Office of the Minister of Police

Chair, Cabinet External Relations and Security Committee

# Implementation of the Transnational Organised Crime Strategy (2020–2025)

### **Proposal**

This paper provides an update on the implementation of the Transnationa Organised Crime (TNOC) Strategy (Strategy) and outlines proposed actions to be undertaken by agencies during year two of the Strategy. The paper also reports back on work undertaken to review the adequacy of penalty regimes in relevant legislation [ERS-19-MIN-0037 refers].

## Relation to government priorities

- The Government has committed to addressing the harm from organised crime in our communities through implementation of two complementary cross-government work programmes: the Strategy and the Resilience to Organised Crime in Communities (ROCC) work programme. Government investment in Police and other agencies operational capacity to address organised crime; drug importation and distribution, and money laundering has supported these work programmes.
- The Strategy aligns with the Labour manifesto commitment to "keep communities safe, break the cycle of offending and tackle the root causes of crime". It supports the Go ernment's commitment to "keep up the pressure on tackling organised crime, gangs and harmful drug use by ensuring Police and other enforcement agencies have the resources and powers to disrupt and prosecute this offending, seize the proceeds of crime, and hold to account the ringleaders of organised crime networks."

### **Executive Summary**

TNOC remains one of the top national security risks facing New Zealand. Recognising the increasing scale and complexity of TNOC in New Zealand, the cr ss-government TNOC Strategy was developed to provide a framework for a mole coordinated, whole-of-system approach to TNOC, with an increased focus on prevention. During the last year, agencies, led by Police,

ROCC was formerly known as the Social Wellbeing Committee Organised Crime work programme.

<sup>&</sup>lt;sup>2</sup> Labour Party 2020 Manifesto, Justice, Corrections and Police, p21.

<sup>&</sup>lt;sup>3</sup> Labour Party 2020 Manifesto, Law and Order policy, Factsheet pp6-7.

<sup>&</sup>lt;sup>4</sup> The Strategy is implemented by 17 agencies, including: the Department of Conservation; the Department of Corrections; the Department of Internal Affairs; the Department of the Prime Minister and Cabinet; the Government Communications Security Bureau; Inland Revenue Department; the Ministry for Primary Industries; the Ministry of Business, Innovation and Employment; the Ministry of Defence; the Ministry of Foreign Affairs and Trade; the Ministry of Justice; Ministry of Transport; the

have worked collaboratively to implement the Strategy in line with an agreed action plan and have established the foundations needed for the Strategy to succeed.

- Consistent with the staged approach to implementation envisaged by the Strategy, the initial strategic focus has been on unifying government efforts. Significant progress has been made in this area, including the establishment of a clear governance structure and a dedicated TNOC Secretariat to drive implementation of the Strategy across government, enhance coordination and support collective decision making.
- Agencies have improved their shared understanding of the TNOC landscape through a vulnerabilities assessment identifying key system weaknesses at risk of TNOC abuse. The results have been used to guide collective prioritisation of future efforts and resources. Extensive work is also underway to align policy and legislative settings across government to close loopholes that TNOC groups may exploit. \$.9(2)(f)(iv) OIA
- While the COVID-19 pandemic has impacted agencies' ability to dedicate resources to the Strategy and implement some activities included in the year one action plan (Y1 Action Plan), the progress made to unify our system will enable agencies to achieve greater prevention, detection and enforcement outcomes, as the strategic focus shifts to these areas. The year two action plan (Y2 Action Plan) maintains the focu on unification, while also increasing engagement with the private sector, targeting key TNOC vulnerabilities and strengthening the TNOC intelligence cycle to facilitate proactive riskmitigation.

#### Background

- TNOC is an insidious risk that threatens New Zealand's national and economic security and community wellbeing. TNOC groups operate as sophisticated businesses, conducting illicit activities in pursuit of profit, power and influence. Their crimes have a severe impact on society. Illicit drugs reduce health in our communities, illegal fishing and wildlife trafficking deplete resources and threaten our environment, while fraud, migrant exploitation andtax evasion result in unfair competition and lost revenue. TNOC also erodes public confidence in government and harms New Zealand's international reputation.
- We are currently working to enhance our data in order to estimate the scale and impact of TNOC in New Zealand. However, our intelligence confirms that TNOC groups and networks (partly driven by deportations from Australia) are gaining greater access in and out of New Zealand and that their business

National Maritime Coordination Centre; the New Zealand Customs Service; the New Zealand Defence Force; and the Serious Fraud Office.

here is increasing in value, growing in sophistication and diversifying into new areas.

