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MINISTRY OF EDUCATION
TE TĀHUHU O TE MĀTAURANGA

Tertiary Education Commission
Te Amorangi Mātauranga Matua

Tertiary Education Report: Annotated Agenda to support discussion on RoVE on Monday 11 March 2019

To:	Hon Chris Hipkins, Minister of Education		
Date:	7 March 2019	Priority:	Medium
Security Level:	In Confidence	METIS No:	1179234
Key Contact:	Vic Johns	DDI:	s 9(2)(a)
Drafter:	Mike Woods Phil Wise	DDI:	
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

An Annotated Agenda is attached for your discussion with officials at your agency meeting on Monday 11 March at 10.00am.

Recommended Actions

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

a.   **note** the attached Annotated Agenda for your discussion with officials at your agency meeting on Monday 11 March at 10.00am,

Noted

b.   **forward** the attached annotated agenda to any additional ministers you may wish to include in the discussion, and

Agree / Disagree

c. **agree** that this briefing will not be proactively released until you have agreed to vocational education reforms at Cabinet.

Agree / Disagree

Andy Jackson

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

07/03/2019

Tim Fowler

Chief Executive
Tertiary Education Commission

07/03/2019

Hon Chris Hipkins

Minister of Education

12/3/19

METIS 1179234   **IN CONFIDENCE**

Policy and design aspects of RoVE

1. The attached Annotated Agenda is the second in a series of agendas to support weekly discussions on policy and design aspect of your proposed reform of vocational education (RoVE). These discussions are to prepare for your report back to Cabinet in May 2019.

2. As noted previously (METIS 1178216), we may seek your view during these discussions about how specific issues should be explored for RoVE, but decisions will be reached following the consultation process. At this stage, we are focusing primarily on design aspects requiring legislative change.

3. Key policy and design aspects that officials have discussed, or would like to discuss, with you include:

Policy and design aspect	4 March Agenda	11 March Agenda
Proposal One: Redefining the roles of education providers and ITOs		
Industry Skills Bodies (ISB) formation and recognition		✓
Role of ISBs: skills leadership, moderation & assessment, qualifications and programmes, investment advice	✓	✓
Provision of support to employers (ISBs, providers, or other?)		
Operating funding for ISBs		
Secondary education/industry training interface issues	✓	
Transition arrangements for role changes to education providers and ITOs	✓	
Proposal Two: Creating the New Zealand Institute of Skills & Technology		
Design of charter	✓	
Governance of NZIST: design of council, appointment process, inclusion of student and other stakeholder voices, etc.		✓
Organisational form: type of Crown entity, relationship with government, accountabilities of national office to regional structure and vice versa		✓
Approach to structure of NZIST's administrative regions	✓	

Approach to Regional Leadership Groups (including link with MBIE's proposed Regional Skills Bodies)	✓	
Regulatory framework: statutory interventions (e.g. monitoring) required to manage Crown risk, design of capital framework, process for Investment Plans, etc.		
Centres of Vocational Excellence	✓	
Transitional arrangements for ITPs		

Annexes

Annex one: Annotated Agenda for meeting on Monday 11 March.

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MINISTRY OF EDUCATION
TE TĀHUHU O TE MĀTAURANGA

Tertiary Education Commission
Te Amorangi Mātauranga Matua

AGENDA

Reform of Vocational Education
11 March, 10am

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

This annotated agenda explores technical matters to do with the Reform of Vocational Education (RoVE). Recommendations will be made on these matters following consultation; this agenda serves to deepen our understanding of the issues alongside the consultation process.

This annotated agenda covers the following topics:

- Item 1: Formation and recognition of Industry Skills Bodies (ISBs),

- Item 2: Funding of ISBs,

- Item 3: Moderation and Capstone Assessments,

- Item 4: Design of the New Zealand Institute of Skills & Technology (NZIST) council, and

- Item 5: Including staff and student voice in NZIST governance decisions.

Proposal 1: Role of industry and providers

Item 1: Formation and recognition of Industry Skills Bodies (ISBs)

1. Early feedback from consultation suggests the potential for a large number of industry bodies (who are not currently industry training organisations – ITOs) to seek recognition as ISBs. Whilst industry engagement is important, and the introduction of new voices potentially valuable, too much fragmentation when creating ISBs could undermine their core capabilities by creating unnecessary duplication and spreading limited resources too thinly across multiple ISBs.

