

POST-CABINET PRESS CONFERENCE: MONDAY, 15 AUGUST 2016

PM: Okey-dokey. So good afternoon. As you can see, today Cabinet approved the New Zealand Intelligence and Security Bill, which has been introduced to Parliament this afternoon. Chris Finlayson, who is taking the bill through the parliamentary process is here with me to talk you through the details. As per normal, I've just got a few introductory remarks to make, then Chris will make some, then we'll take any questions on this issue, and then we've got a few other things we'd like to come back to after that.

So at the heart of this bill is the protection of New Zealanders. We have an obligation to ensure New Zealanders are safe at home and abroad. Therefore, it's vital we have legislation which allows our agencies to be effective in an increasingly complex environment, an environment where we are confronted by growing numbers of cyber-threats and the rise of terrorist groups such as ISIL. Today I can announce the Government has accepted the majority of recommendations in the independent review of our intelligence and security agencies conducted by Sir Michael Cullen and Dame Patsy Reddy earlier this year. This bill will be the most significant reform of the agency's legislation in our country's history. It will clearly set out the agency's powers, and build on the robust oversight for the agencies we introduced in 2013, and establish a new warranting regime. At the same time it will protect the privacy and human rights of New Zealanders.

As I said, Chris will take you through the details but some of the key aspects of the bill are as follows: a new single Act to cover the agencies, replacing the four separate Acts which currently exist; a new warranting framework for intelligence collection. This includes a new triple-lock system, which will apply to any warrant involving a New Zealander. It means the Attorney-General and the Commissioner of Security Warrants will have to approve any such warrant, which will then be subject to a review by the Inspector-General. The bill also proposes more cooperation between the New Zealand SIS and GCSB and brings the two agencies further into the core public service, with the same standards of accountability and transparency as other Government departments. As I've said before, we are keen to get broad political support for this legislation. The Government takes its national security obligations very seriously. New Zealanders can be assured we are taking careful and responsible steps to protect their safety and security. So now I'll pass over to Chris. He'll make some comments, then we'll take your questions and then we'll go back to the rest.

Finlayson: Thanks, Prime Minister. I'll just take you through a few key points about the legislation. First, just a couple of words about the approach that we've taken. As the Prime Minister said, we've followed most of the review recommendations, so far as possible, in agreeing policy that's reflected in the bill. A number of high-level review recommendations have required extensive policy work and consequential decisions to be made in order to give them effect, particularly in the area of warranting and authorisation, and also the issue of immunities. As the Prime Minister said, there's one Act. There's been reference to the GCSB bill, but actually it deals with the SIS Act 1969, the GCSB Act of 2003, the legislation dealing with the intelligence committee of Parliament of 1996, and the legislation that set up the Inspector-General of Intelligence and Security of 1996.

As the Prime Minister said, we've introduced this concept of the triple lock when dealing with warrants for any activity concerning New Zealanders. So it's not the Minister in charge of the agencies but the Attorney-General who will sign off on the warrants together with the commissioner of intelligence warrants, with the oversight provided by the Inspector-General of Intelligence and Security. Any NZSIS or GCSB warrant targeting a New Zealander will be subject to the core protection, and this is in addition to the very high bar for all warrants, be they tier 1 or tier 2—that they have to be necessary and proportionate. Section 14 and its replacement is going to give rise to a reasonable amount of discussion. The GCSB and SIS will now be covered by the same warranting regime. This means that section 14 of the current GCSB Act will be repealed, as recommended by the reviewers. Section 14 says that

the GCSB cannot intercept the private communications of a New Zealander for the purposes of intelligence collection.

But, as they found, the section does not serve the blanket purpose some people have thought it does. The GCSB has always been able to target New Zealanders for its cyber assurance and its assistance functions. Replacing section 14 with the new triple-lock protection for New Zealanders is both more coherent and a more robust safeguard for New Zealanders. So there is going to be one warranting regime with different powers. The Government's view was that—well, we've maintained the separation of the agencies. There has been some talk about whether they should be merged. That was not contained in the terms of the review, and we want to avoid any suggestion that there's a merger of the agencies. Under the proposed regime, the agencies will essentially have a common set of warrantable activities, such as search, but different powers to put these activities into practice.

We've also introduced, as suggested by the reviewers, class- and purpose-based warrants. An example of a purpose-based warrant will be, for example, the Government knows that some New Zealanders are fighting overseas with groups like ISIL, but it's almost certain there are others doing the same thing and we need to identify them to respond to the threat that they may pose to New Zealand. In this type of case, we may not know who these people are and we may only hold fragments of information about them. Under the current legislation, the NZSIS couldn't get a warrant because there is not enough information to identify the individuals the warrant would apply to. The GCSB cannot search for the New Zealanders because that'd breach section 14, and there's no information to support the legal test of an agent of a foreign power, and the GCSB couldn't assist the SIS under section 8C because the NZSIS would need a warrant which it couldn't get.

So under the reviewers' proposed framework, the GCSB and/or the SIS could obtain a type 1 warrant for the purpose of searching for New Zealanders fighting overseas with groups like ISIL. That would have to be signed off by the Attorney-General and the commissioner and referred to the Inspector-General.

