



Tertiary Education Report: Annotated Agenda to support discussion on RoVE transition arrangements, the formation of Industry Skills Bodies and Centres of Vocational Excellence, and fiscal implications

To:	Hon Chris Hipkins, Minister of Education		
Date:	17 May 2019	Priority:	Medium
Security Level:	In Confidence	METIS No:	1190415
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

The attached Annotated Agenda seeks your indicative agreement to aspects of the transition arrangements for the Reform of Vocational Education (RoVE) proposals one and two, initial decisions on the organisational form and interventions framework for Industry Skills Bodies (ISBs) and the establishment of CoVEs, and fiscal implications. We seek feedback in the week of 20 May.

Recommended Actions

The Ministry of Education and the Tertiary Education Commission recommend that you:

- a. **note** that the attached Annotated Agenda seeks your indicative agreement to high-level design aspects related to the transition arrangements for RoVE, the formation of Industry Skills Bodies and Centres of Vocational Excellence, and fiscal implications

Noted

- b. **note** that decisions are required on the topics outlined in the attached Annotated Agenda to inform your report back to Cabinet in June 2019 and to allow for legislation to be drafted for introduction by late August

Noted

- c. **forward** the attached Annotated Agenda to any additional ministers you may wish to include in discussion

Agree / Disagree

- d. **agree** that this briefing will be proactively released once you have agreed on RoVE at Cabinet. Legal advice and commercially sensitive material may be redacted in line with the provision of the Official Information Act (1982).

Agree / Disagree



Grant Klinkum

Acting Deputy Secretary, Graduate
Achievement, Vocations and Careers
Ministry of Education

17/05/2019



Tim Fowler

Chief Executive
Tertiary Education Commission

17/05/2019



Hon Chris Hipkins
Minister of Education

24/5/19

Proactively Released

Process for confirming policy and design aspects of RoVE

1. The attached Annotated Agenda outlines high-level design aspects related to aspects of the transition arrangements for the Reform of Vocational Education (RoVE) proposals one and two, the formation of Industry Skills Bodies (ISBs) and Centres of Vocational Excellence (CoVEs), and fiscal implications.
2. We seek your indicative agreement to these design aspects (where required) in the week of 20 May. These decisions are needed to inform your report back to Cabinet in June 2019 and to allow for appropriate legislation to be drafted.
3. We have aimed to provide sufficient detail on each topic to support good decision-making while ensuring the paper is manageable. Officials can provide further information to support your decision on an item if required.
4. A workshop session with industry training organisations is planned for 23 May and two hui are scheduled with Māori stakeholders on 21 May in Christchurch and on 28 May in Tauranga. Following advice from officials to reflect feedback from these engagements, you may wish to review your decisions on aspects of the proposals in this paper.

Annexes

Annex 1: Options for the establishment entity

Annex 2: Wind up clauses of industry training organisations

Annex 3: Committed major projects at current institutes of technology and polytechnics

AGENDA

Reform of Vocational Education
20 May TBC

Attendees

Minister of Education, Hon Chris Hipkins
Other Ministers to be confirmed
Officials to be confirmed

1. The attached Annotated Agenda seeks your indicative agreement to aspects of the transition arrangements for the Reform of Vocational Education (RoVE) proposals one and two, the formation of Industry Skills Bodies (ISBs) and Centres of Vocational Excellence (CoVEs), and financial implications.
2. We seek feedback on these matters in the week of 20 May.
3. The structure of this paper is as follows:
 - **Section 1 – transition arrangements for the establishment of NZIST**
 - Item 1: Deciding on the form of the NZIST transitional entity
 - **Section 2 – transition arrangements for role changes**
 - Item 2: Transition options for the “arranging training” function
 - **Section 3 - the establishment of ISBs**
 - Item 3: Organisational form for ISBs
 - Item 4: How and when should ITO activities transfer to ISBs?
 - **Section 4 – the establishment of CoVEs**
 - Item 5: Scope, process and possible selection criteria for CoVEs
 - **Section 5 – managing the overall fiscal implications of RoVE**
 - Item 6: Cash reserves for regional operations of the NZIST
 - Item 7: Creating a clean balance sheet for the NZIST
 - Item 8: Resourcing of RoVE programme

Section 1 – transition arrangements for the establishment of NZIST

4. This section seeks your feedback on the type of organisation set up to establish the New Zealand Institute of Skills and Technology (NZIST).
5. Our analysis suggests that the choice is between a Schedule 4a company and a unit within a department. We are seeking guidance about your preference as both options involve significant trade-offs.

Item 1: Deciding on the form of the NZIST transitional entity

6. As discussed with you previously, an establishment function will be required to lead the process to establish the NZIST. There is no precedent in the education sector of a transitional entity to manage a change programme of the scale and risk profile of RoVE.
7. We recommend establishing an entity that has formal accountability structures, clear leadership roles, and the ability to establish an agile, skilled team to carry out critical work. An indicative list of the types of functions this transition entity will be required to carry out includes:
 - a. **Day one readiness** – confirming critical path activities for day one of the NZIST, development of NZIST management policies and procedures (including financial and management authority), development of strategic change management and integration plans, and explore how NZIST will assume responsibility for arranging training, teaching and learning activities absorbed from industry training organisations (ITOs) and institutes of technology and polytechnics (ITPs).
 - b. **Finance, capital and back office** – continuing stocktake process to determine assets and services to be integrated into the NZIST. Ensure that minimum viable back office functionality can rapidly fall into place after the NZIST is established so that it is able to govern and manage itself as an entity.
 - c. **Communications and stakeholder management** – developing a proactive communications and stakeholder plan, and ministerial servicing capacity to meet Ministerial and sector needs. Confirming a strategy that ensures people impacted by the changes (staff, other providers, international students) understand what it means for them, as well as the key stages of transformation will be important.
 - d. **Managing workforce capability and planning** – develop a considered approach to managing the current workforce of the existing ITPs through change, and determining the skills and knowledge that may be required in the proposed NZIST. In addition, work will need to take place to identify and manage the risks associated with the workforce change, associated systems and compliance.
 - e. **Planning for the future:** setting up a high quality institution that is responsive to the needs of learners, industry and regional communities. Setting foundation for an institution that has knowledge, experience and a commitment to the social and economic goals of those it serves, and builds strategic relationships with industry and regional communities. In particular, giving effect to Crown/Māori partnerships and understanding what is needed to do this.
8. The entity will also need to give effect to Crown/Māori partnerships in how it is established, governed, staffed and how it operates. See paragraphs 18-20 for further detail.
9. The time between Cabinet approval and the planned day one of the NZIST is approximately nine months (excluding Christmas break). The stand-up of the establishment entity is planned for 1 September 2019. No option is an ideal fit for the unique mix of functions and decisions required in the lead up to NZIST establishment, and any decision will require trade-offs,

explored below. It will be important that whichever option is chosen, that it give effect to Treaty partnership principles right from the start.

Key establishment principles

10. To help guide decision making, we have developed five establishment principles (these are in line with best-practice for large-scale transformation processes):

- a. **Continuity of People** – major transformation programmes tend to be more successful when those that develop plans and strategies do so knowing that they will be the ones to deliver them. This requires continuity of people (especially decision makers) and, ideally, also clarity and continuity of accountability.
- b. **Continuity of Accountability** – NZIST governors and managers will have hard and clear accountabilities. As well as having continuity of people through the establishment, it is advantageous if those clear accountabilities begin at the earliest possible point as well.
- c. **Speed and ease of establishment** – establishment activities should be managed in a way that ensures work can continue at pace. Creating the establishment entity should not get in the way of it doing the critical work required.
- d. **Credibility and Confidence with Stakeholders** – RoVE is a large-scale culture, system and structural level change. As work continues to establish the NZIST and prepare for 'day one', people affected by this change need to see themselves in the work and decision making. This includes the need to reflect Māori/Crown partnerships and other partnerships. This means having sector expertise and people from the regions and industry involved in the establishment phase. It also means they need to have confidence that the right decisions are being made by the right people.
- e. **Ministerial Oversight** – because of the speed and complexity of the RoVE transformation, as well as the wider impacts of RoVE on other parts of the education and skills ecosystem, striking the right balance between ministerial oversight and entity-level responsibility for this critical work will be important. This means carefully calibrating how Ministerial direction is provided.

Business Continuity
eg Commercial partnerships +

f. **Cost Effectiveness** – There will be costs associated with establishing and operating a transition entity. We are assuming that the new entity will purchase a mix of back office functionality from an existing department and cloud-based services. While project and back office costs will be broadly stable across options, remuneration costs and the need for legal advice may vary across options.

11. In the context of NZIST establishment and RoVE's unique risk profile (i.e. the number of entities involved, timeframes, and the complex structural and cultural changes required to deliver the Government's objectives), a decision will turn on striking the right balance between these key establishment principles.

Ensuring the NZIST supports better learner outcomes and reflects Māori/Crown partnerships

12. As the transition entity may evolve into the final form for the NZIST, it will be critical to ensure that appointments to the Chair and Board of this entity have the skills and capabilities we want in the NZIST, that can represent the needs of, and work with, Māori, and that it consults with the Māori advisory board to support the programme as a whole.

13. Ensuring the NZIST has a Māori voice as a part of its decision making, as well as seeking advice from a Māori advisory body, means it will be more effective at understanding, engaging, and working with Māori to address learner needs and support Māori learners. Giving effect to Māori/Crown partnerships will help the NZIST to work with Māori on achieving a number of critical goals for Māori learners (e.g. more Māori in apprenticeships, progressing to higher levels of study, and improved employment outcomes).

14. We recommend that the transitional entity ensure its governing members have the skills and capabilities necessary to understand and work with Māori, that the board reflect Māori/Crown partnerships and be required to consult with a Māori advisory body.

Chair and board appointments

15. The most critical element sitting under **continuity of accountability** is the continuity of key people. In a transformation process of this size, the people who develop the plan should be the same people who execute the plan. To enable a genuine continuity of people in this context, we recommend prioritising the recruitment of the Chair of the NZIST. That person would also act as a Chair Designate during the establishment period.
16. The State Services Commission (SSC) guidance suggests that in ordinary circumstances, such an appointment would take up to nine months. RoVE is happening at pace, and some of this work can happen more quickly. However, to ensure you are satisfied that due process has been followed in the recruitment of the Chair and the Board, we recommend a three stage process over eight weeks:

June	At the same time as Cabinet confirms next steps for RoVE, the Appointments and Honours Committee (APH) is asked to agree the process to recruit a Chair of the NZIST. This means when you publically announce decisions around RoVE, you can also announce your intention to appoint the NZIST’s Chair and provide clarity around the timing of further announcements.
July	An interview panel is set up, candidates interviewed and decisions are made about the Chair and other Board members, in consultation with the Minister for Crown/Māori relations.
August	The Chair appointment is confirmed through APH and the Chair and Board is publically announced. This means the Chair and the Board can be in place when the transition entity officially ‘stood up’ on 1 September.

17. Given this is a condensed recruitment process, it does not leave much room for slippage. If you are comfortable with this approach, the programme will accelerate this work to ensure everything is in place for June – including clarity on the types of skills sought from senior leaders, and that these are determined with a focus on what the NZIST needs to achieve. We are aware of other current examples where such processes have taken considerably longer than intended (e.g. the Green Investment Fund).

NZIST Day one structures – seeking legal advice

18. As part of discussions to inform Cabinet decisions, we have sought legal advice about how best to create a legally clean transition process.
19. Initial advice suggests that a “lift and shift” approach would most effectively be done by porting (via the legislation) the current operations of the ITPs into wholly-owned subsidiaries of the NZIST. This could most easily be achieved by setting up such subsidiaries within the establishment entity, if it was an entity type that was permitted to do this, i.e. a Schedule IVA company or Tertiary Education Institution (TEI).
20. We are waiting further legal advice on this issue, as well as a view from the Treasury (as lead on commercial arrangements within the Crown) about how this structure could be delivered outside of a Schedule 4a company.

