MINISTRY OF EDUCATION
TE TĀHUHU O TE MĀTAURANGA

Tertiary Education Report: final approval for introduction pack for the Education (Vocational Education and Training Reform) Bill

To:	Hon Chris Hipkins, Minister of Education		
Date:	21 August 2019	**Priority:**	High
Security Level:	In Confidence	**METIS No:**	1203069
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Messaging seen by Communications team:	No	**Round Robin:**	No

Purpose of Report

This briefing provides an Approval for Introduction pack for the *Education (Vocational Education and Training Reform) Bill*, which includes:

a. Approval for Introduction Cabinet paper

b. Disclosure statement

This briefing also provides suggested speaking points for the Cabinet discussion.

Recommended Actions

The Ministry of Education recommends that you:

a. **note** the attached approval for introduction pack for the *Education (Vocational Education and Training Reform) Bill*

Noted

b. **note** the changes that have been made to the draft Bill in line with your feedback at the Agency meeting on Monday 19 August and following consultation with agencies

Noted

c. **agree** to lodge the Cabinet paper for discussion at Cabinet on Monday 26 August

Agree / Disagree

d. **note** that Parliamentary Counsel Office will lodge the draft Bill with Cabinet Office on Thursday 22 August

Noted

Proactively Released by the Minister of Education

e. **note** the attached suggested speaking points for Cabinet

Noted

f. **agree** that this briefing and annexes will be proactively released once the Bill has been introduced.

Agree / Disagree

Andy Jackson

Group Manager, Tertiary Education
Graduate Achievement, Vocations & Careers

21/08/2019

Hon Chris Hipkins

Minister of Education

22/8/19

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Updated approval for introduction pack

1. At the agency meeting on Monday 19 August, we discussed with you the *Updated draft approval for introduction pack for the Education (Vocational Education and Training Reform) Bill* (the Bill) [METIS: 1202516].

2. The Ministry of Education has continued to work closely with the Parliamentary Counsel Office (PCO) to update and prepare the Bill for introduction.

3. The significant changes made are listed below. More minor drafting changes have also been made, to improve effectiveness and consistency of provisions.

Changes in response to your feedback

The Tertiary Education Commission's (TEC) role in giving effect to WDC advice

4. An accountability mechanism has been added in relation to the TEC's role in giving effect to advice from a workforce development council (WDC). If the TEC is unable to give effect to a WDC's advice because of capacity or capability constraints on the ability of providers to deliver it, it must write to the WDC, explaining what actions it intends to take to address those constraints within the next three years. WDCs will have an explicit right to object to the Minister if they believe the TEC has not adequately responded to its advice.

Arrangements for the dissolution of subsidiaries

5. The provisions relating to subsidiary dissolution have been amended to ensure that Cabinet's intention that all subsidiaries be consolidated in the Institute is clearly expressed. The dissolution date of subsidiaries will be specified as 31 December 2022, unless dissolved prior by the New Zealand Institute of Skills and Technology (NZIST). The dissolution date of a subsidiary may be extended beyond the legislated date by Order in Council on the recommendation of the Minister.

6. This clause is considered to be a 'Henry VIII' provision, since it uses an Order in Council mechanism to amend primary legislation. In their examination of the Bill, the Regulations Review Committee may see this as contentious, since there is no time limit on this ability to amend primary legislation, and may propose the inclusion of a limit.

Governance of WDCs

7. Provisions relating to WDCs have been amended to require that governance arrangements for a WDC (as stated in an Order in Council) provide for the collective representation of employees, and ensure the representation of Māori employers.

Additional amendments discussed at the agency meeting

8. Provisions relating to academic freedom of the NZIST have been tweaked, so that NZIST's academic freedom extends to its subsidiaries (rather than subsidiaries having academic freedom in their own right).

9. NZIST will be required to include a representative of the Māori advisory committee on its council.

10. The now-redundant clause that summarised the effect of the Charter has been removed.

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Other changes to the draft Bill

Changes in response to agency feedback

11. NZIST will be required, through the Charter, to ensure that the range of education and training options available to learners and employers is 'appropriately broad and current' (as suggested by the Treasury).

12. Those who are funded to support apprenticeship training will be required to advise employees of all ages to seek independent advice when considering entering into an apprenticeship training agreement (as suggested by the Ministry of Justice through the Bill of Rights Act 1990 scrutiny process).

13. Minor drafting changes have been made to ensure that the transitions work effectively for employees (in discussion with the State Services Commission).

Other matters relating to drafting

14. The Bill contains provisions relating to final audit and reporting requirements of polytechnics. We consider these arrangements are appropriate for the Bill's introduction, however we will continue to work on these and identify any improvements that can be made for consideration through the Departmental Report.

15. The Ministry of Justice has commented on the offence provisions in the Bill relating to the use of the protected terms 'polytechnic' and 'institute of technology'. Best practice for these types of clauses is to include a corresponding defence provision, which could result in acquittal. We are comfortable with the provisions as drafted, given their limited nature. We have explained the rationale in the Disclosure Statement and noted this issue at paragraph 18 of the Cabinet paper. This may be raised through the Select Committee process and we could consider at that point whether changes are required.

Updates to Cabinet paper and Disclosure statement

16. There are two areas where substantive changes have been made to Cabinet's policy approvals. These are:

    a. the requirement that NZIST's council must include a member elected from the Māori advisory committee

    b. specifying the date of dissolution of subsidiaries as 31 December 2022.

17. The Cabinet Paper seeks agreement to those changes.

18. *Appendix A: Power to Act decisions* has been updated in line with the above changes.

19. Minor updates have been made to the Disclosure Statement reflecting the Bill of Rights Act consistency review, the addition of the new Order in Council mechanism, the offence provisions and minor editorial changes.

Draft first reading speech and press release

20. A draft press release for introduction and a draft first reading speech were provided in last week's report [METIS: 1202516]. These will be updated as required following your feedback.

Annexes

Annex one: Final Approval for Introduction Cabinet paper

Annex two: Final Disclosure Statement

Annex three: Suggested speaking points for Cabinet

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