There are some detailed provisions relating to information sharing, what datasets NZSIS and GCSB can have access to, and one important aspect that we've been engaging with the Privacy Commissioner on so far as possible, making sure that the activities of the agencies fit within the 12 privacy principles specified in the Privacy Act 1993. So the legislation, as the Prime Minister said, has been introduced and will, if it passes, go to the Foreign Affairs select committee for very detailed consideration. There are a number of important issues that need to be looked at in this legislation, and there are a number of people who obviously want to make submissions. I've already engaged with quite a number of those groups to date, and we look forward to their submissions.

Media: Can you talk about the definition of national security and the alternative, because of the note about the officials saying there are a number of shortcomings with the definition?

Finlayson: Yes. We've actually put into the legislation the definition as proposed by the reviewers, but there is a question about whether that encompasses all the activities that the GCSB and the SIS can legitimately undertake for the protection of New Zealanders. There are aspects of it that could be classed as too restrictive. So what we want the select committee to do is go through that definition line by line, word by word, to make sure that it's appropriate.

Media: And that would be an alternative if they find it's not appropriate—this alternative would be adopted?

Finlayson: One would hope so, yeah. It would come back to the House as an SOP.

Media: On the issue around whistleblowers, the creation of the new offence for those who leak classified information, at what bar is it going to be sent for classified information to the [Inaudible] different levels of classification?

Finlayson: Well, any information that a person learns in the course of his or her employment with the agencies that is disclosed without proper authorisation could come within that category. I hear what you're saying. It could be the highly, highly secret stuff, or it could be information concerning the operations of the organisation. It really would, ultimately, depend on the circumstances.

Media: So would it apply across all Government agencies and ministries?

Finlayson: Well, I mean, the approach that you take with these agencies if you're an employee is just be very careful what you say outside, lest you find yourself in trouble.

Media: Has that been introduced because of the likes of Edward Snowden and disclosures that have happened in other countries?

Finlayson: No, I think it's just part and parcel of what an intelligence agency is, that there is a method. If there is concern about dealing with protected disclosures but outside that framework, you've got to be very careful what you say.

Media: Can you explain the rationale between not merging the two agencies?

Finlayson: Having been their Minister for 18 months, I see that they have huge powers—both human intelligence and signals intelligence—and I think to put them together would create too much power in one organisation, and that the assistance function by the GCSB to the SIS is fine, but I wouldn't want to see them combined. I mean, you were the Minister a lot longer than me. You'd—

PM: Oh, no, I think that would be right. If you look internationally, there are examples of merged agencies. I think the Netherlands is in that position, from memory; there's one or two countries around the world. But, generally speaking, they're not. I think we want to make sure that New Zealanders have a great deal of confidence that there will only be intelligence activity undertaken against New Zealanders when there's the appropriate warranting for that. And even though section 14 powers are now changing under, effectively, the new legislation, I think they can still have a very high degree of confidence that because of the triple-lock nature of the warrants and because of the threshold that has to be met for a warrant to be established—that they can feel a high degree of confidence that they're not going to be spied on unnecessarily.

Media: Can you just explain the triple-lock effect? Is it the A-G and the commissioner of warrants, and on every occasion the I-G, or just when the I-G just wants to go public—

Finlayson: No, there are type 2, type 1 warrants. The type 1 is what we call the triple lock. So an application comes to me as Attorney-General—I've got to satisfy myself of the criteria set out; I think it's in clause 57 of the bill. I've got to make sure they're necessary and proportionate and they satisfy the intelligence criteria. And then the commissioner of warrants, quite independently, looks at the issue to determine—this is Sir Bruce Robertson—for himself that he's satisfied that all those criteria are satisfied. And then it's sent off to the Inspector-General for review. So she could come back, no doubt, and say: "Well, I think, in the circumstances—I don't think a type 1 warrant was justified in those circumstances." And it would be a very cavalier Minister and a very cavalier commissioner of warrants who wouldn't take that information into account.

Media: So, to clarify, he will look at every warrant. And with this type 2—does that apply for cyber-security as well, or is cyber-security exempt?

PM: No, we'll be looking at type—we don't look at cyber-security; we look at type 1, type 2 warrants. With type 2 warrants, which involve targeting non-New Zealanders, it's the Attorney-General without the commissioner, but still the Inspector-General.

Media: Isn't there a problem with being the Attorney-General and the Minister for the agency? Isn't there an issue there, or a clash?

Finlayson: Well, ultimately, who gets what is an issue above my pay grade, and there's a fellow standing next to me who determines those matters. I hear what you're saying, and they could be issues that will involve him later on.

Media: But isn't that a conflict there?

Finlayson: Well, I don't perceive that there's a conflict at the moment, as an Attorney-General looking at issues of legality, making sure that the i's are dotted and the t's crossed in relation to an application, even though I am the Minister responsible for the agencies.

Media: Are you able to enlarge on the section about Cortex and the private sector: how much assistance is the GCSB able to give the private sector? And you list the organisations here as key economic generators, niche exporters, operators of critical national infrastructure—that's a pretty broad definition.

