in custody, often for long periods and spending some time in police cells, has been a matter of concern for some time in New Zealand.<sup>4</sup> This New Zealand experience is mirrored internationally, including in Australia, and is reflected in our own adult system.
- 33 The evidence is clear that custodial detention can have harmful effects on young people, especially when subjected to the uncertainty of custodial remand. A range of initiatives have been introduced to reduce the custodial detention of young people; in particular to reduce the placement of young people who are in the custody of the Oranga Tamariki chief executive in youth justice residences.
- 34 These measures have included (1) enhancing young people's ability to remain on bail in the community through support programmes, (2) establishing remand accommodation options in homes outside of the four youth justice residences, and (3) improving decision making about custodial remand by providing judges with additional information and options. While these initiatives have had some success, the use of custodial remand has not significantly decreased.
- 35 In particular, Oranga Tamariki is currently working with partners to establish new ways of managing young people waiting for their court proceedings to finalise. Oranga Tamariki will

<sup>4</sup> Henwood Judge C, George J, Cram F, Waititi H. Rangatahi Māori and Youth Justice Oranga Rangatahi: Research paper prepared for Iwi Chairs Forum with the support of the Henwood Trust and the Law Commission. Auckland, NZ: Henwood Trust; 2018.

continue to explore potential partnerships and arrangements to be able to place these young people with families and whānau, hapū, iwi and family groups, instead of removing them from their homes and communities.

- 36 There is work underway to develop further options to reduce demand for youth justice capacity.

<sup>5</sup> 9(2)(f)(iv)

- 37 Despite continued efforts to reduce demand for residential capacity, I propose that a new supply of capacity is required as a result of introducing 17 year-olds into the youth justice system. Based on the modelling, I consider that 100 new placements should be established to provide Oranga Tamariki with the capacity and flexibility required to achieve the objectives for youth justice services.

### What type of new placements should we invest in?

- 38 Over recent years there have been significant international shifts in the understanding of the impact of an environment's design on young people and adults who are detained. Through the establishment of new capacity for youth justice in New Zealand there is an opportunity to move towards more therapeutic and culturally appropriate approaches for young people, in line with our identified objectives and best practice.

#### *Smaller facilities are likely to provide greater benefits to young people than centrally located larger facilities*

- 39 The emerging evidence is that smaller facilities, which mirror home-like settings and are located close to people's family, whānau and other supports, are more likely to be able to meet the needs of people in custody than larger facilities.<sup>6</sup> In turn, they are more likely to be able to reduce young people's reoffending and enhance the wellbeing of wider whānau.<sup>7</sup>
- 40 The key to success of custodial facilities is the creation of a therapeutic environment within which effective services and interventions can be delivered. The size of the facility is the first step in this direction. Currently in New Zealand, the majority of young people in custody are housed in facilities that hold 30 to 50 young people. On the international scale, this is small. However, preference for those larger institutions has been the subject of academic and media commentary in New Zealand which advocates for facilities which:
- 40.1 provide a home-like environment to support rehabilitation and mirror community life (as opposed to an institutional, restrictive environment)
  - 40.2 are part of the local community, and facilitate and encourage close whānau connection to daily life in the facility
  - 40.3 use evidence-based design principles to support mental wellbeing, and reduce violence and misconduct

<sup>5</sup>

9(2)(f)(iv)

<sup>6</sup> Ian Lambie (2016) Youth Justice Secure Residences: A report on international evidence to guide best practice and service delivery, Ministry of Social Development and Professor Sir Peter Gluckman, (2018) It's never too early, never too late: a discussion paper of preventing young offending in New Zealand, Office of the Prime Minister's Chief Science Adviser.

<sup>7</sup> Ministry of Justice, (2018), Family Based Interventions for Teenagers, Evidence Brief, New Zealand Ministry of Justice.

40.4 are staffed by highly trained effective staff who are able to build strong interpersonal relationships with small numbers of young people.<sup>8</sup>

41 To implement this approach, other jurisdictions have established a range of different residential options that can be matched to the person based on their level of risk, and the type of therapeutic work they require to reduce their risk of reoffending and enhance their wellbeing. These models usually include:

41.1 a small number of secure, larger facilities reserved to assess needs and provide care for those whose risk is such that they cannot be safely managed in a community setting

41.2 a greater number of small, moderately secure facilities for people who are at a risk level that enables them to be safely managed in the community, and people towards the end of their sentence who are transitioning back into the community. These facilities are usually located within, or close to, residential populations.<sup>9</sup>

42 The Children's Commissioner has advocated, and supports, establishing smaller facilities to reduce the reliance on large secure residences. The Children's Commissioner's annual 'State of Care' report advocates for Oranga Tamariki to expand the number of community group homes for young people to be managed within their local communities. It also proposes, in line with the new section 7AA of the Act, that Oranga Tamariki engages in strategic partnerships with iwi and Māori organisations to improve outcomes for tamariki and rangatahi Māori living in these group homes.

*Smaller facilities are likely to provide greater opportunities to improve outcomes for tamariki and rangatahi Māori and meet the legislative obligations of Oranga Tamariki*

43 Smaller residential facilities provide an opportunity to better meet the needs of tamariki and rangatahi Māori in the youth justice system in new ways. This is through adhering to the principles of the Treaty of Waitangi, including through meeting obligations under new section 7AA of the Act (see *Paper Two: Improving Outcomes for Māori*) by:

43.1 pursuing opportunities, and inviting proposals, to partner with iwi and Māori organisations across the country to design, develop and operate new facilities

43.2 using opportunities to fulfil the principles of mana tamaiti, whakapapa and whanaungatanga. Specifically, the flexibility to place young people closer to members of their whānau, hapū or iwi will support tamariki and rangatahi Māori to establish, maintain or strengthen their sense of belonging through cultural identity and connection. Additionally, support will be more effectively provided to whānau on the return home of their tamariki or rangatahi.