Options analysis

21. We have identified two options for the establishment unit (further options are explored in Annex 1 attached):

- a. **Option 1: Business unit within a department** – this is the most common transitional arrangement. There are choices as to where and how you set this up. One option is to have a unit within an education or central agency, which has delegations to spend within an allocation. This could be supplemented by an expert review panel which undertakes stakeholder engagement, communications to Ministers and the sector, and provides advice on board and staff appointments. Business unit and panel wind down in April 2020, with expectation that some staff might then be employed by NZIST.
- b. **Option 2: Schedule 4a company** – a formal arrangement typically used for transitions with commercial features. Cabinet would agree to a company constitution and allocate it funding, two shareholding Ministers would then agree to the Statement of Intent, Statement of Performance Expectations and appoint the chair. The Company would be wound down in April 2020, and some board and staff may be transferred to NZIST.

Key principles	Option 1: Business unit within a department	Option 2: Schedule IVA company
Continuity of people	✓✓ People continuity can be achieved.	✓✓ People continuity can be achieved.
Continuity of accountabilities	✓ Greater potential for blurred responsibilities and accountabilities. Host Chief Executive (CE) can establish delegations to an Establishment Board (Ministerial Advisory Group) supported by an Establishment unit within the agency. Less direct spending authority because departmental CE has final responsibility for spending decisions (however, this could be managed by delegations to the Establishment Board subject to written agreement from the Minister under section 41 of the State Sector Act 1988).	✓✓ Clear accountabilities for Establishment Board from the start to develop the plan and manage the expenditure on this.
Speed and ease of establishment	✓ Quick to establish (requires Cabinet decision), and easy to draw on back office functions of home department.	– Order in Council required, along with APH process for appointments. Limited precedents on use of form intended for quasi-commercial functions, in non-commercial circumstances.
Credibility and confidence with sector stakeholders	x Poor signalling and low confidence likely from stakeholders.	✓✓ Higher degree of credibility with stakeholders because of greater perceived distance from agencies. Fewer restrictions (legal or custom and practice) on resources (especially salaries).

Ministerial oversight	<p style="text-align: center;">✓</p> <p>High degree of Ministerial control, if directed by so by Cabinet, e.g. to ensure the establishment unit gives effect to Māori/Crown partnerships. Less direct oversight for Minister of Finance.</p>	<p style="text-align: center;">—</p> <p>Fewer direct levers, but appointments processes, constitutional documents, letter of expectations and control over future funding flows provide indirect levers, e.g. to ensure that the establishment unit is set up (in terms of skills and expectations) to give effect to Māori/Crown partnerships. Formal oversight role for Minister of Finance.</p>
Cost effectiveness	<p style="text-align: center;">—</p> <p>Likely to be the least expensive approach.</p>	<p style="text-align: center;">X</p> <p>Additional transaction costs of establishing and dis-establishing the entity, setting up basic level policies and delegations frameworks etc. Likely to be some extra costs of monitoring.</p>

Balancing trade-offs between establishment options

22. The key trade-offs are between “continuity of accountability” and “credibility and confidence with sector stakeholders” against “speed and ease of establishment”.
23. On balance, the education agencies recommend using a Schedule 4a company. Although it will take time to set up the entity and establishment costs are slightly higher, this structure allows for harder and clearer lines of accountability. The credibility of the establishment function with its key stakeholders (Industry, employers, ITPs etc.) will be significantly enhanced through this mechanism. This approach also starts the Establishment Entity off as the NZIST is intended to continue, with governance functions having full ownership of their expenditure and impact, and full accountability for the effectiveness of their actions.

Central agency comment – prepared by the Treasury

24. The Treasury and SSC recommend that the establishment entity for the NZIST is set up as a unit within a department as this allows work to progress quicker and at a lower cost than all other options. A unit in a department can be set up to balance credibility with the VET sector and the need for continued ministerial oversight.
25. Given the complexity of the reform, we consider that having continued ministerial oversight and direction will be important to ensure that decisions made on the NZIST are not developed in isolation of the wider changes proposed (e.g. industry training). The risk of not getting sector buy-in to the unit’s decisions can be mitigated by establishing and communicating decision making independence within the department. This could include delegating to the unit director responsibility to spend within an allocation and establishing a ministerial advisory group of external experts, who provide an independent stream of advice to the unit and Minister (as has been established for the Infrastructure Commission interim arrangements).
26. There is recent precedent of units within departments being able to attract candidates with strong governance expertise (e.g. the Housing and Urban Development Authority within the Ministry of Housing and Urban Development.)

Recommendations

27. It is recommended that you:

Agree that the NZIST establishment entity should be a Schedule 4a company (*recommended*)

AGREE/DISAGREE

OR

Agree that the NZIST establishment entity should be a unit with an existing agency

AGREE/DISAGREE

Agree that, in addition to the necessary capability and skills to engage and with work Māori, the NZIST establishment entity should:

- a. reflect Māori representation/Crown partnerships;
- b. and consult with the Māori advisory body to support the programme as a whole

Use same wording here as we agreed for NZIST.

AGREE/DISAGREE

Discuss with officials a staged process for recruiting and appointing the Chair of the NZIST

Note there will be costs associated with setting up and running the establishment entity and these will be covered in detail of the business case

NOTED

Note we can provide you with more detail on the functions and key tasks the transitional board and entity if required.

NOTED

Section 2 - Transition arrangements for role changes

28. In the 26 April Annotated Agenda on Proposal 1 (METIS 1184640 refers), we advised that we would provide you with more developed transition options for the transfer of the "arranging training" function from ITOs to education providers.
29. Our interim view is that a partially managed approach may be the most appropriate option, but following advice from officials after the workshop session with ITOs (planned for Thursday 23 May), you may wish to review your decisions on all aspects of Proposal 1 including the most appropriate transition option for the "arranging training" function.

Initial analysis of feedback on role transition arrangements

30. From an initial analysis of submissions, few respondents commented on possible transition arrangements. Whilst many submissions discussed the risks of any transition (as discussed in METIS 1184640), they did not discuss the way in which the transition could occur and the timeframes required to manage the transition effectively.
31. However, a small number of ITOs, who despite opposing the proposal to remove the "arranging training" function from ITOs, have constructively identified possible transition arrangements. These include the creation of a "holding company", and allowing a longer timeframe for the transition (these ideas were raised in our Annotated Agenda to support your RoVE Strategy Session on 10 April, METIS 1183856 refers).

Item 2: Transition options for the "arranging training" function

32. In the 26 April Annotated Agenda on (METIS 1184640 refers), you agreed in principle to Proposal 1, that the "arranging training" functions should transfer to vocational education providers (METIS 1184640 refers). This includes providing support to employers (such as brokerage and advisory services).
33. The transition of "arranging training" responsibilities from ITOs to providers will need to:
 - a. **ensure employer confidence in providers** - employers need to be confident that the providers that will take on responsibility for arranging training;
 - b. **minimise disruption to employers and learners** - ensure that employers continue to support industry training to the greatest degree possible during the transition while providers develop the required capability, especially for highly valued programmes;
 - c. **enhance provider capability** - ensure TEIs develop an integrated work-based learning capability with strong connections to employers and the workforce; and
 - d. **minimise costs** - achieve a transition that results in minimal cost to government.
34. You will need to consider the degree to which you would want the Crown to manage the transition of industry training into providers versus a more flexible approach that gives either providers or employers/industry flexibility in managing the change. We consider the two broad approaches and half-way houses below.
35. There are good reasons to consider a more managed approach to this transition, or to consider at least a partially managed approach, as this would be better able to:
 - a. **Protect critical capability** – it may be very difficult to retain key staff in ITOs during the transition, and securing key ITO capability as a whole for the "arranging training" function would ensure that staff are all offered ongoing employment and the period of uncertainty is minimised.
 - b. **Secure capability in TEIs** – ITOs have a mix of relationships with providers including TEIs, but have tended to favour Private Training Establishments (PTEs) when procuring

off-job training. Several ITOs also have links with industry bodies that have an ownership interest in private providers, or they have their own in house provider capability (but the provider is not registered as a PTE). The NZIST is also intended to be a very different type of provider to the existing ITPs. In order for this institution to be well connected to the workplace and have good relationships with employers, it will need to demonstrate its ability to deliver workplace-based training quickly.

- c. **Protect training continuity in critical industries** - Government has already been working closely with industries where skills shortages or the need for just transitions impinge more widely on New Zealanders. This includes challenges in the building and construction sector and the primary and energy sectors. A more managed transition could make sense for priority industry areas.
- d. **Provide greater certainty to employers** – a managed transition will communicate the importance to Government of sustaining industry training.

36. There are also good reasons for ensuring that employers and industry are in control of the transition, whether it is supported through a government-led managed or more flexible approach. With industry in control, employers would be less likely to disinvest in structured training for their staff that leads to formal qualifications, which is of critical importance for apprenticeship training. Maintaining continuity of service support through a well-structured handover would be in the interest of maintaining New Zealand’s overall training investment. It could also lower risk to the economy through disjunctions in the training pipeline.

Options for transition of the “arranging training” function

37. The following table indicates the range of options available to transfer the “arranging training” functions from ITOs:

#	Option	Description	Approach	Who’s in Control
1	Provider-led transition	Providers support employers and learners. At the beginning ITOs continue to arrange training through contracts with providers, funded under a modified Industry Training Fund.	Flexible	Providers
2	Industry-led transition	ITOs given ability in statute to continue to arrange training beyond the point where ISBs are established for their coverage areas and determine the timing for transition of services to providers, drawing on a modified Industry Training Fund.	Flexible	Industry
3	Partially managed transition	Apprentices (and trainees in related pre-trade and post-apprenticeship qualifications) transfer to TEIs and remaining provision transition to providers as in option 2	Mix of managed and flexible	Government and industry
4	Managed transition – holding company	The “arranging training” function of all ITOs is transferred into a holding company, in preparation for transfer to providers (managed through shareholder changes)	Fully managed	Government and possibly industry and/or providers (depending on shareholding)
5	“Lift and shift” to TEIs	“Lift and shift” all existing ITO provision to the NZIST and wānanga through statute	Fully managed	Government only

Options 1 and 2: flexible options

38. Options 1 and 2 reflect the two most straight-forward options in which ITOs are wound down and providers are built up:
 - a. Option 1 gives responsibility to providers to arrange workplace-based training immediately; and
 - b. Option 2 gives ITOs the responsibility of transferring responsibility for “arranging training” to vocational education providers within a fixed transition period, while allowing them to continue to deliver this function in the interim.
39. It is likely that under any option that provides flexibility in the transition of the “arranging training” function, that some ITOs would look to establish or acquire existing PTEs from which to continue their industry training operations. PTEs established or procured by ITOs would need to meet NZQA’s quality assurance requirements (around accreditation, programme approval and consent to assess etc.), while also applying for funding through the Tertiary Education Commission’s (TEC’s) normal investment planning requirements and timelines. There is no guarantee that they would continue to be funded to provide training in workplaces. Officials, however, see no reason to oppose such an approach, providing other vocational education providers have the opportunity to build a capability to deliver workplace-based learning.
40. Under Option 1, following the date on which the responsibility for arranging industry training shifts to providers, providers would become responsible for arranging training. Assuming this occurred in 2020, providers would need to make arrangements with the industry bodies formerly recognised as ITOs to fulfil this responsibility (because ITOs possess the necessary systems and staff to carry out this role).
41. Under Option 2, ITOs would continue to arrange training on behalf of employers beyond the date at which ISBs may be formed. They would be able to apply for recognition as a “training arranger” at the time ISBs are set up, and would be recognised by the Minister, subject to new conditions (using the same arrangements as the existing ITO recognition provisions). They would then be able to continue with their “arranging training” function and would have a period of time (say 3-5 years) in which they could either:
 - a. Manage the transition of their “arranging training” function to providers; or
 - b. Manage their own transition to a PTE (this could be a new PTE or an existing PTE).
42. During the period that ITOs were recognised as “training arrangers” they would compete with providers in providing training support to employers and employees. It is envisaged that most employers would continue to engage the services of their existing ITO until the training arrangements transfer to a provider. ITOs would be free to enter into discussions with vocational education providers and with employers to determine an appropriate timeframe and arrangements for handover to providers. Some ITOs would likely transition functions to their own PTEs.