PM: Yeah, and it's consensual. No one is press-ganged into "Project Cortex". There are a number of examples of companies or agencies such as you've mentioned that have very, very—take, for example, very valuable intellectual property, trade secrets. And we want to protect them so that they can do their job for New Zealand without being subjected to some of the cyber-crime activities that, regrettably, we see round the world today. But I emphasise to you, it's all consensual.

Media: So can they—can a company that's got something they think could be subject to a cyber-attack come to the GCSB and seek protection?

Finlayson: They could do.

Media: Why have you gone for a two-tier warrant rather than a three-tier system?

Finlayson: I beg your pardon?

Media: Why have you gone for a two-tier framework rather than the three tiers recommended by—

Finlayson: Well, we've got the ministerial policy statements as well that deal with the more general stuff. And so what will happen is, if and when the legislation comes into force, I as the Minister will be issuing a number of policy statements to the GCSB and the SIS dealing with a range of activities—then they are made available to the Inspector-General, and I think also the Intelligence and Security Committee so that everyone knows what they are doing and the scope of what they are doing.

Media: And will their activities—of both agencies—be covered by some form of warrant, as had been recommended by the review?

Minister: Well, certain activities targeting New Zealanders, type 1; certain activities targeting non – New Zealanders, type 2; and the general policy statements dealing with the broad range of activities of the agencies.

Media: So it's not necessarily warranted activities?

Minister: But that's not—when you're dealing with type—with the ministerial policy statements that's not warranted. No.

Media: On the triple-lock protection—this is Andrew's question—it is possible that the third lock, the Inspector-General, who is reviewing these, it is possible for the A-G to dismiss that review isn't it, from what you said?

Minister: Yeah, umm. Theoretically, if she came back and said to me that she was a bit worried about that particular warrant—I suppose I could ignore her recommendations but that would be a matter that she could bring to the attention of the intelligence committee, and then I'd have to front up and explain myself. I think any sensible Attorney-General

would contact the commissioner and say: “The Inspector-General’s raised an issue about this, we’d better take another look at it.” So I actually think, in practice, if the three players in the triple lock are acting professionally and independently you wouldn’t come across that situation—the cavalier dismissal of what the Inspector-General said.

Media: And can you tell me in what circumstances urgent warrants would be applied for?

Minister: Yeah. Look, in the 18 months that I’ve been dealing with them, very rare. If something was so urgent that there was a particular activity that the agencies told me was about to happen—that I could give my permission on the phone and then I would expect a report within a couple of hours. And if I said on further reflection “I don’t think that this activity justifies an urgent warrant.”, then the whole thing would be cancelled. But it would be a very rare occurrence; if you like, in legal terms, a very urgent interim injunction to stop a particular activity, or something along those lines, but in circumstances where it’s not possible to get the paper together because it’s immediate.

Media: On the ISC, you’re expanding the number of members—or potentially expanding the number of members. Are you open to having the Greens back on the committee?

Minister: Well, that’s a matter that would be the subject of discussion between—as currently drafted—between the Prime Minister and the Leader of the Opposition.

Media: But you might be open to having the Greens back?

Minister: Well that would be a matter that the Leader of the Opposition, as the lead party of opposition, would take the lead on those issues.

Media: But the bill, as drafted, doesn’t specify that all opposition parties or all political parties have to be represented?

Minister: No it doesn’t—no, that’s right.

Media: On the issue of Tony Fullman—I appreciate that you don’t want to go into the operational details but can you confirm whether you signed the warrant relating to surveillance on that operation?

PM: I’m not going to go into the operational details and I’m not going to go into the wider facts behind the situation. What I can say, is that I’m totally comfortable with the actions that the agencies took. I’m totally comfortable that they didn’t use *[Inaudible]* to circumvent the law. Very comfortable that they’ve acted lawfully and professionally—and like all situations, there are always many sides to a particular story.

Media: So are you saying that Mr Fullman wasn’t one of the 88 mentioned in Rebecca Kitteridge’s report?

PM: Well, I think it’s very important to understand that we didn’t say that the 88 had been unlawfully spied on. In fact, actually, the previous Inspector-General had made a ruling that said it’s highly likely that that wasn’t illegal activity, from some memory of my time back then.

So it’s not clear-cut at all. But, anyway, going back to, you know, the wider issue, I’m quite comfortable with the actions that the agencies may or may not have taken.

Media: Sorry, I’m not clear. So the 88 people that are lawful or not *[Inaudible]*.

PM: It’s just it’s been stated as fact that it was unlawful, and that’s not right. The Inspector-General at the time made a ruling that they may well be lawful in terms of their activities.

Media: So the 88 mentioned in Rebecca Kitteridge’s report—was Mr Fullman one of them?

PM: I’m just not prepared to go into that.

Media: OK. Just again, on that last question, Mr Fullman is consulting with lawyers and he's considering taking legal action against the Government. Would you consider an apology and/or compensation?

PM: Well, as I said to you, I'm quite comfortable with the actions that the agencies have taken. And, in the end, people are always free to go and test their rights if they believe they want to.

Media: Mr Finlayson, can you just give a bit more detail, when you said the agencies have had a common set of warrants but different powers to put them into practice?

