

Regulatory Impact Statement: Framework for the management of extreme threat prisoners

Decision sought	This analysis is intended to support Cabinet decisions to approve the drafting of a bill amending the Corrections Act 2004 to introduce a framework to manage extreme threat prisoners, which also will impact the management of all prisoners subject to segregation.
Agency responsible	Department of Corrections
Proposing Ministers	Minister of Corrections
Date finalised	17 June 2025
<p>Briefly describe the Minister’s regulatory proposal</p> <p>Corrections is seeking to progress with a package of proposals that will give explicit statutory authority for a higher level of custodial management that is necessary to manage the risk posed by a small group of prisoners to the safety of staff, other prisoners, and the public.</p>	

Summary: Problem definition and options

What is the policy problem?

9(2)(h)

when the Corrections Act (the Act) was enacted in 2004, the prison population looked very different from what it does today.

Our legislation was set up to support us to manage risks from violent prisoners and other risks that exist within a prison. There are now more complex and challenging prisoners in prison than there were 20 years ago and as a result we need to find ways to work within a system that does not necessarily acknowledge the risk posed by some individuals and the level of custodial management required to keep prisoners, staff, and the wider public safe. Prisoners pose risks without being personally violent toward others, but can influence other people to commit violence and criminal activity that occurs both inside and outside prisons. This includes prisoners with a history of serious violence (including against staff and other prisoners), violent extremism, terrorism, and connections to sophisticated transnational and domestic organised criminal networks.

Fifteen of these types of prisoners are currently managed in the Prisoners of Extreme Risk Unit (the PERU), with a higher level of custodial management which is necessary for the

safety and security of the prison system and the wider community. This management, however, also needs to change to be more consistent with our domestic and international human right obligations. Prior to the establishment of the PERU men with higher risk profiles would generally be housed in maximum security environments. These types of units have not been enough, nevertheless, to minimise the risks that some prisoners pose in terms of extreme violence and their ability to continue to conduct alleged significant criminal activities from prison.

What is the policy objective?

While each of the four sub-sections in this RIS have their own objectives that are related to a more specific component of the overall problem, the high-level objective of this work is to create a transparent framework for the safe, humane, and lawful management of extreme threat prisoners that minimises the risk these prisoners pose in prison and to the public.

What policy options have been considered, including any alternatives to regulation?

This RIS contains four sections, with three of those having two option sets. The table below on page 15 provides an overview of which prisoners are impacted by which options.

Section A: Identifying and designating extreme threat prisoners

Current processes for deciding which prisoners pose an extreme threat lack transparency for prisoners and the public and require more scrutiny. We propose the introduction of statutory provisions to identify prisoners who pose an extreme threat to prison or public safety. These new powers would require the chief executive to make a decision to designate eligible prisoners as an extreme threat based on a recommendation from an external and independent panel. Eligibility would be determined by reference to broad legislative criteria.

Other options that were not preferred include having the High Court or Attorney-General make decisions to designate prisoners. We also considered whether an exhaustive list of characteristics should be included in legislation.

Section B: Management tools for extreme threat and other prisoners that capture the full spectrum of risk

Corrections cannot effectively manage some prisoners who present subtle, sustained risks or risks that change over time, through existing management tools such as the security classification and segregation frameworks.

We propose an operational change to the security classification framework to amend it to take into account additional risks from prisoners, including non-physical and complex risks such as influence capability. We also propose a legislative change for extreme threat prisoners to be managed in accordance with their designation, rather than their security classification, as the designation best recognises the level of risk that needs to be managed in a prison. We considered other options such as introducing a new security classification for designated extreme threat prisoners.

Regarding segregation, we propose legislative change be made to allow transitions between restricted and denied association within the same segregation direction and to define what constitutes a continuous segregation period. A third change will broaden the segregation criteria to enable Corrections to segregate prisoners where they have the ability to influence others and impact public safety. All these segregation changes will apply to all

prisoners and are not intended to just apply to extreme threat prisoners. As part of this, we also considered whether the independent panel is best placed to make segregation decisions for extreme threat prisoners, but have not proposed this change.

Section C: mitigating the impacts of segregation on prisoner wellbeing

Prisoners who are subject to long periods of segregation are at risk of experiencing solitary confinement if they have limited meaningful human contact. We propose defining meaningful human contact for all prisoners in the Act and explicitly prohibiting prolonged solitary confinement and developing supporting practice guidance. We also considered but decided against only defining meaningful human contact in practice guidance.

In order to mitigate the risks to wellbeing that prisoners segregated for long periods face, we propose to increase access to weekly telephone call minimum entitlements from five minutes to two hours for extreme threat prisoners and prisoners segregated for 90 days or more. We also propose that legislation provide for one additional hour out of cell as a minimum entitlement for those same prisoners. We propose specifying additional requirements for cells holding extreme threat prisoners include a yard of a certain size adjacent to their cell and requiring reasonable access to that space.

There is also significant operational change underway to address the experience of prisoners in the PERU.

Section D: The property of terrorist prisoners

Some property linked to terrorist prisoners may cause public harm if released into the community, especially for victims. This RIS proposes the High Court make decisions to destroy the property of some prisoners with terrorism convictions upon the prisoner's death if the release of that property meets a certain threshold of potential harm. We considered whether the chief executive should make this decision, but preferred a court process.

We also propose an unrelated technical amendment to remove the requirement for prisoner attendance at the disposal or destruction of their property. It is not practical in most cases for this to happen.

What consultation has been undertaken?

Throughout the RIS we draw upon what we heard from public consultation on the discussion document that Cabinet approved for release in February 2025. Consultation took place for six weeks and we received 26 written submissions. All prison libraries were provided a copy of the discussion document, summary of discussion document, and submission form. A notice was placed on all prison kiosks informing prisoners about this public consultation. We met with 14 different individuals and groups, including the Office of the Ombudsman, Human Rights Commission, Law Association, and four prisoners currently accommodated in the PERU. We have adapted proposals in response to feedback where appropriate.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes.

Costs (Core information)

In implementing these options, Corrections is likely to incur direct fiscal costs, both one-off and ongoing. The most significant ongoing costs are for increased staffing to support additional entitlements and for the independent panel, with direct operating costs for these three proposals estimated to be \$2 million in the first year and thereafter \$1.7 million annually. Further one-off costs will be incurred for training and procedural updates.

Fiscal costs to other parties are expected to be minimal, relative to the status quo. However, prisoners given the extreme threat designation will be subject to a higher level of custodial management. While several of the proposals are intended to mitigate the effects of long-term segregation as safeguards to support wellbeing and rehabilitation for these prisoners the higher level of management will continue to impose significant personal costs on extreme threat prisoners.

Benefits (Core information)

The proposals aim to provide Corrections with a clearer statutory framework for managing extreme threat prisoners and those held on some forms of segregation. Benefits for frontline staff include enhanced safety, improved consistency in operational practice, and reduced ambiguity in legal authority. For affected prisoners, key benefits include a fairer, more transparent regime, tailored progression planning, and greater access to entitlements that could improve wellbeing and reduce long-term harm. The greater independence of the designation process introduces a valuable procedural safeguard and more natural justice.

Wider benefits are also anticipated across the system. Improved oversight and legislative clarity may support better legal advocacy and enhance interagency confidence in how high-risk prisoners are managed, as well as offer some reassurance to the public around Corrections' focus on safety and its compliance with human rights. The proposals help reduce hidden harms (such as to prisoners on directed segregation for long periods) and promote more humane, rights-aligned treatment.

While the benefits have not been quantified monetarily, the gains across safety, fairness and operational clarity are expected to be material.

Balance of benefits and costs (Core information)

Our view is that taken together, the package entails modest fiscal expenditure for a high-need cohort, in exchange for stronger safeguards, safer prison environments, and more proportionate use of restrictive custodial practices.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

The proposed legislative amendments are planned to be progressed through a Corrections (Extreme Threat Prisoners) Amendment Bill with some provisions requiring delayed commencement. This will allow time for the effective implementation of the amendments including establishing a panel of independent experts for the designation process, and updating the necessary operational guidance and documentation, and training for staff. Consideration will also be given to how to best communicate these changes with prisoners,

their whānau, and the wider community including our monitoring agencies and other stakeholders.

Limitations and Constraints on Analysis

There are some limitations to consultation on some of our proposals, as well as our consultation with prisoners

Proposals relating to Attorney-General involvement in decision-making, the prohibition on prolonged solitary confinement, moving between denied and restricted association, defining a continuous segregation period, and removing prisoner attendance as a requirement for the destruction or disposal of property were not part of public consultation. However, we consider, for the most part, these proposals were developed based on what we heard during consultation.

Engagement undertaken with prisoners included receiving written submissions from four prisoners and meeting with four different prisoners who are currently accommodated in the PERU. All prisoners in the PERU received a copy of the discussion document and all prisoners had access to the proposals on the prison kiosks and through their libraries.

Our analysis of the likely impact of these proposals has been constrained by the absence of, or limited amount of, data and evidence as to the scope of some of the problems

Some proposals rely predominantly on anecdotal evidence rather than verified data - for example, the proposals to increase telephone calls and time out of cell for improved wellbeing. This is based on what prisoners and staff have told us is important.

While we contacted all our iwi partners with whom we have formal relationships, and Māori legal experts, we have received no feedback from them. Previous public consultations have attracted submissions from them, but interest in this topic appears more limited.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager signature:



Marian Horan

Manager Legislative Policy

17/06/2025

Quality Assurance Statement

Reviewing Agency:

The regulatory impact statement was assessed by a panel made up of

QA rating: Partially meets (convincing and clear and concise) and meets (complete and consulted).

representatives from the Department of Corrections, Ministry of Justice and New Zealand Police. A fourth panel member from the Ministry for Primary Industries participated in most stages but was unavailable for the final assessment.	
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Panel Comment:

The panel considers that the analysis in the RIS partially meets the quality assurance criteria for being **convincing** and **clear and concise** and meets the criteria for being **complete** and **consulted** for the following reasons:

- **Complete:** the RIS provides sufficient information to inform decisions.
- **Consultation:** effective consultation, including with affected parties, informed the analysis, with a few minor gaps that did not impact the quality of the analysis, given the RIS drew on other evidence and reports.
- **Clear and concise:** the RIS is relatively clear but is lengthy, with the panel acknowledging that it covers complex and technical problems connected to safety and transparency.

Convincing: Although the analysis was generally convincing, the panel queried whether all options were considered and costs adequately addressed, including where they applied to other (non-extreme threat) prisoners. The preferred option that flows automatically from an extreme threat designation convinces in terms of managing risk but was limited in its transparency.

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Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Overall strategic and legislative requirements that we use to manage the prison population

1. Corrections is responsible for approximately 10,000 prisoners at any one time across 18 prisons, three of which are for women, and one of which is managed as a contract prison by SERCO. As of 19 May 2025, there were 9,874 men and 793 women in prison. Prisoners are either sentenced, remand convicted, or remand accused.
2. For more than four decades Māori have been persistently overrepresented in prisons making up more than half of the prison population. Sixty percent of the total people leaving prison each year identify as Māori and 56% of people on remand identify as Māori, with figures for Māori women being slightly higher. For this reason, one of Corrections' organisational outcomes is playing its part to reduce overrepresentation, noting that our role lies largely with rehabilitation and reintegration. Our strategic approach recognises the importance of culturally responsive services for prisoners and is informed by six pou that were developed in 2019 with a Māori reference group.¹
3. The Act and the Regulations contain most of the statutory provisions that give Corrections its power to manage prisoners. Staff use operational procedures such as the Prison Operating Manual to understand more of the detail of how they do their jobs. Corrections must also operate in accordance with New Zealand Bill of Rights Act 1990 (NZBORA), the Human Rights Act 1993, and the Public Service Act 2020, which state public service principles, and that the role of the public service includes supporting the Crown in its relationships with Māori. International guidance such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and various obligations also inform prison operations and our legislative provisions.

Within the wider prison population there is a very small number of prisoners who pose an extreme threat who cannot be safely managed in mainstream units

4. It has become clear to Corrections in recent years that some individual prisoners bring new challenges. Since 2019, we began managing a cohort of the highest risk prisoners in a specialised unit within Auckland Prison (the Prisoners of Extreme Risk Unit, or the PERU). The unit is now managing 15 men who are some of the most challenging individuals in the corrections system and include those with a history of serious violence (including against staff and other prisoners), violent extremism, terrorism, and connections to sophisticated organised criminal networks. The individual responsible for the Christchurch terror attacks is one of the 15.
5. The key difference between those that are classed as an extreme risk or extreme threat and the rest of the prison population is not based on their offending, but on their continuing risk of harm to others and their ability to influence others.^{9(2)(a)}

¹ Partnership and leadership, humanising and healing, whānau, incorporating a Te Ao Māori worldview, whakapapa, and foundations for participation.

Other prisoners are in the PERU as mainstream high security and maximum units failed to prevent them from murdering other prisoners, sexually assaulting staff, or committing other extreme acts of violence.

6. Since the PERU was established in 2019, 26 prisoners have been accommodated in the unit at various times. As placement in the PERU has been used as an interim step to ascertain the risk posed by individuals, some movement out of the PERU have been due to individuals not warranting a higher level of custodial management once that risk has been assessed. Of these individuals, one spent six days in the PERU and most were there for a couple of months while assessment was ongoing. Other prisoners have been there over multiple years, with one held there since its inception. This and movement out of the PERU into the community at the end of a sentence account for most of the overall movement out of the PERU
7. All prisoners accommodated in the PERU have been men. Of the 15 men currently in the unit four are on remand. Of those who are sentenced, the sentences range from 20 years to life imprisonment without parole, and includes three on preventive detention. A significant number have connections to organised criminal groups or gangs, often in positions of leadership, and two have connections to violent extremism or terrorism. While Māori are overrepresented in the prison population, the percentage of prisoners who identify as Māori in the PERU is lower at approximately 27% on average.
8. We are not alone in managing increasing numbers of these types of prisoners, as our counterparts in Australia, Canada, and the United Kingdom, are having similar experiences and as such are managing prisoners at a higher level of custodial management with additional oversight in a similar way to what happens in the PERU. Because of our size, however, our cohort of prisoners is smaller. In addition, since Australia began deporting offenders with New Zealand citizenship we have begun managing increasingly more individuals connected to transnational organised crime across the prison network. Data collected between November 2022 and March 2025 indicates that prisoners connected to transnational organised crime have increased in recent years, from 307 in November 2022, to 458 in February 2025.
9. Our understanding of the impact of our proposals is also based on qualitative commentary from overseas jurisdictions as well as New Zealand based prison staff views on what is effective to lower the risks from prisoners.

Placement decisions are made by the Director PERD via an approvals process and are based on the level of risk posed by the individual

10. The final decision regarding who is placed in the PERU currently sits with the Director PERD, who is closely associated with the PERU as its 'prison manager' and following a panel recommendation (see below for more on the panel). The decision by the Director PERD is peer reviewed by a Deputy Commissioner Custodial Services. Prisoners are then informed of the outcome and tier status by letter. If the final decision is appealed or not endorsed following peer review it is reviewed by the Commissioner of Prisons and the DCE Pae Ora.
11. The panel consists mostly of Corrections staff from the PERU, PERD, High Risk, Security and Intelligence, and Pae Ora teams, and with the inclusion of one or two external experts as needed, notably a Police representative, or those with particular specialist skills that may assist in the decision-making. The panel consider a variety of information relating to risk, offending, influence capability, intelligence, among other things.

Once in the PERU, prisoners are managed using standard custodial practice tools to better ensure safety and rehabilitative outcomes

12. These tools are critical for enabling staff to manage safety risks and to enable rehabilitation and reintegration. For example, all prisoners in the PERU are currently on some form of segregation and there is also a more bespoke approach to the day-to-day management of the unit and prisoners. We describe the application of these tools in more detail below. These tools include segregation directions, security classifications and remand risk assessments, and minimum entitlements.