# 10 **s.6(a) OIA**

hile New Zealand already had a strong disruption and enforcement approach to combating organised crime, there was an identified need for a more coordinated and systematic approach, with increased focus on prevention. This led to the development of the Strategy, which was endorsed by SIB in August 2019 and subsequently approved by the Cabinet External Relations and Security Committee in November 2019 [ERS-19-MIN-0037 refers]. The Strategy wa publicly launched in September 2020. Due to the impacts of COVID-19 and proximity to the General Election, the launch occurred online.

- The Strategy provides a framework for a more coordinated, whole-of-system response to TNOC, with the vision of making New Zealand the hardest place in the world for organised criminal groups and networks to do business. There are three strategic focus areas (Unify; Prevent and Detect; and Dismantle), where collective efforts will be targeted over a five-year span (2020-2025). Implementation is intended to be staged to address these focus areas over time, initially prioritising unification to ensure the system is effectively joined up and governed, and support subsequent prevention and operational efforts.
- While the Strategy primarily focuses on the supply-side and international context of organised crime, it is part of the Government's overarching social wellbeing approach to addressing organised crime. The Strategy is closely coordinated with the community-prevention oriented ROCC work programme, which is focused on add essing social drivers, reducing demand, and limiting community harms and impacts of organised crime. Together, these work programmes form an end-to end approach to address the full spectrum of local, national, and transnational organised crime and associated harms.
- The Strategy is delivered through an annual action plan, overseen by SIB. In March 2020, SIB agreed the Y1 Action Plan covering the period 1 July 2020 to 30 June 2021 (Appendix A), which included a suite of cross-agency activities to gu de implementation over the initial phase of the Strategy, with a primary focus on the Unify pillar. Agencies have been working to collectively implement these activities, with significant progress made in a number of areas.
- 14 A Y2 Action Plan (Appendix B), covering the period 1 July 2021 to 30 June 2022, was prepared based on extensive cross-agency collaboration and onsultation. The Y2 Action Plan was endorsed by SIB in April 2021.

#### Agencies have made significant progress towards implementing the Strategy

During the first year of the Strategy, several activities have been completed or progressed. Resource constraints resulting from the need to respond to the COVID-19 pandemic have impacted agencies' ability to fully implement the Y1

Action Plan. However, the core foundation for future implementation has been laid and those activities that were delayed have been carried over into the Y2 Action Plan. The most significant achievements during year one have been in the unification area, which is consistent with the staged approach to implementation of the Strategy.

## Cross-agency governance and leadership has been strengthened

- A key priority during year one was to confirm the governance model or TNOC. The agreed governance structure (illustrated at Appendix C) includes a reconstituted Leadership Group at Deputy Chief Executive level, responsible for overseeing the implementation of the Strategy, and a Steering Group, responsible for driving the implementation of the Strategy and action plan within each of the agencies. These governance groups are supported by policy and intelligence working groups that meet on an ad-hoc basis to progress specific projects. There is active participation from members at all levels.
- 17 Hosted by Police, a TNOC Secretariat was established in September 2020. Staffing the Secretariat for an initial period of two years was enabled by a successful Proceeds of Crime Fund (PoCF) bid. The TNOC Secretariat coordinates cross-agency activity to implement the Strategy and provides support to the governance groups.
- The early focus on establishment of g vernance arrangements and the TNOC Secretariat has ensured the system is more joined up, improved coordination and enhanced collective decision making and accountability. The model encourages more systemic consideration of TNOC matters and new approaches have emerged as a result. This cross-agency approach will support future implementation of the Strategy and enable the government to respond to TNOC and address its impacts more effectively.
- Agencies have also established complementary governance structures. This includes the establishment of a Border Executive Board hosted by the New Zealand Customs Service (Customs), to support a coordinated approach to remove gaps in border processes, address risks, and make strategic impro ements to border systems.