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<sup>8</sup> Range of domestic and international sources including, Ian Lambie (2016) *Youth Justice Secure Residences: A report on international evidence to guide best practice and service delivery*, Ministry of Social Development.

<sup>9</sup> This model is used across the world in adult and youth jurisdictions including in the United States, England, and to some extent Australia.

## Options for new residential placement capacity

44 We have identified three options for creating new placement capacity for consideration.

44.1 **Option One: demand reduction only, no new residential placement capacity.**

Under this option no new capacity would be established.

44.2 **Option Two: continue to invest in large youth justice residences.**

This option would see new large youth justice residences with 30 to 50 beds each.

44.3 **Option Three: establish small youth justice facilities through purpose-built and re-developed properties.**

This option would see:

- new purpose-built, small facilities. The working assumption is that these would house five young people each.
- new small facilities in re-developed property. These properties would either be the property of other government agencies, or non-governmental organisations.
- repurposed Oranga Tamariki property for youth justice purposes.

45 The table below provides a summary assessment of the different options. A more detailed analysis table is attached in Appendix C.

Option	Meets direction of Hāpaitia te Oranga Tangata and Child and Youth Wellbeing Strategy	Enhances opportunities to strengthen social and cultural connection of young people	Creates capacity in a short timeframe (before December 2019)	Delivers 100 placements
<b>Option One:</b> Demand reduction only, no new capacity added	✓	✓	x	x
<b>Option Two:</b> Continue to invest in large youth justice residences	x	✓	x	✓
<b>Option Three:</b> Establish small youth justice residences	✓	✓	✓	✓

### Preferred approach

46 **Option Three** is my preferred approach. It draws a balance between the need to establish new capacity quickly, and the ability to achieve the long-term strategic intent of moving towards smaller, community-based facilities. Accordingly, I am seeking agreement for this approach that I will pursue through Budget 2019 in a detailed budget bid. Alongside this investment, measures and initiatives which seek to invest in families, whānau and communities to work with and support young people in the justice system, will continue to be

pursued. Collectively, we can reduce the reliance on residential youth justice placements which remove young people from their homes.

### *Purpose-built facilities*

- 47 Building new facilities is the preference for the majority of the new placements. This is to ensure that the long-term approach to youth justice residential capacity provides young people with the best possible support and therapeutic interventions. The facilities will use best practice design, and will have the desired space for therapeutic intervention, and whole of family and whānau engagement.
- 48 The purpose-built facilities will be embedded in communities of high demand, with young people kept as close to their home community, family and whānau as possible. My preference is to operate purpose-built facilities through partnerships, firstly with iwi and Māori organisations. Formal conversations about these potential partnerships have not yet commenced.

### *Re-developed properties*

- 49 Re-developing properties will carry a lower capital cost than new builds and will provide capacity within a shorter timeframe. Ideally, properties identified for re-development will be consistent with the long-term direction of being small and within communities, and provide opportunities to work closely with partners. However, they are unlikely to be suitable for long-term use as they will not have the appropriate facilities. Facilities which are not suitable as part of the long-term approach will be used for transitional purposes while new facilities are being built, and will either be repurposed for other uses or the capital realised to fund more appropriate properties. The level of capital investment required will be dependent on the suitability of the property.

### *Repurposed Oranga Tamariki property*

- 50 A Care and Protection Residence in South Auckland, Whakatakakopai, has been identified to be repurposed. With 20 beds it is larger than the facilities which are intended for the future of youth justice capacity. It must also go through a re-designation process to allow for the different use, however, it is in a location of high demand and is in a residential community. Young people from the local community will be prioritised for placement there. Additionally, it requires minimal capital investment to create a suitable environment for young people.

### *A flexible approach*

- 51 My preferred procurement approach seeks to maximise flexibility to ensure we have sufficient placements for young people, and avoids the risk of unsuitable capacity being established and used for young people long-term. Through pursuing suitable property to re-develop, I will be able to establish some of the required new capacity in a shorter timeframe which reduces the risk of having a shortfall in capacity before the new builds are opened. However, this approach will not detract from the strategic direction to provide the best possible environments for Oranga Tamariki, and the community, to meet the needs of young people.
- 52 In the long term, if demand for placements reduces I will prioritise closing the more unsuitable placements so over time we achieve a graduated system shift. The establishment of new capacity will be on different timeframes, shown in the diagram below.



### Meeting the requirements of new legislative provisions through improving responsiveness to tamariki and rangatahi Māori, and therapeutic interventions

- 53 New capacity alone will not achieve the identified objectives for youth justice services in New Zealand. Achievement of the objectives is dependent on meeting the new National Care Standards and achieving the practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi) required by new section 7AA of the Act. Both of these obligations will be in place from 1 July 2019. I note that the National Care Standards also apply to children and young people in care or custody under Part 2 of the Act, which relates to care and protection. My proposed approach for how these new standards apply to children and young people in care is set out in *Paper Four: Care*.
- 54 Placement in a youth justice facility is the most punitive outcome available for young people who have committed, or are accused of committing, criminal offences. This means that young people housed in youth justice facilities are among the highest, and most complex, needs young people in New Zealand. Traumatic experiences, substance use, mental health issues and low educational achievement are interwoven needs which are prevalent among youth justice residential populations.<sup>10</sup>
- 55 While the new facilities proposed above will be designed and operated to the highest standards of best practice, this will mean that the existing facilities may then be delivering a lower standard of intervention. I am therefore seeking broad agreement to investment in areas which will enhance the quality of practice and intervention in all youth justice facilities. Information about the characteristics of young people housed in youth justice facilities is contained in Appendix D.
- 56 Three areas in youth justice placement services have been identified where changes could be made to achieve the National Care Standards, and to respond to gaps and barriers preventing achievement of the identified objectives for Oranga Tamariki youth justice services. In addition, there are a small number of core services which require extension to 17 year-olds. Those areas, and the nature of the proposals for funding, are shown in the diagram below. Appendix E provides further detail about the identified issues, proposed approaches for solution and indicative cost of investment.