Finlayson: Well, basically they have powers that are similar. For example, the SIS would have certain powers when targeting a New Zealander to break and enter particular premises. The GCSB wouldn't necessarily have that power at all. And it's all spelt out in the legislation. There is some degree of overlap, but the organisations and the functions they perform are still quite separate.

Media: So it's as much the means by which they would do it, as opposed to different levels of power, as such, in terms of what—

Finlayson: Yeah, sure. That's a reasonably fair description.

Media: What is a New Zealander for the purposes of this legislation?

Finlayson: A New Zealand citizen or a New Zealand resident, a company incorporated in New Zealand; so they would be the tests. I think they're set out in the legislation.

Media: So a permanent resident is given the protection of a New Zealand citizen?

Finlayson: Yep. New Zealand person—page 16. A New Zealand citizen, a person ordinarily resident in New Zealand, a body corporate incorporated New Zealander.

Media: That's a very wide protection. It covers a very wide selection of people, you would have thought.

Finlayson: Yes, it does.

Media: Can I just ask what the—I know it's going over old ground here, but what's the justification for allowing the GCSB to spy on New Zealanders? Is it because they feel that they currently can't do the work that they're supposed to be doing?

Finlayson: Well, I gave you that example. There will be situations where the NZSIS can't get a warrant because they can't identify the people. There may be a particular tip-off that New Zealand has been given about activities of New Zealanders cooperating with ISIL. Under the current legislation the GCSB can't provide assistance to the NZSIS because the NZSIS can't get a warrant. So what we're trying to look at is a purpose-based warrant to deal with those sorts of situations.

Media: So is that a hypothetical example or has that actually happened in real life?

Finlayson: I'm dealing in all my examples, Andrea, with the hypothetical.

Media: So that hasn't actually occurred in real life?

Finlayson: I'm dealing with the hypothetical.

Media: So yes or no?

Finlayson: No, I'm just dealing with—I'm giving you examples of—hypothetical examples.

Media: So has there ever been an example in the last year so the GCSB has felt they actually couldn't carry out their duties?

Finlayson: I just wouldn't get into that level of operational detail.

Media: Mr Key, do you expect to have a large majority in the House when passing this legislation?

PM: Well, I don't think there's any doubt we've got the numbers to get it through to a select committee, and I think, you know, if I could reflect on what's changed over the last 3 or 4 years, is, I think, the international environment has changed. You've seen a much more overt emphasis of organisations like ISIL trying to target New Zealanders. I think there's a real, genuine understanding by New Zealanders that if we are to protect them and to keep them safe, then the best way of doing that is having information that allows us to foil a potential threat, as opposed to dealing with the consequences after that's taken place. There's no question that intelligence agencies around the world now are very focused on this issue.

I would have thought other political parties would take that responsibility as seriously as the Government does, because it's going to be very difficult for political parties if they choose not to vote for this legislation and there was ultimately to be an issue in New Zealand, then clearly fingers will be pointed about whether we could have done more to stop it. And the biggest and strongest measure of defence we have is through understanding the actions of

Media: And Labour has indicated they'll back it to select committee but they do want some changes, I think around that definition of "national security". Are you open to negotiations around that?

PM: Yes, look, it's a genuine select committee process. It's been our preference to have bipartisan support with Labour on important issues like national security. We've been working very constructively with them at the ISC. We had Michael Cullen and Dame Patsy Reddy as the reviewers, because we accepted their high level of both intellect and professional judgment, but also because we thought that that would help us build a parliamentary majority. So we're obviously hopeful we're going to get there.

Media: Are you hopeful of wider than just Labour? Are you looking to New Zealand First? Have you had any indication—

PM: Yeah, I mean, look, I think other political parties will take the environment quite seriously. I mean, there's a reason there was a lot more money allocated in Budget 2016 for the intelligence agencies. You know, I spend a fair bit of time, obviously, overseas. I talk to fellow leaders, not just "Five Eyes" partners but others about the role of their intelligence agencies, the work they're doing, and what they're seeing. And, you know, the reality is that they are working in overtime now, in an environment where it's just, you know, highly risky. I mean, Richard raised the point earlier about Cortex. What's true is that the private sector entities are undertaking the services of GCSB to apply Cortex. I personally think a hell of a lot more of them should be, and the reason for that is that we now live in a world where most of, not only the secret, but the operational activities of the company are held digitally. So if you're an electricity supplier, you're a water supplier, you run our aircraft navigation systems—all of that work happens now in an electronic environment, and that's a risk if those environments are compromised.

So companies have to take their cyber-security seriously, and we are seeing an exponential number of attacks on both New Zealand companies and on Government agencies when it comes to cyber-risk.

Media: Looking back over the last 5 or 6 years, do you think this has been a necessary process for New Zealand to have gone through? There's been some bungling along the way and mistakes—all sorts of stuff—but where we are now, is that a process we needed to go through: modernising?