Benefits and Risks of flexible options

43. The benefit of both of these options is that the government could manage the transition of capability to TEIs over time. It is likely that TEIs would require the transfer of capable staff, critical intellectual property (IP) and some assets (such as cars), but this could be managed over a longer time frame and after relationships have been built with employers.
44. The difficulty with these options, is the lack of control that government would have over the end result. In particular, both options could result in failure partway through the process of change. The possibility of failure would suggest that strong levers may be needed to allow the Crown to intervene when things go wrong. It may also prove difficult to rebuild the required trust within industry and employers to ensure that the appropriate oversight of the transition occurs.

45. Option 1 may result in a period of heightened tension and would require immediate negotiations between providers and former ITOs to secure relevant services and IP (e.g. ITO programmes of study, and support for existing ITO trainees) in order to ensure continuity. Providers are likely to be motivated to engage with ITOs in this transition period in order to secure effective capabilities and continuity. ITOs are likely to also be motivated by opportunities to secure revenue streams and options for effected staff. It is likely, however, that a number of areas of provision may be neglected as providers focus on larger scale industries and on securing market share, and as ITOs seek to maximise their revenue.
46. The result could be that some employers, along with their employees (trainees and apprentices) may face cessation of services. ITO staff may seek other employment due to the high level of uncertainty, reducing system capability. This risk is more pronounced under Option 1 than Option 2. There may also be further complexity of risk associated with the disparity in funding rates between the Industry Training Fund and student achievement component (SAC) funding, along with differential levels of knowledge across providers in servicing employers or niche industry areas (this could be addressed through changes to funding rates). It may, therefore, be necessary for the TEC to intervene and work with ITOs and providers to ensure services where employers and their staff may not have their needs met.
47. It is possible, and indeed likely, that the level of industry training could fall sharply under either option. The level of uncertainty over future support arrangements is highest under Option 1 but there are still unknowns with Option 2 given the potential for conflicts of interest and less desirable incentives that exist in Option 2. For example, it is possible that much of the provision could shift to a relatively small number of providers, including PTEs that industry acquires or establishes for the purpose of providing work-based learning. Either or both of these outcomes would undermine a key reform goal, that of system integration that brings together provider-based and workplace-based training for every, or at least most, vocational education providers.
48. If industry and employers could be convinced that the Government was firm in its intent to bring about change, that adequate time was available to ensure a well-managed transition, and that providers would be supported to take on their new responsibilities, then Option 2 would be the preferred over Option 1. Option 2 would result in the increased confidence of employers and industry in a well-managed transition, since industry is in control of the rate and pace of change and can work with providers prior to the transition taking place. This would require Government to be firm in its intent to bring about change, and that an adequate timeframe is provided to ensure a well-managed transition. Providers would also need to be supported to take on their new responsibilities.
49. The downside of both options 1 and 2 is that they cannot guarantee TEIs achieving system integration through gaining access to ITO capability. These options are also likely to slow the responsiveness of the new NZIST to employers. In other words, the establishment of the NZIST would involve less of a "reset" effect.

Options 3, 4 and 5: "lift and shift" options

50. Options 3, 4 and 5 provide for a more centrally managed approach to the transition where some or all ITO-arranged training is acquired by the Crown around a single point in time for assignment to providers either immediately or at a later date. This could involve any of the following:
 - a. Option 3 would require partial procurement at the time of transition to secure Government priority industry training capability in TEIs;
 - b. Option 4 would facilitate the bringing together of ITO "arranging training" capability into a single new entity (constituted as a company), initially managed by a board made up of existing industry stakeholders. Training would later be allocated to providers (after discussions on IP and capability have been resolved); or
 - c. Option 5 to procure all of the capability and shift it to the NZIST immediately for later allocation across a broader range of providers.

51. s 9(2)(b)(ii)

52.

53. It would be desirable for TEIs to acquire capability from ITOs around the time that the “arranging training” function transfers to providers. In the case of the NZIST, it would be desirable to acquire this capability on establishment, since the organisation needs to build strong links with employers and industry from commencement. This could include acquiring critical Intellectual Property (such as systems for recording learner progress and completion of unit standards and qualifications, learner support materials such as workbooks and online learner management systems), staff and capital assets associated with these staff, such as vehicles and phones, from one or more existing ITOs.
54. While employers would have the opportunity to switch provider at, or after the point of transition of responsibility, their initial relationship with a vocational education provider would be significant. They would need to consciously choose to switch provider following confirmation of their assigned provider.
55. Under Option 3, capability is selectively acquired, either by the Crown, or perhaps, indirectly by TEIs. s 9(2)(b)(ii)
- This could include, for example, ITOs covering the building industry and agriculture and horticultural sectors where acute skill shortages exist and where Government is already actively working with industry to solve long-standing skills development issues. Securing training capability within TEIs for industries where a drop in industry training volume would have significant knock-on implications for the economy, or where other Government initiatives (such as KiwiBuild) could be endangered, would be a priority.
56. Acquisition of capability in one or more of these areas could help with more quickly aligning skills supply with skills demand. It would be advisable to fully acquire an ITO funded through by the Crown and industry contributions. During the transition period, around a quarter to a third of the capability of an ITO is likely to be lost in the creation of an ISB. Further eroding the base capability of an ITO would likely lead to an organisation that was unsustainable. The loss of capability in an organisation can quickly result in issues in staff morale and a decline in the financial health of an organisation.
57. Given each ITO has its own tailored response to meeting workplace needs, uses different management and Information Technology (IT) systems, and has distinct regional office networks to support the needs of their industry base, it could be difficult to integrate several ITOs at the same time into a new organisation such as NZIST. NZIST would already be grappling with the challenge of integrating 16 ITPs into a single entity. Officials, therefore suggest staggering any acquisitions. This will also spread the cost across multiple Budgets.
58. Further work will be required to estimate the likely cost of acquiring ITO capability in priority Government industry areas. This analysis will be only indicative at the time that the business plan supporting Cabinet decisions is required to be finalised.
59. ITOs not selected for acquisition for TEIs by the Crown, under Option 3, would be able to apply for recognition as a “training arranger” as per Option 2 described above.

Benefits and Risks of “lift and shift” options

60. The benefit of options 3, 4 and 5, that acquire or ring-fence the “arranging training” capability of ITOs through managed acquisitions, is that these options reduce uncertainty for staff in ITOs and ensure system integration for all vocational education providers. This is likely to be particularly important for NZIST, where it is intended that a very different institution would be

established that would be much more responsive to employers and more focussed on work-based learning.

61. s 9(2)(b)(ii)

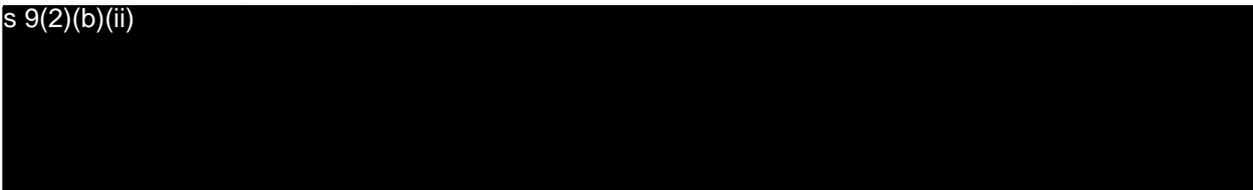
62. Option 3 (a partially managed transition) has the advantage of limiting cost to the Crown by securing priority industry training in the government's own institutions to achieve integration of provider-based and workplace-based learning early on. This means the cost of purchasing priority capability is front-loaded, but ensures that NZIST and wānanga have access to critically important capability of sufficient critical mass, right from the outset, in order to bring about a reset in their relationships with industry. In a competitive environment, later expansion of services to employers and trainees across a broader range of industries would be more likely to result, due to a core capability having been secured early on.
63. Option 3, however, presents issues for ITO staff in that it could result in significant changes to their roles, employment conditions and focus if they are placed in an institution undergoing significant structural change. It could also result in loss of critical human resources due to the extent of unknowns involved in a first mover situation.
64. Estimating the value of the existing capability in ITOs is difficult as so little information is available on ITO operations. This makes costing these options very difficult at this point in time.
65. For ITOs that are not managed into TEIs, the advantages and disadvantages from option 2 largely apply. In other words, industry has control over the transition to providers. It would be expected that the majority of ITO capability would be relocated in PTEs.
66. Option 4 (fully managed transition using a holding company) has the advantage of providing for later decision making on the reassignment of training oversight to providers, in order to effectively manage the transition of capability to providers when they are fully prepared. It also ensures that with all of the arranging training capability is located in a single organisation, to provide a critical mass at the point ITO functions transfer to ISBs. The holding company could involve a collaborative arrangement between industry, government, and providers to maximise the opportunity for a smooth transition supported through governance arrangements. It may be necessary to specify the mechanism in statute, if the Crown wanted to have a specific role. This option also has the advantage of deferring decisions around the level of investment required to ensure training is available to all types of provider.
67. There will, however, be challenges for industry in determining an ownership form that would apply to any interim structural arrangement, to carve off part of their existing operation, and to confirm an interim governance and management structure. Legislative changes would be required to allow for funding of the holding company for a period of time. As funder, the government would have some say in the transition to providers. The transfer to providers would be most likely to occur in an orderly fashion under this option (but at a later date). However, for staff of ITOs, trainees, apprentices, and employers, the use of a holding company would likely involve two transitions, rather than one. ITO staff may view this as a long drawn out and painful process, and look to secure employment elsewhere before the transition occurs. This could be problematic in retaining support by employers. However, the first transition should largely be invisible to employers and their employees if the same staff continue to provide the same services in the same manner as before the reform.
68. Option 5 ("Lift and shift" to TEIs) has the advantage of speeding up the process of transfer to vocational education providers. However, this would be – at least initially – only to Crown education providers, except where obvious choices already exist (e.g. the flooring industry exclusively uses an existing PTE specialising in flooring training for off-job training support). This could be facilitated through subcontracting or direct funding.

69. The primary disadvantages of Option 5 is that it could require force of legislation to effect, could be perceived as a takeover of industry owned entities, and the costs of incorporation within TEIs are not known. This would require a deeper understanding of ITO cost structures and the views of industry as to the acceptability of this option in terms of achieving a well-managed transition. It is unclear whether wider industry would support such a proposal. If you were to be interested in pursuing this option, you would need to engage with industry as early as possible in order to secure the necessary provisions in the reform Bill prior to its passing.
70. This option gives employers little or no option in determining their initial provider of workplace training support since it is likely that decisions on the transfer of responsibility to other providers would be centrally managed between government, the NZIST, wānanga and PTEs through a process overseen by TEC.
71. This option could also be unattractive to staff employed by ITOs. They may fear significant changes to their roles, employment conditions and focus if they are placed in institutions undergoing significant structural change concurrently and in which staff typically have very different terms and conditions of employment.

Conclusion

72. Decisions on these transition arrangements may not need to be made immediately. For example you could presume that industry would work constructively to make the transition of the "arranging training" function work for employers and their staff.
73. The challenge is determining the extent to which ITOs may accept advancement of the role change envisaged and the likelihood that they would be willing to collaborate with government on ensuring a smooth transition. They have, to date, strongly opposed the proposal. This follows from their own consultation process with stakeholders, including employers, where they heard concerns about the degree of likely disruption, the lack of faith by employers that providers could deliver on-job training effectively, and the level of support and trust they have in ITOs to continue to deliver workplace training that meets their needs. Some (but only a minority) of industries and employers, however, have indicated a degree of support for Proposal 1.
74. If you judged that ITOs, and their partners in industry and employers, were likely to accept the Government's rationale for advancing with Proposal 1 then the best option would be to work with industry to secure a well-managed transition. Option 2 gives industry greatest control over the transition and could express the level of faith that Government has in industry doing the right thing and providing the best possible oversight of the transition for the employers and employees that they represent. However, the risk with this approach is that industry may not collaborate with government as intended, resulting in considerable uncertainty surrounding the outcomes of the change programme. In a worst case almost all industry training could end up in purpose-built PTEs, poorly integrated with the VET system as a whole. Industry could also hope for a change in Government by delaying the transfer of responsibility for the "arranging training" function as long as possible.
75. If, on the other hand, you judged that ITOs and their partners would continue to remain sceptical about the ability to effectively manage a transition of industry training to providers, then either option 3 or 4 would seem to be preferable. These options potentially provide government with greater leverage over the transition and they bring forward critical decisions, resulting in a speedier transition. However, these approaches are likely to be complex, involve considerable facilitation by officials (when other aspects of the system reform will also be complex) and the cost of these approaches is unknown. The existing contingency would be inadequate to cover all of the RoVE system change costs alongside a strongly managed transition. It would be prudent to explore the potential to integrate one or two ITOs in TEIs initially, with a view to integrating others as required at a later date (i.e. Option 3).