Security classifications are required for all sentenced prisoners

13. The prison system operates a tiered security classification framework that is designed to ensure sentenced prisoners are managed proportionally to the risk they pose. Sentenced prisoners must receive an initial security classification within 14 days of their arrival into prison,² and staff who conduct this formal assessment must take into account factors such as the seriousness of offending, risk of escape, violent behaviour, mental health, and pending charges.³ Prisoners should be assigned the lowest classification at which they can be safely and securely managed, and should be placed in a facility that aligns with their classification.^{4,5} There are five types of security classification for sentenced prisoners: minimum, low, low-medium, high, and maximum.
14. Staff can override a classification if the initial classification assessment is considered inappropriate, due to additional information that was not accounted for in the assessment process. However, staff must provide a specific reason that is unrelated to a factor that has already been considered in the assessment. Prisoners can also request reconsideration of their classification by the chief executive.⁶ If dissatisfied, they may complain to the Ombudsman or the Inspectorate.
15. There are currently no legislative or regulatory requirements to assign remand prisoners with a security classification. However, most remand prisoners are assessed by a Remand Management Tool (RMT) that determines the level of custodial supervision as either high or low and can influence aspects of prison life, such as movements, unit placement, and access to resources.⁷ Where the RMT assessment has not taken place, remand prisoners are managed as high security by default, due to the unknown risk they pose when they arrive in prison.

² Regulation 47 of the Regulations.

³ Regulation 45 of the Regulations.

⁴ Prison Operations Manual, M.02.01.02 Categories of security classification.

⁵ Regulation 44 of the Regulations. The only exception permitted by this Regulation is where there are practical impediments to achieving this because of “the availability of accommodation and other resources”.

⁶ Section 48(2) of the Corrections Act 2004. Despite this subsection, a prisoner may not make an application to the chief executive if their security classification was reconsidered as a consequence of an earlier application within the previous six months.

⁷ Staffing ratios for remand sentenced differ and are determined by contracts agreed with staff unions. The default management of remand prisoners as high security dates to a time when the remand population was very small, and only people accused of the most serious offences were placed on remand.

The prisoners in the PERU are currently managed as if they are high or maximum security to take account of their level and type of risk

16. The PERU can accommodate prisoners who are assessed as high or maximum security. At the time of their inspection of the PERU, the Inspectorate found that classifications were overridden for some prisoners ten times to reach the necessary standard of high or maximum security.⁸ This is because the formal assessment process is generic for all prisoners and doesn't at this time recognise the types of risks posed by some of the PERU prisoners.

All prisoners in the PERU are on some form of segregation as a way to manage their interactions with other people who may be at risk of harm

17. Segregation is the primary tool used within New Zealand prisons to manage prisoners who pose a significant and ongoing risk to the safety and security of a prison. Segregation involves restricting or denying a prisoner's opportunity to associate with other prisoners, either temporarily or for extended periods, depending on the risks involved. A prisoner on restricted association can have limited contact with other prisoners, which usually means mixing with prisoners under the same segregation direction. If a prisoner has been denied association, this means that they do not have any contact with other prisoners.
18. The Act provides for prisoners to be segregated for the following reasons:
 - a. *section 58: segregation for the purpose of security, good order, or safety*
 - b. *section 59: segregation for the purpose of protective custody*
 - c. *section 60: segregation for the purposes of medical oversight.* This type of segregation is used when the health centre manager recommends the prisoner be segregated to assess or ensure the prisoner's physical or mental health.
19. Prisoners can also be segregated under the at-risk regime (sections 61A-H of the Act). If a person is assessed as at-risk of self-harm, a segregation direction can be made if the health centre manager recommends that segregation is desirable to address the prisoner's risk of self-harm.⁹

Segregation directions have strict requirements around the length of time a prisoner is segregated for and the processes for review

20. Segregation directions under section 58 of the Act must be justified and reviewed regularly. Initially, a general manager can authorise a segregation direction for up to 14 days. After this period, the chief executive can extend the direction for up to a month at a time. If the direction is not extended, it automatically expires and the prisoner will transition back into the mainstream prison environment. After three months, a Visiting Justice must authorise any further extension of the segregation direction, and this must be reviewed at least every three months by the Visiting Justice.¹⁰

⁸ One prisoner had been subject to override on four occasions, from High to Maximum. One prisoner had been subject to override on five occasions, two from High to Maximum, one from Low-Medium to Maximum, and two from Low-Medium to High. One prisoner had been subject to override on one occasion, from Low-Medium to Maximum.

⁹ Section 61CA(1)(a) of the Corrections Act 2004.

¹⁰ Section 58(3) of the Corrections Act 2004. Segregation directions under section 59 of the Act must also be

21. Across the prison network, data from the 2024-2025 financial year shows that approximately 370 prisoners have been segregated under section 58 for a period of between 14 and 99 days.¹¹ During its 2023 investigation, the Inspectorate found that the prisoners in the PERU had been segregated for 632 days on average. Segregation does not necessarily mean that a prisoner will have no association with other prisoners, but this has been the typical situation for many prisoners in the PERU given the threat posed by these prisoners. Prisoners in the PERU typically interact with visitors and specialist staff such as psychologists in non-contact rooms, separated by a clear barrier.
22. Whilst subject to segregation, Corrections maintains a segregation management plan for each prisoner. A key focus of this plan is on addressing the risk factors that led to the initial segregation direction, as well as identifying what needs to occur for the prisoner to return to the general population. This plan is designed to provide structure for a prisoner's segregation period, encourage the prisoner to address their risks in a way that supports reintegration, and ensure that segregation is used as a management tool, not as a form of indefinite separation.

Being on segregation can have significant impacts on a prisoner's day to day experience and overall wellbeing, but they still have access to minimum entitlements and other services

23. While segregation is highly restrictive, prisoners still retain access to essential services and minimum entitlements. Section 69 of the Act stipulates the minimum entitlements for all prisoners. These stem from the Mandela Rules and include access to medical treatment, sufficient bedding for warmth, health and comfort, access to telephone calls for up to five minutes per week, and one hour of exercise outside of a cell each day in the open air if the weather permits. These entitlements help to protect the inherent dignity of prisoners and protect their fundamental rights while in prison.¹²

Meaningful human contact is a critical entitlement set in the Mandela Rules, and intended to prevent solitary confinement

24. Where a prisoner has been separated from the rest of the prison, opportunities for meaningful human contact, either through telephone calls or exercise, are important to mitigate the potential negative impacts of segregation. The Mandela Rules provide a standard for the treatment of prisoners and define solitary confinement as 'the confinement of prisoners for 22 hours or more a day without meaningful human contact'.¹³ The Mandela Rules do not provide a specific definition of meaningful human contact or how this should be provided and New Zealand does not have a definition either, but has emerging jurisprudence as noted below.
25. Internationally, a number of definitions exist. For example, a panel from the University of Essex and Penal Reform International defines 'meaningful human contact' as 'interaction [that] requires human contact to be face to face and direct (without physical barriers) and more than fleeting or incidental, enabling empathetic

reviewed regularly, and expire after 14 days unless the chief executive directions that it continue in force. These directions must then be reviewed by the chief executive at least every three months. Segregation directions under section 60 of the Act continue in force unless the prison general manager or chief executive revokes it, and prisoners must be visited at least once a day by a health professional.

¹¹ Figures are not conducive of a complete 2024-2025 financial year, shows data up to 28/02/2025 only.

¹² Section 69 of the Corrections Act 2004.

¹³ Rule 44 of the Mandela Rules.

interpersonal communication.’¹⁴ International jurisdictions differ in their application of meaningful human contact. In Ireland, regulations specify that prisoners in solitary confinement be provided an opportunity for ‘meaningful human contact’ during their two hours out of cell. This is also defined in Prison Rules as ‘interaction between a prisoner and another person that allows both to communicate through conversation’.¹⁵

26. The definition of ‘meaningful human contact’ has been tested by the New Zealand courts. Findings from case law have determined that conversations between prisoners, where one person was in a cell and the other person on the landing outside the cell (and separated by open grills in a cell) did constitute meaningful human contact.¹⁶ Additionally, the courts determined that prisoners yelling between cells or short conversations with staff undertaking work duties did not constitute meaningful contact.¹⁷

Without change the PERU prisoners will continue to be managed using the tools described above supported by ongoing operational change

27. The PERD is working at an operational level to improve how segregation directions are put in place and how to better provide for meaningful human contact for PERU prisoners. These changes are part of long term improvements in part to address criticism from our monitoring entities who are particularly concerned to ensure that the PERU prisoners have contact with us and progression plans in place.

How we have structured this regulatory impact statement

This RIS is divided into four broad topic areas

28. We have identified four broad topic areas and used these to organise the analysis in this RIS. The following three sections are supported by the context section that is below:
- identifying and designating extreme threat prisoners (pages 16 to 26)
 - security classification and segregation frameworks for extreme threat prisoners (pages 27 to 38)
 - mitigating the risks of segregation (pages 39 to 47).
29. The fourth topic is an additional related matter that is not covered by the main context section and has its own context:
- destruction of prisoner property owned by terrorist prisoners and a related technical change (pages 48 to 53).

What criteria will be used to compare options to the status quo?

30. The objective for this RIS is in the executive summary, and we have used the following overall criteria to assess how the options achieve the objective. This RIS provides analysis of the topic areas against the status quo using these criteria and does not rate the merits of the status quo in our assessment tables. For this reason, many of the options score positively because the status quo is an inherently restrictive regime. We

¹⁴ ‘Essex paper 3: Initial guidance on the interpretation and implementation of the Nelson Mandela Rules’ Prison Reform International and the Human Rights Centre at the University of Essex, 2017. At pp 88-89.

¹⁵ Rule 27(1) of the Prison Rules 2007 to 2017.

¹⁶ *Taylor v Attorney-General* (No 3) [2022] NZHC 3170.

¹⁷ *Gorgus v Chief Executive of the Department of Corrections* [2023] NZHC 2313, at [162].

acknowledge this, but consider it important to assess these options against the status quo.

Criterion	How we are considering the criteria
Promotes better prisoner outcomes	The extent to which the option will support better outcomes for prisoners, including supporting their wellbeing and access to rehabilitative programmes and services.
Practical to implement and responsive	The practicality of implementation and the extent to which the options will be able to adapt to changes over time.
Transparency and accountability	The extent to which the option supports transparency about the management of extreme threat prisoners and provides accountability for this management.
Upholds human rights obligations	For example, rights contained NZBORA, Human Rights Act 1993, and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), and other international obligations and standards.
Contributes to safety	The extent to which the option contributes to safety, which could include the safety of prisons, including for staff and prisoners, or the safety of New Zealand or the international community. This includes preventing further involvement in serious violent or criminal activity.
Contributes to better outcomes for Māori	The impacts on Māori overrepresentation are understood, and Corrections is better able to provide culturally responsive rehabilitation and reintegration as that approach has been proven more effective for prisoners who identify as Māori (and is supported by our strategic direction).

Overview of the preferred options in this RIS and which prisoners they would affect



Creating a legislative framework to give a statutory basis for our management of extreme threat prisoners

Summary of proposal	Extreme threat prisoner	Segregated prisoners (58, 59(1)(b))	All prisoners
Section A: Identifying and designating extreme threat prisoners			
Establish a statutory framework that requires the chief executive, informed by an independent panel, to make decisions to designate an extreme threat prisoner for up to two years; alongside review requirements, and enabling interim decisions by the chief executive for up to 14 days	✓		
Define an extreme threat prisoner as a prisoner who poses an extreme threat to prison or public safety using a non-exhaustive list of identifiers	✓		
Section B: Management tools for extreme threat and other prisoners that capture the full spectrum of risk			
Require extreme threat prisoners to be managed in accordance with their designation as an extreme threat prisoner, as opposed to their security classification	✓		
Allow prison managers to approve transitions between restricted and denied association within the same segregation direction for all prisoners who are segregated			✓
Agree that if a prisoner is removed from, and then returned to, segregation within a period of five days, this will be treated as a continuation of the same segregation direction, provided they are segregated under the same section of the Act			✓
Agree to broaden the criteria for the segregation of prisoners to recognise emerging and increasingly complex risks prisoners pose to public safety, due to their ability to influence others to commit crimes			✓
Section C: Mitigating the impacts of segregation on prisoner wellbeing			
Define meaningful human contact for all prisoners and take into account international and human rights obligations			✓
Prohibit prolonged solitary confinement			✓
Increase phone call entitlements to two hours per week for prisoners segregated for more than 90 days under section 58 and 59(1)(b) and extreme threat prisoners	✓	✓	
Offer an additional hour of out-of-cell time per day to be used for hobbies or other interests, subject to prison safety considerations for prisoners segregated for more than 90 days under section 58 and 59(1)(b) and extreme threat prisoners	✓	✓	
Introduce a requirement that cells that accommodate extreme threat prisoners must have an adjacent yard that extreme threat prisoners must be given reasonable access to, subject to prison safety considerations	✓		
Section D: The property of prisoners convicted of terrorism offences			
Give Corrections the power to apply to the High Court for an order to destroy the property of a terrorist prisoner upon their death, if the High Court consider that the prisoner's property meets the threshold of significant potential public harm			✓ <i>only terrorists</i>
Remove a technical requirement for a prisoner to be present for the destruction or disposal of their property			✓

Section A: Identifying and designating extreme threat prisoners

Problem A: current processes for deciding which prisoners pose an extreme threat lacks transparency for prisoners and the public and requires more scrutiny

Decision-making and assurance processes can be strengthened to ensure the designation of extreme threat prisoners is proportionate with the level of risk they pose to safety and security and the subsequent management restrictions these individuals may experience

31. The panel and its decision-making system have limited opportunities for prisoner input, which we heard during public consultation is a critical part of natural justice. Given the level of custodial management for prisoners identified as posing an extreme threat, and who are currently accommodated in the PERU, there is a critical need to ensure there is a robust and independent decision-making framework for how prisoners are designated as an extreme threat, the review process for that designation, and how a designation is varied or removed. This should take into account the risks the prisoner poses, their rights including their right to natural justice and review processes, inherent dignity, and rehabilitative needs.
32. In addition, and as noted, at present, Corrections determines these prisoners for placement in a specialised unit by assessing risk of harm to others and ability to influence others. This does not provide enough clarity for prisoners and the general public about the criteria for someone to be managed with a higher level of custodial management.
33. Our understanding of this problem is informed by the Chief Ombudsman's report on an examination of the PERU under the Crimes of Torture Act 1989, published on 17 December 2024. In that report he concluded that the PERU placement process lacked transparency and independent oversight or robust protective measures, such as the ability to effectively challenge decisions.
34. Some prisoners have sought to use legal processes to challenge the nature of the custodial management they are subject to, which may demonstrate perceptions there is a lack of transparency and limited ability for prisoners to challenge the decisions made outside a court process.

What objectives are sought in relation to the policy problem?

35. Our objective for Problem A is to:
 - a. ensure that there is a robust and transparent framework for deciding which prisoners pose an extreme threat, for prisoners, monitoring entities, and the public
 - b. deliver our obligations under the Act, including maintaining public safety
 - c. ensure that prisoners have access to natural justice.

Deciding upon an option to address the policy problem

36. There are two sets of options available to consider for more transparent decision-making processes for the identification of extreme threat prisoners.
37. The first set of options relate to the criteria for identification of extreme threat prisoners, and the second set of options relate to the decision-making and designation process for extreme threat prisoners.

Options for the identification of extreme threat prisoners

38. We have ruled out of scope having no definition of an extreme threat prisoner. It is important that structure is given to the concept of an extreme threat prisoner due to the application of the highest level of custodial management and having no definition would undermine the integrity of the decision-making framework.
39. We have also ruled out of scope an enhanced status quo that would have more detail in operational policy due to the importance of a statutory decision-making framework.

Section A, option set one: criteria for identification of extreme threat prisoners

Option One – Status quo (operational)

40. Extreme threat prisoners are identified operationally and assessed for risk of harm to others and the ability to influence others. The decision is made through the internal PERD panel process described in paragraph 60. There is no explicit statutory recognition of this cohort of prisoners.