PM: Well, I think if you go back all the way to when I first became Prime Minister—if you go back then—there's no question that the agencies were much weaker than they are today, operationally and in the structure. I think that the reality is that they didn't have the oversight, they didn't have the daylight, they didn't have the scrutiny that later on they were subjected to. So while out of the errors that took place in something like Dotcom ultimately

came the Kitteridge review and then the further work we've been doing around SIS and the sort of Government review work that we've been undertaking. So those agencies have come a long way.

In the same period of time, I think, New Zealanders have got a lot more information about how the agencies work. I think, generally speaking, they feel quite comfortable. There'll always be some people that are concerned by intelligence agencies, but, for the most part, New Zealanders know that those potential threats, while much smaller in our country than others, are real and the Government actually has to protect them. I think they do feel a high degree of confidence that we're not out there snooping on their private thoughts or their private emails or aspects of their life that have no relevance to other New Zealanders. We are literally there for the genuine and real threat that just one or two or a very small group of people potentially pose against fellow New Zealanders.

Media: Will there be—in the previous legislation there was obviously a mandatory review that Cullen already did. Are you expecting another one of them?

PM: Yeah, well, as you correctly point out, the review led to this—

Finlayson: Yes, and there's a mandatory review clause in the legislation, both of the legislation and the agencies, because I think regular reviews are a good thing for this kind of organisation.

Media: So when will that take place? When can we expect that?

Finlayson: I think it's every 5 years.

Media: And that will just keep going every 5 years?

Finlayson: Yep, it's not a one-off review.

Media: With the information sharing, given the requirement to act under the principles of the Privacy Act, is there enough protection, given the direct and clear mandate the agencies now have to access the huge amount of personal information through the Government database?

Finlayson: Yeah, well, I think that marrying them into the Privacy Act principles, so far as possible, is a very good thing for the very reason that underlies your question—that there's a lot of information there, it touches on all aspects of the lives of New Zealanders, and access to it has to be, so far as possible, consistent with the principles of privacy. It's a hugely important issue and it's getting more and more important as more and more stuff is made more readily available.

Media: What other checks and balances are there to make sure that they are complying with the principles of the Privacy Act?

Finlayson: Well, the Inspector-General plays a very important role. She can go in, 8 o'clock on a Monday morning, and say: "I want to see all your files dealing with those issues."

Media: But it wouldn't necessarily come under, sort of, intercepting communications, would it—

Finlayson: No.

Media: —if they're going and accessing it. So does it sit as a quite different regime?

Finlayson: Oh, I see. Well, there are—

Media: It wouldn't be covered, for example, by a tier 1 warrant, would it?

Finlayson: Well, no, but there is certain information you can access, and it's going to be spelt out in the legislation automatically—stuff like births, deaths, and marriages information. But if you want to get access to IRD material, it's always been fundamentally understood that that kind of material, the dealings between the Commissioner of Inland Revenue and the taxpayer, are to be regarded as sacrosanct. So they would have to get a

warrant, a tier 1 warrant, and then I'd have to satisfy myself that getting access to those records was necessary and proportionate for one of the purposes set out in the type 1 warrant.

Media: That's just for tax information, though.

Finlayson: Yeah.

Media: So you've still got customs, immigration—you've still got a whole lot of other databases—so you could just go and access, without any kind of authorisation?

Finlayson: Yeah, and—yes, you're quite right. Schedule 2 sets out the databases that are going to be accessible—customs information about who's coming in, who's going out, that sort of information; so it will be available.

Media: So apart from the Inspector-General coming and saying "I want to look at it.", what other check and balance is there—

Finlayson: Well, there could well be—

Media: —limiting accessing that information?

Finlayson: It's a very good question, because there could well be a ministerial policy statement issued by me in relation to that matter, which could be subject to review by the Intelligence and Security Committee, as well.

Media: Because, at the moment, the citizen doesn't know that that's happening, and still wouldn't.

Finlayson: Oh, no, no—

Media: So they wouldn't have any cause to go to anyone and say: "Hey, look, my information's being accessed through"—

Finlayson: No, that's correct, that's true.

PM: The Inspector-General has a very broad mandate to undertake any review that she wants. And so, at any point, she could choose to actively look at a piece of activity by the agencies—like that accessing of those databases—and check that they're fundamentally being carried out as per the warranting that's approved.

Finlayson: And issue a report to that effect, and if it was unsatisfactory—I'm the Minister, I'd be in the gun.

Media: It's also mentioned in the review of the Privacy Commissioner being involved in some kind of way through that process. Is that going to happen under this bill?

Finlayson: Yes, and we've already involved the—or had discussions with the Privacy Commissioner about the privacy principles, and slightly expanded the application of—you know, those 12 principles set out in the 1993 Act.

Media: So just to be specific, if somebody wanted to make a Privacy Act request to the Privacy Commissioner, or a privacy complaint: have these agencies been accessing my details through those databases—

Finlayson: You'd have to go to—

Media: Would they be able to do that, and would there be disclosure?

Finlayson: No. Well, if—you'd have to go to the various privacy principles and see which ones apply and don't. In the round, the answer to your question, Felix, is no. They wouldn't necessarily know that the SIS had been looking at a particular file.

Media: So they wouldn't even be able to find out?

Finlayson: In answer to your hypothetical, no.