11 9(2)(g)(i)

<sup>10</sup> Range of domestic and international sources including, Ian Lambie (2016) *Youth Justice Secure Residences: A report on international evidence to guide best practice and service delivery*, Ministry of Social Development.

<sup>11</sup> 2015 analysis showed that the severity of offending by young people reduced after serving a Supervision with Residence Order in a youth justice facility, however reoffending rates (measured by contact with police) were high with 88% coming to the attention of the police within 12 months (Ministry of Social Development (2015) *Reoffending patterns for recipients of Youth Court supervision orders: 2015 update*)

### WORKFORCE & PRACTICE APPROACHES

- Small uplift in number of youth justice social workers
- Lift cultural competency and capability of staff to embody Te Ao Māori principles and approaches into daily life in all youth justice facilities

### SERVICES AND INTERVENTIONS

- New programmes and interventions to reduce risks of reoffending
- New support for engagement with families and whānau
- Extend some core services to 17 year-olds

### INFRASTRUCTURE

- New buildings at youth justice residences for delivery of therapeutic interventions, vocational training and family and whānau engagement
- Creating smaller units at youth justice residences

57 In this paper I am seeking broad agreement for the direction of investment in these areas. There are different levels of investment possible in each of the areas described above. The type of investment, scaling and phasing will be explored through the Budget 2019 process with attention given to the difference between meeting legislative requirements and further uplifts in quality of practice.

### Benefits of my preferred approach to creating new capacity

58 In undertaking this work to establish new facilities and improve quality of practice, we would expect to see the following key shifts:

- 58.1 more young people will have stronger connections to family and whānau, hapū, iwi and family groups
- 58.2 more young people will have stronger cultural and social connectedness
- 58.3 more young people will have healthier relationships with peers and partners
- 58.4 young people will have improved health, increased life skills and improved resilience.

59 Achieving these shifts is expected to lead to significant improvements in life outcomes for children and young people in youth justice placements through reduced reoffending, reduced likelihood of entering the adult justice system, and increased future employment. This will lead to fewer victims, increased community safety and intergenerational change. Oranga Tamariki is working to quantify these benefits for this very small group of young people, which may include using the Children's Wellbeing Model.

### Risks of my preferred approach to creating new capacity

60 There are risks to my proposed approach which Oranga Tamariki will work with other agencies to mitigate, specifically:

- 60.1 insufficient capacity will be established in time, meaning that young people may be housed in police cells or prisons. This may have negative wellbeing consequences for young people, and impact on Corrections' ability to appropriately respond to the needs of 18 and 19 year-olds in its youth units

60.2

9(2)(g)(i)

## Evaluation, monitoring and continuous improvement

- 61 As part of the investment package I intend to include a suite of evaluation, research, analysis and monitoring activities that will be bespoke to the youth justice function. Further details on the evaluation, monitoring and continuous improvement approach are set out in *Paper One: Overview Paper*.

## Consultation

- 62 This paper was prepared by Oranga Tamariki. The following agencies were consulted in the preparation of this paper: the Ministries of Health, Education, Justice, Social Development, and Youth Development; the Ministry of Business, Innovation and Employment; the ministry of Housing and Urban Development; The Ministry of Pacific Peoples; the Ministry for Women; Te Puni Kōkiri; the Department of Corrections; the New Zealand Police; the Office of Disability Issues; the Accident Compensation Corporation; Inland Revenue; the Joint Venture Family Violence and Sexual Violence; the Tertiary Education Commission; the State Services Commission; the Treasury; the Policy Advisory Group; the Child Wellbeing Unit and the Child Poverty Unit at the Department of Prime Minister and Cabinet; and the Office of the Children's Commissioner.
- 63 Te Puni Kōkiri are opposed to building more institutional care facilities as proposed in this paper, in favour of exploring more whānau-centred community-based options, particularly for rangatahi on remand. While Oranga Tamariki is continuing to seek partnerships and arrangements to be able to place young people subject to court proceedings with family and whānau, and with hapū, iwi and family groups, it is still considered necessary to add to the current capacity.
- 64 The long-term approach to capacity shown in the diagram is paragraph 52 depicts the Oranga Tamariki intention to reduce the number of young people detained or placed in custody or detention, and reduce the dominance of larger institutional facilities.
- 65 The Ministry of Justice and Corrections raised concerns about the high number of placements expected to be required for 17 year-olds. This difference in forecasting is considered in Appendix B.

## Financial implications

- 66 Funding for the investment proposals in this paper cannot be met within Vote Oranga Tamariki baselines. The indicative year-by-year costs of the preferred approach proposed in this paper are provided in the table below. The proposals for capital investment will go through Treasury's Better Business Case process as part of Budget 2019.

9(2)(g)(i)

### Legislative implications

67 New legislation is not required to implement the proposals in this paper.

### Impact analysis

68 An impact analysis is not required for this paper.

### Human rights

69 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993. The proposals will increase New Zealand's alignment with the United Nations Convention on the Rights of the Child (UNCROC), the Optional Protocol to the Convention Against Torture and the United Nations Declaration on the Rights of Indigenous Peoples.

70 The Convention on the Rights of the Child means New Zealand has an obligation to hold young people in custody only as a measure of last resort and for the shortest possible time. Examinations by the Committee on the Rights of the Child have questioned the extent to which New Zealand is currently meeting this obligation.

### Gender implications

71 All genders of children and young people placed in the detention or custody of the Oranga Tamariki chief executive for youth justice purposes are expected to benefit from the proposals in this paper. Boys and young men are the significant majority, comprising approximately 85 percent of the whole youth justice population, and will therefore particularly benefit.

72 As a result of comprising very low numbers in the residential youth justice system, it is difficult to ensure that young women have equitable access to the services and interventions required to address their needs.

73 Through the development of the new capacity and services, continued attention will be paid to ensuring that the needs of young women are specifically considered and catered for.