76. s 9(2)(b)(ii)



77. Officials suggest that exploring Option 3 may be the most promising approach, but can see merit in Option 2, with provisions for later intervention by government should an industry managed transition not proceed as anticipated.

Cost of options

78. Ideally your choice of transition option would be informed by indications of the likely cost of each transition option to the Crown. This cannot be resolved easily, and further work would be required to identify cost estimates associated with your chosen option. We know that ITOs are currently valued, as going concerns, at around s 9(2)(b)(ii)

Given ITOs have built reserves out of a mix of government and industry funding (with up to 80% of ITO funds being sourced from government), careful consideration would need to be given to avoiding a "buy out", when the ownership interest of industry has a strong vested interest in securing industry training capability for the future.

79. Option 5 is likely to represent the most expensive option and considering the costs associated with other transitions, this option is probably not feasible. Option 2 is likely to come at the least cost to the Crown, but comes with the risk that later intervention may be required. Other options lie in between these extremes in terms of cost, but a range of considerations may also be relevant, including the potential for loss of core capability (i.e. staff in ITOs) and any loss of employer engagement in the formal training system, which would likely have knock-on effects on the economy and on achieving government priority initiatives.

Next steps

80. We propose to provide you with draft Cabinet Papers later in May. The suite of papers would consider all of the proposed transitions, including:
- establishment of ISBs
 - transition of the "arranging training" function to providers
 - establishment of the transitional NZIST
 - establishment of Regional Leadership Groups
81. We need to complete more analysis on the required process steps to achieve these transitions, including an overview of the timeline, and provide an estimate of likely costs drawn from a draft business case. Depending on the option you choose, we may need to access technical legal advice about what we could do in managing the transition from private legal entities into public entities.

Recommendations

82. It is recommended that you:
- agree** that officials develop a transition plan for arranging training based on Option 4 for inclusion in the draft Cabinet paper on Proposal 1

AGREE/DISAGREE

note that further work will be required to consider the legislative and financial implications of this approach

NOTED

note that the base provision would be the same as Option 2, with the ability to continue to fund ITOs for their “arranging training” function beyond the point that ISBs are established.

NOTED

Proactively Released

Section 3 – Establishment of ISBs

83. This section explores options for the organisational form for ISBs and how to manage governance risks associated with the ISBs' role in the reformed vocational education system. ISBs are expected to be:
- monopoly providers of essential services to the Crown's vocational education service (quality assurance and advice);
 - mostly supported by Crown funding (e.g. it is likely to be in excess of 80% of expenses and possibly as much as 95% of expenses); and
 - providing the 'voice' of industry in the vocational education system, with industry groups and their employers expected to "own" them.
84. You have previously agreed to limit the number of ISBs (e.g. to between 4 and 7) to ensure they are of sufficient size and scale to have a necessary level of capability and reach across the industries they represent. The performance of these organisations will be critical for the health of the vocational education system, and the Crown has a strong interest in ensuring ISBs' ongoing effectiveness.
85. In broad terms, the three functions are expected to be:
- skills leadership, including the development of workforce development plans, made in collaboration with industry;
 - standard setting and moderation, programme endorsement and monitoring, and capstone assessments; and
 - investment advice to TEC (which TEC would be expected by law to have regard to) on the volume and mix of skills needed in making its provider purchase decisions.
86. The first two are already provided by ITOs to some degree (although skills leadership is not currently a statutory requirement) and the third role is new. All three functions, both separately and when taken together, will give the ISBs a very significant influence over the design and delivery of vocational education. These expanded functions suggest that a closer relationship to government would be inevitable and required.
87. Our interim view is that establishing ISBs as statutory organisations within legislation is the most appropriate option. However, following advice from officials after the workshop session with ITOs (planned for Thursday 23 May), you may wish to review your decisions on all aspects of Proposal 1 including the most appropriate way to establish ISBs.

Item 3: Organisational form for ISBs

Current effectiveness of statutory interventions for ITOs

88. The current monitoring and risk framework for ITOs largely reflects the private "body corporate" nature of the organisations themselves. ITOs are already legal entities, with their own governance and structure, before they apply to be "recognised" by the Minister and funded to deliver certain functions. Recognition as an industry training body, in response to a set of recognition requirements, provides for their funding and specified role in relation to standards setting and "arranging training" functions.
89. Once an ITO has achieved recognition, the government has little or no influence over the subsequent appointment, operations, or performance of an ITO. The levers that do exist tend to relate specifically to education or funding requirements, which means a particular risk or issue must be related to funding or education before agencies can intervene.

90. This contrasts markedly for example, to TEIs who are founded in legislation by Government, and then have their governing members appointed by a minister (and subsequently can be removed by a minister as well). While there is no equivalent single set of "registration" criteria for TEIs their structure, governance, and operation is nevertheless detailed in legislation. The government also has set of interventions for TEIs in relation to governance if required that it does not have for ITOs (with the ability to remove a council, appoint a statutory manager, appoint a commissioner, etc).
91. The current arrangements have created some difficulties in managing performance issues and risks. Often the solution lies in ceasing to recognise the ITO, and looking to other ITOs to take on support for the affected industries. The fewer the number of ISBs recognised, the more difficult this solution would be to use as a means of control.

Governance form of ISBs

92. In other areas where government is the majority funder for a service, organisations take a spectrum of forms, including non-government organisations (NGOs), Public Finance Act elected and Crown agents.
93. We considered a range of potential governance forms, including:
- a. a statutory body (*preferred approach*);
 - b. ISBs as bodies corporate with recognition by the Minister (similar to the current ITO approach);
 - c. a Crown Entity company and / or Public Finance Act 4th Schedule entities; or
 - d. a Crown Entities Act schedule 2 "crown company"
94. We concluded that establishment as a Crown Entity or corporation was not desirable in that it brought ISBs too close to government. Note that this is based on the current proposal that ISBs provide investment advice to TEC. If ISBs are to purchase provision (and therefore take on responsibility for significant levels of public funding), a Crown Entity model is likely to be more appropriate.
95. The question here is how to balance a strong sense of ownership by industry while setting parameters that provide assurance to Ministers. Interestingly, some employer / industry consultation feedback invited a partnership approach with government in establishing ISBs.
96. Officials consider a form of statutory body is preferable with ISB functions and funding arrangements set out in primary legislation. This would recognise the central place of ISBs in the vocational education system, with governance specified in the statute as being provided by a majority of industry / employer representatives but with some government opportunities. It would be possible to also require ISBs to consider regional interests and the national interest in providing advice and undertaking their quality assurance roles.
97. You proposed in the public consultation document that ISBs would be formed through a Ministerial recognition process similar to that used currently to recognise ITOs. We no longer view this as being appropriate. ITOs are currently "fee for service" type organisations, where they can raise revenue by enrolling more trainees and apprentices. ISBs will be primarily focussed on setting standards for approval by NZQA and delivering advice to TEC. They will also be considerably smaller in size than ITOs (even with further consolidation in industry coverage). In discussions with ITOs it would appear that both industry and government want to see greater industry coverage and greater coherence in industry sectors with ISBs. This implies more of a collaborative process in defining ISBs.
98. For this reason we recommend a process that would result in the Minister making an Order in Council to define ISBs as statutory bodies. We would envisage the entire process as still having strong industry leadership, with full consultation with industry bodies prior to settling on an

overall ISB structure that both government and the majority (if not all) industry groups could support.

99. Examples of this model demonstrate a range of options in the appointment or election of members of the governing board, including boards with a very small number of Ministerial appointees.¹ The extent to which the appointments would need to take account of the Crown-Māori partnership would also need to be considered.
100. Empowering legislation could specify that a body may be established as an ISB by Order in Council along with the type of information that must be included in an Order in Council. For example, an Order in Council establishing an ISB could probably specify:
- a. The name of the body, the industry sector and its constituent industry bodies;
 - b. the number of members on the governing board to be appointed by the Minister;
 - c. the number of members on the governing board to be appointed to represent industry, their employees, Māori employers, and how those people are to be selected
 - d. the term for which members are to be appointed
 - e. Requiring this type of information to be included in the Order in Council would give the Government flexibility in ensuring that ISBs reflect the industries to which they relate.
101. The functions of the ISB should be set out in statute, along with all of the necessary powers to operate as a body corporate, except that they should not be permitted to own, establish, or operate a PTE or any organisation that arranges training. It would be helpful to clarify that ISBs can set up shared services agencies and can delegate ISB functions to those agencies for the purpose of sharing services. The legislation should also confirm that ISBs are not-for-profit entities. We suggest that the legislation require ISBs to consider take into account the national interest and regional interests, alongside the needs of industry, in fulfilling their functions. In order to provide for potential transfers of reserves from ITOs, it would also be helpful to include provisions in the reform Bill to allow ITOs to provide any surplus funds to other bodies (either prior to or as part of dissolution) for furthering the interests of their industries in relation to industry training, notwithstanding anything to the contrary in their founding documents (rules, trust documents or constitution) or in the statutes or subsidiary legislation to which they are subject.

Accountability framework for ISBs

102. Regardless of the form of the organisation adopted, there would be a need to develop a high degree of trust between government (TEC and NZQA) and ISBs so that performance successes and risks are identified, discussed, and managed as they emerge. Building that confidence represents an ownership interest of the Crown.
103. An array of tools would be required to incentivise performance and respond to problems, and ultimately allow for the relationship to be severed, or reduced in coverage, in worst-case scenarios. Neither a conventional contract, nor a statutory purchase scheme, can readily focus on building long run confidence in the governance and capability of the ISBs, or in managing any coverage changes which might be needed over time. Indeed there is a risk that the incentives in the funding arrangements will focus on short-run issues of price and quality at the expense of maintaining and enhancing long-run capability.
104. A monitoring and interventions framework for ISBs should provide levers that agencies can use as part of an effective risk management framework. Agencies should have the ability to identify, forecast, and respond to the organisation's activities and any risks that might present in both

¹ Examples include the NZ Meat Board, the Marsden Fund Council, the Fiordland Marine Guardians, the Gambling commission, the NZ Lottery Grants Board, community Trusts, the Guardians Kaitiaki of the Alexander Turnbull Library, the Building Practitioners Board.

a timely and proportional manner.

105. Since the ISBs will be brand new organisations, officials recommend a new approach should be taken as to how ISBs are monitored and risk managed, as opposed to reworking and tweaking current ITO measures and provisions.

Understanding ISB performance and "what good looks like"

106. There are no current operational baselines to determine "what good looks like". Officials expect that as ISBs are established and begin operations, agencies will be in a better position to develop and confirm a performance management framework over a 12-18 month period after establishment.
107. Initially this would focus on basic organisational requirements (ensuring good business practice, financial management, high quality internal reporting systems, etc). As ISBs settle into their business, the framework would be refined to ensure it is relevant and applicable.

Managing accountability through appointments to the governance board

108. Since almost all of the funding required for the operation of ISBs is likely to come from the government, there is sufficient justification for the government to have a say in the appointment of governing members, and by default – having the ability to remove or replace governing members as well. The exact mix of governing members (those appointed by the sector and those appointed by the government) would have to worked out for each ISB in the period when they are formed, but could include the government appointing a significant or majority portion of the board, depending on how the government wanted to manage the protection of its investment, alongside the need to ensure there is sufficient incentive for industry involvement in order to provide the skills leadership required. This could be influenced by the resources that industry brings to the table at the time that they are formed.

Managing accountability through funding arrangements

109. In addition to having a say on appointments to the board, officials would also recommend drawing up performance related funding criteria for the on-going operation of ISBs. Since ISBs will be offering advisory services to agencies as well as setting standards and endorsing programmes – the current investment plan process (based on education performance indicators) is unlikely to be appropriate.
110. This provides an opportunity for the government to look at the functions and operations of ISBs and create a new set of performance measures that correlate to the outcomes ISBs are expected to provide. This would be a set of measures that relates to specifically to their functions, but also more generally to the operation of ISBs (i.e. – is the ISB delivering the outcomes it is funded for, as efficiently as possible).
111. ISB funding arrangements should be linked to a skills leadership plan prepared regularly, and subject to specified funding conditions.
112. ISBs should also be subject to annual audit and annual reporting as per other statutory bodies.