Option Two – Statutory provisions to identify prisoners who pose an extreme threat to prison or public safety with reference to broad criteria in a non-exhaustive list

41. This option would see, as part of the statutory framework for the management of extreme threat prisoners, the introduction of a term that identifies these prisoners. This could be, for example, ‘extreme threat prisoner’, and would see the paramount consideration being the identification of a specific cohort of prisoners who are deemed to be an extreme threat to prison or public safety. Such prisoners must warrant a higher level of custodial management to manage their risks in ways that mainstream units at maximum security are not able to deliver.
42. An extreme threat prisoner would be defined in legislation, and alongside the paramount considerations of prison safety and public safety as noted above, there would be a non-exhaustive list of characteristics that would be used to identify a prisoner. This would include, committing or posing a high risk of committing:
 43. extreme incidents of violence within the prison system
 44. incitement or conspiracy to kill or seriously injure staff or others inside or outside prison including prisoners
 45. extreme threat to the good order or extreme disruption to the prison system
 46. displaying extreme influence over other prisoners or the public to cause extreme harm
 - a. terrorism or violent extremism.¹⁸
47. In this context, ‘extreme’ means a combination of the severity of consequence should an adverse event occur and the very high likelihood that an adverse event will occur. We envisage only a very small number of prisoners ever meeting this requirement.
48. Supporting operational policy would be required for this option to provide decision-makers the necessary information to guide designation decisions.
49. This approach is taken in most other jurisdictions that manage some prisoners at a higher level of custodial oversight.

¹⁸ Violent extremism is the use of violence to promote a belief, while terrorism is the act of carrying out that belief.

Option Three – Statutory provisions to identify prisoners who pose an extreme threat to prison or public safety using a complete set of criteria

50. This option would have as part of the statutory framework a full and complete set of characteristics to define an extreme threat prisoner. This would be an exhaustive list of the criteria that an individual would need to meet to be designated an extreme threat prisoner. The types of criteria are listed above in Option Two and could include extreme violence, terrorism, violent extremism, and extreme influence over other individuals. While these characteristics are consistent with those in Option Two, this option would have the characteristics being the key influence for a designation, whereas Option Two has the paramount consideration being prison or public safety but informed by these characteristics.
51. We are not aware of any comparable jurisdiction that includes a full and complete set of characteristics in legislation that define the individuals who are managed at the highest level of custody.¹⁹

¹⁹ Comparable jurisdictions include Canada, England and Wales, and states of Australia.

How do the options compare to the status quo? – Section A, option set one: criteria for identification of extreme threat prisoners

	Option One – Status quo	Option Two – Reference to criteria <i>(applies to ETP only)</i>	Option Three – Complete set of criteria <i>(applies to ETP only)</i>
Promotes better prisoner outcomes	0	0 Will be clarity regarding grounds for decisions but overall minimal impact.	0 Similar to Option Two.
Practical to implement and responsive	0	0 Will be as practical and responsive as the status quo. While there is a statutory basis, there is still ability for the system to respond effectively if types of threat change.	-- Having a complete list of characteristics in legislation that define an extreme threat prisoner is not responsive to a potential change in the nature of threat. Experience teaches us that over time we manage different kinds of threats from prisoners, and it is essential that we can adapt to fulfil our obligations to public and prison safety.
Transparency and accountability	0	+ Creates more transparency and accountability than the status quo as it would clearly identify, in legislation, extreme threat prisoners as a category of prisoners that may be managed differently to other prisoners.	++ Creates more transparency and accountability as the complete list of characteristics would be publicly available, accessible, and more challenging to change at pace.
Human rights obligations	0	+ Will better comply with human rights obligations as there would be a clearer definition of this cohort of prisoners.	++ Will better comply with human rights obligations as a complete list of characteristics in legislation will provide a clearer demonstration of impacted human rights. This set of criteria would also be the subject of explicit parliamentary consideration.
Contributes to safety	0	0 While an enduring framework is provided, the higher level of custodial management will be similar to the status quo.	0 Similar to Option Two.
Contributes to better outcomes for Māori	0	0 The creation of a category for extreme threat prisoners does not itself impact Māori outcomes, however, it will be important to safeguard against potential systemic racism in the identification of extreme threat prisoners.	0 Similar to Option Two.
Overall assessment	0	++ This option provides an appropriate balance between transparency, responsiveness, and compliance with human rights obligations. A critical feature is that the legislation gives enough transparency to prisoners and others about who would be captured by these powers, but also allows some flexibility should new kinds of prisoners enter the system with risks that have not yet been foreseen.	+ This option would be the most transparent, however, is unlikely to be responsive to emerging threats, which could lead to an ineffective regime and would mean Corrections needs to have other ways to manage imminent threat.

**Section A, option set one: criteria for identification of extreme threat prisoners –
What option is likely to best address the problem, meet the policy objectives, and
deliver the highest net benefits?**

52. Option Two, to have a statutory provision for public and prison safety as the paramount consideration for a designation, with a non-exhaustive list of the characteristics, is the preferred option to address this problem.
53. Option Two meets the policy objectives as it provides an appropriate balance between transparency, responsiveness, and human rights obligations.
54. This definition would state that a prisoner would cause an extreme threat to prison or public safety, such that management as an extreme threat prisoner is the only reasonable alternative. As stated in paragraph 40, this option would include the characteristics that may be considered, which would likely include displays of extreme violence, terrorism, violent extremism, and extreme influence over other individuals.
55. Transparency is important for prisoners because it directly impacts their wellbeing and overall experience within the corrections system. It is of particular importance in the context of extreme threat prisoners due to the higher level of custodial management that will be imposed if an individual is designated an extreme threat prisoner which includes the likelihood of segregation and a more intrusive day-to-day management through increased surveillance and stricter oversight of prisoner movements, as part of security measures tailored to individual risks.
56. Providing transparency for why someone is assigned this level of management will help to ensure fairness and predictability, reduce tension, improve trust and cooperation, and can provide a clear path to progression into mainstream units. It is also important to maintain the highest level of custodial management be targeted at those who pose the greatest threat to ensure Corrections impose the most restrictive custodial measures on the smallest number of people possible.
57. While Corrections recognises the need to provide as much transparency as possible in this process, this needs to be balanced with operational need and responsiveness. The list should be non-exhaustive to enable any new types of threats to be captured should they meet the definitions of threat to prison and public safety.

Feedback from public consultation

58. Most submissions from public consultation, including feedback from prisoners, supported Option Three and having a complete set of criteria included in legislation. This was most often based on providing as much transparency as possible in the process and ensuring there are appropriate checks and balances on this power.
59. One prisoner expressed the view that the only criteria for designation as an extreme threat prisoner should be terrorism and noted that until the creation of the PERU, in response to a terrorist attack, all other prisoners currently in the PERU would have been managed as standard maximum-security prisoners or at the appropriate security level.

Section A, option set two: the decision-making and designation process for extreme threat prisoners

60. All options have the same proposed length for a designation – up to two-years, meaning that the decision-maker has discretion to designate for up to two years but also for a shorter period, if considered appropriate. We considered other time periods, including one-year and five-years, but viewed up to two-years as an appropriate balance between likelihood of change in threat and providing stability for rehabilitation and progression. This designation would provide the explicit ability to manage a prisoner at a higher level of custodial management.
61. All options also include the same interim decision-making process of the chief executive deciding on placement of a prisoner under a higher level of custodial management for a period of up to 14 days.
62. All options also include a legislative requirement being added to the Act for Corrections to demonstrate a plan for a prisoner to progress off a designation. We consider this a critical component of the management of an extreme threat prisoner, which responds to criticism from our monitoring entities as well as prisoners.
63. Options Two, Three, Four, and Five would establish a new opportunity for prisoners to participate in the process, including through legal representation.
64. We have ruled out of scope other further non-regulatory options, including the alteration of administrative processes as we consider that a non-legislative option does not deliver the necessary standard of independence considering the significant impact of being designated an extreme threat prisoner.
65. Option Four, for decisions to be made by the Attorney-General, was not consulted on. It was developed during public consultation in response to submitters expressing a desire for a heightened level of scrutiny of decision-making. We have ruled out of scope having the Attorney-General making decisions only when the panel and chief executive disagree as it is important for a consistent approach to protections and additional scrutiny of these decisions. We have considered other Ministers having a role in this process, including the Minister of Justice and Prime Minister. However, due to the Attorney-General’s existing role in oversight of human rights in New Zealand, we consider this role to be the most appropriate Ministerial level decision-maker.

Option One – Status quo (operational)

66. Option One is the status quo. The current standard process for referring a prisoner to PERD, and therefore consideration to be managed in the PERU.
67. The current process for referring a prisoner to the approval process is:
 - a. a general manager²⁰, with endorsement from the respective Deputy Commissioner Prisons or Director Communities Partnerships and Pathways, makes a referral²¹
 - b. PERD Referral Panel assess the extent to which involvement from PERD is required

²⁰ The general manager of the prison site or Community Corrections team who have current responsibility for the management of the individual.

²¹ A referral can also be made by Police, for individuals in Police custody who are likely to be remanded in prison.

- c. PERD Referral Panel makes a recommendation to the Director PERD on the most appropriate Tier of Service
 - d. the Director PERD considers the recommendations and advice from the PERD Referral Panel before making a decision on PERD involvement. If the decision is to place the prisoner in the PERU this decision is peer reviewed by a separate Deputy Commissioner Prisons from the one who endorsed the referral
 - e. the Director PERD makes final decision, and the prisoner is informed of the outcome via letter
 - f. if the final decision is appealed or the preliminary decision is not endorsed following peer review, it is reviewed by the Commissioner Prisons and the DCE Pae Ora.
68. The placement of prisoners in the PERU is generally considered monthly by a Multi-Disciplinary Team, but can be on shorter timeframes if need requires it.

Option Two – Decision to use legislative powers to designate a prisoner as an ‘extreme threat’ made by external and independent panel

69. This option would establish a statutory panel that would have the collective responsibility for making decisions on the designation of extreme threat prisoners, and for reviewing prisoners’ ongoing designation. This is similar to the status quo, however, it would create a statutory process with external and independent members, and the final decision would be that of the panel. The panel would also need to make a decision on the time-period for the designation of up to two-years.
70. Legislation will need to address membership of the panel, including required experience, and the information that should be considered to support decision-making. These matters will need to be balanced to ensure effective panel decision-making. For example, health, psychology, intelligence and custodial information will be important to be considered by the panel but this may be in the provision of information to the panel as opposed to representation on the panel. The prisoner would also have the opportunity to make a written submission to the panel, with their views. Procedural matters will also need to be addressed.
71. Under this option, a prisoner could request the panel to review the original decision if the prisoner did not agree with the designation, including the time-period.

Option Three - Decision to use legislative powers to designate a prisoner as an ‘extreme threat’ made by chief executive based on recommendation from the external and independent panel

72. This option is similar to Option Two. However, instead of the panel making a decision, the panel would make a recommendation to the chief executive meaning Corrections would retain operational decision-making. The chief executive would also need to make a decision on the time-period for the designation of up to two-years and that would likewise be informed by recommendations from the panel.
73. As with Option Two, the panel would still be comprised of external and independent members. Under this option, legislation would also address membership of the panel, information that should be considered to support decision-making, and any required procedural matters. Prisoners would also have the opportunity to make a written submission to the panel, with their views.

74. Following a recommendation from the panel, the chief executive would receive the recommendation and supporting evidence. This is the same process for the length of time a designation has been made for. For all decisions, including if the chief executive disagrees with the panel, there will need to be a clearly articulated rationale and supporting evidence.
75. Under this option, a prisoner could request the chief executive review the original decision if the prisoner did not agree with the designation, including the time period.

Option Four – Decision to use legislative powers to designate a prisoner as an ‘extreme threat’ made by Attorney-General upon the recommendation of the external and independent panel, and endorsed by the chief executive

76. This option would have the Attorney-General be the final decision-maker for designating an extreme threat prisoner. The Attorney-General would also need to make a decision on the time-period for the designation of up to two-years.
77. The process would be similar to Option Three and include a panel recommendation to the chief executive. The chief executive would then endorse the recommendation for a decision on designation to be made by the Attorney-General.
78. As noted, this option was not part of public consultation, but developed in response to submissions expressing a desire for a heightened level of scrutiny of decision-making. As it arose early in public consultation, we were able to seek views from people and groups we engaged with.
79. Under this option, a prisoner could request the Attorney-General to review the original decision if the prisoner did not agree with the designation, including the time-period.

Option Five – Decision to use legislative powers to designate a prisoner as an ‘extreme threat’ made through a court process

80. Under this option, the chief executive would make an application to the High Court to have a particular prisoner designated as an extreme threat prisoner. A court could also review the prisoner’s ongoing designation at regular intervals in a process akin to that for public protection orders and extended supervision orders.^{22, 23}
81. This option would enable full engagement from legal counsel and disclosure of relevant information.

²² A public protection order is a court order that allows for the detention of very high-risk individuals at a secure facility within prison precincts. These civil detention orders may be put in place for individuals who have served a finite prison sentence, but still pose a very high-risk of imminent and serious sexual or violent offending and cannot be safely managed in the community.

An extended supervision order is a court order that it used to both monitor and manage the long-term risk posed by a high risk sex offender or a very high risk offender who is back in the community.

²³ In this process, a court reviews the order every five years, and a review panel reviews the order every year in the interim period.

How do the options compare to the status quo? – Section A, option set two: the decision-making and designation process for extreme threat prisoners

	Option One – Status quo	Option Two – external, independent panel	Option Three – Chief executive decision with recommendation from external, independent panel	Option Four – Attorney-General with chief executive endorsement and external, independent panel recommendation	Option Five – High Court
Promotes better prisoner outcomes	0	+ Provides clarity to prisoners about process, including specific requirements for reviews, and prisoner involvement, which will enhance wellbeing.	+ Similar to Option Two.	+ Similar to Option Two.	+ Similar to Option Two.
Practical to implement and responsive	0	+ Practical to implement due to similarity with current process, despite independence of panel. May be an administrative burden to establish and maintain panel.	++ Similar to Option Two with an additional step for the chief executive. Chief executive involvement means more responsive to operational needs.	+ Similar to Option Three with an additional step of approval by the Attorney-General meaning less responsive.	-- Additional pressure on the court system and would not be as timely due to the lead-in time for scheduling hearings and filing court material.
Transparency and accountability	0	+ Improved transparency and accountability as the process, timeframes, and criteria for decision-making, and review periods would be in legislation. Clear opportunity for prisoners to submit in the process.	+ Similar to Option Two with an additional level of accountability.	++ Similar to Option Three.	++ Transparent for prisoners as hearings would take place in a court setting and prisoners would have legal counsel engaging on their behalf if they wished with closed sessions if needed for national security information.
Human rights obligations	0	++ Provides greater clarity on the process as well as involvement of prisoners thereby improving natural justice.	+ Similar to Option Two although provide less independence in the decision-making.	++ Similar to Option Two.	++ Same as Option Two with a higher level of scrutiny, including a more robust consideration of human rights obligations, by the Court.
Contributes to safety	0	0 The higher level of custodial management imposed by the designation will be similar to the status quo.	0 Similar to Option Two.	0 Similar to Option Two.	0 Similar to Option Two.
Contributes to better outcomes for Māori	0	+ Potential to reduce any biases that could exist within Corrections.	+ Similar to Option Two.	+ Similar to Option Two.	+ Similar to Option Two.
Overall assessment	0	+ This option increases the level of independence and transparency as well as access to natural justice, however, not to the extent of other options.	++ This option increases the level of impartiality and transparency in decision-making for the designation of extreme threat prisoners, while best balancing Corrections’ operational responsibilities. As the chief executive makes the decision, following a recommendation from the panel, they understand and can acknowledge the operational realities of managing the prison network including keeping all prisoners and staff safe.	++ This option provides impartiality and transparency, but could result in delays impacting Corrections ability to respond in a timely way to urgent risks and could put prisoners and staff at risk.	+ This option would provide the greatest level of independence, but would mean that operational decision-making was no longer made by Corrections and would likely result in Corrections at times being unable to exercise to the fullest extent what it considers to be safe custodial management to protect public and prison safety. This option does not provide the timeliness that may be required for this type of decision, although having a mechanism for interim designations would in part mitigate that.