### Disability perspective

74 The proposals in this paper apply to all children and young people in youth justice residential placements, including those with disabilities. Young people in residential youth justice placements are more likely than the general population of young people to have mental

health and developmental disorders, and high rates of co-morbidity.<sup>12</sup> These rates are even higher for tamariki and rangatahi Māori.<sup>13</sup> Importantly, young people who offend are also more than three times more likely than the general population to have experienced a traumatic brain injury.<sup>14</sup>

- 75 I expect that improving the quality of interventions and managing young people in smaller groups will help to deliver better outcomes for young people with disabilities (including those with mental health needs).

## Publicity

- 76 Any announcements relating to final Budget 2019 decisions for Vote Oranga Tamariki will be made following Budget release day in May 2019. Any announcements will be co-ordinated with the Office of the Minister for Children.

## Proactive release

- 77 Consistent with section 9(2)(f)(iv) of the Official Information Act 1982, the content in this paper is under active consideration until final decisions relating to Budget 2019 have been made. Proactive release of this paper will be considered closer to Budget release day in May 2019.

## Recommendations

- 78 The Minister for Children recommends that the Committee:
- 1 **note** that the youth justice function of the Oranga Tamariki operating model focuses on those children and young people who have entered the youth justice system under part 4 of the Oranga Tamariki Act 1989
  - 2 **note** that children and young people who have contact with the youth justice system have a disproportionately high likelihood of experiencing worse outcomes than their non-youth justice experienced peers, and this often continues into adulthood
  - 3 **note** that most 17 year-olds subject to the justice system are being included in the youth justice system from 1 July 2019, instead of the adult justice system
  - 4 **note** that the new Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 and other changes to the Oranga Tamariki Act 1989, which both come into force on 1 July 2019 place new requirements on Oranga Tamariki youth justice services
  - 5 **note** that when 17 year-olds are included in the youth justice system Oranga Tamariki will not have sufficient capacity to meet demand
  - 6 **note** that Oranga Tamariki modelling indicates that demand for capacity will exceed supply before the end of 2019

<sup>12</sup> Professor Sir Peter Gluckman, (2018) *It's never too early, never too late: a discussion paper of preventing young offending in New Zealand*, Office of the Prime Minister's Chief Science Adviser.

<sup>13</sup> Baxter J, Kingi T, Tapsell R, Durie M. Māori. In: Oakley Browne MA, Wells JE, Scott KM, eds. *Te Rau Hinengaro: The New Zealand Mental Health Survey*. Wellington, NA: Te Roopu Rangahau Hauora a Eru Pomare; 2006: 139 -178.

<sup>14</sup> Farrer TJ, Frost RB, Hedges DW. Prevalence of traumatic brain injury in juvenile offenders: a meta-analysis. *Child neuropsychology* 2013; 19(3): 225 – 234.

- 7 **note** that work across the justice sector will continue with the aim of reducing the numbers of young people who require placement in detention or custody of the Oranga Tamariki chief executive under Part 4 of the Oranga Tamariki Act 1989
- 8 **agree** to Option Three (the preferred option) which will see placements established through small community-based facilities
- 9 **agree** to establish 100 new placements to house young people in the custody of the Oranga Tamariki chief executive under Part 4 of the Oranga Tamariki Act 1989, and those detained in a youth justice residence on a sentence of imprisonment
- 10 **note** that to align practice in youth justice facilities with new legislative requirements and principles of best-practice investment is required in youth justice workforce and practice approaches; services and interventions; and infrastructure
- 11 **note** that choices about phasing and scaling of the youth justice capacity and other investment proposals will be worked through as part of the Budget 2019 process
- 12 **invite** the Minister for Children to submit a detailed bid for Budget 2019 that reflects the direction outlined in recommendations 8, 9 and 10
- 13 **note** that agencies are developing a transitional plan in the event that demand for placements exceeds supply before sufficient new capacity is established.

Authorised for lodgement

Hon Tracey Martin  
Minister for Children

## Appendix A: Legislative framework for 17 year-olds who may be detained or placed in the custody of the Oranga Tamariki chief executive from 1 July 2019

**Detention following arrest by the Police and while waiting to appear in the Youth Court** (section 235 of the Oranga Tamariki Act 1989)

**Detained in the custody** of the Oranga Tamariki chief executive by the **Youth Court** while awaiting a hearing (section 238(1)(d) of the Oranga Tamariki Act 1989). In practice, this means the young person will be placed in a youth justice residence, or a community-based remand home.

The Youth Court will have the power to detain 17 year-olds in a youth unit of a prison pending hearing. This requires a joint application from the chief executive of Oranga Tamariki and the chief executive of Corrections. The Court must be satisfied the order is necessary to ensure the safety of any young person who is in the custody of the chief executive of Oranga Tamariki and that a youth unit within a prison is available (section 238(1)(f) and section 239(2A) of the Oranga Tamariki Act 1989).

**Remanded in custody** by the **District or High Court** (section 175 of the Criminal Procedure Act 2011)<sup>15</sup>

If an adult court exercises a discretion to remand a 17 year old in custody (rather than granted bail) the 17 year-old must be remanded in the custody of the chief executive of Oranga Tamariki unless the exception described below applies (new section 175(1A)(a) Criminal Procedure Act to come into force on 1 July 2019). The presumption for detention will be that the 17 year-old must be in the custody of the Oranga Tamariki chief executive unless the exception described below applies.

The court has the power to detain a 17 year-old in a youth unit of a prison if the chief executives of Oranga Tamariki and Corrections jointly agree that detention of the 17 year-old in a youth unit of a prison is necessary to ensure the safety of a young person in the custody of the chief executive of Oranga Tamariki.

Given **Supervision with Residence Order** by the Youth Court (section 283 and 311 of the Oranga Tamariki Act 1989).

These 17 year-olds will be in the custody of the chief executive of Oranga Tamariki for a period of not less than three months and not more than six months. Current practice is to place them in a secure residence.