2. We are seeking your views on how industry groups could be considered to become ISBs.

3. Based on early engagement with industry bodies (as opposed to ITOs) on the proposals, the following issues have been raised:

   a. new ISBs could become disconnected from industry and employers, and

   b. some seem interested in becoming ISBs themselves, rather than working through sector organisations, such as the existing ITOs. It is unclear as yet whether just a small number of industry groups are thinking this way.

4. Where industry groups are making these observations, it is generally because they are:

   a. dissatisfied with the support they are receiving from existing ITOs, and

   b. observing the lack of scale economies required to become an ISB.

5. ITOs generally have staff spread throughout the country in regional offices, but ISBs would need significantly fewer staff, so industry bodies could take on the role directly through their existing national offices.

ISBs may require additional capacity to perform functions

6. ITOs report that they spend around 15 per cent of their funding on the kind of work that would be required of ISBs – i.e. developing qualifications, setting skills standards and supporting moderation. ITOs currently employ 1300 FTEs; 15 per cent of this amounts to around 200 staff. In addition to these functions currently performed by ITOs, ISBs would also provide skills leadership, advice to the Tertiary Education Commission (TEC) on skills investment, co-approve providers' programmes, and would oversee moderation and assessment services. Additional staff may therefore be required.

7. If it was decided that ISBs should also provide support to employers (e.g. brokerage and advisory services), then the number of staff employed within ISBs could be much higher and would likely require a staff presence at a regional level to support employers.

ISBs' ability to exercise adequate skills leadership

8. A lesson learned from the 1990s and 2000s is that representation by individual industry bodies, rather than larger sector-focussed bodies, does not result in strong and effective skills leadership or high quality advice and oversight of the skills system.

9. A large number of small ISBs would be unlikely to draw on the financial, staffing or analytical resources required to influence 200+ providers and 240,000+ learners in the vocational education system. This scenario would also make it difficult to develop cross-industry, or even cross-sector qualifications, and may lead to increased fragmentation of qualifications over time.

10. Further consideration also needs to be given to how the relationship between ISB(s) and providers would likely evolve, in particular with the NZIST. An institution of the size and scale of the NZIST would wield considerable market power. Under the funding arrangements for tertiary institutions, they have been incentivised to ensure completion rates. There are several avenues to achieve this – such as, raising the quality of teaching or lowering the standards of assessment. A collection of ISBs across industries may struggle to assert themselves in a quality assurance role and exert influence. Officials are currently also considering whether ISBs should be supported by some form of statutory recognition, and whether a single umbrella ISB might be an appropriate form.

11. Small ISBs may also not be well positioned to work across industry sectors, and across all of industry to develop more integrated qualifications and uniform standards for cross-cutting skills, such as management skills.

ISBs' ability to engage with employers

12. The further consideration arising from the smaller size of ISBs (compared to ITOs) is that they may be of insufficient scale to engage effectively with employers in order to maintain clear perspectives on their needs, alongside those of wider industry. There is also a question about whether smaller ISBs would be able to develop the capability to carry out the skills leadership and other new functions required. Very small ISBs embedded in an industry body may be able to maintain regular engagement with employers, but would be less likely to develop the necessary capability and influence required. Bodies that cover a sector may be more at arms-length from employers, but would be more likely to have the influence required on the skills delivery system.

13. Engaging with employers requires a regional presence and functions that bring them close to employers. It is not yet clear what the consultation will reveal about which organisations are best placed to support employers. If ISBs were to take on the function of providing support for employers, then this may result in the establishment of larger ISBs as they would likely require a greater regional presence.

A smaller number of ISBs may be preferable

14. Other countries with industry skills bodies, such as Australia and Singapore, have framed the formation of ISBs more directly.

15. Australia has 11 industry skills councils with the scope of these bodies set by government and comprehensively covering almost all industries (although the clustering is not always consistent). The councils are formed at arm's length from government.

16. Singapore has teams of Ministers focussed around six sector clusters, underpinned by 23 industry bodies. The overall framework covers the whole of industry.

17. Stronger government direction may be required to achieve a manageable number of industry bodies with the necessary capabilities to effectively shape the skills delivery system to meet future workplace needs, influence key stakeholders and maintain regular contact with employers. There are a number of ways this direction could be achieved, including:

    a. recognising a single industry body in statute that would be to the necessary scale and could support regional functions, and in turn, recognises standards-setting bodies at the industry level,

    b. setting out in legislation a recognition process for a limited number of pre-determined sectoral ISBs, or

    c. providing a strong negotiation role to ensure proposed ISBs are limited in number, and cohere around industry sectors and have the required capability.