Managing accountability through monitoring and evaluation

113. Once an appropriate set of performance measures has been established, a regular reporting and monitoring regime will need to be established to ensure ISBs are fulfilling the requirements set for them.
114. In addition a regular cycle of external review and publication of a review report should be put in place to establish the degree to which the quality assurance and advisory functions are being fulfilled, and the degree to which the ISB is responsive to their community of interest (industry bodies and employers). The evaluation framework would be analogous to the External and Evaluation and Review framework used by NZQA, but would differ in that it does not look at training arrangements.

Interventions

- 115. If you agree to appoint a portion or majority of members being to the governing board (and subsequently gain the ability to remove board members), this would already constitute an intervention measure. Legislation would detail the conditions under which a board member could be removed (or the entire board removed).
- 116. Longer term representation issues could be addressed by a new Order in Council that changes the composition of the governing board.
- 117. We also recommend that additional clauses in the legislation provide for:
 - a. monitoring agencies to conduct a review or require an independent audit of finances of an ISB as needed
 - b. Request specific information or a specific report from ISBs as required. This would be similar to the power that NZQA has to request information from education providers as part of its rule-setting powers.

Recommendations

118. It is recommended that you:

agree to establish ISBs as statutory organisations within legislation that:

- a. recognises the central place of ISBs in the vocational education system:
 - i. outlining their functions in statute, but requiring them to take into account the national interest and regional interests, alongside the needs of industry, when fulfilling their functions
 - ii. setting out body corporate powers (but they are not permitted to own, establish, or operate a PTE or any organisation that arranges training)
 - iii. clarifying that ISBs can set up shared services agencies and can delegate ISB functions to those agencies for the purpose of sharing services
 - iv. clarifying that they are not-for-profit entities

AGREE/DISAGREE

b. provides for Crown funding of ISBs subject to:

- i. specified funding conditions ✓
- ii. receipt of a minimum contribution from ISB constituent industry bodies X
- iii. subject to a skills leadership plan accepted by TEC ✓

AGREE/DISAGREE

c. provides for establishment of an ISB by Order in Council that must specify:

- i. the name of the organisation
- ii. a description of the industry sector and its constituent industry bodies
- iii. the number of members ^{if any} on the governing board to be appointed by the Minister
- iv. the number of members on the governing board to be appointed to represent

industry, their employees, Māori employers

- v. the means by which industry representatives are to be selected or appointed and,
- vi. the term for which members are to be appointed

AGREE/DISAGREE

- d. provides for the removal or replacement of governing members by the responsible Minister

AGREE/DISAGREE

- e. provides for annual audit and annual reports by the ISB

AGREE/DISAGREE

- f. provides for regular external review of the ISB by NZQA

AGREE/DISAGREE

- g. provides for NZQA or TEC to conduct a review or require an independent audit of finances of an ISB as needed

AGREE/DISAGREE

- h. provides NZQA and TEC with the power to request specific information or a specific report from ISBs as required

AGREE/DISAGREE

agree to include provisions in the reform Bill so that ITOs can provide any surplus funds to other bodies (either prior to or as part of dissolution) for furthering the interests of their industries in relation to industry training, notwithstanding anything to the contrary in their founding documents (rules, trust documents or constitution) or in the statutes or subsidiary legislation to which they are subject.

AGREE/DISAGREE

Item 4: How and when should ITO activities transfer to ISBs?

119. The transfer of functions from ITOs to ISBs is likely to be simpler to manage than the transition of the “arranging training” function to providers.
120. The establishment of ISBs could occur at some point during 2020 and involve a shorter period (of maybe three to six months) for ISB establishment. This is likely to involve the Minister establishing an Order in Council with an agreed industry coverage and details of the appointment process for industry representative on the governance board of the ISB. As discussed at the strategy sessions on 10 April and 24 April 2019, it would also be helpful to initiate this change earlier to provide a stronger industry voice during the period in which the NZIST is being established and developing its core strategy. This would increase the likelihood of establishing a very different Institute that would achieve the long-term goals of the reform programme, rather than simply managing a merger of 16 institutions into one new one.
121. The earliest date in which ISBs could be established would be 1 April 2020 based on the current change timetable. However, Orders in Council would need to follow. The scope of coverage of an ITO would be reduced once an ISB had been formed. As discussed in item 2 above, ITOs may continue to deliver the “arranging training” function while providers are gearing up to take over this function. A provision for this would be made in statute. This means that an existing ITO with an “arranging training” function only could co-exist with an ISB through transitional provisions in statute.
122. The timeframe required for industry bodies to be formed, with Orders in Council to establish the bodies confirming their scope of industry coverage and industry representative appointment processes would depend on:
- Any constraints on the number and nature of ISBs (i.e. the extent to which industry is expected to reform its industry sector clustering could slow down the establishment process),
 - Additional requirements over those currently prescribed for ITO recognition,
 - Establishment of an office and staffing the entity.
123. The timing of the transition from ITOs to ISBs is likely to be completed in the period from 1 April 2020 to 30 September 2020. This would give industry six months in which to reform from ITOs and to establish ISBs. All functions of ITOs could be arranged to be extinguished at the end of this period, with the exception perhaps of the “arranging training” function, depending on the option chosen for the transition arrangements, with earlier extinguishment of these functions upon recognition of an ISB.

Recommendations

124. It is recommended that you:

agree that it would be desirable to transfer the functions relating to standards-setting to ISBs around the same time as the establishment of the NZIST

AGREE / DISAGREE

Section 4 – Establishment of CoVEs

125. On 6 May, we discussed with you the possibility of being able to discuss CoVEs as part of the announcement of decisions on RoVE following Cabinet mid-year [METIS 1187910 refers]. You asked that we provide more detail that could be announced in July 2019 regarding the potential form and function of CoVEs.
126. You indicated comfort with the proposed functions of CoVEs, which include:
- a. Maintaining and growing excellent provision within its area of speciality through drawing together excellence within the overall network;
 - b. Sharing high quality curriculum and programme design with the rest of the system including across regions and potentially wānanga and PTEs; and
 - c. Providing additional services to the vocational system, including:
 - i. Training support for employers to improve their teaching ability;
 - ii. Sharing applied research with providers and industry to improve knowledge exchange;
 - iii. Focusing on pathways through vocational education, including from school;
 - iv. Providing learning technologies across the network to minimise cost and duplication of high cost equipment; and
 - v. Providing best practice pastoral care to learners and advice to providers/employers to support good outcomes.

Item 5: scope, process and possible selection criteria for CoVEs

Relationship of CoVEs to host institutions

127. You have indicated that CoVEs should be hosted by a TEI – likely to be regional operations of the NZIST or a wānanga, and that they would be a consortium that includes the relevant standard setting body. This would be the ISB in vocational areas, but in the case of Mātauranga Māori could be another body – the details of which would in principle be co-designed with Māori stakeholders.
128. There are options about whether CoVEs would be a legally independent body, part of the TEI's legal form, or simply a recognition of an existing function within the NZIST (from the current ITP sector):
- a. **legally independent bodies** – this would signal that CoVEs are a point of genuine collaboration and not “owned” by the host provider who might have an outsized influence on its operation (downsides include that the host is able to extract a degree of rent from it and it may not have sufficient scale to be effective); or
 - b. **part of the TEI's legal form** – as in the case of Centres of Research Excellence (CoREs), where the host TEI holds the contract, and they hold no separate legal form. This works well for academic collaborations, and CoREs include outside academics, for example from Crown Research Institutes (CRIs), as part of their partnership agreements with some success.
129. We recommend that any contract for a CoVE be with the host TEI, but that conditions on its funding ensure the institution delivers the collaboration required to make the model work. Generally we think CoREs provide us with a model that has had some success and that has matured.

CoVEs selection process

130. s(18)d
131. The ideas would be generated by the industry and sector itself rather than pushed by government beyond the set criteria and challenge areas. Hence it will be an applications-based process. Consultation and engagement showed that there were many ideas for CoVEs being thought about throughout the country. We suggest as part of this process tapping some key people from the sector and industry to review proposals.
132. The trade-off with this approach is that it could result in a different mix of initial CoVEs than initially envisaged. We think it would be a mistake to use the CoVE approval to address funding or viability problems at specific sites, for example, where the resulting CoVE would not be recognised as being excellent.
133. The TEC and/or the sector group would need some scope to influence the most promising proposals and help shape the proposal up. The CoVE could then be quickly recognised as being excellent and in a position to start providing input into the network and driving the change in quality, relevance and delivery that we want. Negotiation on exact functions could take place during this development phase, and this would be reflected in a four or five year funding agreement.

Possible selection criteria

134. The baseline functions for CoVEs we proposed in the 6 May Annotated Agenda offer a good starting point for developing selection criteria, as they encompass excellence and quality criteria. It will be important that capability to maintain and grow excellent provision and share quality curriculum and programme design can be demonstrated before final approval is given. While we expect that such capability exists across the network in the proposed targeted industries, upon working with possible consortia, we may uncover challenges in getting to the right standard immediately, and will need the flexibility to work and overcome these, particularly in key areas of national importance.
135. We can develop the criteria in more detail as we develop the funding mechanism for funding CoVEs.

Number and scale of CoVEs

136. s18(d)
137. The establishment of CoVEs will need to progress in alignment with other RoVE reforms. It is essential that the standard setting body is a core member of any CoVE consortiums 9(2)(f)(iv)
138. One key option for managing the transition is to stage the implementation of CoVEs. Staging implementation would allow you to announce an initial pilot CoVE in 2019. We could then learn from this limited implementation before any Budget 2020 initiative. Continuity risks during the transition would also be limited to a single area. From our learnings around this initial CoVE, we would expect to run a more open process of suggestions from the vocational education sector for CoVEs, potentially focused in specific areas of delivery.
139. The scale and scope of CoVEs will also be largely dependent on the outcomes sought from it. For example, in some current ITPs, there are current areas of provision which are high performing, engage industry and ITOs, and are well known for attracting students wanting a

quality education. There is the opportunity to develop on the infrastructure already developed by these providers – which will transfer to the regional operations of the NZIST.

140. A nominal operating grant could be given to the regional operation to develop resources that could be spread to other organisations delivering in the same area, or to look for opportunities to grow high-value provision. Alternatively, for an industry like the primary sector – where there is a lack of coverage, issues with performance and attracting learners, and a need to engage a wide range of stakeholders – there is likely to be a need for a more strategic and concerted effort, in a formal CoVE. This spectrum of options around CoVEs could mean that you take a nuanced approach dependent on the requirements and proposals of individual sectors, dependent on the amount of funding and infrastructure available for development.
141. Over the longer term, we will want to develop a view about overall coverage, both in an industry sense and geographically. We anticipate creating a framework for investment in CoVEs from the second stage (e.g. following a Budget 2020 bid) which is as enabling as possible, but which achieves reasonable coverage of the system and is fit for purpose in the new system (e.g. if we assume the NZIST would want to determine the shape of multiple applications to host CoVEs at this stage).
142. We should not be limited to one CoVE per industry in the long term. For example, the strongest bid initially might involve a subsector, in a specific location, but the process of developing the initial bids could result in work towards another CoVE for the same industry in a different location, or for a different subsector of that industry later on. We also suggest not limiting how aggregated or disaggregated the industry grouping should be, but allow for industry and the sector to determine this as part of their proposals.