Under new section 316(1A) of the Oranga Tamariki Act, the chief executive of Oranga Tamariki will be able to apply to the Youth Court for a Supervision with Residence Order to be cancelled for a 17 year old. The Youth Court can make such an order if the young person's "behaviour and compliance with any obligations placed on them by the order have been unsatisfactory to a more than minor extent". If the Youth Court cancels the order, it may replace it with an alternative order, which could include sending the young person to the District Court for sentencing (section 316(2)(a) and section 283(o) of the Oranga Tamariki Act 1989).

Sentenced to **imprisonment** by the District or High Court (section 34A of the Corrections Act 2004)

Any young person serving a sentence of imprisonment may be detained under that sentence in any residence approved by the chief executive of Oranga Tamariki and the chief executive of Corrections (instead of in a prison). In practice, the approval process is guided by protocols put in place jointly by Oranga Tamariki and Corrections.

<sup>15</sup>Section 175 of the Criminal Procedure Act 2011 applies to defendants aged 17 and under 20, i.e. this age range is wider than the definition of young person in the Oranga Tamariki Act 1989.

## Appendix B: Estimated forecast of 17 year-olds who will require a residential youth justice placement in 2019/2020

- 1 To plan for the inclusion of 17 year-olds in the youth justice system, modelling was undertaken to forecast the impact on Oranga Tamariki. The modelling used a range of different methods to provide an estimate of the number of residential youth justice placements Oranga Tamariki could require.
- 2 Primarily, actual data about outcomes of Youth Court proceedings for 14 to 16 year-olds in 2016/2017 were used, alongside actual data about outcomes of adult court proceedings for 17 year-olds in 2016/2017. Estimates of trends that may occur over future years were then applied to the actual data figures to create an estimate for 2019/2020. As young people age through the youth justice system, the proportion remanded in custody and given custodial orders increases. This trend has been applied to 17 year-olds.
- 3 As can be seen from the table at the bottom of this appendix, it is estimated that a total of 273 beds will be required in the youth justice system. 116 beds will be required for 17 year-olds. A capacity buffer of 15 percent has then been added to the total placement number to result in a need for 320 beds.
- 4 A capacity buffer is important in any custodial justice system<sup>16</sup> for four reasons, (1) to have an operating reserve because the network will not always fit the presenting population, including the ability to separate young people based on needs and proximity to whānau, (2) to have a demand uncertainty reserve because of the small numbers of the youth justice system, and the complexity of forecasting custodial populations, (3) to have a disaster recovery reserve to be resilient to large scale disasters such as earthquakes, and small scale emergencies such as burst pipes, and (4) to enable units to be taken offline for routine refurbishment and maintenance.
- 5 Between September 2017 and September 2018, the peak number of 17 year-olds in prison (on remand and on sentence) was approximately 60. The method of applying youth court trends to the incoming 17 year-olds means that the forecast is that a higher number of 17 year-olds will be in custody at any one time than is currently the case under the adult justice system.
- 6 The Ministry of Justice used different assumptions to model the expected impact of 17 year-olds, and concluded that a lower number of placements would be required than the 116 placements Oranga Tamariki have estimated (approximately 75). The Department of Corrections, on the basis of their peak number of 17 year-olds described above, have also indicated they would expect the placement impact to be much lower.
- 7 It is important to note that modelling the impact of legislative changes is challenging and uncertain. The forecast described in figure one below is an estimate of what could happen – if practice (particularly that of the New Zealand Police and Courts) goes against the assumed trends, outcomes could be different.<sup>17</sup>

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<sup>16</sup> The Department of Corrections has three different types of capacity buffer for adult prisons. These are (1) an “operating reserve” which is set at 4% of capacity which is based on international best practice. This is to manage the separation of different groups of prisoners and movement of prisoners around the estate; (2) a “demand uncertainty reserve” of 450 beds. This is for resilience to unexpected spikes in the muster; (3) a disaster recovery reserve of 900 beds (earthquakes or riots etc.) This is ‘supplementary capacity’ which is added at a low cost through double bunking cells that Corrections would normally only hold one prisoner in or other poor quality beds such as in previously closed units.

<sup>17</sup> For example, if a higher proportion of 17 year-olds than assumed are warned or sent down the route of Alternative Action, or if court times change and remand periods therefore extend or shorten, the youth justice residential placements required could be higher or lower than estimated.