Agencies are working to align policy and legislative settings

Another early focus under the Strategy has been to examine policy and legislative reform that addresses identified gaps. s.9(2)(f)(iv) OIA

Key policy projects directly noted in the Y1 Action Plan include:

20.1 Cabinet has agreed in principle to amendments to the Criminal Proceeds (Recovery) Act 2009 (CPRA) [CBC-21-MIN-0040 refers]. These amendments will provide new powers to restrain and forfeitproperty to better respond to transnational and organised criminal

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offending. Justice officials are working on refining policy proposals with Crown Law, Te Puni Kōkiri, Ministry for Women, and Police.



- These two activities have been continued under the Y2 Action Plan and will be the focus of the forward legislative programme under the Strategy.
- Policy work has also progressed which, while not explicitly mentioned in the Y1 Action Plan, nevertheless addresses gaps in New Zealand's framework. Key policy projects relevant to the TNOC Strategy include:
  - 22.1 Cabinet has agreed to proposed legislative amendments to the Trade in Endangered Species Act 1989 (TIES Act) [DEV-20-MIN-0157 refers]. The proposed amendments focus on ensuring the regulatory system, including controls at the border, efficiently and effectively manages the international wildlife trade in Convention on International Trade in Endangered Species (CITES) listed species and stops illegal trade. Proposed changes include increased penalties and newoffences to deter organised criminal groups and others involved in smuggling endangered species. These changes will ensure that New Zealand can continue to protect CITES listed plants and animals from illicit trade and fulfil New Zealand's obligations under the Convention.
  - 22.2 The Maritime Powers Bill has been introduced. The Bill sets out comprehensive powers to enable New Zealand law enforcement authorities to interdict, search, and detain vessels and offenders in international waters. Successful passage of the Bill will result in a ma itime security sector that is better able to disrupt criminal activity and secure our national interests before the threat reaches New Zealand.
  - The Serious Fraud Office, Ministry of Justice and Police are currently coleading interagency work to develop a National Financial Crime and Corruption Strategy which will be aligned to the broader objectives of the TNOC Strategy.
- These reforms will reduce barriers to enforcement and help recover assets lost to TNOC. Undertaking these reforms early in the life of the Strategy will support better operational outcomes in the later years, as the strategic focus shifts to operational priorities.

Key systems vulnerabilities have been identified

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- The Y1 Action Plan included an activity to develop a dedicated TNOC intelligence capability in the form of an intelligence fusion centre. In August 2020, the TNOC Leadership Group decided that this would not be the right timing given agency efforts were focused on the COVID-19 response. Instead the TNOC Leadership Group commissioned an assessment identifying key system vulnerabilities to TNOC to guide prioritisation of efforts and resources.
- The draft assessment was completed in May 2021 and has identified vulnerabilities in the financial and business sector and border-related supply chain that are being exploited by TNOC groups. Regarding the financial and business sector, the assessment finds that although New Zealand has built a strong system to counter illicit finance, gaps remain, including in the regulation of money remittance and company formation processes, that are subject to criminal misuse S.6(C) OIA
- These initial findings were used to guide the development of the Y2 Action Plan, with activities included targeted at addressing identified vulnerabilities (see paragraphs 38 and 42.3 below). Agencies intend to adopt this intelligence-led approach to implementation on an ongoing basis by conducting a TNOC strategic assessment annually to identify emerging risks and inform the development of the forward action plan (see paragraphs 40-41 below).

Work to strengthen international cooperation o combat TNOC has continued

- The COVID-19 pandemic has had a dramatic effect on the movement of people internationally. Organised crime was disrupted in the short term. However, transnational, and domestic organised crime groups are resilient and have adapted their activities to ensure continuity.
- Despite the challenges of COVID-19, agencies have continued to strengthen international partnerships. Customs continues to refine its framework for prioritising international engagement across all areas of activity, including post COVID 19, health/population protection and economic recovery efforts that might be exploited by TNOC groups. Customs has also provided intelligence to overseas partners that has resulted in continued offshore disruption of smuggling networks. Police has maintained involvement in the international law enforcement network, ensuring ongoing cooperation and information sharing with key international partners<sup>5</sup> throughout the pandemic. New liaison officer posts have been established in Los Angeles and Kuala Lumpur and work has ommenced on a Police International Engagement Strategy, which will identify key stakeholders and priorities for Police's offshore engagements.