18. Further policy work is need to present a full range of alternative options and analyse the pros and cons of each option. We will provide advice on this later in March, if you are interested in exploring these issues further. *— Yes*

19. It is recommended that you:

    discuss with officials the desirability of stronger government direction on the number and sectoral clustering of industry bodies in light of initial industry body responses and whether expanded functions could increase their scale and connectedness to employers.

    NOTED

[Handwritten margin note: I'd lean towards option A but want to be informed by the feedback from consultation before landing decision this big.]

Item 2: Funding of ISBs

The funding of ISBs could be designed to achieve additional public benefits

20. The underlying principles for ISB funding could be that government supports ISB functions that provide a public benefit (which industries and employers are unlikely to contribute to). ISBs could also be part-funded by industry to ensure they are responsive to industry's needs.

21. Many industries recognise their interest in engaging with the skills system. In 2017, industries provided ITOs with $19 million in levies, grants, sponsorship, donations, or other industry-related income, excluding fees for training or moderation (source: TEC). Much of this was used for the standard setting, qualification design and skills leadership functions that ISBs would undertake. Under the proposed reforms, ISBs' influence on vocational education would be significant, and this could encourage many industries to support an ISB (although this is balanced against a risk that industry will be less engaged with ISBs because they do not directly support training). Government funding would ideally complement, not displace, this contribution from industry.

ITO funding

22. The Education Act's general provisions for funding tertiary education organisations appear to need only minor amendment to enable ISBs to be funded. These provisions (in section 159L) allow the Minister to determine the design of the funding mechanism that the TEC must use to fund organisations.

23. The provisions in the Industry Training and Apprenticeships Act 1992 for the funding of ITOs would be withdrawn. These provisions require the TEC, when approving an ITO's investment plan, to have regard to the amount of training and number of trainees to which the plan relates, and to the desirability of introducing new or enhanced skills to an industry or extending industry training to new industries or groups.

24. Current industry training funding is largely linked to the amount of training ITOs arrange. This would be insufficient as a cost-driver for ISBs, and other factors such as an industry's complexity, the stage of development of its qualifications and standards, and the industry's contribution to ISB costs, could also be taken into account.

Priorities to government, industry, and employers

25. Government may place a particularly high priority on equity and the portability of skills between industries. Many industry bodies recognise an industry interest in offering training, qualifications and careers to a wide range of learners. In contrast, some employers may prefer learners to gain only the skills needed for their current job, and not to have their skills formally recognised and thereby made more portable (so as to retain their staff).

26. Well-directed funding could help balance these interests. For example, government funding could:

    a. act as a catalyst for "willing" employers to establish and support an effective ISB for their industry,

    b. assist ISBs to develop shared qualifications and standards and keep them up to date,

    c. reduce the cost to employers of assessment and moderation of their employees, and

    d. encourage ISBs to promote good human resource management among employers.

We currently envisage 'core' funding, formula-based 'activity' funding, and continued project funding

27. With ISBs not arranging training, we envisage that the TEC would allocate "core" funding to sustain each ISB, within clear parameters to: ensure equity across industries; encourage ISB arrangements and practices that maximise learner benefits; and help manage costs to the TEC. It may be appropriate for TEC to adjust funding based on ISBs' commitments under skills leadership plans, and their past performance.

28. Measures of the size and complexity of an industry (e.g. the number of learners and employers) could provide an objective and equitable basis for funding different industries. Funding could also be capped as a ratio to industry contributions to the ISB. The TEC could have some flexibility to attach funding to ISBs' performance of specified commitments (set out in skills leadership plans).

29. Some TEC support for ISB activities could be tied to specific activities such as obtaining New Zealand Qualifications Authority (NZQA) approval for qualifications and standards, to encourage timely updates of these products. This funding could be paid direct to NZQA.

30. Up to $4 million is currently available to ITOs for "industry training related projects", and could be used to encourage collaboration among ISBs on common standards and other projects.