Media: Yes—taking a complaint to the Privacy Commissioner—would you?

Finlayson: No.

PM: OK. If you guys are good, let's move on to a couple of other things. Are you done? Yep, OK. So, can I just turn to Havelock North for a moment.

The Government's very concerned about the situation in Havelock North. I've called Mayor Lawrence Yule and offered them any support the Government can provide. Acting health Minister Sam Lotu-liga is receiving regular updates, but I've asked for a briefing myself tomorrow from officials, along with Minister Lotu-liga and Minister Dunne.

I cannot stress how important it is that people follow the advice of health professionals, including boiling water and washing your hands. If you or someone in your family isn't feeling well, call Healthline on 0800 611 116 for advice. The focus at the moment is on getting people well and on ensuring others do not get sick. In time, however, we need to establish how this happened and how it can be prevented from happening again. The council has indicated that it will conduct an independent inquiry. The Ministry of Health is also likely to conduct an inquiry. Whether or not this is independent of the council's is yet to be determined.

In terms of Parliament this week, we're progressing a number of bills, including the appropriation bill, the Food Safety Law Reform Bill, and the education bill. In terms of my activities, I'm obviously here tomorrow and Wednesday, and on Thursday morning. On Thursday afternoon I'll be in Dunedin, and then on Friday I'm in Christchurch.

Media: Is this the Havelock North situation acceptable in your mind—a third-world country thing?

PM: No, I don't think it is acceptable. There's potentially a large number of people that have now been affected. We certainly know there are dozens of identified cases of campylobacter. We need to understand exactly how this material's got into the water supply. So, in the first instance, as I said, it's a matter of us making sure that people are following the right health guidelines: boiling water, washing your hands. But, fundamentally, we need to understand how it took place, because for the number of people that are now sick it's very clear that—given the dilution that you would have expected to take place in the size of the water source, that quite a lot of material's got into the water source.

Media: What—did you have some advice on that?

PM: I've only had discussions with the mayor, but it's pretty clear from the indications he was giving me about the scale of the issue that a lot of people have been affected, so it's pretty likely that the toxicity or the intensification of the degradation to the water is quite significant.

Media: Is this from animal faeces?

PM: At this stage we don't know. They'll know tomorrow. They've got a—for sure, they've got a test coming back on their water tomorrow, and they are also identifying human samples, and I think those samples will give them, you know, a pretty good indication of what's likely to be the cause.

Media: Is there an issue with—it's one thing being contaminated but the time it took to actually alert people. Why—do you have an understanding of why it took so long—

PM: My understanding is that they had a test on Tuesday of the water, of last week, and it was clear. The first cases that the mayor had any indication of—or at least I asked him about when they first started identifying cases was the Wednesday, and there was a further test taken on the Thursday; on the Thursday the indications of the level of degradation to the water was quite low. So, I think, in the fullness of time we'll need to understand, you know, how quickly people responded and how much information was available, whether more could have been done more quickly. We don't know those answers yet.

Media: Are you signalling with the Ministry of Health that the Government may, effectively, step in here and make an attempt to get to the bottom of this?

PM: Well, what I'm saying is it's highly likely the Ministry of Health will have an inquiry. What's possible is that inquiry will either be co-joined to the inquiry that the council has, but it's not impossible that the Government will have its own inquiry.

Media: Are you concerned about the time it took between the first warnings the council received through its testing and when it acted?

PM: Well, I just need to, I think, really, get fully all of those facts. I mean, like all of these things, of course, the situation's escalated quite rapidly. And people do get campylobacter, so, you know, people from time to time get identified with that. There's many different sources of that—a lot of people from chicken, for instance. But I guess the question is how quickly they realised this wasn't just one or two people from an isolated instance, all the way back to the water source, and I don't have that time line yet.

Media: Regardless of the time line, though, are you concerned about the communication from the council, once they—

PM: Again, I'd want to review that fully. I think they have been trying to communicate with people. But, you know, the big concern here is that the most significant impact is likely to be on either very young people—so babies—or very old people. They're the most vulnerable, and the least able to withstand the implications of campylobacter, which can be very violent on people.

Media: If they had a test on the Thursday, and there were low levels then, when was the next test done?

PM: I don't know the answer to that.

Media: Another marae is opening its doors to the homeless tonight in Auckland. Does this show that the Government isn't doing enough on the issue?

PM: No, I don't think so, because if that was the case then you'd be saying: "Well, Te Puea Marae closed because its services, you know—or the service that was required from them had sort of largely been completed." And all I'd say is the Government is always happy to work with any institution that wants to provide support. If Manurewa Marae is doing that, then the Government will be working with them, both in terms of the physical support and potentially some funding support.

Media: Do you think that there is a need for that physical support, though?

PM: It's not an unhelpful thing that a point like a marae is a place that people can go to to then access those Government services. So what happened at Te Puea Marae—and I'm sure it will be the same at Manurewa—is that every single day they were in operation, the Government employees were out there working with these people. So it's not an unhelpful thing at all. We're happy to work alongside them. We never argued that the Government is the sole response mechanism for every issue in this area.