Section A, option set two: the decision-making and designation process – What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

82. Corrections has the ability to manage these prisoners with a higher level of custodial management. However, it is timely to provide transparency to how Corrections manages extreme threat prisoners and create a statutory basis that explicitly provides for this cohort of prisoners which will help to provide transparency and respond to criticism from monitoring entities. Continuing operational decision-making is not conducive to enhanced transparency.
83. Option Three, to have the chief executive, supported by a recommendation from the external and independent panel, make the final decision on a designation is the preferred option as it meets the policy objectives to create a robust framework for the designation of extreme threat prisoners as well as providing transparency to the designation process, for prisoners and the public. This option best supports effective and robust decision-making for the safe and humane management of extreme threat prisoners. This process helps ensure prisoners who pose an extreme threat can be managed in a way that protects other prisoners, staff, and the wider community. Having a robust statutory framework would also mitigate the risk of disproportionately severe treatment.
84. As noted in paragraph 54, a designation could be made for up to two years. This legislative change would also include a requirement for Corrections to create a progression pathway for designated extreme threat prisoners. This responds to general criticism and specific feedback from public consultation where some prisoners have said they feel a limited sense of hope as they are unable to see how they could progress out of the PERU and into a mainstream environment.
85. Having the panel make a recommendation to the chief executive, provides independence to the process, upholds natural justice principles by providing an opportunity for prisoners and their legal representatives to be part of the process, and creates a heightened level of scrutiny of decision-making which is appropriate and necessary when individuals will be managed at the highest level of custodial oversight.
86. Clarity and transparency are important for prisoners because it directly impacts their wellbeing and overall experience within the corrections system. Providing transparency for how someone is assigned this level of management will help to ensure fairness and predictability, reduce tension, improve trust and cooperation, and can provide a clear path to progression into mainstream units. It is also important to maintain the highest level of custodial management be targeted at only those prisoners that pose the greatest threat to ensure Corrections impose the most restrictive custodial measures on the smallest number of people possible due to the inherent coercive nature of any corrections system.
87. The designation does not form a placement decision, this remains an operational decision for Corrections. As a designation is not a placement decision, other prisoners could still be held in the same unit as one accommodating extreme threat prisoners, however, they would need to be managed in accordance with their security classification.

Feedback from public consultation

88. Submitters provided mixed views on which option was preferred. However, there was overall support for a robust and transparent process that was clear and independent. It

was noted this would strengthen the validity and robustness of the decision-making process which is important.

89. Submitters who supported a panel process, including the Law Society, only supported the panel if it was comprised of external and independent membership.
90. Proposed membership of the panel, by the Law Society, included a retired judge as the Chairperson, an external psychologist, a psychiatrist or other mental health professional, a human rights expert, cultural expert, experts in terrorism, gangs, and organised crime, and other lawyers or community members.
91. Submitters who did not support any option generally did so on the basis of not agreeing with the need to manage a small group of individuals at a higher level of custodial management.
92. Feedback from prisoners generally supported the High Court as the decision-maker, as proposed under Option Five. However, some prisoners did note comfort with the panel option provided it was comprised of external and independent members. Prisoners tended to value more communication about how they are managed and an ability to put their view forward.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

93. Yes.

Section B: Management tools for extreme threat and other prisoners that capture the full spectrum of risk

Problem B: Corrections cannot effectively manage some prisoners who present subtle, sustained risks or risks that change over time, through existing management tools such as the security classification and segregation frameworks

94. Some prisoners, such as extreme threat prisoners, pose a wide range of dynamic, complex and enduring risks that are not sufficiently addressed by Corrections' current security classification and segregation frameworks. These tools do not fully capture certain kinds of subtle, sustained risk that have emerged, such as the capability to influence or manipulate others into offending that can cause a high level of harm, particularly in the absence of immediate violent behaviours. The current framework is also not responsive enough when prisoners present with dynamic and changing risk.
95. This problem is most visible in the small cohort of extreme threat prisoners, but also exists across the network.

The current security classification framework does not fully account for non-physical and enduring risk

96. The current classification framework is built around physical risk. It is a blunt tool when used to assess prisoners (such as extreme threat prisoners) who, while some pose extreme physical risks, many pose significant non-physical risks. These risks may not involve immediate physical violence but can be just as dangerous over time. This includes ideological influence, manipulation, radicalisation, or involvement in organised crime.
97. Corrections has found that these prisoners may appear compliant or demonstrate high self-control, resulting in lower security classifications that do not sufficiently reflect their actual risk.
98. This challenge is compounded by the principle that sentences must not be administered more restrictively than is necessary for safety, security, and the maintenance of the law.²⁴ The Regulations require a prisoner to be placed and managed in a unit that is consistent with their security classification. However, the PERU presents challenges when housing prisoners with mixed classifications, as managing differing security needs within the same unit can be logistically complex.

Extreme threat prisoners often present a consistent and long-term risk profile

99. The existing criteria focus on internal threats, such as violence, contraband, or disruption. However, there are other risks that emerge from influencing others or coordinating criminal activity from within prison that takes place outside prison. For example, a gang leader may incite violence or direct criminal operations through influence that is not captured through monitored communications.²⁵ The number of prisoners who are connected to transnational organised crime has increased from 307

²⁴ Section 6(1)(g) of the Corrections Act 2004.

²⁵ The following are key categories of 'influence': a) prisoners may influence others within the prison to engage in serious violence or to threaten the prison; b) prisoners have connections to organised criminal networks and those networks have the capability to threaten the safety and security of the prison and/or wider community; c) prisoners may influence others in the prison to engage in serious violence outside the prison when they are released; and d) prisoners may influence others to join organised crime networks.

in November 2022 (approximately 3.8% of the prison population) to 458 in February 2025 (approximately 4.4% of the prison population).

100. All extreme threat prisoners are subject to segregation directions to manage their level of risk, but by its nature segregation suppresses the kinds of behaviour (such as assaults or organising criminal activities) that would demonstrate ongoing threat. This makes it difficult to provide evidence for continued segregation even when the underlying risk has not changed.
101. At present, a segregation direction made under section 58 expires after 14 days and can be renewed for up to a month at a time by the chief executive (up to a maximum of three months). The Visiting Justice can then renew the direction every three months.
102. Regular reviews provide important protection, but for extreme threat prisoners with enduring, static risks, the requirement to justify ongoing segregation under section 58 every three months can be burdensome and artificial. It lacks certainty of management for staff and prisoners, where management of such complicated individuals takes time consuming planning to minimise risks and support wellbeing as much as is possible.

Operational limitations reduce flexibility and transparency

103. Under the existing legislative framework, segregation directions cannot shift between restricted and denied association without ending and restarting the process.²⁶ For example, if a prisoner initially placed on denied association is later assessed as safe for restricted association, there is no ability to transition without ending the segregation direction and starting a new one.²⁷ This means prisoners may spend more time on denied restriction than necessary, especially if their risk level changes shortly after the direction begins.²⁸ Legislation does not support such flexibility and perversely can encourage staff to use the more restrictive measure of denied association.
104. Additionally, the way segregation periods are recorded can obscure long-term use. A brief break in a prisoner's segregation resets the official count, meaning that even prisoners who are effectively segregated for hundreds of days may not appear in oversight reports as having spent more than 14 days on segregation if this consecutive threshold is not reached. This also applies for the issue outlined above whereby a segregation direction must be ended if the association status is changed. This affects both transparency and accurate reporting and can create a misleading picture of segregation use across the prison network that negatively impacts on our ability to support overall prisoner wellbeing by working to identify the overuse of segregation.

What objectives are sought in relation to the policy problem?

105. Our objective for Problem B is to ensure these management tools properly recognise and respond to the increasingly complex risks posed by the types of prisoners that Corrections is now managing, including extreme threat prisoners.

²⁶ The instigator of the segregation direction proposes the type of association, and the decision-maker (i.e. chief executive or Visiting Justice) either approves or denies the direction. If a change to the type of association is needed a new segregation direction must be started.

²⁷ Currently, any changes between association types are noted in IOMS case notes.

²⁸ However, this could also result in more frequent initial reviews for prisoners, which they may value.

Section B, option set one: ensuring the security classification framework fully accounts for non-physical and enduring risk

Some options have been ruled out of scope

106. A full-scale upgrade and overhaul of the security classification system has been ruled out of scope. Although Corrections acknowledges the need for long-term improvements to the security classification framework, a system-wide upgrade would require significant changes to the Integrated Offender Management System (IOMS) and associated operational processes, which would be highly resource-intensive and complex, and is not feasible at this time. For the purposes of this RIS, Corrections focus remains on targeting changes to the framework to better account for the nature of the threat posed by extreme threat prisoners.
107. Similarly, segregation options applying to all prisoners across the network were considered. However, where Corrections is seeking to address a specific problem that relates to extreme threat prisoners, the impact of these changes will be limited, and Corrections will consider wider application in a longer-term review of segregation in the prison network that is planned for a subsequent bill.²⁹
108. In addition to the above, Option Five (i.e. define in legislation what constitutes a continuous segregation period for all prisoners) would not apply to at-risk prisoners and have segregation directions in place to restrict or deny their association with other prisoners.
109. Originally there was an option for the decision-maker to extend a segregation order and approve longer review periods of segregation once a prisoner who is subject to restricted association has been segregated for six months. However, this option has been removed based on feedback from prisoners and public consultation. Both submitters and prisoners raised concerns about prolonged periods of segregation without regular oversight, and prisoners highlighted the mental health and isolation risks that present as a result of longer segregation periods.

Options to ensure the security classification framework fully accounts for non-physical and enduring risk

110. While options one, two, three, and five are mutually exclusive, options four and six could be combined with any of the other options.

Option One – Status quo

111. Under the status quo, the traditional security classification framework would continue to apply to extreme threat prisoners. The PERU would continue to have the ability to house prisoners who are classified as high or maximum security and would be able to continue to use existing tools to override lower security classifications as appropriate.

Option Two – Amend the security classification framework to ensure extreme threat prisoners are managed at the highest level of the current framework (legislative change)

112. Under this option, the current security classification framework would be amended to ensure that extreme threat prisoners are managed at the highest level within the existing framework. An extreme threat prisoner's classification would still be determined

²⁹ It is noted that some options we are progressing will potentially have wider impacts. For example, option five will apply to all prisoners across the network.

through the current system (i.e. the chief executive or delegate would be required to approve all classifications).

113. Similar to the current security classification requirements, a review system and periodic reassessments would be required to assess if an extreme threat prisoner's risk level has changed over time. Staff would still be required to consider certain factors relating to a prisoner's behaviour when conducting this review.³⁰

Option Three – Create a new security classification for extreme threat prisoners (operational change)

114. Under this option, a new security classification would be created specifically for extreme threat prisoners (which would be separate from the existing security levels), to ensure these prisoners are managed within a dedicated classification framework. This option would explicitly recognise the enduring and complex risk that extreme threat prisoners pose, which impact the safety and security of prisons and the wider community.

Option Four – Amend the security classification framework to take into account different types of risk (either both legislative and operational change, or operational change only)

115. Under this option, the security classification criteria and matters that the decision-maker must take into account would be broadened to include the non-physical and complex risks such as influence capability.
116. This option would result in influential prisoners being more likely to receive a higher security classification through the classification process, rather than the status quo where staff working with extreme threat prisoners override the classification, to assign the prisoner a high or maximum security classification that matches their risk, necessary level of oversight, and custodial environment in the PERU. These new risk factors would then be applied consistently across all prisoners' classifications, not just extreme threat prisoners' classifications, to ensure all prisoners are evaluated using the same expanded risk factors.

Option Five – Require extreme threat prisoners to be managed in accordance with their designation, rather than their security classification (legislative change)

117. Section A of this RIS provides options for a process to designate an extreme threat prisoner. Under Option Five, this designation would determine how that prisoner is managed on a daily basis through general consideration of risk, as opposed to the prisoner's security classification. As such, this option would amend the Regulations to state that prisoners must be managed in accordance with their security classification, unless they have received a designation as an extreme threat prisoner. Although extreme threat prisoners would still be required to be assigned a classification, this classification would be functionally overridden.
118. This option would enable a more dynamic and individualised approach to a prisoner's management based on their risk level and would reflect the complex and evolving nature of the extreme threats these prisoners pose.
119. This means that Option Five would not automatically result in a more restrictive form of management for all extreme threat prisoners (such as a 'super-maximum' approach).

³⁰ For example, the prisoner's level of co-operation with staff, whether they have been involved in any incidents or misconduct, the state of their mental health, and whether they have displayed motivation to achieve, or have achieved the objectives in their management plan.

Instead, this option could enable more restrictive management for some prisoners, or less restrictive management, depending on the prisoner's specific risk profile at that time. For example, more restrictive management could include higher staff-to-prisoner escort ratios for movements and the use of restraints (i.e. handcuffs). Option Five gives operational flexibility to adapt to changes in a prisoner's risk level without being bound by the law to manage a prisoner by their standard security classification.

How do the options compare to the status quo? Section B, option set one: ensuring the security classification framework fully accounts for non-physical and enduring risk

	Option One – Status quo	Option Two – Extreme threat prisoners to be managed at the highest level of the current framework (<i>high/maximum security</i>)	Option Three – Create a new security classification for extreme threat prisoners	Option Four – Security classification framework takes into account different types of risk (<i>applies to all prisoners</i>)	Option Five – Extreme threat prisoners managed in accordance with their designation, rather than their security classification (<i>applies to ETPs</i>)
Promotes better prisoner outcomes	0	0 Extreme threat prisoners will be managed similarly to now regardless of their security classification.	0 Similar to Option Two.	0 Similar to Option Two. However, more prisoners may qualify for higher security classifications.	0 Similar to Option Two.
Practical to implement and responsive to change	0	+ Practical to implement, as it uses the existing classification framework.	-- The development of a new classification will require significant resource, but is future-proofed to take into account emerging threats.	- Would require some resource to develop new assessment. Could increase pressure on high-security prison facilities if more prisoners are classified as high risk, and could have implications for wider prison population.	+ Similar to Option Two.
Transparency and accountability	0	+ Can support transparency and scrutiny related to decision-making for classification of extreme threat prisoners if clear safeguards are in place (i.e. rationale for decisions, regular reviews, and oversight mechanisms).	+ Similar to Option Two.	+ Similar to Option Two.	-- Could lead to reduced transparency as regularly scheduled security classification reviews would not apply in the same way to prisoners managed under a designation. Would need to support transparency and accountability in other ways, such as enhanced oversight mechanisms and progression.
Upholds human rights obligations	0	- May negatively impact NZBORA rights such as the right to humane treatment (if there are unjustifiably heightened restrictions) and freedom from discrimination.	- Similar to Option Two.	+ Applying the same expanded risk criteria across the prison population supports NZBORA rights, such as the rights to natural justice, freedom from discrimination, and humane treatment.	+ Reflects the principle of proportionality (NZBORA) and individualised management (Mandela Rules). If prisoners are managed with a higher level of custodial management then this would be proportionate and align with their individualised level of risk.
Contributes to safety	0	0 Limited impact as extreme threat prisoners will be managed similar to now.	+ Ensures that extreme threat prisoners can be managed at an appropriate level that recognises their risk, which will contribute to the safety of prisons for staff and prisoners.	+ Similar to Option Three. May reduce incentives for rehabilitation and behavioural change.	0 Similar to Option Two.
Contributes to better outcomes for Māori	0	0 Limited impact as the higher-level security classifications are already disproportionately applied to Māori prisoners.	0 Similar to Option Two. There is a risk of disproportionately affecting Māori prisoners if the classification criteria are not carefully designed.	0 Considering different types of risk could reduce the likelihood of over-classifying Māori prisoners.	0 Similar to previous options. However, if designations are applied disproportionately, this could worsen outcomes for Māori.
Overall assessment	0	+ Uses the existing classification framework and is practical to implement, but provides less transparency and accountability as classification decisions would follow the existing frameworks.	+ Ensures the classification framework accounts for complex risks. Provides a balance of security, transparency, adaptability, and targeted risk management, and future-proofs the system against evolving threats.	++ Contributes to safety and enables transparency and accountability in decision-making for the classification of prisoners. Broadening the criteria could lead to overclassification based on subjective assessments.	+ Provides for a tailored approach to the management of extreme threat prisoners. It ensures the management of these prisoners is not constrained by a general classification system. Removes the need to rely on overriding standard classifications.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

120. Corrections' preferred approach is a combination of Option Four, amend the security classification framework to take into account additional types of risk that relate largely to influence capabilities, and Option Five, require extreme threat prisoners to be managed in accordance with their designation rather than their security classification. While Option Five was not explicitly consulted on, due to the similarities with Options Two and Three, we consider the nature of our consultation with regard to higher security classifications also dealt with this option.
121. Option Four broadens how prisoner risk is assessed, including influence capability. This ensures a fuller picture of the risks posed by prisoners. This expanded risk criteria would apply to all prisoners, ensuring consistency and fairness. However, it may result in more prisoners receiving higher classifications, which could affect how many prisoners need to be managed in high-security facilities. Staff would retain the ability to override classifications, including to lower classifications, and we expect this option would result in staff overriding more prisoners to a lower classification level.
122. Option Five focuses on the unique risks of extreme threat prisoners, and allows for individualised and threat-informed management that does not rely on a classification system that is not always responsive to dynamic risk and threats. This option avoids creating a new legal classification tier and supports operational decisions based on designation. This also helps with planning and ensures that prisoners still have a risk classification for daily management needs. Option Five complements Option Four by, despite the outcome of security classification, ensuring a tailored approach to management is possible. This will not mean an automatically more restrictive form of management for these prisoners, rather the flexibility of this option provides a more dynamic approach that can respond to less restrictions needed some days and more restrictions on other days.
123. Under Option Five, frontline staff use their discretion to determine aspects of prisoner management (i.e. the restrictions prisoners are managed under), safeguards will be put in place to avoid inconsistencies, and reduced transparency and accountability.