Funding options and mechanism for CoVEs

143. Our recommended approach is to set aside \$5 million per year, baselined within Vote Tertiary Education and sourced from the RoVE contingency in the first two years, for the purpose of establishing CoVEs. As noted earlier, there are several options – upon a spectrum – for creating CoVEs. We would like to discuss with you your thoughts around your first pilot CoVE, before establishing approximate costings within this amount. Given we expect CoVEs to be an enduring feature in the vocational system, this supports the proposal to baseline the proposed \$5m rather than have it stop.
144. We expect the initial CoVE approval to lead to a four to five year contract, which provides sufficient certainty of funding to make the intensive work of developing a consortium worthwhile. We expect ongoing funding would cover a small staff, a governing board, the fulfilment of functions and services such as training support for employers and sharing of research and curriculum or programme design best practice, and the needs of collaboration, which could extend to travel and conferencing systems.
145. While we are still working through the detailed design of CoVEs, we intend to work on a possible phasing of funding, but anticipate that the initial year's funding would be focussed more on establishment and capability development, including any required fit outs. We will propose the details of a potential funding transfer as a part of the technical financial recommendation in the Cabinet paper, post discussions with you around your intentions for an initial CoVE.
146. We are currently exploring drawing two years of CoVE funding from the agreed RoVE contingency, but the yearly funding beyond that through a transfer of funding from an existing appropriation or appropriations.
147. If agreed by Cabinet, this would baseline some CoVEs funding in advance of a bid at a later Budget, e.g. Budget 2020. However, the approach would reduce the amount available in the contingency to establish the NZIST and transition the training services functions from ITOs into providers. In addition, while, due to demand levels continuing to be below the funding available in the SAC, some "headroom" is likely to exist in the Vote in out-years, re-purposing this funding is likely to reduce the Vote's scope to manage the financial implications of the unified funding system, or any upward changes in the pattern of demand.

148. It is an option to provide seed funding to help proposals in nationally important areas to develop, with a view to CoVEs being possible in later years, if it emerges that reaching the required standard of excellence is not yet possible. We seek an indication of your interest in whether to develop this idea further.

Recommendations

149. It is recommended that you:

agree that the contract for CoVES will be with the host TEI

AGREE / DISAGREE

agree to stage the implementation of CoVEs, starting with an initial pilot CoVE

Maybe 2-3

AGREE / DISAGREE

discuss with officials your intentions for the initial CoVE to be established as a pilot

agree that funding of \$5 million per year is baselined within Vote Tertiary Education for the establishment of CoVEs, sourced from the RoVE contingency in the first two years and reprioritisations within the wider Vote after that

move if more than 1

AGREE / DISAGREE

agree that in the second stage and beyond, i.e. post Budget 2020, there might be multiple CoVEs for industries, and that decisions about the industry and geographical spread would be made within a framework developed for these later stages.

AGREE / DISAGREE

Section 5 – managing the overall fiscal implications of RoVE

Item 6: Cash Reserves for regional operations of the NZIST

150. In our recent annotated agenda with decisions relating to the establishment of the NZIST, we raised a number of issues with you, including the treatment of cash reserves currently held by ITPs (METIS 1187910 refers).
151. You indicated that you wished for us to explore options for how reserves might be ring-fenced within the NZIST, to meet the objective that existing reserves are in the future spent on the regions in which they had been accumulated by the relevant legacy ITPs.
152. You noted at your meeting on 6 May 2019 an expectation that any cash reserves that are retained would still be consolidated through the central balance sheet of the NZIST. However, these would only be able to be drawn upon for projects and capital expenditure in the relevant region that have been approved by the NZIST head office (within specific operating parameters).
153. In this regard, there are therefore three key issues to consider:
- Allowable uses of ring-fenced amounts;
 - How to define “reserves” for these purposes; and
 - How to give effect to the “ring-fencing”.

Allowable uses of ring-fenced amounts

154. Ring-fenced amounts could be used for any purpose in relation to a local operation, or they could be restricted to particular uses, for instance:
- Major capital expenditure projects;
 - Routine/minor capital expenditure;
 - Operating investments (e.g. funding the establishment of a new capability); or
 - Operating losses of the regional operation.
155. As the NZIST becomes more integrated, the concept of operating losses becomes increasingly a function of allocation policies between head office and the regional operation. Routine and minor capital expenditure should generally be funded out of operating cash flow. Restricting uses of ring-fenced amounts to “investments” is a more obvious approach, and consistent with a view as the reserve being a legacy passed on by the predecessor entity. Such a definition does impact how the ring-fenced amounts should be calculated (see below regarding working capital).

Definition of Reserves – Formulaic Approach

156. The definition of “reserves” for these purposes needs to consider the:
- specific balance sheet items included; and
 - time period over which or at which they are measured (e.g. year end, average over a year) for the purposes of determining a starting ring-fenced amount.
157. The latter is important given that the NZIST is likely to come into existence during the financial year, rather than at year end, and that ITPs have highly cyclical cash flows over the year (the low point tends to be in December and January, but an April establishment date would be at the time of peak cash).

158. If the NZIST were to be established at year-end, the calculation is relatively simple. Conceptually, the ring-fenced amounts need to represent the underlying cash or equivalents, which have accumulated over time, and which are in excess of normal working capital and liquidity requirements. The table below summarises officials' thinking:

<i>Included in reserves</i>	<i>Cash</i> <i>Term deposits</i> <i>Liquid investments (e.g. equities and debt instruments)</i>
<i>Less</i>	<i>Debt (if any)</i> <i>Fees paid in advance</i> <i>An allowance for routine working capital (we suggest three months)</i>

159. The determination of the ring-fenced amounts is much more complicated for a mid-year establishment. The starting point should always be an audited set of accounts (either the prior year-end or the date of dis-establishment). If the starting point is the latest year end (31 December 2019), then adjustments will need to be made for capital expenditure and realisations in the meantime, and operating performance in the interim. If the starting point is the disestablishment of accounts, then a similar approach will be needed, to reflect the fact that the mid-year cash position (subject to capital expenditure) is likely to be significantly higher than the year-end.

160. Given the differences in each ITP, it is unlikely that a purely formulaic approach will be appropriate. Therefore, it is more likely that a common methodology be used, recognising that each ITP will have specific circumstances that might affect precisely how the methodology is applied.

161. Arguments can be made for different levels of allowance for routine working capital. The TEC's long-standing Financial Management Framework uses a Liquid Funds measure. This defines "low risk" as having roughly one month's operating cash flow, and gives maximum points to having approximately two month's cash flow in liquid reserves. If we assume that ring-fenced amounts can only be used to support material investments in a region, the risks are relatively one-way in favour of the region (local deficits would be the responsibility of the whole IST), we recommend aligning with the most conservative end of the Liquid Funds measure (i.e. approximately 2 months' operating expenditure is removed from reserves in order to calculate ring-fenced amounts).

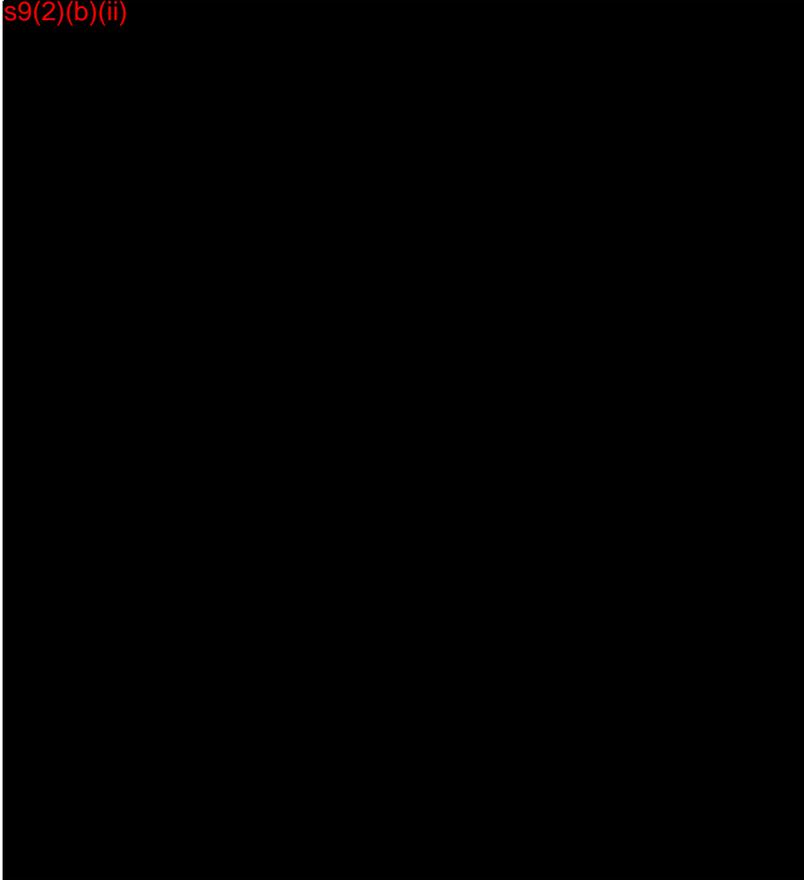
Definition of Reserves – Simple Approach

162. The alternative approach is to pick a single benchmark, and to apply that to each ITP with a net cash position. Such a benchmark could be a single figure (e.g. \$10 million) or a variable such as \$/EFTS (which would be a proxy for size of the institution). In each case, any amount above the benchmark would be ring-fenced.

Illustrative Ring-fencing

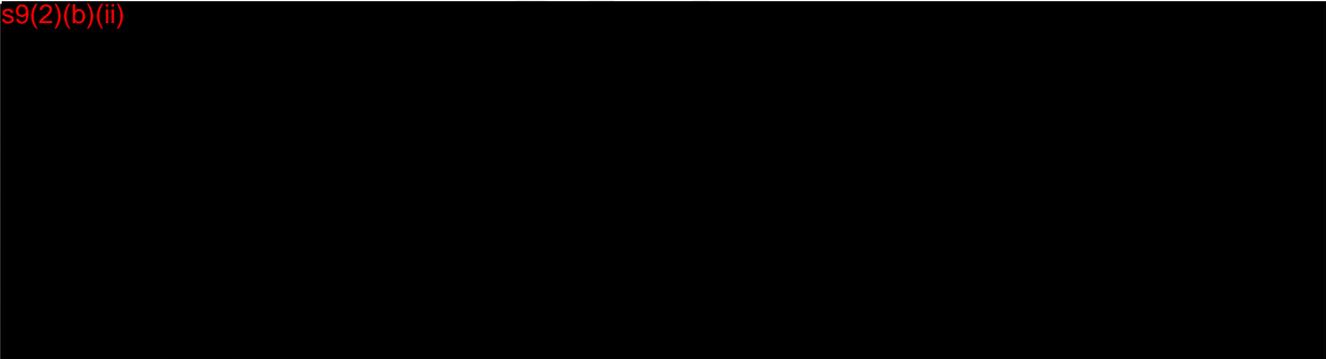
163. The table below summarises the individual net cash/debt positions for each of the ITPs, as at the end of 2018, after stripping out debt and fees in advance:

s9(2)(b)(ii)



164. The table below illustrates the removal of an allowance for working capital, from those ITPs which would still show a reserve amount:

s9(2)(b)(ii)



Mechanisms for ring-fencing

165. A number of mechanisms are available for achieving the separation, including:

- a. Devolving the ring-fenced amounts into a trust or trusts;
- b. Specifying the ring-fencing in legislation; or
- c. Operational ring-fencing (accounting for and separately disclosing the ring-fenced amounts and movements in these).

166. Officials recommend that option (c) above is pursued, as it both provides flexibility and is likely to have the lowest transaction costs.

Under either option, we would need to establish rules as to the access of the capital

167. Strict parameters for the access of money would need to be established, at the final discretion of the NZIST head office. This would ensure that reserves were used on projects that were aligned to the overall general direction of the NZIST, and that reserves were not funnelled into programmes or activity that is not sustainable in the absence of ongoing additional funding. It may also specify timeframes over which the capital could be drawn down, or a staged approach to drawdown, helping to offset some of the initial establishment costs of the NZIST.
168. We recommend that you delegate to the Establishment Board of the NZIST the power to identify parameters for regional operations to access cash reserves, where these regional operations have been deemed to meet the benchmarks to retain these (as identified in options one and two).

Regardless of the approach taken, we recommend that you consider delegating the creation of a capital investment strategy to the Establishment Board, for your final approval

169. As we are not in a position to provide you advice on which current ITPs should be allowed to access cash reserves as regional operations, we recommend that you delegate to the Establishment Board the task of creating a capital investment strategy. This strategy would include a full review of current committed projects – taking into account the type of project committed, the extent to which work has been carried out and the nature of the project – and a prioritisation of those regional operations that should be able to access cash reserves (and in what amounts). These would be presented to you for final approval before being agreed.
170. Once these initial amounts are agreed, the approval would be delegated to the NZIST Establishment Board to determine the draw-down parameters of access for relevant regional operations.