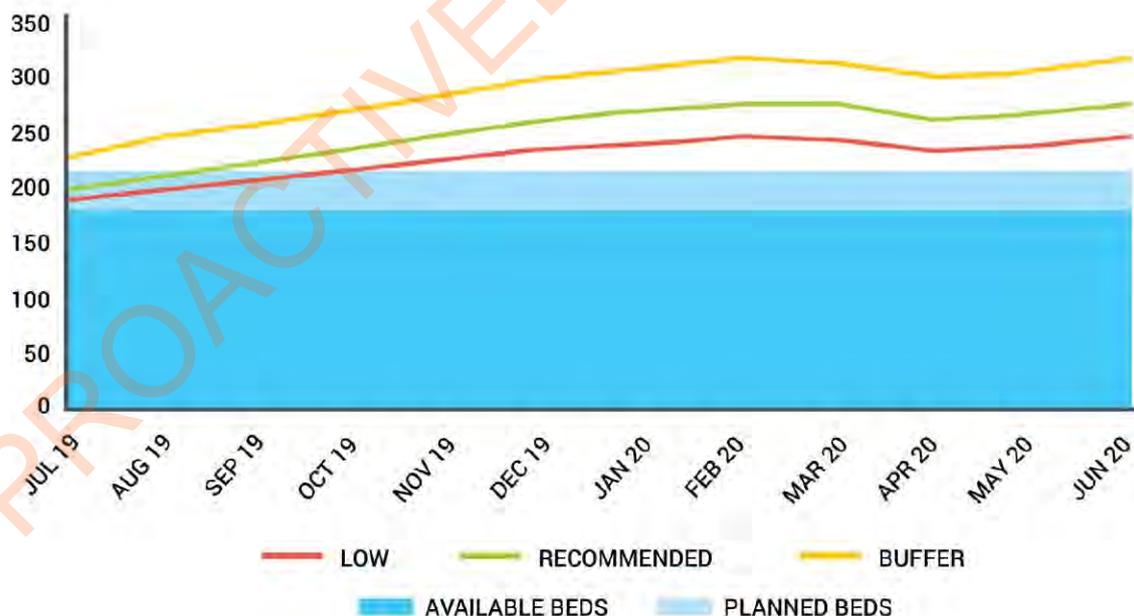
- 8 Also below is a graph which shows the estimated build-up of demand for all placements from 1 July 2019. The lines on the graph indicate three different scenarios that have been modelled: (1) a lower-end estimate of the number of placements required; (2) a recommended estimate to plan for and (3) the recommended estimates plus 15 percent buffer.<sup>18</sup> The volumes in the graph include all 17 year-olds who could be housed by Oranga Tamariki, regardless of whether discretion applies to their placement or Oranga Tamariki is required to place them.
- 9 It is expected that by the end of 2019 demand for residential placements will exceed supply on the basis of current funding, and current practice. This will happen earlier if community-based remand homes already established, and being established through Budget 2018 funding, are not fully utilised. It is worth noting that, on occasion, the Youth Court directs that a young person is housed in a 'secure' bed (meaning in one of the four youth justice residences). If no 'secure' bed is available the young person is remanded in a police cell under section 238(1)(d) of the Act until a youth justice residence bed is available.<sup>19</sup>

*Forecasted number of placements required in 2019/2020*

	14-16 year-olds	17 year-olds	Totals
Youth Court Remand beds	106	49	178
Adult Court Remand beds	36	23	70
Supervision with Residence beds	16	11	26
Prison beds	158	116	273
<b>Total with 15% capacity buffer</b>			<b>320*</b>

\*Rounded to the nearest 10

*Estimated ramp-up of demand for placements*



<sup>18</sup>The difference between the lower end and recommended estimates is that the former assumes a greater proportion of 17 year-olds will be diverted from formal youth justice processes through the use of "Alternative Action" and "Warnings".

<sup>19</sup>While data is recorded about police cell use for young people, it is not recorded whether the cell was used due to this type of occurrence.

## Appendix C: Analysis of options for new residential youth justice capacity

Option	Advantages / Benefits	Disadvantages / Risks
(1) Demand reduction only, no new capacity added	<ul style="list-style-type: none"> <li>Youth justice residential system <b>remains small</b></li> <li><b>Low financial cost, no capital investment</b></li> </ul>	<ul style="list-style-type: none"> <li><b>Will not provide sufficient placements</b> if not pursued with other options</li> </ul>
<p><b>Option one is in line with the strategic direction</b> of youth justice services in New Zealand, and evidence of best practice. However, <b>it will not provide sufficient placements</b> for young people if relied on alone.</p>		
(2) Continue to invest in large youth justice residences	<ul style="list-style-type: none"> <li>Purpose build provides <b>opportunities to create strategic partnerships</b>, including with iwi and Māori organisations</li> <li><b>Low risk of young people absconding</b>, however effectiveness of intervention compromised by low access to community</li> <li>Some beds (20) could be <b>added to current youth justice residences which would establish some capacity faster</b>, but would result in much larger residences in places where demand for placements is not high</li> </ul>	<ul style="list-style-type: none"> <li><b>Larger facilities with an institutional feel not likely</b> to result in better outcomes for young people, or their whānau</li> <li>[REDACTED]</li> <li><b>Less ability</b> than small community-based facilities to appropriately involve whānau and/or house young people close to their communities</li> <li><b>Significant financial cost to build and operate</b></li> </ul>
<p><b>Option two is not in line with the strategic direction</b> of justice services in New Zealand, evidence of best practice or recommendations of the Children's Commissioner.</p>		
(3) Establish small youth justice residences through purpose-built and redeveloped properties	<p><b>New builds/purpose-built</b></p> <ul style="list-style-type: none"> <li><b>Consistent with emerging evidence</b> of best practice to effectively reduce young people's risk of reoffending and enhance wellbeing</li> <li>Design from scratch provides <b>significant opportunities to create strategic partnerships</b>, including with iwi and other Māori organisations to create innovative and culturally appropriate homes</li> <li>Increased ability to <b>house young people close to their home communities and whānau</b>, which increases the opportunities for whānau involvement, and formation of meaningful mentoring relationships with members of their local community. In turn, this is likely to lead to better outcomes</li> <li>Small facilities can be more easily <b>repurposed</b> than large facilities if not required long-term</li> <li>Lower <b>per-bed capital costs</b> than building new large residences</li> </ul>	<p><b>New builds/purpose-built</b></p> <ul style="list-style-type: none"> <li>A greater number of new facilities will be required than if large facilities were built. This means there will be a requirement for <b>engagement with a higher number of communities</b> who may be resistant to having a facility of this type in their community. There is a risk of time delay.</li> <li>[REDACTED]</li> <li><b>Service delivery</b> to very small numbers would be logistically <b>challenging</b></li> </ul>

9(2)(g)(i)

9(2)(g)(i)