During public consultation, submitters provided a range of views on the proposed changes to the security classification framework for extreme threat prisoners

124. Several submitters, including the Inspectorate and the Law Association, opposed a blanket approach that classifies all extreme threat prisoners as high or maximum security, and stated this would be too rigid.
125. Some submitters, including the Human Rights Commission, opposed a new classification tier, and stated the current maximum security classification is sufficient. These submitters warned that further restrictions would shift toward a more punitive framework. Other submitters supported a new classification, and argued that the current framework does not reflect the complexity of risks posed by these prisoners.
126. Many submitters supported change to allow classifications that reflect different risk types (such as ideological influence or national security threats). They saw this as a way to better capture non-physical risks and promote consistent and rights-based decision-making.

Prisoners provided a range of perspectives on the security classification system, particularly in relation to the PERU

127. Prisoners stated the current classification system does not reflect how they are managed within the PERU, which causes tension. They supported a more individualised approach, based on their designation.
128. Prisoners criticised overrides of security classifications, especially when this reversed progress. They described it as demoralising and harmful, and stated it sends them “backwards, not forwards”.
129. Some prisoners supported changing the system to reflect a broader range of risks (i.e. non-physical threats, manipulation, and influence). They felt these risks are not unique to those in the PERU, and should be assessed across all prisoners for consistency.
130. Prisoners stressed the need for transparency in classification decisions, particularly where sensitive information has been used. Lack of explanation was linked to distress and a sense of injustice, and when informed, prisoners felt better able to respond constructively.
131. Some prisoners supported keeping the current framework, and suggested better enforcement of existing policies rather than creating new ones.

Problem B, option set two: Ensuring the segregation framework reflects the enduring nature of some risks and allows for flexibility and transparency

132. Options One and Two below are mutually exclusive. Options Three, Four, Five, and Six could be combined with any of the other options.
133. All of the below options, except Options One and Three, will only apply to extreme threat prisoners.

Option One – Status quo of segregation for all prisoners

134. Under the status quo, segregation criteria remain the same and a prisoner's segregation direction under section 58 expires after 14 days and can be renewed for up to a month at a time by the chief executive, and then every three months by a Visiting Justice.

Option Two – Segregation decisions for extreme threat prisoners would be made by the same independent panel that designates extreme threat prisoners

135. Under this option, the independent panel would also make and review ongoing segregation decisions for extreme threat prisoners in replace of the Visiting Justice’s role (noting that designation and segregation decisions would be two separate decisions). The same current timeframes for managing segregation decisions would apply (i.e. 14 days, monthly, and then three-monthly timeframes). Visiting Justices would retain their current role in section 58 segregation directions for all other prisoners.

Option Three – Amend the legislation to allow for transitions between restricted and denied association within the same segregation direction for all prisoners

136. This option would allow decision-makers to transition a prisoner between restricted and denied association within the same segregation direction.³¹
137. To ensure robust decision-making, safeguards could include:
 - a. clear criteria and documented justification based on updated risk assessments

³¹ Operationally, the general manager of a prison holds the statutory power to make segregation decisions, but this can be delegated. In practice, segregation directions are often approved by an assistant general manager or a residential manager. It would be appropriate for the same delegated authority to make decisions about transitioning between association types.

- b. sign-off by a senior operational staff member, and
- c. routine internal audits or oversight, especially during prolonged periods of denied association.

Option Four – define in legislation what constitutes a continuous segregation period for all prisoners

138. This option provides a legislative definition of what constitutes a continuous period of segregation, rather than relying on policy or operational discretion. For example, the legislation could specify that if a prisoner is removed from, and then returned to, segregation within a set number of days (e.g. five), due to a new risk or behavioural incident, this would be treated as a continuation of the same segregation direction.
139. However, choosing the correct number of days that can elapse between the end of one direction and the start of another direction is important. Five days could strike an appropriate balance based on staff perspectives and operational evidence. A longer period (e.g. 10+ days) could risk misuse, such as temporarily removing a prisoner from segregation to avoid meeting formal review or oversight thresholds.
140. This would not apply to at-risk prisoners who have directions in place restricting or denying their association with other prisoners.

Option Five – broaden the segregation criteria to recognise emerging and increasingly complex risks posed by all prisoners

141. This option would broaden segregation criteria and explicitly allow for general managers of prisons to approve the restriction or denial of prisoner association when:
- a. a prisoner’s association may enable serious offending, including criminal activity outside prison, or
 - b. a prisoner’s influence or communication with others (i.e. other prisoners or external associates³²) presents a risk to public safety or national security.
142. In credible risk situations, temporary restrictions on association could be justified. Safeguards would be essential to minimise the impact of the overuse of segregation on prisoners. There must also be pathways for prisoners to challenge or disprove their assessment against the criteria.
143. This option is not expected to lead to a significant increase in the use of segregation across the general prison population. In practice, many prisoners who would fall under the broadened criteria are already being managed under other segregation criteria. As such, the new criteria would provide a clearer and more transparent basis for this segregation.

³² External associates may include the following: members of organised crime groups or gangs, terrorist networks or ideological affiliates, former co-offenders or criminal contacts, or online contacts.

How do the options compare to the status quo? –Section B, option set two: ensuring the segregation framework reflects the enduring nature of some risks and allows for flexibility and transparency

	Option One – Status quo	Option Two – Segregation decisions would be made by the panel that designates extreme threat prisoners (extreme threat prisoners only)	Option Three – Allow for transitions between restricted and denied association within the same segregation direction for all prisoners (all segregated prisoners)	Option Four – Define what constitutes a continuous segregation period for all prisoners (all segregated prisoners)	Option Five – Broaden the criteria to recognise emerging and increasingly complex risks posed by all prisoners (all segregated prisoners)
Promotes better prisoner outcomes	0	0 Limited impact as prisoners could still face long-term segregation with corresponding impact on their wellbeing.	+	+	0 Prisoners better protected from those who exert influence, however, these prisoners are generally segregated anyway.
Practical to implement and responsive to change	0	0 Similar to current decision-making framework but it may be difficult to get the panel together to regularly assess segregation directions.	+	+	+
Transparency and accountability	0	+	+	+	+
Upholds human rights obligations	0	+	+	+	0 Limited impact.
Contributes to safety	0	0 Limited impact as only the decision-maker is changing, and the same segregation framework would exist.	+	0 Limited impact.	0 Expands ability to segregate prisoners who are engaged in organised crime and have strong influence capability, however, these prisoners are generally segregated anyway.
Contributes to better outcomes for Māori	0	+	0 Limited impact.	+	0 Limited impact.
Overall assessment	0	+	+	+	+

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

144. Corrections' preferred approach is Options Three, Four, and Five. Option Three is to amend the legislation to allow for transitions between restricted and denied association within the same segregation direction. Option Four is to define in legislation what constitutes a continuous segregation period for all prisoners. Option Five is for segregation criteria that accounts for public safety risk to be applied to all prisoners.

Option Three is preferred as it promotes better prisoner outcomes by enabling more responsive and proportionate management of risk, and reduced restrictions when safe and appropriate

145. This option is practical to implement, improves flexibility, and reduces unnecessary administrative burden. This option enhances transparency and accountability by requiring documented justifications and oversight for transitions between association levels, and upholds human rights obligations by preventing unnecessarily long segregation periods. It also improves safety by allowing timely adjustments to a prisoner's management based on real-time risk assessments.

Option Four is preferred because it supports better prisoner outcomes by ensuring extended periods of segregation are more accurately tracked and appropriately scrutinised

146. This option would improve consistency across prison sites and reduce ambiguity about how segregation periods should be reported. It also improves the accuracy of segregation data by ensuring that time spent in restrictive conditions is properly counted and visible, which aligns with best practice.

Option Five is also preferred, which is to broaden the segregation criteria to recognise emerging and increasingly complex risks posed by all prisoners

147. Option Five is preferred as broadening segregation criteria would significantly strengthen public safety, by allowing for the effective management of prisoners who organise criminal activity outside prison and demonstrate the ability to influence others. This option fills a critical gap in current prison management tools.

148. Clear safeguards would be needed to reduce the risk of overuse of segregation and its negative impacts on prisoners. This could include strict and transparent criteria, high thresholds for segregation based on external influence risks, and data captured that enables monitoring by Corrections and its monitoring entities.

149. Due to the complex nature of the risks involved, modelling the precise scale and financial impacts of this option is not possible at this stage. However, Corrections will monitor data over time to track the impacts of the broadened criteria on segregation use to ensure proportionality and reduce unnecessary use of segregation. During public consultation, submitters provided a range of views regarding who should make decisions about the ongoing segregation of extreme threat prisoners

150. With regard to who makes decisions about segregation, we have not taken on board most of the public feedback as we consider it would only be practical for Visiting Justices to continue making these decisions once a prisoner is segregated for three months. Most submitters agreed that segregation decisions should be made by the same independent panel that designates extreme threat prisoners, due to the need for expertise, consistency, and transparency. Concerns were raised that Visiting Justices lack the qualifications for complex segregation decisions, which could pose safety risks.

151. To ensure accountability and appropriate oversight, several submitters recommended that any decision to extend segregation beyond 14 days should be made by an independent and multidisciplinary panel, with final sign-off by the chief executive.
152. Some submitters supported Visiting Justices retaining segregation decision-making for extreme threat prisoners as they provide crucial oversight, and believed removing them could weaken fairness and protections within the current system.
153. Submitters generally agreed that natural justice must guide segregation decisions, especially regarding long-term segregation. Submitters emphasised the importance of procedural safeguards, such as prisoners' right to be heard, regular reviews, and appeals, to ensure fairness and uphold human rights.

Prisoners expressed a range of views on the role of the Visiting Justice in segregation decision-making that were largely in favour of retaining the role for extreme threat prisoners

154. Some prisoners were concerned that Visiting Justices lack independence and simply follow Corrections' decisions, which undermines trust in the process. Prisoners suggested rotating Visiting Justices regularly (e.g. every two years) could improve impartiality.
155. Other prisoners supported Visiting Justices staying involved in decisions, due to their familiarity with prisoners and the prison environment. One prisoner suggested that decisions could be jointly considered by a Principal Corrections Officer and the prisoner, and the Visiting Justice could act as a mediator in cases of disagreement.
156. Prisoners agreed that decisions should be evidence-based and risk-driven, and not based on assumptions. While some change was supported, many prisoners felt that decisions should not rest solely with Corrections, and endorsed having a Visiting Justice involved.

During public consultation, submitters expressed mixed views on whether extreme threat prisoners should be subject to longer segregation periods, and how frequently these periods should be reviewed

157. Some submitters supported longer segregation periods (e.g. six to 12 months), and stated this would increase operational stability and intelligence gathering, and reduce administrative burden. However, most submitters opposed longer segregation periods without regular oversight, and warned against using a prisoner's designation to justify reduced review frequency. Submitters also raised concerns about the mental health risks of prolonged segregation.
158. Submitters believed there should be consistent review standards across the prison network, and emphasised the need for natural justice and human rights safeguards to apply equally to all prisoners. They suggested that medical professionals should play a role in determining appropriate segregation periods, and decisions should be centred around individualised assessments.
159. Most submitters agreed that segregation should be permitted to prevent offending outside prison, provided this is supported by robust safeguards and high evidentiary thresholds.

Prisoners expressed mixed views on proposed changes to segregation review timeframes and association conditions during segregation

160. Some prisoners supported extending segregation review periods to six months, provided they were given the opportunity to participate in the review process. These prisoners

noted that being heard could help reduce frustration and conflict, particularly in high-stress environments like the PERU. Other prisoners supported retaining the current three-month review cycle, and expressed concern that longer review periods may isolate prisoners or risk breaching international human rights standards.

161. Prisoners opposed segregation that included denied association, and emphasised that this has significant negative impacts on their mental health and wellbeing. One prisoner stated that “full denial of association is not necessary for anyone”, while other prisoners noted that restricted association should be prioritised as it is often safe and feasible for at least two prisoners to associate with each other.

Is the Minister’s preferred option in the Cabinet paper the same as the agency’s preferred option in the RIS?

162. Yes.

Section C: Mitigating the impacts of segregation on prisoner wellbeing

Problem C: Prisoners who are subject to long periods of segregation are at risk of experiencing solitary confinement

163. Every day approximately 600 prisoners are segregated under section 58 and section 59(1)(b) relating to prison and prisoner safety across the network and the 15 men currently in the PERU are among these numbers. As noted in the context, some prisoners are segregated for long periods, including those in PERU, but also elsewhere in the network in rare cases. As of May 2025, 17 prisoners have been segregated for 90 days or over. Most of these are in the PERU where some prisoners have been segregated for years.
164. The risk of solitary confinement occurring increases as prisoners spend longer periods in segregation and particularly for those who are denied the opportunity to associate with others (denied association). Prolonged solitary confinement is prohibited in the Mandela Rules, which are referenced in the Act. As noted in para 32, the Mandela Rules states that solitary confinement is the confinement of prisoners for more than 22 hours or more a day without meaningful human contact.

Because research demonstrates long segregation periods can result in significant harm to a prisoner's wellbeing we need to take steps to minimise the risk

165. Research shows that being separated from the mainstream prison population and having limited human interaction can negatively impact a prisoner's physical and mental wellbeing and can have stark effects on a prisoner's ability to engage in rehabilitation. This can lead to the prisoner having difficulty reintegrating back into the mainstream prison population or wider society. They also risk developing or exacerbating existing mental health issues including anxiety, panic attacks, depression, hopelessness and can lead to an increased risk of self-harm and suicide.³³

Actions that Corrections is already taking are helping to minimise risks, but are not enough

166. Corrections has been prioritising work in recent years to improve custodial practice for segregated prisoners with operational changes making some improvements. For example, some prisons report having reduced the length of time that prisoners are segregated. Work is also underway to monitor minimum entitlements being delivered to segregated prisoners including through trialling an app for custodial staff to record the delivery of minimum entitlements. Access to minimum entitlements is especially critical for segregated prisoners because, as noted, they are more likely to experience the negative effects of solitary confinement.
167. More needs to be done, however, because the negative impacts of solitary confinement are serious.