<sup>&</sup>lt;sup>5</sup> Police works with a broad range of foreign law enforcement authorities, regional and international organisations. From a TNOC perspective, the international partners that Police engages with most often include: the Australian Criminal Intelligence Commission; the Australian Federal Police; the United States Drug Enforcement Administration; the Federal Bureau of Investigation; Homeland Security Investigations; and the National Crime Agency.

- Another priority under the Strategy is enhancing international support. To this end, Police continues to support foreign law enforcement authorities and regional organisations, especially in the Pacific, through its overseas assistance programmes. Adjusting to COVID-19 travel restrictions has required a reduced in-country presence to manage staff health and welfare risks. However, where this has occurred, assistance is being provided remotely. For example, through the Pacific Detector Dog Programme, Police and Customs have continued to provide support to detector dog units in the Cook Islands, Fiji, Samoa and Tonga, resulting in regular detections of illicit narcotics and firearms.
- Through the multi-agency New Zealand Transnational Crime Unit (NZTCU), Police, Customs and Immigration New Zealand are building the cap bility of Pacific transnational crime units to mitigate and manage the impacts of TNOC and improve information sharing. Over the last 18 months, the NZTCU has enhanced regional collaboration on outlaw motorcycle gangs, criminal deportees and illicit drugs.
- The TNOC Secretariat is supporting a project being undertaken by the United Nations Office on Drugs and Crime (UNODC) to support States in the development of strategies to address TNOC.

Agencies have improved awareness of TNOC and the Strategy

Police hosted an Organised Crime D sruption Conference in October 2020, which brought together 200 experts from Government, academia, and the private sector to discuss the organised crime models currently operating in New Zealand, improve understanding and awareness of risks across the system and consider how the system can better enable responses to transnational organised crime. The conference discussed the complementary ROCC and TNOC Strategy work programmes to raise awareness of the work being undertaken and to engage with interested stakeholders.

Agencies have commissioned an assessment of the scale and impact of TNOC

- A key priority under the Strategy is building a comprehensive evidence base and a framework to better measure the scale and impacts of TNOC in New Zealand. The Y1 Action Plan included an activity to commission a TNOC e idence review. This activity was delayed due to COVID-19-related resource co straints and agencies have since decided to collectively fund the evidence r view to ensure its completion by June 2022. The University of Canterbury has been engaged to work with agencies to conduct this review. The review will create a picture of New Zealand's current TNOC landscape.
- A complementary activity is also being undertaken to develop a performance measurement framework to track progress towards achieving the Strategy's objectives. This framework will support agencies to prioritise resources and target efforts to make the greatest impact. The outcome of these activities will provide agencies with a deeper understanding of TNOC in New Zealand and

a comprehensive evidence base to inform policies, investments, and decisions. These projects are ongoing and have been included in the Y2 Action Plan.

## Agencies have successfully targeted TNOC groups and their profits

- As the Strategy is still in the initial phase of implementation, action plan activities are not yet focused on operational priorities. However, law enforcement authorities continue collaborating to dismantle TNOC groups and confiscate their profits. For example, in the recent Operation Worthington, Police, with assistance from Customs, seized 44kg of methamphetamine and over \$10 million worth of assets, with 21 people arrested on over 200 charges for drug importation, money laundering and participating in an organised criminal group. These individuals were part of a sophisticated syndicate involved in importing large quantities of drugs and laundering millions of dollars in cash.
- In May 2021, Police met and surpassed their target of restraining \$500 million in cash and assets from organised criminal groups and gangs over four years. This includes over \$60 million in cash and assets with links to organised crime restrained in the last 18 months. Asset recovery is an important prevention and disruption tool that deprives criminals of their illegally obtained wealth and the opportunity to reinvest in further criminality and eventually allows proceeds of crime to be redistributed into positive community projects via the PoCF. These operational efforts contribute towards achieving the Strategy's objectives.