31. ISBs may seek to charge fees from providers for moderation and from providers, learners or employers for capstone assessments and for programme approval activities. This could create a risk given ISBs' monopoly position, and may require regulation. One option would be for any such fees to be set and charged by NZQA, in consultation with the affected parties, and then

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paid on to the relevant ISB. NZQA currently refunds 30 percent of fees ITOs pay when reporting trainee and apprentice achievement of credits, as a way of compensating the ITOs for their moderation of both on-job and provider assessments. This mechanism will no longer be available. At this stage in the process, officials that any arrangement to avoid creating financial barriers to the formal recognition of skills learners have acquired would be preferable.

32. It is recommended that you:

note that:

a. at this stage, we consider that a general principle could be that ISBs be funded to deliver public benefits additional to those that would arise due to the industry and employers pursuing their own interests,

b. funding could be appropriately targeted at encouraging the:

i. establishment of and support for ISBs, in ways that reflect the size and complexity of the industries covered, and

ii. formalisation of training.

c. to date, we have not identified significant impediments to implementing funding for ISBs under current legislation, but minor amendments may be needed.

NOTED

Item 3: Moderation and Capstone Assessments

33. This section describes the design features of moderation and capstone assessments, and seeks your views on some key design choices to support legislative and regulatory work.

34. RoVE proposes that ISBs could have a role in moderating or setting end of study assessments (capstone assessments) if they choose to do so. Moderation of assessment involves calibrating and reviewing assessment instruments, or decisions taken by assessors in providers. Capstone assessments would replace provider assessments with industry managed assessments. Moderation and capstone assessment would be administered by ISBs and apply towards the end of a qualification to ensure industry standards are being met by learners in the programme. Capstone assessments would be higher stakes and impact more on providers and learners.

Purposes of capstone assessments

35. The benefit of moderation and capstone assessments is that they would give confidence to:

a. the employer: that their staff have the skills and competencies required, and

b. the learner: that they have acquired the skills and competencies that employers need.

36. The purpose of moderation and capstone assessments could be to:

a. confirm that every graduate has retained and integrated the knowledge and skills acquired throughout their vocational education programme to meet the requirement of the graduate profile,

b. ensure providers are interpreting and meeting ISB-set standards consistently (in which case the capstone assessments could be a short-term or occasional exercise),

c. show which providers are doing the best job at preparing skilled, knowledgeable graduates (i.e. not just ensuring minimum standards were met, but actually seeking to differentiate by quality, which would require a different approach to assessment), and

d. ensure formal assessments aligned with occupational regulatory body requirements.

37. Feedback is sought through the RoVE consultation process on:

    a.   the purpose of ISB capstone assessments,

    b.   what this might mean for how they are designed and administered,

    c.   the powers that ISBs would need, and any checks and balances the government should place on these powers, and

    d.   who should pay for capstone assessments to be carried out.

38. There may be risks associated with the misuse of capstone assessments, which include:

    a.   the potential for over-assessment by industry, which could hamper provision, with learners taking longer to complete or experiencing lower completion rates,

    b.   higher direct costs to learners through NZQA fees, and

    c.   the potential for rent-seeking by industry incumbents i.e. people already working in a profession setting a high bar for entry to restrict the supply of workers and increase the value of the skills.

39. In short, there may be a risk that the ISBs could do too much assessment, or set the bar too high in the assessments they set. This may require some oversight in regulation and NZQA rules.

Legislative vehicle

40. The requirement for capstone assessments themselves could be included as part of the assessment standard specifications within a qualification/programme, in which case these assessments would not require legislative change.

41. However, light regulatory oversight (probably managed by NZQA) is likely able to offset the possible risks identified above. This would require support in the RoVE Reform Bill.

Moderation and capstone assessments are mutually exclusive

42. At this stage, officials consider that ISBs should be able to either moderate assessments or oversee capstone assessments. The two processes gather similar information, and are not both required.

Costs of moderation and assessments

43. Where moderation and capstone assessments operate (e.g. for the regulated occupations), the cost are currently managed through:

    a.   fees paid by learners to have assessments registered against their Record of Learning,

    b.   a portion of the fees collected by NZQA which is passed on to ITOs to support moderation, and

    c.   the remainder of the cost is borne by industry, or following agreement by participating providers (who would need to recover costs in their student fees) who benefit from not having to set final assessments.

44. The current system provides a way for managing the cost to learners and providers, because ITOs must bear costs in excess of the normal rate for moderation of assessment. At this stage, officials consider that a similar approach to moderation and capstone assessments (if the proposals proceed) could be suitable, so that costs in excess of a minimum fall on industry rather than on learners. Changes to NZQA rules would be required to make payments to ISBs rather than the reporter of achievements (providers).