Corrections has been criticised by external monitoring entities about the lack of opportunities for prisoners to receive meaningful human contact

168. In 2024, Corrections was robustly criticised by the Ombudsman and the Inspectorate on the basis that managing prisoners on long periods of segregation and not giving the

³³ Naylor, B., Shalev, S. (2022). Solitary Confinement and the Meaning of 'Meaningful Human Contact'. In: Burbano Herrera, C., Haeck, Y. (eds) Human Rights Behind Bars. Ius Gentium: Comparative Perspectives on Law and Justice, vol 103. Springer, Cham. https://doi.org/10.1007/978-3-031-11484-7_13.

prisoner meaningful human contact in other ways may amount to solitary confinement. This criticism included prisoners in the PERU as monitoring entities are aware that prisoners are routinely segregated and some have experienced this for years. The Ombudsman and the Inspectorate have strongly recommended that Corrections consider strengthening practice to provide opportunities for regular meaningful human interaction, and have signalled that changes to legislation should more explicitly prohibit prolonged solitary confinement.

What objectives are sought in relation to the policy problem?

169. The objective is to reduce the risk of prisoners experiencing solitary confinement and to mitigate the risks to prisoner wellbeing that occur when prisoners are segregated.

Deciding upon an option to address the policy problem

170. Certain options were ruled out of scope either due to the undue burden that it would place on staffing or in the interests of best operational practice. The option to have two separate definitions of meaningful human contact to apply to extreme threat prisoners and to the wider population was ruled out. Feedback from public consultation indicated that it would be confusing for staff, infringe on human rights and negate the inherent dignity of prisoners.
171. Options Two and Three are mutually exclusive as they propose to define meaningful human contact in practice guidance or the Act, respectively. Either of these options can be pursued with Option Four.

Section C, option set one: Options to better mitigate against solitary confinement

Option One – Status Quo

172. Under the status quo, there would continue to be no statutory or operational definition of meaningful human contact and staff would manage this operationally without specific guidance.

Option Two – Amend practice guidance to include a definition of ‘meaningful human contact’ (non-legislative)

173. This option proposes to define ‘meaningful human contact’ in practice guidance and provide necessary operational guidance to support staff to implement changes. The definition would be informed by jurisprudence, international guidance, and international and human rights obligations, and include key elements such as that it should be for at least two hours most days, must be direct, enable interpersonal communication and not be limited to fleeting, incidental interactions (such as that limited to prison routine, criminal investigation or medical necessity).
174. The definition would not be exhaustive to be flexible to ensure that delivery is in a safe manner that does not affect the overall safety and security of the prison environment, including staff and other prisoners.
175. This flexibility will be a key consideration when deciding which methods are appropriate for delivering ‘meaningful human contact’. It is intended that meaningful human contact can take place anywhere, including cells, yards, day rooms, and visitor rooms. It would be appropriate for the definition to state that meaningful human contact could be received through in-person interactions, telephone or audio-visual calls, or other methods where a direct line of communication is possible with friends, family, peers, staff, and prison visitors. Interactions may also be through barriers such as non-contact barriers.

176. Certain exceptions would apply, including instances where prisoner wellbeing must be prioritised. For example, Corrections would not be required to deliver opportunities for ‘meaningful human contact’ for at-risk prisoners for whom contact with others may exacerbate their condition. In all cases, prisoners can choose not to accept the opportunity and should not be forced to associate with others.

Option Three – Amend the Act to include a definition of ‘meaningful human contact’ (legislative)

177. As above, this option proposes to define ‘meaningful human contact’ in the Act and would contain the same elements as above. Complementary operational policy would be required.

Option Four – Clearly specify in the Act that segregation should not constitute prolonged solitary confinement

178. This option proposes to amend the Act to specify that prolonged solitary confinement is prohibited. This option would define solitary confinement and prolonged solitary confinement to reflect the same definition as Rule 44 of the Mandela Rules. Rule 44 states that: “solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.”
179. This option was developed during public consultation and was not tested with all submitters. However, submitters stated that minimising instances where solitary confinement may occur is crucial. Option Four also responds to recommendations made by the Ombudsman in 2022 when he recommended that Corrections seek legislative change to prevent ambiguities when enforcing the Mandela Rules within the legislative framework and specifically recommended legislation relating to prohibiting solitary confinement.

How do the options compare to the status quo? – Section C, option set one: better mitigating against the risk of solitary confinement

	Option One – Status quo	Option Two – Amend practice guidance to include a definition of ‘meaningful human contact’ (all prisoners)	Option Three – Amend the Act to include a definition of ‘meaningful human contact’ (all prisoners)	Option Four - Clearly specify that segregation should not constitute prolonged solitary confinement (all prisoners)
Promotes better prisoner outcomes	0	<p style="text-align: center;">+</p> <p>Helps support prisoner wellbeing as staff will have practical guidance to inform how opportunities for meaningful human contact and social interactions can occur for prisoners.</p>	<p style="text-align: center;">+</p> <p>Similar to Option Two, but to a greater extent as a legislative requirement will mean a greater impetus on staff to meet this obligation.</p>	<p style="text-align: center;">0</p> <p>While in effect prolonged solitary confinement is already prohibited, a clear statutory definition will help prisoners better understand their rights, which is important for many who often communicate with Corrections about such rights.</p>
Practical to implement and responsive	0	<p style="text-align: center;">0</p> <p>Would require a shift in practice for a small cohort of prisoners i.e. segregated prisoners for which opportunities for meaningful human contact are limited. May affect resourcing and staffing ratios, but to a limited extent as it will only apply to a limited amount of prisoners.</p>	<p style="text-align: center;">0</p> <p>Similar to Option Two.</p>	<p style="text-align: center;">0</p> <p>This option is practical to implement given it is already an obligation.</p>
Transparency and accountability	0	<p style="text-align: center;">0</p> <p>Provides for a standard definition of what constitutes meaningful human contact for prisoners. This in turn impacts accountability by requiring Corrections to provide these opportunities in accordance with this standard.</p>	<p style="text-align: center;">0</p> <p>Similar to Option Two, but to a greater extent as legislative requirements would provide a greater basis for accountability.</p>	<p style="text-align: center;">+</p> <p>Having an explicit prohibition in the Act will increase accountability for Corrections to ensure instances that may amount the prolonged solitary confinement do not occur.</p>
Complies with human rights obligations	0	<p style="text-align: center;">+</p> <p>Protects prisoners from circumstances that amount to cruel, inhuman or degrading treatment or punishment by providing opportunities for the prisoner to interact meaningfully with others.</p>	<p style="text-align: center;">++</p> <p>Similar to Option Two but to a greater extent as it will be a legislative requirement.</p>	<p style="text-align: center;">+</p> <p>Similar to Options Two and Three. Aligns with current human rights obligations by specifically prohibiting instances of cruel and degrading treatment under prolonged solitary confinement.</p>
Contributes to safety	0	<p style="text-align: center;">0</p> <p>May reduce tensions as prisoners may not act out as a result of the effects of increased interaction with others.</p>	<p style="text-align: center;">0</p> <p>Similar to Option Two.</p>	<p style="text-align: center;">0</p> <p>Similar to Options Two and Three.</p>
Contributes to better outcomes for Māori	0	<p style="text-align: center;">+</p> <p>Better supports our goal of culturally responsive rehabilitation as practice guidance can highlight Māori needs for whakawhanaungatanga connections with whānau.</p>	<p style="text-align: center;">+</p> <p>Similar to Option Two.</p>	<p style="text-align: center;">0</p> <p>Prohibiting prolonged solitary confinement is unlikely to have any specific impact for Māori.</p>
Overall assessment	0	<p style="text-align: center;">+</p> <p>While this would be an improvement on the status quo, the benefits of this option are more limited compared to Option Three as it would only amend internal procedures and therefore hold less weight for judicial challenges and with monitoring entities.</p>	<p style="text-align: center;">+</p> <p>This option will provide certainty to all prisoners that opportunities for meaningful human contact will be provided. Placing this definition in the Act will increase transparency and accountability for Corrections as prisoners will have a greater ability to challenge decisions compared to Option Two. This option will support consistent practice across the prison network.</p>	<p style="text-align: center;">+</p> <p>This option clearly prohibits a practice that has significantly negative impacts on prisoner wellbeing and prioritises Corrections’ compliance with human rights obligations. Putting this in the Act is an additional safeguard to ensure consistent and more humane practice.</p>

Section C, option set one: What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

180. The preferred approach is a combination of Options Three and Four, which proposes to amend the Act to define meaningful human contact and to clearly prohibit prolonged solitary confinement.
181. These two options best address the policy problem by placing safeguards in the Act that mitigate the negative impacts of solitary confinement by creating a legislative environment that more strongly encourages staff to focus on enabling meaningful human contact and minimising the risk that prolonged solitary confinement occurs. These options are best pursued together as they provide a solid foundation to protect prisoners from the harm caused by solitary confinement.
182. While the Act will place an obligation on Corrections to deliver these opportunities, prisoners will retain the right to decline these opportunities if they wish. We also recognise that how staff work to deliver these stronger obligations will vary and the change will help to minimise the risks, but not entirely eliminate them. In practice, staffing pressures, access to prison resources such as shared yard spaces, prisoner behaviour and prison safety issues, will all impact how well staff can work with prisoners to deliver improvements.

Option Four was developed after consultation and will complement Option Three

183. As noted, Option Four was developed to address the Ombudsman’s recommendation to address perceived ambiguities in the Act. Given the harmful impacts of prolonged solitary confinement and that it is prohibited in the Mandela Rules, placing the provision to prohibit prolonged solitary confinement in the Act rather than practice guidance gives the greatest commitment that Corrections is working to manage prisoners in a more safe and humane way and address criticism from monitoring entities.

Submitters were generally in consensus about the meaningful human contact provisions

184. All submitters supported the proposal that Corrections should be taking steps to better deliver opportunities for meaningful human contact in prisons. Submitters agreed with Corrections’ assessment that opportunities to interact and engage meaningfully was key to prevent the negative physical, mental and physiological impacts that may occur from segregation.
185. Most submitters generally agreed that meaningful human contact should apply to all prisoners, while one submitter’s view was that there should be “alternatives [for]... prisoners who [may display] clearly defined behaviours”.
186. Most submitters supported having a definition of meaningful human contact in the Act, rather than practice guidance. One submitter said that this definition should be contained in operational policy as it would be easier to tailor this for prisoners on an as-needed basis. However, all other submitters commented on amending the Act as an appropriate safeguard for protecting this fundamental right.

Section C, option set two: Mitigating the negative impacts of longer-term segregation

Deciding upon an option to address the policy problem

The scope of some options were refined following input from public consultation and to ensure they could actually be delivered operationally within current resources

187. The proposed option set below will apply to a specific group of prisoners who may be subject to longer periods of segregation. This has been defined to mean prisoners designated as extreme threat prisoners or prisoners segregated under sections 58 or sections 59(1)(b) for 90 days or more.
188. This time period of 90 days captures the point at which the Visiting Justice is responsible for approving section 58 segregation decisions, which introduces additional external scrutiny to protect prisoner rights. At any one time historic data suggests that we can expect that to capture approximately 20 prisoners in the network segregated for longer periods i.e. 90 days or more.

We also ruled out of scope an increase in visits or other minimum entitlements other than telephone calls

189. Following public consultation, we have focused Option Two below on only increasing access to telephone calls, one of the current minimum entitlements. Increased access to certain resources that are minimum entitlements such as bed and bedding, access to nutritious food and access to legal advisors, would not materially impact wellbeing for those on segregation. We also consider that it is not practical to increase access to visits as that requires too much additional staffing and potentially expanded visit areas, and doesn't necessarily meet the needs of prisoners and their families, which prisoners we spoke to said as they are not able to visit prisons but rely on telephone calls.

What options are being considered?

190. There is significant operational change underway to address the experience of prisoners in the PERU such as infrastructure changes to make the environment more pleasant through such as murals on the walls and more access to supports such as for physical exercise. Staff are working hard to continue increasing time out of cell and in the past two months, as an example, the number of hours out of cell for men in the PERU increased 80 hours between April and May 2025, from 444 hours in April to 524 hours in May. There were an additional 48 hours offered to prisoners in the PERU who declined. This means there was an overall increase in 128 hours out of cell offered between April and May, from 492 hours in April to 620 hours in May. These operational changes will complement preferred options.
191. Options Two, Three and Four are not mutually exclusive and could be combined with any of the other options. Options Two and Three would apply to prisoners designated as an extreme threat prisoners and prisoners segregated under sections 58 and 59(1)(b) for 90 days or more. Option Four would only apply to prisoners designated as an extreme threat.

Option One – Status quo

192. Under this option, all prisoners are entitled to receive the current minimum entitlements. This means that Corrections will retain the ability to decide operationally whether additional support is provided for prisoners on longer periods of segregation. Prisoner access to yards is regulated by staff and subject to staff availability.

Option Two – Increase access to weekly telephone call entitlements from up to five minutes to two hours for extreme threat prisoners and prisoners segregated for 90 days or more

193. This option would increase the entitlement to outgoing telephone calls, from up to five minutes per week (as stated in section 77(3) of the Act) to two hours per week for prisoners designated as extreme threat prisoners, and those prisoners who have been segregated under sections 58 and section 59(1)(b) for 90 days or more.

Option Three – Provide for one additional hour out of cell as a minimum entitlement for extreme threat prisoners and prisoners segregated for 90 days or more

194. This option proposes to add a new minimum entitlement for an additional hour out of cell for extreme threat prisoners and prisoners segregated under sections 58 and 59(1)(b) for 90 days or more. This would be in addition to the existing minimum entitlement for one hour of exercise per day.

195. This additional hour out of cell could be taken in day rooms, larger yards, or other areas of the prison and to suit the needs of the prisoner. This would be subject to safe custodial management, in that it would use existing prison spaces in the relevant unit in most cases. Access to the yard adjacent to a prisoner's cell would not be included in the requirement for an extra hour out of cell.

196. This option was adapted after public consultation by amending the previous proposal to increase eligible prisoners' access to education and hobbies to instead focus on out of cell time that would be used in ways that match prisoner interests and available resourcing. It was, therefore, tested with submitters in its original form but adapted in response to what we heard from prisoners about what works best for them.

Option Four – Specify additional cell requirements for holding extreme threat prisoners to increase access to outside areas and have reasonable access to that space

197. This option proposes that extreme threat prisoners be placed in a cell that has a yard of a certain size adjacent to the cell and which has access to fresh air. Staff would be required to enable reasonable access to the yard. This option would not impact any of the existing entitlements, including what is proposed in Option Three.