Media: Prime Minister, yesterday David Shearer made some comments in regards to the reports we're seeing from Nauru. You've had a bit more time to have a look at the report, and whilst you say that it's the Australian Government's responsibility to work with the Nauru Government on conditions, what do you say about those reports of abuse and self-harm and specifically as well on the Minister's response to those reports in which he accused people on the Nauru detention camp of making up some of their stories.

PM: OK, so obviously the Government over here in New Zealand is aware of those reports. We haven't analysed them, but we're obviously aware of them. I go back to what I said last week. I mean, you know, it's the Australian Government's responsibility and the responsibility of the Government of Nauru. I mean, New Zealand is always concerned if there are issues around human rights. The Prime Minister of Australia, Malcolm Turnbull, has made it quite clear that he is both aware of those reports and is investigating them. And

I have great confidence in Malcolm Turnbull—if there is an issue that needs to be addressed, then I'm sure the Prime Minister of Australia will do that. But it's ultimately their responsibility and not ours.

Media: And specifically on your offer to resettle 150 refugees, have you made any headway with that with the Aussies?

PM: No. I mean, that goes back to a longstanding offer we made at the time to Julia Gillard when she was Prime Minister. It's in writing between the two Governments. Each year the Australian Government considers whether it wants to take that offer up. So far it has rejected that offer.

Media: And you're not going to offer again?

PM: No, I mean, I think, ultimately if there are issues for the Australian Government to address in its offshore facilities like Nauru, then it needs to deal with those issues. It's not really a matter of resettlement in terms of the 150.

Media: Looking at the Auckland Council elections and the nominations over the weekend, can you explain the relationship between the National Party and Auckland Future?

PM: There's no direct relationship in so much there's not a, you could say, official relationship. They're not a subset of the National Party, if you like. But there's no doubt that there's quite a lot of crossover between the people in Auckland Futures and many people that support National. That would make sense, wouldn't it, because, you know, Auckland Futures councillors—or those they want to get elected to the council, or to the mayoralty—are centre-right people. So there's certainly quite a lot of crossover in terms of discussions, but they're not a formalised part of the National Party.

Media: So are you personally endorsing Victoria Crone?

PM: No. I'm not endorsing any candidate. I didn't in previous local government elections. You know, I've been to fundraisers—I go to fundraisers and do different things and help people, but I do that very much, you know, behind the scenes. It's not my role as Prime Minister, because, in the end, you know, I'm going to deal with whoever the elected Mayor of Auckland and Wellington and other councils around the country are. So it's not something I go and physically endorse a candidate.

Media: The Auckland Council this afternoon passed their unitary plan with a few changes. What's the Government's view on whether that's enough?

PM: Well, firstly, we're pleased with the news that they've passed the plan largely intact from the recommendations made by the independent hearings panel. Obviously I haven't had an opportunity to be able to see what bits are in and what bits are out, so I can't comment until I see that. My understanding is we won't see that until Friday. We'll at least be able to have a discussion about that in detail—until Friday. So, you know, we want to hold our powder, if you like, until then. But I think, you know, clearly the Auckland Council is recognising that, you know, at the heart of resolving the housing issues in Auckland is appropriate planning, and that's what the unitary plan process is all about.

Media: What did you think of the banks' decision, particularly ANZ's, to only pass on 5 basis points of the 25 basis points—

PM: Well, as I said last week, I mean, on the one hand the Government's preference always is that interest rate cuts are passed on fully to the consumers. But it was always a complicated position, because sometimes they get ahead of those decisions because, let's face it, I mean, it was 112 percent of economists thought there would be a cut in interest rates last week, so you go and work out the maths. Some of them thought there'd be 50 basis points.

Secondly, you know, there are always other issues around the reverse side of this equation—depositors. And, thirdly, there are issues around their offshore borrowing costs and other costs that the banks might have.

I mean, I think if you just broadly looked at, over the period of time, the reduction in base rates from 8.75, when I first became Prime Minister, to 2 percent, as they are now, you've seen a corresponding significant reduction in retail rates. So, broadly, the process works well.

Media: Do you think they're being good corporate citizens, which was the benchmark you set last week?

PM: I think, broadly, from what I can see. I don't analyse every little bit of it. I mean, they'll have their own, you know, analysis of all of it. You know, it's always good political fodder to go and kick the hell out of the banks, and lots of politicians do it. But as I said, if you just go and have a look at, you know, where you can borrow money now and where you could borrow it 8 years ago and look at the base rate reduction, there's a pretty strong correlation that they followed through with that.

Media: In the poll this morning, in regards to opening up access to cannabis, where do you stand on a referendum?

PM: Where do I stand on—

Media: A referendum on the decriminalisation of—

PM: I'm not strongly in favour of it. It's not part of the Government's agenda. I mean, I think, you know, it's interesting to have a poll like that, but I remember when it wasn't that long ago, as a country we were debating these legal high stores, and communities were coming out in their droves in opposition to stores that sold legal highs. And, ultimately, if we were to decriminalise cannabis in New Zealand, then there would be cannabis stores—and you show me the communities that want to put up their hand and say: "I want a tinny house at the end of my street."

Media: But in Australia, they've introduced civil fines for cannabis possession, if it's a small amount, and there aren't cannabis stores.