Option	Advantages / Benefits	Disadvantages / Risks
	<p><b>Repurposing Care and Protection Facility</b></p> <ul style="list-style-type: none"> <li>Identified facility for repurposing is in <b>area of high placement need</b> meaning young people can be located close to their community</li> <li><b>Faster to establish than new builds</b></li> <li><b>Lower capital cost</b> than new builds (depending on the level of repurposing required)</li> <li><b>Low risk of young people absconding</b> from secure facilities, however effectiveness of intervention compromised by low access to community</li> </ul> <p><b>Repurposing other property</b></p> <ul style="list-style-type: none"> <li><b>Faster to operationalise than new builds</b></li> <li><b>Lower capital cost</b> than new builds (depending on the level of repurposing required)</li> <li><b>Significant opportunities to develop partnerships</b>, including with iwi and Māori organisations</li> </ul>	<p><b>Repurposing Care and Protection Facility</b></p> <ul style="list-style-type: none"> <li></li> <li><b>More limited opportunities to forge strategic partnerships</b>, including with iwi and Māori organisations in the design process than other options</li> </ul> <p><b>Repurposing other property</b></p> <ul style="list-style-type: none"> <li><b>Unknown</b> how many beds will be able to be established through this option</li> <li><b>Unknown</b> how suitable existing property will be for the intended purpose – including provision of space to deliver therapeutic interventions, whether it is in locations of demand, and whether they will be suitably small</li> <li></li> <li>Available properties <b>may not have sufficient space for staff, therapeutic intervention or family and whānau engagement</b> without significant investment</li> </ul>
<p><b>Option three (preferred option) is in line with the strategic direction</b> of justice services in New Zealand, and domestic and international evidence of best practice, and will allow some capacity to be established relatively quickly</p>		

9(2)(g)(i)

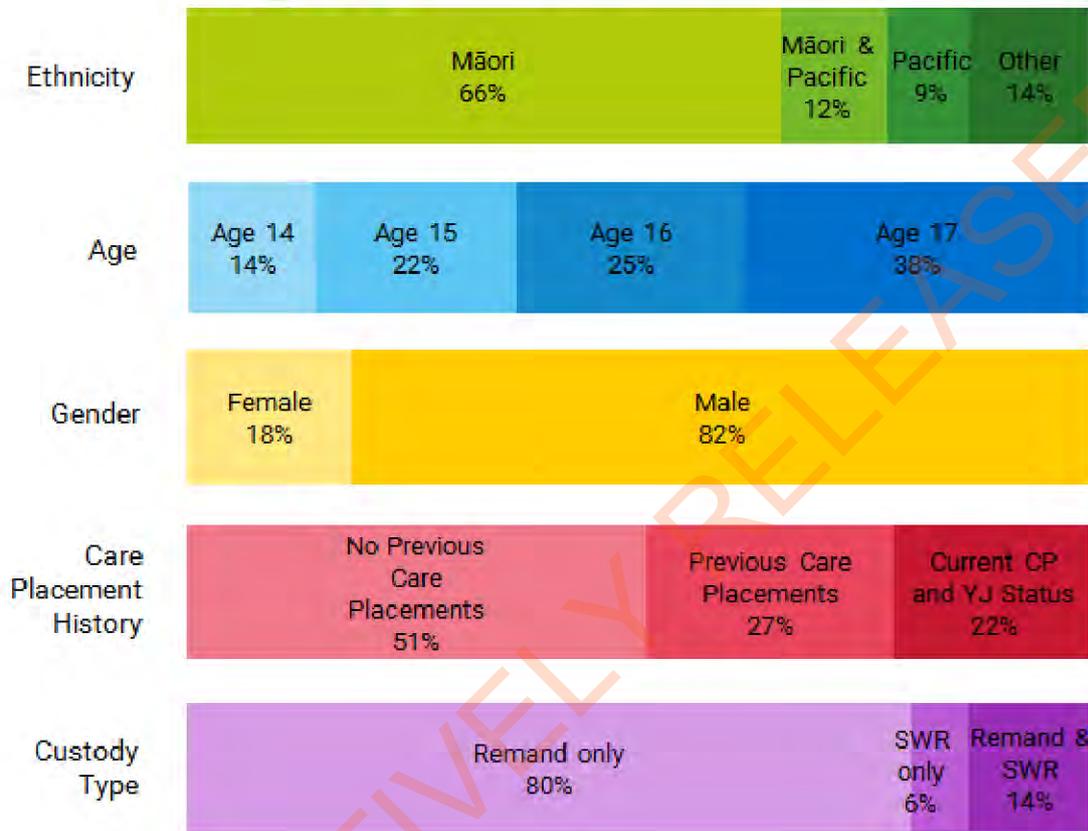
9(2)(g)(i)

PROACTIVELY REVIEWED

**Appendix D: Young people in residential youth justice placements (including expected 17 year-olds)**



**AROUND 900 YOUNG PEOPLE IN THE YOUTH JUSTICE CUSTODY OF THE CHIEF EXECUTIVE OVER A YEAR  
(OF WHICH AN ESTIMATED 350 ARE 17 YEAR OLDS)**