How do the options compare to the status quo? – Section C, option set two: Mitigating the negative impacts of longer term segregation

	Option One – Status quo	Option Two – Increase access to weekly telephone call entitlements from five minutes to two hours (<i>extreme threat prisoners and prisoners segregated for 90 days or more</i>)	Option Three – Provide for one additional hour out of cell as a minimum entitlement (<i>extreme threat prisoners and prisoners segregated for 90 days or more</i>)	Option Four - Specify additional cell requirements to increase access to outside areas and have reasonable access to that space (<i>extreme threat prisoners</i>)
Promotes better prisoner outcomes	0	++ This option will promote better wellbeing outcomes as telephone calls are crucial and a valuable way for prisoners to maintain contact with family and friends. It also better protects against solitary confinement through providing meaningful human contact.	++ Similar to Option Two as time out of cells was highly valued by prisoners, but not as valued as contact with family and friends.	+ Similar to Options Two and Three, but prisoners we spoke to valued the changes in Options Two and Three more than the individual yards.
Practical to implement and responsive	0	- Increasing the telephone call entitlement will require added intelligence resource including staff to monitor calls. This may require substantial additional resourcing to monitor outgoing calls for a wider cohort of prisoners.	- Similar to Option Two, however, will affect staffing ratios in terms of prisoner movements and more spaces to be available to move prisoners into and out of their cells than current state, particularly as this would be tailored for individual prisoners and their interests. However, this is a more minor cost than for Option Two.	0 This option is likely to be practical to implement as the cells in the PERU currently all have yards attached. This will have limited effect on staffing ratios as PERU have adequate custodial staff dedicated to the operation of the PERU.
Transparency and accountability	0	0 Limited impact.	+ Increases accountability on Corrections as prisoners will be aware of their entitlement to this new requirement.	+ Yard access can be subject to change by staff with prisoners and monitoring entities commenting on the lack of consistency. A requirement to have reasonable access will increase transparency and accountability.
Complies with human rights obligations	0	+ Better supports Corrections to meet human rights obligations about meaningful human contact.	+ Better supports Corrections meeting its human rights obligations to provide prisoners with access to exercise and education, including obligations to treat prisoners with humanity and dignity.	+ Similar to Option Three in relation to exercise.
Contributes to safety	0	0 May contribute to improved safety in the prison environment by reducing prisoner tension and agitation.	0 Similar to Option Two.	0 Similar to Options Two and Three.
Contributes to better outcomes for Māori	0	0 Will likely have limited benefit for directly impacting outcomes to reduce overrepresentation of Māori. It will, however, support better access and connection to whānau and community.	0 As with Option Two, this option will have limited impact on specific overrepresentation outcomes for Māori, but has the potential to be tailored to match cultural needs if that suited individual prisoners.	0 Limited impact.
Overall assessment	0	+ This option can help mitigate the negative impacts of segregation by contributing to meaningful human contact. It will also improve overall prisoner wellbeing and reduce tension in the prison environment. It will have some moderate costs for Corrections to deliver it as it will more than double the current time that staff need to set aside for telephone calls but this will, on balance, provide higher net benefits for these prisoners than retaining the status quo.	+ Option Three has similar impacts on prison safety and human rights as Option Two. The success of this option will be dependent on what spaces and resources are made available to impacted prisoners without compromising the overall safety of the wider prison environment.	+ While this is largely the status quo, the new requirement should have some benefits for prisoners as prisoners and staff will know that reasonable access to the yard, subject to staffing availability, is required. This can be expected to result in more consistent practice about opening the yards to prisoners each day and for that practice to be communicated to prisoners.

Section C, option set two: What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

198. The preferred option is to proceed with a combination of all the options. This combination meets the policy objectives by mitigating the negative effects that longer periods of segregation can have for prisoners.
199. Providing additional support in this way will improve overall prisoner wellbeing, reduce tension in the prison environment and is compliant with our human rights obligations, such as treating prisoners with humanity and dignity.³⁴ Increased access to telephone calls will support the delivery of meaningful human contact, which is a key objective of option set one.

Submitters generally agreed with additional measures to support prisoners

200. Most submitters agreed that additional support should be given to prisoners, however views varied about which prisoners this support should be provided to. While the intent of these provisions is to support prisoners segregated for longer periods, some submitters commented that all prisoners should be given this additional support regardless of whether they were segregated or not. As noted above, this is not operationally feasible as we do not have the resources to achieve it.
201. The Human Rights Commission was in favour of increased minimum entitlements and additional support being provided to prisoners in the PERU, despite disagreeing with the continued operation of the PERU.
202. Submitters also suggested additional tools to consider providing to prisoners, including access to digital devices such as smart televisions, pets, and plants in prison.
203. CANZ agreed with the provision of additional support for some prisoners, but were concerned it could become an incentive for prisoners to want to be designated an extreme threat prisoner.
204. As noted, we developed Option Four after talking to prisoners and considering statements made by external stakeholders such as the Ombudsman. Prisoners said that having daily access to direct sunlight, the weather, and being able to do a wider range of exercise in the yard was important for their daily wellbeing.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

205. Yes.

³⁴ Section 23(5), New Zealand Bill of Rights Act 1990.

Section D: The management of prisoner property

Context: Corrections has obligations and powers to manage prisoner property while balancing safety, security, and individual rights

206. Corrections has a statutory role in controlling what property enters and leaves prisons, with the aim of protecting the public and maintaining safety within the prison system. Each year, prisoners send and receive thousands of items from the community, including mail, books, shoes, and clothing. Corrections estimates that about 400,000 pieces of prisoner mail are sent into and out of prisons across the network each year.

Corrections can destroy objectionable property while prisoners are alive

207. The Act establishes a framework governing what property can be authorised, withheld, and destroyed, including the process for the destruction.³⁵ For example, clothing with gang colours is not permitted, and prison managers may authorise the destruction of items or substances considered dangerous, objectionable or harmful to prison safety. There is also the ability to require an item to be removed from the prison (even where these items are permitted under the authorised property rules) or destroyed.

208. While ‘objectionable’ is not defined in the Act, the Films, Videos, and Publications Classification Act 1993 provides some guidance. It uses a high threshold test based on injury to the public good.³⁶ Case law provides further guidance as to what might constitute objectionable. Property deemed objectionable under this framework may be destroyed while a prisoner is alive.

Corrections generally returns property to family when prisoners die

209. The Regulations require prison managers to consult with either the prisoner’s contact person, next of kin, or estate executor on what is to be done with the prisoner’s property. There is currently no specific requirement on who may receive a prisoner’s property on their death.

210. There is currently no legislative mechanism allowing Corrections to destroy property that may not meet the formal threshold of ‘objectionable’, but may nonetheless pose a risk of public harm if released posthumously. This includes property associated with terrorist prisoners.

The public can be protected from the impacts of terrorism relating to the property of offenders designated as terrorist entities

211. The Terrorism Suppression Act 2002 enables individuals or groups to be designated as terrorist entities and subject to restrictions and state powers. One of these powers prohibits individuals from dealing with the property of designated terrorist entities.³⁷ There are some exceptions to this prohibition, for example where dealing with the property is an act that does no more than satisfy the basic needs of the individual or their dependent, or the Prime Minister has authorised the dealing with the property.

³⁵ Corrections Act 2004, section 45.

³⁶ Films, Videos, and Publications Classification Act 1993, section 3, under which a publication “is objectionable if it describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.”

³⁷ Corrections currently has custody of an individual designated a terrorist entity. The Terrorism Suppression Act prohibition on dealing with their property means it cannot be sent out of the prison.

Problem: Some property linked to terrorist prisoners may cause public harm if released into the community

Symbolic property can reinforce extremist narratives or cause further harm to victims

212. In some cases, items associated with individuals convicted of terrorism offences can cause ongoing harm if they are released into the community. While the items themselves may be ordinary and not meet the threshold for being ‘objectionable’ (such as books or clothing) they may hold symbolic significance that contributes to public harm. This includes reinforcing extremist narratives, encouraging ideological followers, or resurfacing painful memories for victims and affected communities.
213. There is international evidence of markets in ‘murderabilia’ where property belonging to notorious criminals, who may currently be prisoners, is bought and sold, sometimes by people who have ideological sympathies with the offenders.³⁸ Those collecting items from ideologically motivated killers who share their beliefs may be at higher risk of acting on those beliefs, though collection on its own is not a significant risk factor, and appears to be one of many reinforcing behaviours within extremist communities.
214. These items can be used to glorify violence or further the ideological goals of the offender. Even without active promotion, their visibility can amplify the psychological and social harm caused by terrorism, especially hate-motivated attacks that target specific communities. As an example, the Report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain on 15 March 2019 described many severe impacts, direct and indirect, physical and psychological, on affected survivors, whānau, and witnesses.³⁹ Should items from the offender who carried out this attack be sold or circulate in the community it is likely to cause distress to the Muslim community.

The risk arises specifically when a terrorist prisoner dies in custody, as Corrections currently has limited ability to prevent these harms from materialising

215. While a prisoner is alive, Corrections has powers to withhold or destroy property that is dangerous or objectionable and on their release, they take their property with them. While they may remain subject to monitoring or other controls, they may still choose to share or sell it and they will continue to generate new property. In contrast, when a prisoner dies in custody, all remaining property is typically returned to the administrator or executor of their estate of their will by default. Corrections cannot assess whether releasing it might pose a public harm, nor does it have any legal ability to prevent potentially harmful items from entering the community.
216. The death of an offender can trigger renewed public attention or interest, particularly in high-profile or terrorist cases. This increases the likelihood that the offender’s property will become a focus for those seeking to memorialise, monetise, or promote the offender or their ideology.
217. In the case of a prisoner who has been designated a terrorist under the Terrorism Suppression Act, as noted previously, this Act prohibits dealing in the property of this prisoner. It cannot be released from prison and Corrections must therefore store it. There is currently only one individual who has been designated a terrorist entity or is the

³⁸ People who buy this property can have a range of motivations and may have academic or documentary interests, be fascinated with true crime, or be treating the purchases as investments. It should be noted that only in a small subset of cases do people participating in these markets have ideological sympathies with the offenders.

³⁹ Report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain on 15 March 2019 (2020) p. 127.

member of a designated terrorist entity under the Terrorism Suppression Act who will die in custody, having been sentenced to life imprisonment with no parole. A substantial amount of property is already stored for this prisoner, which Corrections will have to manage following their death.

218. In sum, the risk that property will cause harm exists while a prisoner is alive, but is manageable as property is stored on behalf of the prisoner. The risk following death is of a different kind as it could be released into the community.

A related issue exists regarding the impracticality of prisoners being present when their property is destroyed

219. The Act also requires a prisoner to be present for the disposal or destruction of their property unless it is dangerous or impracticable or the prisoner cannot be identified or located. When this takes place, the property is generally taken off-site or destroyed by incineration. It is operationally unsafe to take prisoners off-site to witness the property being placed into the incinerator and having this requirement in the Act is unnecessary. Instead, property is generally destroyed with a prisoner's written consent.
220. Anecdotally, staff tell us that no prisoners have been present for the destruction of prisoner property due to the operational impracticability. We do not have data on how much property is destroyed because it is handled on an ad hoc basis by individual prison sites. However, we know that if prisoners have vapes or cigarettes when they arrive in prison these will be disposed of in the rubbish.

What objectives are sought in relation to the policy problem?

221. The objective for Problem D is to ensure Corrections can manage prisoner property in a way that protects the public from potential harm, including where that harm may arise not from the nature of the property itself but from its symbolic significance or association with terrorism. Corrections needs to be able to assess and respond to these risks when a prisoner dies in custody. At the same time, Corrections must continue to treat all prisoners fairly, and with dignity and humanity, including in how we manage their property. Any powers must therefore be applied in a transparent and accountable way, and proportionately to the risk of harm.
222. A related objective is to ensure that existing destruction powers for objectionable property can be exercised safely and practically.

Deciding upon an option to address the policy problem

Some options have been ruled out of scope

223. We considered options that would provide Corrections with the power to destroy the property of all prisoners, or for extreme threat prisoners or other notorious offenders (such as serial murderers) who might seek to spread hate through their property. These options were ruled out of scope due to the significant engagement of individuals' rights as well as the administrative burden this would place on Corrections.
224. We have consequently focused our problem on prisoners with terrorism convictions and that narrow focus was largely supported by people we spoke to during public consultation. Some submitters considered that gang memorabilia can pose a significant public risk when released from prison. However, we do not consider gang memorabilia is an appropriate threshold of harm when considered against the rights of prisoners.

What options are being considered?

225. While Options Two and Three are mutually exclusive, Option Four could be combined with either option. Options Two and Three would apply to prisoners who have been designated a terrorist entity or are the member of a designated terrorist entity under the Terrorism Suppression Act. These prisoners are likely to have high levels of notoriety and therefore Corrections has an important role in preventing potential public harm.

Option One – Status quo

226. Corrections' powers relating to the destruction of prisoner property are limited to situations where the item is inherently objectionable, or meets other existing criteria for it to be destroyed.

Option Two – Chief executive can make decisions to destroy the property of some terrorist prisoners upon the prisoner's death

227. This option would provide the chief executive with the ability to destroy the property of a terrorist prisoner who has died, on the grounds that releasing it might lead to potential public harm. The Act would include a test for whether the property of a prisoner meets the threshold of potential public harm if it were to not be destroyed given some items of property could have high sentimental value to family or friends. This would entail, for example, assessing the property in the context of the offender, their notoriety or public perception, the nature of the offending, the victims of the offending, and so on.

228. This power would be subject to judicial review, and supersede any responsibilities on Corrections to return a prisoner's property to the next of kin, beneficiary of the prisoner's will, or under the Administration Act 1969.

Option Three – High Court to decide on destroying the property of a terrorist prisoner upon the prisoner's death

229. This option would give Corrections the ability to apply to the High Court for an order, upon the death in custody of a terrorist prisoner, to allow the destruction of their property on the basis that other methods of disposal, including releasing it from prison, might lead to potential public harm. The Court would also consider whether the property of a prisoner meets the threshold of potential public harm if it were to not be destroyed given some items of property could have high sentimental value to family or friends.

Option Four – Removing the requirement for prisoner attendance at destruction of their property

230. This option would remove the requirement in section 45 of the Act for a prisoner to be present for the destruction of their property. A prisoner could still attend the disposal or destruction at Corrections' discretion, but this option would remove the requirement for them to be present.

How do the options compare to the status quo? – Section D – the management of prisoner property

	Option One – Status quo	Option Two – Chief executive (applies only to deceased prisoners)	Option Three – High Court (applies only to deceased prisoners)	Option Four – Prisoner presence (all prisoner property disposal or destruction)
Promotes better prisoner outcomes	0	- Limited impact on affected prisoners. However, could create tension if prisoners are unhappy about the prospect of their property being destroyed when they die, particularly as their next of kin or equivalent will not be compensated.	- Similar to Option Two.	+ Current practice is already that prisoners are not present for the destruction of their property. Removing the impractical requirement is therefore less likely to provoke them as they will not feel they are being denied an entitlement. Avoids unnecessary stress or confrontation over destruction process.
Practical to implement and responsive to change	0	0 This option is practical to implement but would require Corrections to create a new internal process for decision-making by the chief executive.	- Would have some resource implications for all parties related to establishing the application process and pursuing any cases through the High Court. However, it is expected that this power would be rarely used so the impact on resourcing is reasonably limited.	0 This option is practical to implement as reflects current practice. It would require updates to guidance and existing forms.
Transparency and accountability	0	0 Decision processes would be documented but not externally scrutinised beyond the ability to judicially review decisions.	++ Court process creates public record and formal appeal rights.	- Removes the ability for prisoners to be sure that what was being destroyed was correct.
Upholds human rights obligations	0	- Engages prisoners' property rights without independent oversight, with risk of decisions being seen as arbitrary or punitive. May increase distress for families, who will have limited ability to contest decisions. As the chief executive would need to consider human rights obligations when making decisions, any destruction of property is likely to only happen if justified.	0 Same potential impact on families, but process is more transparent. Judicial oversight improves rights protections relative to Option Two.	- Removes the prisoner's ability to attend the destruction of property to ensure it is justifiable.
Contributes to safety	0	+ Enables destruction of symbolic items that may cause harm.	+ Similar to Option Two, allows for destruction of harmful items, though likely with slower process due to involvement of the High Court. Openness of court process may increase publicity, and resulting visibility may be painful for victims and affected communities.	+ Will improve prison safety as prisoners will not be required to be present for the destruction of their property thereby reducing tensions with staff.
Contributes to better outcomes for Māori	0	- Should objects that hold specific cultural value to Māori such as pounamu or other taonga be considered objects that could cause public harm and therefore need to be destroyed that could have a negative impact on wider whānau, hapū, and iwi.	- Similar to Option Two.	0 No change in protections for culturally sensitive property.
Overall assessment	0	0 Operationally feasible, and effective in addressing the risk, but lacks sufficient independent scrutiny.	+ A court is best placed ensure decision-making is independent given the significant engagement of an individual's rights, such as the NZBORA right to be secure against unreasonable seizure of property. Independent review strikes better balance between rights and safety.	+ Practical and low-risk fix to an operational problem, despite minor rights impact.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

231. Options Three and Four are the preferred options as they balance safety with the engagement of an individual's rights.
232. Having the High Court make decisions related to the destruction of the property of a prisoner who has been designated a terrorist entity or the member of a designated terrorist entity under the Terrorism Suppression Act, after they have died, is an appropriate balance of Corrections' responsibility in maintaining public safety, particularly in relation to victims of offending, against the potential infringement on a person and their family's rights. As noted below, our proposals were updated following public consultation. We have focused the proposed new powers just on terrorist prisoners and recommend that a court make the decision about whether they are exercised.