## Agencies have collaborated to develop the Y2 Action Plan

- The Y2 Action Plan builds on the work undertaken during year one. Many of the activities remain directed towards the Unify pillar, with an emphasis on ensuring that the system is well connected, building a collective evidence base, and strengthening policy and legislative settings. However, the Y2 Action Plan also reflects greater collabora ion with the private sector to improve New Zealand's efforts to prevent and combat TNOC. This engagement will increase over time, consistent with the staged approach to implementing the Strategy.
- 38 The Y2 Action Plan includes activities targeted towards addressing vulnerabilities in the financial sector and border-related supply chain identified through the vulnerabilities assessment, specifically:
  - Expanding the agencies involved in responding to TNOC by inviting financial supervisors (Reserve Bank of New Zealand and Financial Markets Authority) to be involved in the TNOC governance structure;
  - 38.2 Developing sector specific TNOC guidance, with an initial focus on those sectors identified as being at the highest risk of TNOC abuse; and

- 38.3 Partnering with the private sector to co-develop solutions to address vulnerabilities in the financial sector.
- It was not possible to address the full spectrum of vulnerabilities identified within one action plan, so the findings of the assessment will continue to guidefuture activities under the Strategy.
- The Y2 Action Plan is focused on strengthening the TNOC intelligence cycle to identify risks. This will include:
  - 40.1 Establishing a cross-agency TNOC intelligence collection plan that will leverage our offshore network and international partnerships.
  - 40.2 Undertaking an annual TNOC strategic assessment, with a strong focus on new and emerging risks, which will inform the annual action plan.
- This process will ensure that activities are included based on a robust intelligence collection and analysis process and that agencies are actively mitigating risks, including emerging risks. Opportunities to bolster crossagency fusion capabilities, such as the Integrated Targeting and Operations Centre and the NZTCU, will also be considered.
- The Y2 Action Plan also incorporates cross-agency activities that were already planned or underway that are aligned with the Strategy's priorities, including:
  - 42.1 New Zealand's participation in an international review that will examine our compliance with the United Nations Transnational Organised Crime (UNTOC) Convention and Protocols. The review will assist New Zealand in identifying areas for futur work.
  - 42.2 Plans are underway to expand the NZTCU to further support the Pacific Transnational Crime Network (PTCN). This work will focus on building intelligence capacity and capability in the region thereby enhancing the intelligence New Zealand receives from Pacific partners.
  - The Ministry of Justice has commenced a legislative review of the Anti-Money Laundering and Countering the Financing of Terrorism Act 2009 (AML/CFT Act). This review will consider, among other things, measures to improve regulation of money remittance and enhancetransparency of beneficial ownership, which were areas of vulnerability identified in the TNOC vulnerabilities assessment and the recent Financial Action Task Force (FATF) Mutual Evaluation of New Zealand. The Minister of Justice will separately report to Cabinet this month on these matters.

Agencies have considered the penalties associated with TNOC offending

- When Cabinet considered the TNOC Strategy in November 2019, it invited advice from the Minister of Police regarding the adequacy of penalty regimes in relevant legislation. A multi-agency workshop<sup>6</sup> was held in October 2020 to gain a shared understanding of the adequacy of current penalties associated with TNOC offending and consider the scope of possible amendments to the legislative and regulatory framework. Workshop participants were asked to consider current risks (particularly regarding the impact of COVID-19 on the TNOC environment), identify existing legislative and regulatory workstreams which are being used or could be used to address those risks and then consider the particular penalties which need to be investigated further.
- Key risks identified by agencies included the globalisation of offending, financial crime as an enabler, an increase in the illegal trade of flora and fauna human trafficking and slavery, emerging technologies, and an increasein corruption complaints. Numerous existing workstreams were identified as responding to TNOC offending including the consideration of the penalties. Specific areas identified for further review were:

# 44.1 s.9(2)(f)(iv) OIA

Since then, the FATF found that the legislative penalties for money laundering in the Crimes Act 1961 are technically proportionate and dissuasive. However, the FATF noted that prison sentences handed down for money laundering are lower than for associated drug offending. The FATF recommended that New Zealand more closely monitor performance of all stages of money laundering investigation, prosecution and convictions including sanctions. This action will be considered in the update to the AML/CFT Strategy.

There are also penalties in the AML/CFT Act for noncompliance with obligations under that Act. The offence structure in the AML/CFT Act will be re iewed along with the rest of the Act during the statutory review (see paragraph 42.3 above).