45. There may need to be different fees depending on whether moderation or capstone assessments are deployed. Moderation costs are generally likely to be of lower cost.

46. Alternatively, you may consider that capstone assessment costs exceeding moderation costs should be borne by industry in order to limit costs to learners. The benefits to industry from capstone assessments would then need to be carefully assessed by ISBs.

47. It is recommended that you:

    note that, at this stage in the process officials consider that:

    a. light regulatory oversight by NZQA may be required, if capstone assessments are permitted, and provisions may therefore need to be incorporated in the RoVE Reform Bill,

    b. ISBs should be required to choose between either overseeing moderation or capstone assessments, due to duplication of function,

    c. The cost of moderation and capstone assessments could be partly managed through standard fees collected from learners by NZQA, with the remaining cost covered by ISBs, and

    d. capstone assessment costs in excess of moderation costs could be met by industry or with the agreement of providers by providers, to reduce any unnecessary cost on learners, otherwise costs would need to be recovered through increased NZQA learner fees.

    NOTED

Proposal 2: Creating the New Zealand Institute of Skills & Technology

Item 4: Design of the NZIST council

48. In December 2018, you agreed to consult on whether the existing council composition and appointment process applicable for individual Institutes of Technology and Polytechnics (ITPs) would need to change if the proposal to establish a single NZIST is taken forward. You also expressed an initial preference for a fully Ministerial-appointed council [B-18-00942 refers].

49. This section sets out officials' initial thinking in regards to the NZIST's council settings, including size, representation, and relationship with the Minister.

50. NZIST council settings could be based on current legislative requirements for ITPs (section s222A) or universities and wānanga (section s171), or it could be different to both of these if the nature of NZIST means that current settings are not suitable. The key difference would be that the Minister would appoint all the members of the NZIST council. Within a fully Ministerial-appointed council, the question becomes how the shape of the council and its settings can encourage appropriate accountability while allowing poor performance of the council to be addressed appropriately, should it arise.

51. We are intending to provide advice in a future Annotated Agenda on how the regional campuses of the NZIST could relate to the national office. This relationship may result in us revising the advice set out below.

Current settings for ITPs, wānanga and universities

52. ITP council members appointed by the Minister are appointed primarily on the basis of their governance skills and experience, rather than as a representative group. Under the current settings, the Minister has a higher level of influence in the appointment of ITP council members, compared with wānanga and universities. Key features of ITP councils include:

a. that councils must have between 8 and 10 members[1], 4 of which are Ministerial appointments,

b. the Minister may appoint and replace the Chair and Deputy Chair, and

c. the Minister may remove any council member from office 'at any time, for just cause'.

53. University and wānanga council settings were changed in 2018 to shift away from a primarily representative stakeholder approach which had resulted in large councils (12 to 20) and a risk of slow decision making. These changes aimed to enable effective and efficient councils with high governance capability and enough flexibility to reflect their unique institutional characteristics. Key features of university and wānanga councils include:

a. councils must have between 8 and 12 members, with 3 or 4 Ministerial appointments (depending on the size of the council),

b. the council elects its own Chair and Deputy Chair, and

c. the Minister may remove a council member from office, on the recommendation of the council.

54. Alongside these settings are additional levers to manage risk, most prominently being monitoring and intervention levers. We intend to come back to you with further advice about whether current settings need to change as the regulatory framework develops.

How we considered the options for NZIST council settings

55. The NZIST governance arrangements (including council settings) should seek to position the new entity to be a financially viable institution that delivers to the needs of learners, has the confidence of employers, and is part of a collaborative, flexible and sustainable vocational education system that supports the regions.

56. The NZIST proposal, along with the unified funding system proposal, are intended to address factors that contributed to the financial viability issues currently facing the ITP sector and the performance of vocational education and training in meeting the needs of students and stakeholders. If these proposals are implemented as planned, then there may be less need to apply the more restrictive ITP council settings to the NZIST, in particular the role of the Minister in appointing the Chair and Deputy Chair (in addition to appointing the membership generally) and their ability to remove council members.

57. Although the effectiveness of the new NZIST in mitigating risk would not be known until the entity was established, applying the more restrictive ITP settings might create unclear accountability for the council as the Minister may be perceived to hold too much influence.

58. We have therefore considered which council setting options would be the best fit with NZIST in relation to enabling quality decision-making by the NZIST council.