Feedback from public consultation was generally supportive of our proposal

233. Submissions were generally supportive of Corrections having the power to destroy the property of prisoners who have connections to terrorism, and this was the only problem area for which there was wide, if conditional, support. The Human Rights Commission, Office of the Ombudsman, and the Law Association were receptive to this change, with additional protections such as it being a court order and we amended our option accordingly.
234. We had consulted on the options of Corrections having this power in relation to prisoners with connections to terrorism or all extreme threat prisoners. Most submissions did not support Corrections having this power for all extreme threat prisoners and we have changed our options to reflect this. Some submitters noted, however, that a broad power could prevent other material, such as gang insignia, from causing harm in the community.
235. A prisoner in Corrections' custody who has been designated a terrorist entity under the Terrorism Suppression Act was consulted, and was not opposed to the idea of Corrections having this power provided his family would receive compensation for loss of financial value from his objects.
236. While we do pay compensation, a prisoner needs to make a claim for lost or damaged items and then a staff member must investigate the claim. Compensation is generally only paid when the Department is liable for the lost property. If the Department does not accept responsibility for the claim, the prisoner may seek a review of the decision through the Inspector of Corrections and/or the Disputes Tribunal. In this circumstance, Corrections does not consider compensation necessary due to the nature of terrorism offending.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

Yes.

Marginal costs and benefits of the preferred options

Affected groups	Comment	Impact	Certainty																				
Additional costs of the preferred option compared to taking no action																							
Department of Corrections, including staff	<p>There are significant costs for Corrections associated with parts of these proposals – both one-off and ongoing.</p> <p>Additional staffing will be needed for intelligence gathering and basic custodial management, especially if additional entitlements mean more monitoring, supervision, and movements.⁴⁰ More complex administrative demands and procedural changes will increase staff workload, especially while revised processes are bedding in. One-off costs will be incurred for developing procedures, updating guidance, and delivering training to staff.</p> <p>Direct costs associated with the independent panel include daily rates for panel members and administrative support for each case put to the panel. All current extreme threat prisoners would need to be assessed for designation by the panel in the first year, with fewer cases expected thereafter. Our modelling is indicative and may not fully account for the two-yearly reviews of existing designations, especially if the number of designated prisoners increases over time. Not all fiscal costs have been quantified, but indicative direct operating costs for three of the proposals are as follows:</p> <table border="1" data-bbox="395 1220 1005 1462"> <thead> <tr> <th data-bbox="395 1220 667 1261">\$ million</th> <th data-bbox="671 1220 767 1261">Year 1</th> <th data-bbox="772 1220 868 1261">Year 2</th> <th data-bbox="873 1220 1005 1261">Outyears</th> </tr> </thead> <tbody> <tr> <td data-bbox="395 1267 667 1308">Independent panel</td> <td data-bbox="671 1267 767 1308">0.500</td> <td data-bbox="772 1267 868 1308">0.200</td> <td data-bbox="873 1267 1005 1308">0.200</td> </tr> <tr> <td data-bbox="395 1314 667 1355">Outgoing calls</td> <td data-bbox="671 1314 767 1355">0.900</td> <td data-bbox="772 1314 868 1355">0.900</td> <td data-bbox="873 1314 1005 1355">0.900</td> </tr> <tr> <td data-bbox="395 1361 667 1402">Out-of-cell time</td> <td data-bbox="671 1361 767 1402">0.600</td> <td data-bbox="772 1361 868 1402">0.600</td> <td data-bbox="873 1361 1005 1402">0.600</td> </tr> <tr> <td></td> <td data-bbox="671 1408 767 1449">2.000</td> <td data-bbox="772 1408 868 1449">1.700</td> <td data-bbox="873 1408 1005 1449">1.700</td> </tr> </tbody> </table>	\$ million	Year 1	Year 2	Outyears	Independent panel	0.500	0.200	0.200	Outgoing calls	0.900	0.900	0.900	Out-of-cell time	0.600	0.600	0.600		2.000	1.700	1.700	High	Medium
\$ million	Year 1	Year 2	Outyears																				
Independent panel	0.500	0.200	0.200																				
Outgoing calls	0.900	0.900	0.900																				
Out-of-cell time	0.600	0.600	0.600																				
	2.000	1.700	1.700																				
Extreme threat prisoners	<p>Prisoners given this designation will face increased custodial restrictions. These costs will be ongoing for prisoners currently accommodated in the PERU if they are designated as extreme threat prisoners, so there may be few additional costs relative to the status quo for this cohort. However, they be incurred for future prisoners designated as an extreme threat.</p> <p>These prisoners may incur financial costs if they seek legal support to input into the designation process. There will</p>	Medium	Low																				

⁴⁰ A digital transcription service could be used, at a cost of \$0.2 million per year (plus some unquantified up-front capital costs), with potential offset for FTE by reducing the intelligence resource needed to cover the increased outgoing call entitlement. However, digital transcription services are not in use yet so this system has not been considered as part of the costing model.

	<p>also be time costs for participation in that process and in progression planning.</p> <p>Some options may increase time in denied association or result in overuse of segregation. Affected prisoners will face the psychological impacts of long-term segregation.</p>		
Other prisoners	Generally not directly impacted. However, they may perceive unfair treatment if they lack access to options given to extreme threat prisoners, and may be affected if segregation powers are overused.	Low	Low
Friends and whānau of prisoners	<p>Minor costs in time or legal support.</p> <p>Possible emotional strain if segregation is prolonged or poorly explained.</p> <p>In cases where a convicted terrorist offender's property is to be destroyed, their next-of-kin, administrator or executor of their estate, or wider whānau may bear some costs. These include potential legal costs if contesting court decisions related to the destruction of the property, emotional costs if sentimental items are destroyed, and the loss of any monetary value of the items as Corrections will not compensate for their destruction.</p>	Low	Low
Wider government, including judicial system	<p>Minor administrative or judicial burden expected resulting from applications to the High Court to destroy prisoner property, as this proposal is only expected to capture a very small number of prisoners (currently just one).</p> <p>Legal representatives and advisory services are expected to face one-off familiarisation effort and ongoing time/resource costs as they are engaged in the process. This may be funded by legal aid.</p>	Low	Low
Wider public	<p>No direct costs identified (though government costs are ultimately borne by taxpayers). Some risk of concern if segregation powers are perceived as excessive or unfair.</p> <p>Potential purchasers of 'murderabilia' will be unable to access this property if it is destroyed rather than being released into the community.</p>	Low	Low
Terrorist prisoners	<p>Expected impacts minimal—only a very small number of individuals are expected to be impacted (currently one individual) by the destruction of property proposal.</p> <p>An application for destruction, and the actual destruction if approved, will not occur until after their death. However, awareness and understanding of the policy intent may cause some distress.</p>	Low	Medium

Total monetised costs	Year 1	\$2.000 million	Low	Medium
	Ongoing annual	\$1.700 million		
Non-monetised costs			Medium	Low
Additional benefits of the preferred option compared to taking no action				
Department of Corrections, including frontline staff	<p>A statutory framework for managing extreme threat prisoners, including clarifying how this is to interact with existing management tools, will enhance staff safety. By better accounting for and responding to the particular risks posed by each individual, it will help to ensure prisoners are managed at the most appropriate custodial level.</p> <p>Increased opportunities for social interaction for extreme threat prisoners and prisoners segregated for 90 or more days may reduce tensions within the unit and with staff, also contributing to custodial staff safety.</p> <p>Reduced ambiguity, such as clearer legal authority to segregate prisoners who pose a particular kind of risk around their ability to influence other prisoners to cause harm, lowers reliance on subjective judgments and may improve morale and safety (both perceived and actual).</p> <p>Improvements to consistency and transparency may support more efficient operations.</p>		Medium	Low
Extreme threat prisoners	<p>A statutory decision-making process for designating extreme threat prisoners provides greater transparency and a natural justice opportunity for participation in the process.</p> <p>Designated prisoners gain a clearer, fairer, and more transparent management regime, with tailored progression planning.</p> <p>More lawful decision-making may provide greater predictability, enhance the protection of their rights, and reduce unnecessary restriction, all of which may improve the experience and wellbeing of these prisoners.</p> <p>Additional entitlements for extreme threat prisoners and some prisoners segregated for 90 or more days are expected to have wellbeing benefits.</p>		Medium	Low
Other prisoners	<p>Potential for increased safety and fairness in the prison environment if extreme threat prisoners are more appropriately managed, reducing influence, manipulation, or violence.</p>		Low	Low

	Defining a continuous segregation period for all prisoners in legislation would help to identify long-term segregation cases that could otherwise be hidden. Reducing unnecessary periods of long-term segregation will benefit affected prisoners as they will bear fewer costs of prolonged segregation.		
Friends and whānau of prisoners	The proposals are expected to provide reassurance that prisoners are being managed transparently, fairly, and in ways that prioritise wellbeing. Potential for greater involvement and improved communication, including better access to the prisoner (such as through telephone calls).	Low	Low
Wider government, including judicial system	Legal representatives and advisory services are expected to gain clarity from a formalised, transparent process, improving their ability to advocate on behalf of clients. Other agencies, such as Police, Ministry of Foreign Affairs and Trade, and security agencies may gain greater confidence that Corrections is managing high-risk individuals appropriately and safely.	Low	Low
Wider public	The statutory framework created by these options would provide greater confidence that Corrections is managing high-risk individuals appropriately and transparently, supporting public safety and human rights compliance. Protected from potential harm caused by radicalisation or misuse of sensitive materials circulating outside prison. The extent of this harm is largely speculative.	Low	Low
Terrorist prisoners	None identified.	Very Low (None)	Medium
Total monetised benefits		N/A	N/A
Non-monetised benefits		Medium	Low

Delivering the options

How will the proposals be implemented?

237. The proposed new legislative amendments are planned to be progressed through a Corrections (Extreme Threat Prisoners) Amendment Bill. Some of these changes will need a delayed commencement to ensure a bill can be effectively implemented, including establishing a panel of independent experts, and updating the necessary operational guidance and documentation and training for staff.

The majority of the proposals in this RIS are either amending current policies and procedures, or are building off existing ones

238. To support legislative change, implementation will involve substantive updates to relevant sections of our operational policy, procedures, and guidance for all proposals to ensure that custodial staff are aware of the new requirements and that IOMS captures necessary information. This includes practice changes enabled through updates to procedures and associated training to:
- 239. to enable opportunities for meaningful human contact and increased telephone time and these may be reasonably significant. It will include support and procedures for staff that identifies how they will implement the new requirements,
 - 240. to allow eligible prisoners the additional out of cell time, which may impact rosters and unit regimes, and can suggest the appropriate activities such as hobbies and how to use staff resources to facilitate this safely,
 - 241. to support a court process for the destruction of prisoner property, including what the internal process is for notifying a next of kin and the administrator or executor of their estate, that Corrections intends on applying to the High Court for an order to destroy the prisoner's property, and
 - a. enable the referral of individuals to the panel which includes information about what Corrections will need to provide to the panel, with guidance for staff in collating this information. Training will need to be provided to staff regarding provision of information for the panel and how Corrections supports the function of the panel.
242. For some options, technological solutions will support implementation and recording in IOMS. This includes reporting on meaningful human contact and the provision of minimum entitlements. Technology will also support enhanced safety by ensuring the appropriate safety protocols can be engaged for these changes. This might include technology to support transcription of telephone calls to alleviate the burden this would place on intelligence staff when telephone call time is increased.
243. The establishment of a panel to designate extreme threat prisoners is new and will take time to recruit. Implementation will involve selecting a group of individuals to be part of the panel using standard procurement processes. Panel members will need an appropriate security clearance due to the need to consider intelligence information. Legislation will include the types of experience and knowledge that the panel must have on a collective basis, as well as the types of information that must be considered as part of the designation to be made, including health, psychology, intelligence, offending, sentence, and custodial, information. As part of this, transitional

arrangements will need to be developed to ensure there is transparency for prisoners regarding what they are entitled to and when designations apply from. The new designation process will need to be phased in over at least a six or 12 month time frame to allow the panel and chief executive to consider all prisoners currently accommodated in the PERU (if they are eligible) and either leave them in the PERU or move them out if they do not meet the new requirements.

244. As segregation changes are implemented, Corrections will work with the Ministry of Justice to provide Visiting Justices with additional training and support as they retain decision-making for the segregation of extreme threat prisoners. This training and support will reflect the unique nature of segregation decisions for this cohort of prisoners.
245. Implementation of changes to the security classification process will require operational adjustments to manage the increased likelihood that more prisoners may be assessed as High or Maximum Security due to the broader risk criteria. Although this will better reflect the complex and enduring risks posed by prisoners, not all of these prisoners will require placement in high-security environments or being subject to maximum-security regimes.
246. As a result, Corrections may need to use the existing override process more frequently to ensure prisoners are not being over-classified or unnecessarily restricted. This may create an increased workload for staff, as they will need to assess more override requests, justify these clearly, and document rationale using the appropriate override mechanisms.

Consideration will also need to be given as to how to communicate these changes to prisoners and their whānau and wider community

247. Affected prisoners will also be advised of the changes to processes and requirements through written and oral communication with staff, and prison computer kiosks. Communication with families, whānau, visitors, and the wider community can be achieved through signs in visiting areas and email communication where appropriate such as with Visiting Justices or other professionals who service prisons.

How will the proposals be monitored, evaluated, and reviewed?

Review of designation process and additional powers

248. Because the proposed designation process impacts on human rights we propose that, in addition to routine reviews of how we use our powers and resources, we will commission a review within five years after any new processes come into effect about how they are being used. This review will produce a report that will be provided to key stakeholders including internal ones, the Minister of Corrections, the Chief Ombudsman, the Inspectorate, and the Human Rights Commission.
249. A review will consider the effectiveness of the statutory framework, including any concerns that have been raised by prisoners or monitoring entities and whether it remains fit for purpose. Following this, Corrections will make any further refinements needed to operational policy and reflect on the effectiveness of legislative amendments.

250. In addition to the formal review, the identification and designation processes will be subject to regular consideration through the processes themselves. In instances where there is a high number of disagreements between the chief executive and the panel, this will be a point that would generate further reviews of the process and potentially the legislation.

Segregation and meaningful human contact provisions to be monitored by internal leadership group

251. With regard to the new segregation and meaningful human contact provisions that impact all prisoners, we propose that an internal leadership group called the 'Segregation and Isolation Group' monitor the use, changes in practice, and any issues. Because that group is already tasked with improving practice across the network they will be able to assess the data every six months and help the network improve practice if issues are arising. A full review of segregation provisions is expected in a 2030 bill and necessary updates can be made then.

The destruction of prisoner property will need to be approached differently given how infrequently it will be used

252. As this power will be used so sparsely, there will not be an opportunity for regular monitoring, evaluation, and review. This power would be considered as part of regulatory stewardship obligations on Corrections, as all our legislation is, to determine if the new powers are effective and the if processes are working well.
253. As we propose the courts are involved in the decision-making process, that process in itself enables a high degree of scrutiny. It could result in court judgments that prompt us to review the legislation as part of that regulatory stewardship.