PROACTIVELY DELETED

## Appendix E: Further detail about investment in youth justice facilities

ISSUE	PROPOSED APPROACH
<b>Workforce and practice approaches</b>	
<p>The National Care Standards place new requirements on the practice of Youth Justice Social Workers in their work with young people in youth justice facilities. While most of the new standards can be met within baseline, it has been assessed that the current workforce does not have sufficient capacity to meet the standards which relate to preparing young people for transition.</p>	<p>A small uplift in the number of Youth Justice Social Workers to provide sufficient workforce capacity to meet the new legislative requirements.</p>
<p>There is no standardised practice approach to creating a culturally responsive therapeutic environment in youth justice residences, a lack of understanding of child-centred practice and a lack of therapeutic staff knowledge and skill.<sup>20</sup></p>	<p>Design and implement a new practice model for youth justice residences that is underpinned by cultural competency and takes restorative approaches to conflict in residences. This new practice model will seek to create a therapeutic community in youth justice residences to maximise the effectiveness of programmes and interventions.</p>
<b>Services and interventions</b>	
<p>Current programmes do not meet the full range of young people's needs, including their cultural needs. A range of programmes are provided, however they focus on developing life skills and there are service gaps, particularly for higher risk young people and those with more complex intertwined needs relating to trauma, mental health, alcohol and drugs.</p> <p>Oranga Tamariki will be legislatively required to fund Youth Advocates for a small cohort of young people at the Intention to Charge Family Group Conference Stage.</p>	<p>Procure increased numbers of programmes to address alcohol and drug related needs from District Health Boards.</p> <p>Procure and/or develop a range of programmes to address offending related needs, either delivered by Oranga Tamariki staff or partners which can start in the residence and continue when the young person returns to their community.</p> <p>Additionally fund Youth Advocate services.</p> <p>In addition, see <i>Paper Two: Improving Outcomes for Māori</i>, which references the investment required to co-develop initiatives with iwi and Māori that help improve a child or young person's positive cultural identity, connection and belonging.</p>
<p>While efforts are made to involve family and whānau in the lives of young people while they are in youth justice facilities, there are significant opportunities for closer and more meaningful whānau engagement, and to provide interventions which include the whole whānau.</p>	<p>Provide financial and emotional assistance to the family and whānau of young people in youth justice residential placements to be able to visit their young people.</p> <p>Work is on-going to establish a preferred holistic approach to the involvement of whānau in the day to day community life of a residence, and to providing whole whānau interventions.</p>
<b>Infrastructure</b>	
<p>The residences do not have space to deliver vocational training to young people, such as trade-based qualifications (carpentry, building, etc.) With 17 year-olds coming into youth justice residences this has become more pertinent because they are not legally required to be in formal education and may have already left school.</p>	<p>Establish new buildings to deliver vocational programmes in all residences. This will involve building new workshops on current residence land.</p>

<sup>20</sup> State of Care, 2017, A focus on Oranga Tamariki Secure Residences, Office of the Children's Commissioner, May 2017.

ISSUE	PROPOSED APPROACH
<p>The residences do not have a sufficient number of private spaces to deliver therapeutic interventions to young people, particularly trauma and mental health work, or to facilitate whānau engagement.</p>	<p>Establish new therapeutic and whānau engagement spaces in all four residences through redeveloping the administration and visiting areas.</p>
<p>The residences are organised into eight and ten bedroom “units”, which means that young people with different presenting needs are mixed (for example primary needs relating to mental health). This means that some young people do not receive a service uniquely tailored to their needs.<sup>21</sup></p>	<p>Reconfigure some of the housing units in youth justice residences so they have a mix of smaller units (five bedrooms) and larger units (eight to ten bedrooms). Managing young people in smaller groups will enable more individualised engagement between staff and young people, and will enable appropriate separation of young people from each other.</p>

PROACTIVELY RELEASED

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<sup>21</sup> Ibid.



# Cabinet Social Wellbeing Committee

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Transforming Our Response to Children and Young People at Risk of Harm - Paper Five: Youth Justice

Portfolio Children

On 31 October 2018, the Cabinet Social Wellbeing Committee:

- 1 **noted** that the youth justice function of the Oranga Tamariki operating model focuses on those children and young people who have entered the youth justice system under part 4 of the Oranga Tamariki Act 1989;
- 2 **noted** that children and young people who have contact with the youth justice system have a disproportionately high likelihood of experiencing worse outcomes than their non-youth justice experienced peers, and this often continues into adulthood;
- 3 **noted** that most 17 year-olds subject to the justice system are being included in the youth justice system from 1 July 2019, instead of the adult justice system;
- 4 **noted** that the new Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 and other changes to the Oranga Tamariki Act 1989, which both come into force on 1 July 2019, place new requirements on Oranga Tamariki youth justice services;
- 5 **noted** that when 17 year-olds are included in the youth justice system, Oranga Tamariki will not have sufficient capacity to meet demand;
- 6 **noted** that Oranga Tamariki modelling indicates that demand for capacity will exceed supply before the end of 2019;
- 7 **noted** that work across the justice sector will continue with the aim of reducing the numbers of young people who require placement in detention or custody of the Oranga Tamariki chief executive under Part 4 of the Oranga Tamariki Act 1989;
- 8 **noted** that three options were considered for creating new placement capacity:
  - 8.1 option one: demand reduction only, no new residential placement capacity;
  - 8.2 option two: to continue to invest in large youth justice residences of 30 to 50 bed each;
  - 8.3 option three: to establish small youth justice facilities through purpose-built and re-developed properties;

- 9 **agreed** to option three, to establish small youth justice facilities through purpose-built and re-developed properties (the preferred option), which will see placements established through small community-based facilities;
- 10 **agreed** to establish 100 new placements to house young people in the custody of the Oranga Tamariki chief executive under Part 4 of the Oranga Tamariki Act 1989, and those detained in a youth justice residence on a sentence of imprisonment;
- 11 **noted** that to align practice in youth justice facilities with new legislative requirements and principles of best-practice, investment is required in youth justice workforce and practice approaches, services and interventions, and infrastructure;
- 12 **noted** that choices about phasing and scaling of the youth justice capacity and other investment proposals will be worked through as part of the Budget 2019 process;
- 13 **noted** that the Minister for Children will submit a detailed bid for Budget 2019 that reflects the direction outlined in paragraphs 9, 10 and 11;
- 14 **noted** that agencies are developing a transitional plan in the event that demand for placements exceeds supply before sufficient new capacity is established.

Jenny Vickers  
Committee Secretary

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**Present:**

Rt Hon Jacinda Ardern  
Rt Hon Winston Peters  
Hon Kelvin Davis  
Hon Grant Robertson  
Hon Andrew Little  
Hon Carmel Sepuloni (Chair)  
Hon Dr David Clark  
Hon Nanaia Mahuta  
Hon Jenny Salesa  
Hon Tracey Martin  
Hon Aupito William Sio  
Hon Julie Anne Genter  
Michael Wood, MP  
Jan Logic, MP

**Officials present from:**

Office of the Prime Minister  
Department of the Prime Minister and Cabinet  
The Treasury  
Ministry of Education  
Office of the Chair  
New Zealand Police  
Oranga Tamariki–Ministry for Children  
Officials Committee for SWC

**Hard-copy distribution:**

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