59. Other parts of the NZIST's governance arrangements will provide different levers to shape the behaviour of the entity: for example, the mission scope and accountability are likely to be part of the charter, which will provide a framework for council decisions. Any systemic governance issues would be covered by the legislative options for institutions at risk (sections 195A – 195G of the Act). We will discuss how these might apply to NZIST in a future annotated agenda.

Size of the NZIST council

60. Allowing for a range of council members as the current setting do (8 to 10 for ITPs and 8 to 12 for other TEIs) provides flexibility for the council to be smaller or to increase its size if needed to meet skill or knowledge gaps. We propose keeping a range, and have considered where the top of the range should be for the NZIST.

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[1] 10 member council comes into effect from 24 October 2019. The current maximum is 8.

61. Limiting the maximum size of the NZIST council to 10 members (i.e. the current maximum for an ITP council) may not allow for the range of skills needed to effectively govern a nationwide institution or to represent the wide range of stakeholder interests. You may therefore want to allow for a larger maximum council size (though a fully representative council would not be recommended).

62. During consultation on the size of university and wānanga councils in 2018, it was determined that a maximum of 12 members allowed a council to operate effectively, while a maximum of 16 or more members was considered too large to be effective.

63. It is recommended that you:

    note that at this stage, officials consider that the NZIST council could operate effectively with between 8 and 12 members (which is within the current range of existing TEIs), and

    note that future advice on the relationship between the regional campuses of the NZIST and the head office, along with results of the RoVE consultation, may lead to use revisiting the recommendations above.

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Representation on the NZIST council

64. NZIST will have a significantly larger stakeholder base that of any other TEI. As discussed above, council membership that seeks to be fully representative of such a wide range of stakeholders would make the council too large to be effective.

65. However, Regional Leadership Groups (RLGs) and ISBs are expected to support the NZIST's decision-making processes, from a regional, industry, employer, and community perspective. There are therefore multiple ways for stakeholders to influence the NZIST without being directly represented on its council.

66. The RoVE proposals anticipate that iwi and Māori would be represented on RLGs to influence the behaviour and offerings of their local NZIST campuses, and that the Treaty partnership will remain with the Crown. We will provide further advice on Treaty implications, and how Māori aspirations can be reflected in the design of the NZIST, in a later annotated agenda.

67. You may wish to set an expectation in legislation that in making appointments to the NZIST council, the Minister attempts to achieve the desired governance skill set while reflecting the ethnic, socio-economic and gender diversity across New Zealand. There is already a provision for this in the legislation for TEIs.

68. You may also wish to set a specific expectation that Ministerial appointments reflect the principles of the Treaty of Waitangi by including Māori adequately at governance level. This would be additional to iwi representation on RLGs, and the Treaty partnership with the Crown.

69. It is recommended that you:

    note that there are multiple ways for stakeholders to influence the NZIST without being directly represented on its council,

    note that you may however wish to set expectations in legislation that Ministers will consider the desirability of reflecting gender, ethnic and socio-economic diversity across New Zealand, and the principles of the Treaty of Waitangi when making council appointments, and

    note that we will prepare further advice on the Treaty of Waitangi implications for the NZIST structure.

NOTED

Options for choosing the Chair and Deputy Chair, and removing individual council members

70. As noted previously, the current system allows the Minister to appoint the Chair and Deputy Chair of ITPs (and to replace them at any time), and to remove a member of council from office 'at any time, for just cause'.

71. For wānanga and universities, a council appoints its own Chair and Deputy Chair, and may dismiss and suspend members under certain circumstances. The Minister may remove a council member from office on recommendation from the council. This enables councils to manage their own performance.

72. Applying the current ITP settings to the NZIST would result in high degree of government influence over the new entity, compared with wānanga and universities. While this may be appropriate given its unique nature, it could also limit the NZIST's ability to manage its own performance and could therefore introduce issues around accountability.

73. Furthermore, having Ministerial board appointments is likely to reduce any need for further restrictions on the board's ability to manage itself, particularly in light of other levers that are available to guide the NZIST such as the charter, the need to develop an investment plan, and the ability of the government to intervene in response to performance issues.

74. It is recommended that you:

    note that at this stage, officials consider that the settings currently used for the councils of wānanga and universities are likely to be sufficient for the NZIST council, whereby the council elects its own Chair and Deputy Chair, and the Minister may remove a council member from office on the recommendation of the council.