44.4 Penalties associated with trafficking of tobacco was raised as an issue for agencies to consider further.

<sup>&</sup>lt;sup>6</sup> Representatives from the following agencies attended the workshop: New Zealand Police, Inland Revenue Department, Department of Conservation, the Ministry for Primary Industries, the Ministry of Business, Innovation and Employment, the Ministry of Justice, the New Zealand Customs Service, and the Serious Fraud Office.



# 44.5 **s.9(2)(f)(iv) OIA**

- Ara Poutama Aotearoa (Department of Corrections) noted that any action taken to increase penalties will have an impact on the prison population. This can have a flow on effect regarding the risk of TNOC offenders networking in prisons. This impact will be considered by agencies when developing any proposals to strengthen the legislative framework to address TNOC offending
- Given the range of work currently underway across multiple workstreams to consider the adequacy of offences and penalties associated with transnational offending, I consider that developing a further legislative work programme to consider the issue is not necessary at this time. Any legislative amendments which are proposed as a result of the work currently underway will be brought to Cabinet through advice to relevant ministers on TNOC workstreams with legislative vehicles available in a range of portfolios.

### **Implementation**

Implementation of the Strategy will continue over the next four years in accordance with the annual action plans. The TNOC Secretariat will continue to coordinate implementation of the Strategy across agencies.

## **Financial Implications**

There are no financial implications resulting from this paper. Actions within the Y2 Action Plan are being funded f om within the baseline budgets of the relevant agencies. Ongoing funding for the TNOC secretariat function and activities will be considered by the TNOC Leadership Group.

#### **Legislative Implications**

No legislative changes result from this paper. Cross agency work on potential improvements to the legislative frameworks to tackle TNOC is underway. Some initiatives within the action plan will potentially have legislative implications. Appropriate onsultation will be undertaken before any proposals are put forward and a full analysis of the legislative implications of those amendments will be made at the time they are brought to Cabinet for consideration.

## **Impact Analysis**

## Regulatory Impact Statement

This paper does not require a Regulatory Impact Statement (RIS) because it is updating Cabinet on an existing work programme.

#### **Climate Implications of Policy Assessment**

This paper does not require a Climate Implications of Policy Assessment (CIPA) because it updates Cabinet on an existing work programme.

## **Population Implications**

Population implications for this work were discussed in the Cabinet paper which sought agreement to the Strategy and its public release. There are no further population implications arising from this paper.

## **Human Rights**

Human rights implications for this work were discussed in the Cabinet paper which sought agreement to the Strategy and its public release. There are no further human rights implications arising from this paper.

#### Consultation

- The Department of Conservation, the Department of Corrections, the Department of the Prime Minister and Cabinet, the Department of Internal Affairs, the Government Communications Security Bureau, Inland Revenue Department, the Ministry for Primary Industries, the Ministry of Business, Innovation and Employment, the Min stry of Defence, the Ministry of Foreign Affairs and Trade, the Ministry of Justice, Ministry of Transport (on behalf of the Maritime Security Oversight Committee), the National Maritime Coordination Centre, the New Zealand Cu toms Service, the New Zealand Defence Force, the Crown Law Office, and the Serious Fraud Office were consulted.
- Ministry of Transport ( n behalf of the Maritime Security Oversight Committee) noted that the simultaneous launch of the Maritime Security Strategy has been an opportunity to coordinate efforts to ensure the 11maritime security agencies in New Zealand support the prevention of TNOC.

#### **Communications**

There are no announcements requiring communication arising from this paper. Public engagement with the Strategy will continue in several of the activities outlined in the Y2 Action Plan. Communications plans will be agreed as necessary for each of these activities.

#### **Proactive Release**

This paper will be proactively released within 30 business days of decisions being confirmed by Cabinet, subject to relevant redactions.

#### Recommendations

The Minister of Police recommends that the Committee:

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- 1 **note** that transnational organised crime (TNOC) continues to be a high priority national security risk.
- 2 **note** that the TNOC Strategy was publicly launched in September 2020.
- note the update provided on activities in the year one action plan and work undertaken to review the penalties associated with organised crime offending provided in this paper.
- 4 **note** that the Security and Intelligence Board has endorsed the year two action plan to implement the TNOC Strategy.
- 5 s.9(2)(f)(iv) OIA
- 6 **invite** the Minister of Police to report back on progress regarding the implementation of the TNOC Strategy by July 2022.

Authorised for lodgement

Hon Poto Williams

Minister of Police