Recommendations

171. It is recommended that you:

agree that use of ring-fenced amounts be restricted to material investments in assets or capability, with principles to be defined during establishment of the NZIST

AGREE/DISAGREE

agree that we take a formulaic approach towards determining which regional operations will be allowed to access cash reserves, specifying principles in the upcoming Cabinet paper

AGREE/DISAGREE

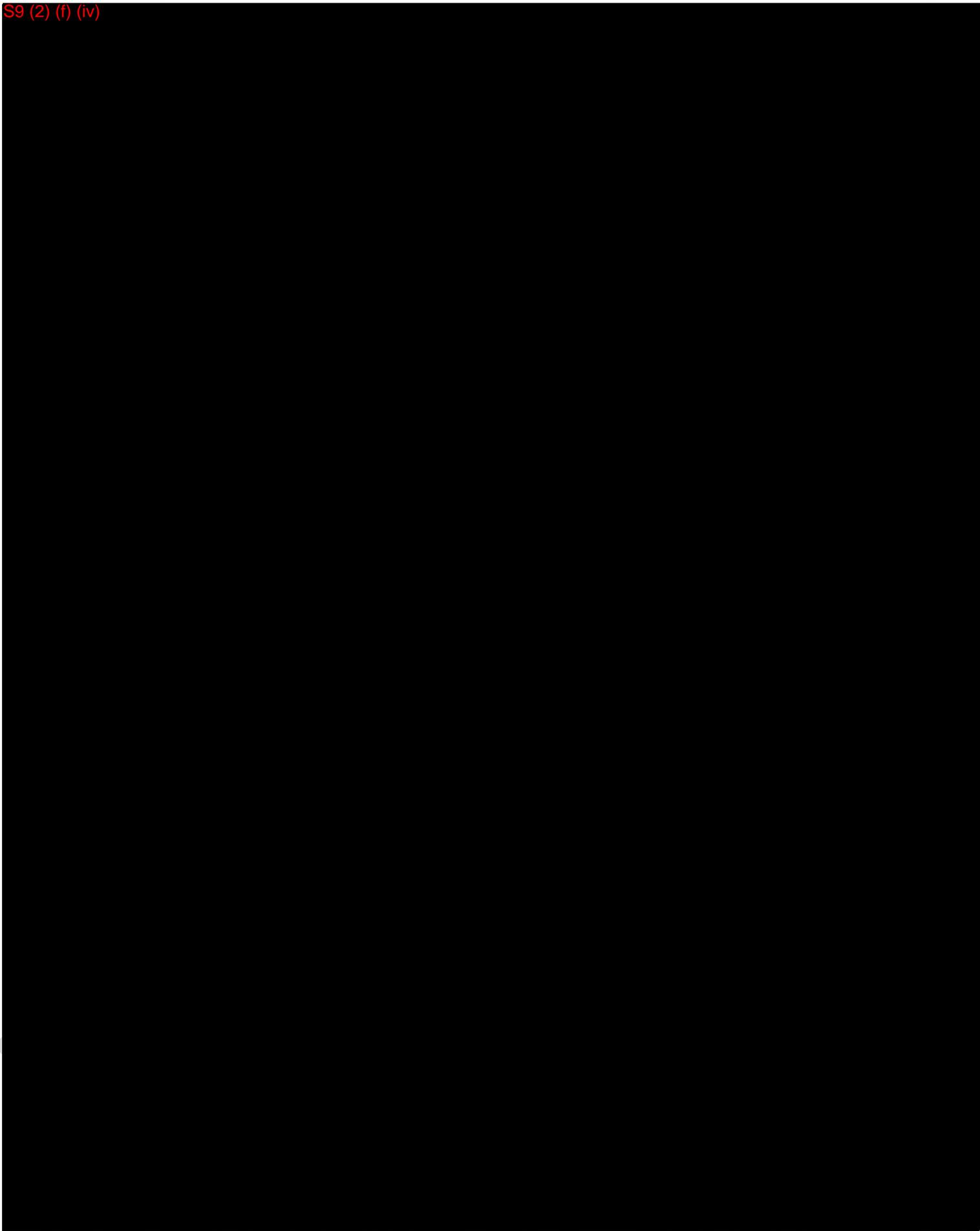
OR

agree that we take a simple approach, with the benchmark

AGREE/DISAGREE

agree that the mechanism for “ring-fencing” is an accounting and disclosure regime, rather than structural mechanisms.

AGREE/DISAGREE



Item 8: Resourcing of RoVE Programme

RoVE programme costs in 2019/20 and beyond

186. RoVE proposes the largest changes to New Zealand's tertiary education and training system in a generation. It will require a very large change management programme, led by the Ministry and the TEC, alongside major changes in industry and regions. As such, the resources and capability necessary to ensure its success are considerable and will be required for multiple years.
187. To successfully deliver our objectives, the RoVE programme needs to have specialist expertise across a wide range of areas, including (but not limited to):
- a. **Governance and programme management** - this capability is crucial to ensuring the RoVE programme is appropriately managed and is vital to the planning, oversight, and decisions about the RoVE programme, including managing risks and advising Ministers on implementation of RoVE.

- b. **Business analytics and change management** - this capability is crucial to the development and delivery of high-quality business cases and advice on necessary detailed design of and/or changes to business processes and resources (including human resources) across ITPs and ITOs, and the new entities and/or organisations impacted by the RoVE programme, including assessing costs and benefits.
- c. **Legal, machinery of government and commercial expertise** - this capability is crucial to managing and advising on the legal, machinery of government and commercial implications of RoVE, including the legislative process and legal risks and proceedings, the establishment and disestablishment of Crown entities, and the continuation or otherwise of contracts across all parties affected by RoVE.
- d. **Engagement, communications and co-design capability** - this capability is crucial to ensuring the involvement of stakeholders in the design of NZIST and its network, in the design of ISBs and RLGs, and making sure accurate messages are reaching stakeholders and communities.
- e. **Policy and supporting capability** - this capability is crucial to ensuring high-quality and timely policy advice is delivered to Ministers, and that supporting processes and advice (eg, Budget and Vote management, ministerial servicing) are also of the highest possible quality.

Impact and workload of RoVE across agencies

- 188. The RoVE programme is jointly managed by the Ministry of Education and the TEC), in consultation with other education and government agencies. Both the Ministry and TEC have reprioritised significant resources to ensure the delivery of the 24 June Cabinet papers. As noted in last week's Annotated Agenda [METIS 1187912 refers], the RoVE consultation period and development of the Business Case for NZIST was enabled by the reprioritisation of \$5m to manage RoVE programme costs in 2018/19.
- 189. Significant further work involving all of the expertise outlined above will be necessary for the next phases of the RoVE programme. As the programme shifts further toward implementation, TEC's workload will significantly increase – as it will need to contribute resources to the RoVE programme as well as major significant changes to its business-as-usual (BAU) processes. The RoVE programme will also continue to require extensive Ministry input and resources. For both the Ministry and TEC, the workload is unable to be managed within existing baseline funding whilst also delivering on broader Government priorities and BAU requirements.
- 190. We are currently developing the work programme to deliver on decisions made over the last three weeks and expect to have estimates of the funding needed for it around the end of May. This will include developing an Implementation Business Case for NZIST, a programme of engagement with stakeholders to define ISBs and RLGs, a Reference Group for the design of the unified funding system, and detailed transition planning.
- 191. Although the work programme continues to evolve, we recommend that the 24 June Cabinet paper seeks a draw-down from the RoVE contingency of \$12.3 million to ensure agencies are able to begin implementing the reforms in 2019/20. At this stage, we propose that \$11.1 million of this funding would be administered by TEC, and \$1.2 million by the Ministry. This recognises that the implementation workload will fall mostly on the TEC.
- 192. This is our current best estimate of the cost of the RoVE work programme in 2019/20 (in addition to significant reprioritisation of existing resources). The scale of the RoVE programme means there will continue to be costs and a need for additional expertise for both the Ministry and TEC well beyond 2019/20. At this stage, we are unable to assess what these might be, as they will only become clearer once initial key steps are taken to implement RoVE.
- 193. Over time, we anticipate the additional workload on the Ministry and TEC will reduce as NZIST builds its capability and takes on greater responsibility for managing its network of delivery.
- 194. As noted in last week's Annotated Agenda, final 2018/19 underspends will become clearer in the next few weeks, and the 24 June papers will be an opportunity to seek Cabinet's agreement

to direct this funding to the RoVE contingency to help manage the overall fiscal implications of RoVE. Alternatively, you could consider seeking the Minister of Finance's agreement to retain available funding and/or resource the RoVE work programme prior to 24 June.

195. TEC holds funding on its balance sheet to manage fluctuations in demand across individual providers and years. This ensures funding is available to pay providers if they enrol more learners than their initial funding allocations provided for (up to 102% of their initial allocation). It gives TEC the ability to allocate additional funding to providers experiencing higher-than-expected demand. It is not expected to manage a system-wide increase in demand, but can help manage the costs of such an increase ahead of additional funding being sought through a Budget process. Officials are currently considering whether some of the funding held for this purpose can be reprioritised to increase the RoVE contingency.

Recommendations

196. It is recommended that you:

discuss managing the 2019/20 costs of the RoVE Programme with officials

agree that the 24 June RoVE Cabinet papers seek agreement to draw-down \$12.3 million to ensure the RoVE programme is able to deliver the key first steps in the implementation of RoVE 2019/20

AGREE / DISAGREE

note that the RoVE programme will require further funding in 2020/21 and beyond to help achieve the objectives of the reforms agreed by Cabinet.

NOTED

The drawdown paperwork needs to provide itemised costs.

1. This annex provides you with more detailed information about the short and long list of entity options.

2. Table 1 below sets out some key features of the top three options discussed in this paper. It is important to note that while there is a set process to establish a Schedule 4a company and a TEI (and the accountability mechanism are set out in legislation), establishing a unit within a department and confirming accountability structures is less prescriptive. As such, the statements under 'Unit within a department' below are assumptions only.

Table 1 – Key features of top three options

Key Features	Unit within a department	Schedule 4A company under the PFA	TEI
<i>Process to establish</i>	Establish a unit within a department, led by a Director who provides support to an Establishment Board sitting outside the department. Appointments to unit can be from outside host department.	Establish a Schedule 4a company with a constitution and formal monitors through Orders in Council.	Establish a TEI through Order in Council.
<i>Ministerial involvement</i>	Establish a ministerial advisory group to be the Establishment Board. Minister appoints the designate Chair. Establishment Board appoints the CE designate, who could become the lead of the Establishment unit within the department.	Minister appoints the Chair of the company, and Board members. Board appoints the CE.	Minister can only appoint some Council members.
<i>Decision-making</i>	Unit and director acts under delegation from the department CE, but with agency oversight.	Chair accountable and liable for decisions taken	Council accountable for decisions taken.
<i>Funding</i>	New appropriation required, managed by host agency. Unit Director would have delegation to speed within allocation.	New appropriation required, managed by host Vote but Chair accountable.	New appropriation required.

Table 2 – Defining features of a long list of options

3. Table 2 provides more details about the mechanics of a longer list of options. Short-listed options are shown in grey.