    NOTED

NZIST as a modified TEI

75. Officials are currently considering how the Crown Entities Act 2004 could apply to NZIST as a modified TEI. There are two key considerations:

    a. the need for appropriate oversight and risk management for NZIST as a critical part of the tertiary education system, and

    b. how to ensure academic freedom is protected, particularly as it applies to degree and post-graduate level delivery.

76. We will also consider features of other types of Crown entity (for example, having all Ministerial council appointments would align NZIST to statutory Crown entities).

77. It is recommended that you:

    note that officials are considering which parts of the Crown Entitles Act 2004 might apply to NZIST as a modified TEI, and that we will address this in a later annotated agenda.

    NOTED

Item 5: Including a staff and student voice in NZIST governance decisions

78. You have indicated that the voices of staff and students should be a strong part of the NZIST's governance. At this stage in the process, officials have identified two options to achieve this, beyond the status quo currently applied to ITPs which we consider would be ineffective for increased staff and student influence in the proposed single NZIST model. To increase the level of influence, the options include:

    Option 1: A formalised national-level staff and student committee that acts as advisors to the NZIST council, and

Option 2 (supplementary to Option 1): A staff and student representative could be nominated to the NZIST council by a formalised national-level staff and student committee (which also act as advisors to the NZIST).

79. Further options may be offered through the consultation process.

Operating model of a national-level staff and student committee

80. The NZIST council could be required to establish a committee consisting of staff and student representatives, and could be required to seek advice from this committee on decisions that relate to its staff and students. The staff and student committee could in turn be required to provide this advice, and the NZIST would be obligated to take this into account as part of their decision-making process (Option 1).

81. This approach is similar to the current legislative framing for academic boards.

82. You may also wish to require the NZIST council to consider voluntary advice from the staff and student committee that is not explicitly requested. This would allow the staff and student council to be more responsive to their constituents and raise issues with the NZIST council as they emerge.

83. If we follow the model of the academic board, the scope of the advice provided to the NZIST council would be broadly defined as 'decisions that affect staff and students'. This means the advice is likely to have breadth and depth and provide an avenue for students and staff from the regions to have their perspective and concerns heard by the NZIST council. However, such a broad scope may create practical issues, for example, there may be overlaps with the role of the academic board that is also made up of staff and students and is tasked with providing advice on academic matters. It is difficult to know at this stage if this is an issue, and our preference is to keep the legislation as broad and enabling as possible.

84. Using a sub-committee structure means that the NZIST council would not be required to follow the advice provided by the staff and student committee, as this could place the council in an untenable position. Instead, the NZIST council would have to show that they considered the advice in some way.

85. If you wanted the staff and student committee to have greater influence over decisions of the NZIST, as they relate to staff and students, then you could also require a staff and a student representative to be on the NZIST council (Option 2). This could be achieved by the staff and student committee nominating representatives to the NZIST council.

86. This would give staff and students influence on the council as far as their voting rights take them. This could have a number of added benefits, such as giving more transparency to the council's decision-making process.

87. It is recommended that you:

    note that operating a staff and student committee or committees in conjunction with having staff and student representation on the NZIST council provides the highest impact of student voice in the NZIST's governance (Option 2), and

    note that a requirement that the NZIST council consider advice provided to it by a staff and student committee or committees, without direct staff and student representation on the NZIST council (Option 1), still has a relatively high impact for student voice compared to the status quo.

                                                                                    NOTED

Composition of a staff and student committee

88. To ensure a strong regional voice, you could require that the staff and student committee consist of elected representatives from each region. Each representative could be elected by the staff and students of the NZIST at the regional level. They could be tasked with representing the interests of their constituents both at the regional level and the national level through a staff

and student committee. Depending on the level of student engagement in a region, student representatives could be elected independently, or through a student's association.

89. There may be some issues with having a single committee representing both staff and student interests. Staff and students are likely to have different perspectives from each other in terms of viewpoints, advice and interests. It is possible the structure of a single committee may create or exacerbate tensions between the two groups. If this model is progressed, we suggest testing the single committee model with staff and students through the select committee process.

90. There is a further option of creating two committees, one for staff and one for students, but this introduces a further level of legislative and administrative complexity, which may be unnecessary.

91. It is recommended that you:

note that membership of the staff and student committee or committees could be required to include representatives from each region, and

note that we suggest testing, through the select committee process, whether there should be one committee covering both staff and students, or two committees (one for each).

NOTE