PM: Yeah, and the police always have the right to exercise discretion, and do. You know, I accept that some people get prosecuted and some people don't, but, for the most part, you know, there's discretion. And as I said this morning, my own personal view is that Parliament sends a message in the laws that it passes, and we do that through tougher sentences in certain areas and we send it by decriminalising in other areas. And, I think, I mean, it's a personal judgment, but you come back to that perspective on—do we want to see increased drug taking in New Zealand? Personally, I stand from the view of, we don't. But I accept others have a different view.

Media: Do you see a place for a referendum in terms of medicinal cannabis, or do you think that that's something that can just be brought into law without that process?

PM: Well, I think that's something where you are seeing a movement. I mean, we had the well-known cases in recent times where there's been applications. As I said, Sativex is there. There's a fair bit of debate about whether it should be, you know—these drugs should be Pharmac-funded. There's certainly a debate about whether they are effective or not. I mean, I think there's quite a bit of—what you're really seeing is some people saying: "I don't want to take Sativex; what I want to do is smoke a joint because I'm terminally unwell." And the reality is, if someone is terminally ill and they smoke a joint, I think the probability of them being prosecuted by the police under their discretion powers is very low.

Media: Do you agree with Peter Dunne's position on this—that once you have the testing in place, that you could apply cannabis to that same testing and, therefore, if the product passes and Medsafe approves it, then cannabis leaf eventually could actually be acceptable?

PM: Well, there's no question that there's been quite a change around these views, and you're seeing it in different places. So I don't know exactly where it will go—there's a range of views in this area. There's also a fair bit of medical research that says sustained use of cannabis has significant implications in other areas of health policy. So I don't know exactly where it will progress. I think there will be certain changes to the quality of drugs that are available in the market place and their effectiveness. As I said, it's quite a different issue from what some people are arguing.

Media: On Nuk Korako's "Lost Property in Airports (Sale Thereof) Bill"—do you still think—

PM: You're smiling, Vernon, when you ask me this question.

Media: Well, it's hard to repress a smile. I'll try to be serious. Do you still think it's such a crashingly important bill that it needs to be a stand-alone piece of legislation before the House, or would you consider putting it into a statutes amendment bill or something like that?

PM: It could be dealt with that way. But the point is that the Government doesn't think it's the most significant and pressing issue of the Government's work programme—and never has—and that's why it hasn't been using Government House-time to progress it. I mean, the reality is the law is a bit of an ass in this area. I mean, the law requires—

Media: But the bill isn't?

PM: Well, the trouble is the existing law is, and so the law needs to change. There are a number of ways you can change the law, but we've never thought it was that pressing to push ahead with it. But this is members' days, and members' days can be used in any way a member wants to.

Media: So will you change tack and put it into a statutes amendment bill?

PM: Well, we haven't had a discussion about that, but now it's been drawn we could consider it. I—you know, got to grab advice on that, but it's possible.

Media: There's been some criticisms of the whole process—that the Government is just using these bills to water down the possibility of an Opposition bill being drawn from the ballot. Is that the—

PM: Look, I don't think that's right, but I do think it's harder for a Government MP, because by definition, you know, members can use a member's bill to advance a particular, you know, area of interest, you know, which is of some significance. That's much easier to do from Opposition because if you're in Government, then the question gets asked very quickly: "Well, if it's of that degree of importance, why doesn't the Minister take it up and make it a Government bill?". And we do that in certain situations, so all I'm saying to you is it is by definition a little easier for an Opposition MP to put a member's bill up on a more substantive issue.

Media: But it has been a recent development, hasn't it, that Government backbenchers have started wheeling out as many bills as possible. Go back a few years, the number of bills in the ballot were easily outnumbered by Opposition or minor party bills. It's a tactic you've adopted, isn't it?

PM: No, I don't think you could say it's a tactic. But it's also important that, you know, Government backbench members do consider issues and where they're not so significant that they're on the Government agenda, that they consider whether they should be passed.

Media: This week is the 10th anniversary of the coronation of the Māori king. Are you going to any celebrations or functions at all?

PM: I don't think I am this week. I normally do. And, you know, I'm pretty actively involved. But from memory this week I'm in Dunedin at a previous commitment and something in Christchurch.

Media So a full schedule is the only reason why you're not going?

PM Yeah, I mean I don't go every year, but I've been on numerous occasions in the past.

Media Haven't you previously criticised Helen Clark for not going?

PM Not for the coronation, no, that was for Waitangi.

Media Are you concerned that it may look that you might be criticised for that, given that it is the 10-year anniversary of the king's reign?

PM I don't think so. I mean, my relationship with the king is both, I think, a very constructive and practical one. We're at Turangawaewae quite a lot. You're aware, obviously, his health is not great but he is invited to and goes to as many functions as he practically can. When I'm there I see quite a lot of him and his people. It's a very good working relationship. I don't know exactly but I know I'm at Class Act in Dunedin, which is something that's a bit hard to change the details on. I'm not sure on Friday, but we're not avoiding it. We normally go. I just haven't gone on this occasion. OK.

conclusion of press conference