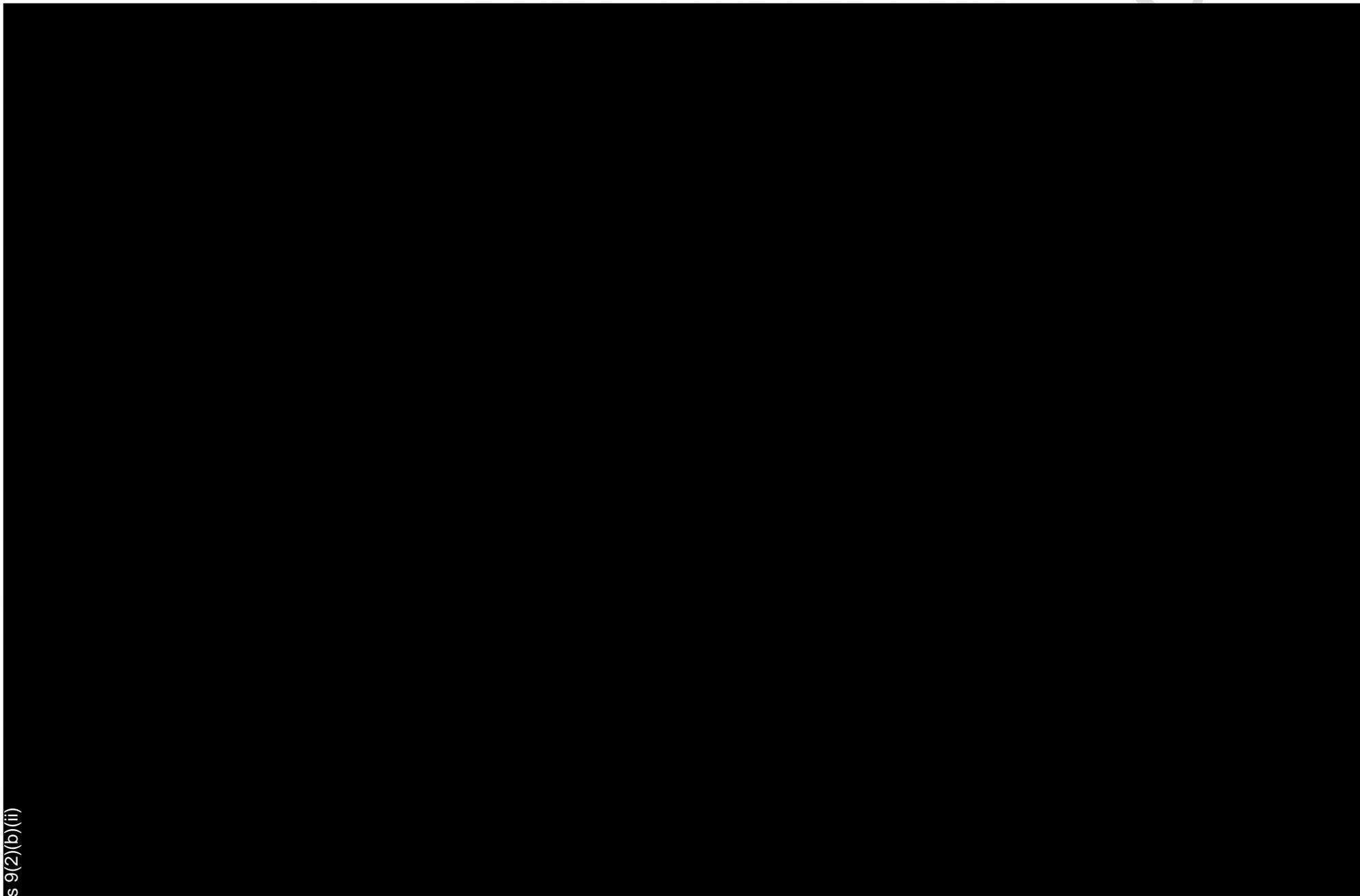
	Unit within department	Departmental Agency	Crown Entity	Crown Entity Company	S4A Company	TEI
Appointment of Governors	None within the agency. Separate establishment board can be appointed as a ministerial advisory group with oversight of the establishment unit within the agency.	None	Minister appoints and removes Board members and sends appointment letters.	Shareholding Ministers appoint and remove Board members and send appointment letters.	Shareholding Ministers appoint and remove Board members and send appointment letters.	Council – Minister for tertiary education appoints three to four members, making up councils of 8 members total. Council votes for own Chair.
Appointment of CE	CE-designate is not a CE in transition, but can be carrying out the functions of leading the planning through the establishment unit.	SSC Commissioner appoints the CE with advice from CE of the host department.	Board employs the chief executive.	Board employs the chief executive.	Board employs the chief executive.	Council employs CE.
Accountability to the Crown for spending, standards, probity etc.	CE of host agency accountable to select committee.	Departmental agency responsible for own annual report. Directly accountable to Minister.	Appropriations administered by monitoring department. Provides public with info on performance. Board primary monitor of performance.	Board accountable for performance to their shareholding minister. Annual report including statement of performance, annual financial statement, and an audit report.	Board accountable for performance to their shareholding Minister. Annual report including statement of performance, annual financial statement, and an audit report.	Formally accountable through annual reports and to the TEC through investment planning and performance monitoring. Council holds CE accountable for management of the TEI.

Ability for Minister to direct	High	High	Indirect (arm's length principle). Minister can direct Crown Agent to give effect to policy where it relates to the entities functions and objectives. Minister participates in setting strategic direction and performance expectations. Series of formal performance tools (Statement of Intent, Statement of performance expectations).	Indirect (arm's length principle). Cannot be directed by Minister on government policy (unless specifically in legislation or the Company constitution). Relationship based. Company constitution can require entity to have regard to government policy directions. However, company directors must act in what they consider to be the best interest of the company.	Indirect (arm's length principle). Minister participates in setting strategic direction and performance expectations. Company constitution can require entity to have regard to government policy directions. However, company directors must act in what they consider to be the best interest of the company. Series of formal performance tools (Statement of Intent, Statement of performance expectations).	Not subject to Ministerial directions on policy. Not a shareholding minister and no formal performance expectations. Could do a letter of expectation (informal lever) TEC monitor.
Restrictions on resourcing decisions	Establishment Unit or Establishment Board can only make resourcing decisions under delegation from host department CE. Public sector norms on pay and conditions require explanation for variations, for instance due to difficulty attracting suitable candidates with specific skills set not commonly found in public sector.	Higher. Financial responsibilities lie with host department, which administers appropriations and Vote. CE of DA can spend under delegation from host department or direction from the Minister.	Minister can adjust funding and approves priorities for the year.	Appropriation administered by department. Paid to entity.	Appropriation administered by department. Paid to entity. No restricted by cabinet fees framework or public sector pay scale.	Appropriation administered by department. Paid to entity.
Establishment requirements	Easy. Access to the back office functions of its agency, so it could piggyback off these and be set up quickly. Lower cost as the existing systems can be accessed, but will still need to pay people.	No legislation required to establish a DA (just an Order in Council). Best suited to regulatory, service delivery or other ring-fenced operations. Ideally a low level of operational connection with the other functions of the host department.	Legislation required. Wholly owned by Crown, operate as commercial businesses, need to exhibit sense of social responsibility. Need to set up back office, find space and pay for it all.	Order in Council. Constitutional documents required etc. Wholly owned by Crown to advance policy objectives. Need to set up back office, find space and pay for it all. Legislation required to disestablish Company.	Order in Council. Constitutional documents required etc. Can be between 51-100% owned by Crown. Need to set up back office, find space and pay for it all.	Order in Council. Several consultation requirements. Need to set up back office, find space and pay for it all.

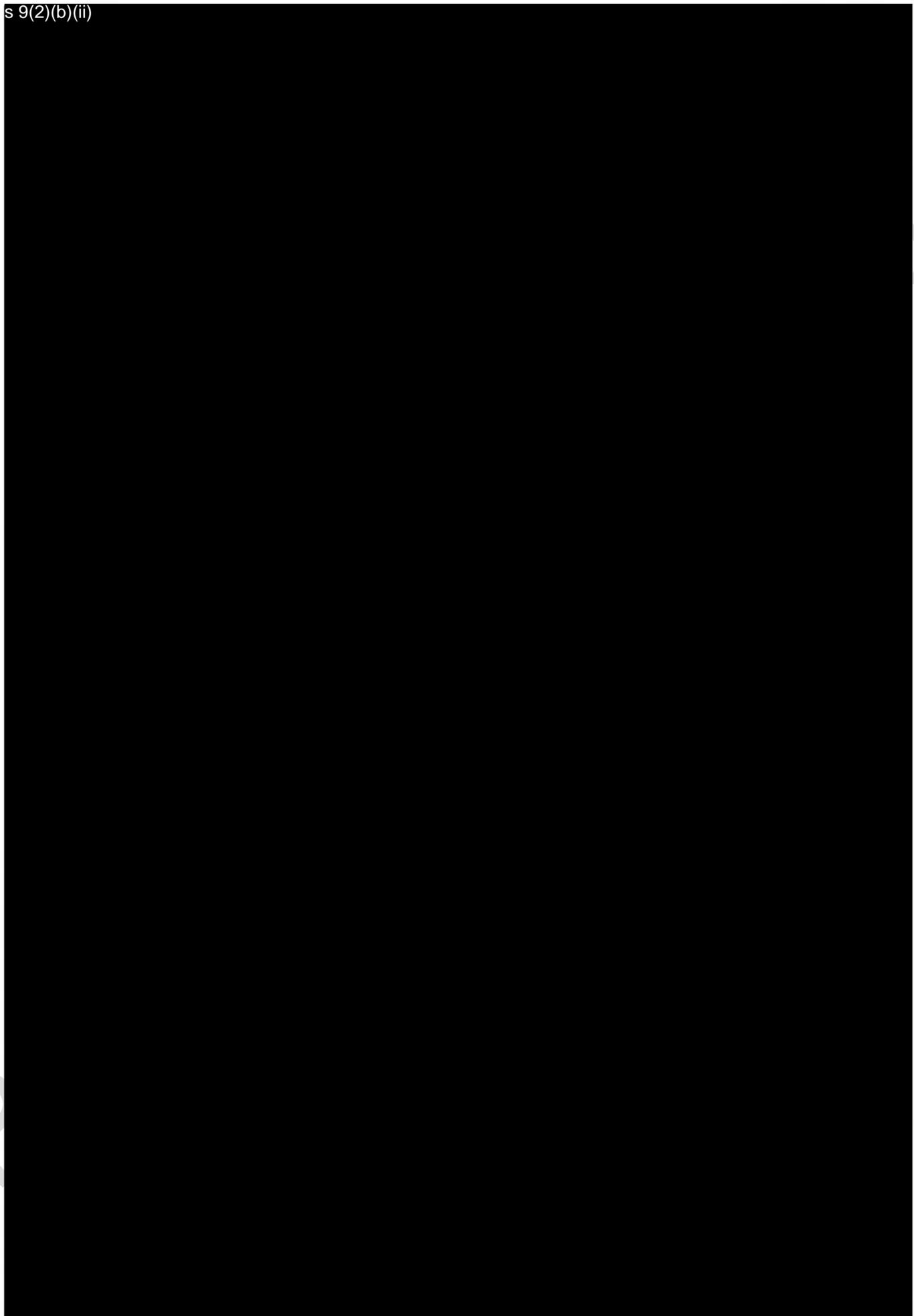
Annex 2: Wind up clauses of industry training organisations

ITO	Form	Levy clause summary	Where assets must go
MITO	Incorporated Society	One or more organisations for charitable purposes relating to education and training in the industries specified in its constitution	ISB (if a charitable organisation) or PTEs (with charitable status) serving MITO industries
Skills Active	Company	Some charitable organisation or charitable body operating in NZ and approved by shareholders (i.e. open to any charity)	Any charity – not necessarily to ISB and/or provider
BCITO	Incorporated Society	Any entity within NZ charitable purposes	Any charity – not necessarily to ISB and/or provider
Competenz	Charitable Trust	A charitable entity within NZ with same or similar purposes of the Trust	An ISB (if a charitable organisation) or a PTE (with charitable status) with similar purpose
Connexis	Incorporated Society	Other charitable organisation within NZ having similar objects	An ISB (if a charitable organisation) or a PTE with similar objects
HITO	Incorporated Society	Some charitable body(ies) having similar objects	An ISB if set up as a charitable organisation or a PTE with similar objects (not Crown Entities as not charitable)
NZMAC ITO	Incorporated Society	Some other body having similar objects	An ISB if set up as a charitable organisation or a PTE with similar objects (not Crown Entities as not charitable)
Primary ITO	Incorporated Society	One or more organisations for charitable purposes relating to education and training in the primary sector	An ISB if set up as a charitable organisation or a PTE serving the primary sector (not Crown Entities as not charitable)
ServiceIQ	Incorporated Society	One or more organisations for charitable purposes relating to education and training in the industry sectors served by ServiceIQ	An ISB (if a charitable organisation) or a PTE (with charitable status) with similar purpose
Skills Org	Incorporated Society	Charitable organisations in NZ	Any charity – not necessarily to ISB and/or provider
Careerforce	Company	Any organisation for charitable purposes	Any charity – not necessarily to ISB and/or provider

Annex 3: Committed major projects at current institutes of technology and polytechnics



s 9(2)(b)(ii)



Proactively Released