



Tertiary Education
Commission
Te Amorangi Mātauranga Matua



Tertiary Education Report: Annotated Agenda to support discussion on RoVE Proposal two

To:	Hon Chris Hipkins, Minister of Education		
Date:	1 May 2019	Priority:	Medium
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Purpose of Report

The attached Annotated Agenda seeks your indicative agreement to detailed policy and design aspects of Proposal Two of the reform of vocational education (RoVE); *creating a single New Zealand Institute of Skills & Technology*. We seek feedback in the week of 6 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 some detailed policy and design aspects of Proposal Two of RoVE,

Noted

- b. **note** that these decisions are required 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. **note** that this advice follows on from the two RoVE Strategy Sessions you held on 10 and 24 April and seeks your agreement to points discussed at these sessions,

Noted

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

Agree / Disagree

- e. **agree** that this briefing will be proactively released once you have agreed the RoVE at Cabinet.

Agree / Disagree



Grant Klinkum

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

01/05/19



Gillian Dudgeon

Deputy Chief Executive, Delivery
Tertiary Education Commission

01/05/19



Hon Chris Hipkins

Minister of Education

4/5/19

Process for confirming policy and design aspects of RoVE

1. The attached Annotated Agenda outlines a range of detailed policy and design aspects related to RoVE Proposal Two. We seek feedback on these design aspects in the week of 6 May, to inform the preparation of Cabinet papers (due to be considered at Cabinet on 24 June 2019).
2. We have aimed to provide sufficient detail on each of the design aspects to support good decision-making while ensuring the paper is manageable. Officials can provide further information to support your decision on a particular area, if required.
3. A summary of the business model discussion we had at the Strategy session on 24 April 2019 is included in the Annotated Agenda. We have also attached an updated copy of the A3 business model discussion diagram presented to you at that meeting.
4. The remainder of the Annotated Agenda discuss a wide range of factors relating to the potential creation of an NZIST, and factors that we need to consider to be able to draft legislation accordingly.

Annexes

Annex one: Annotated Agenda on detailed policy and design aspects of RoVE Proposal Two: *Creating a single New Zealand Institute of Skills & Technology.*

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

This Annotated Agenda seeks your agreement to high level policy and design aspects of Proposal Two of the reform of vocational education (RoVE); *Create a New Zealand Institute of Skills & Technology (NZIST) with a robust regional network of provision.* **Please note that this annotated agenda is subject to your decision to proceed to Cabinet with a recommendation to form an NZIST.**

High level policy decisions are needed to inform your report back to Cabinet in June 2019 and to allow for appropriate legislation to be drafted.

This annotated agenda is provided on the basis that you are still considering what to propose to Cabinet. It requests your decision on a number of issues, but is based on the fundamental proposal that you wish to proceed to Cabinet with a decision to create an NZIST.

The NZIST is intended to be a new entity, empowered to develop a fully integrated provider-based and work-based vocational education and training system. As such, its development will involve absorbing and transforming the functions of the current institutes of technology and polytechnics (ITPs) and, we assume, some arranging training functions from industry training organisations (ITOs). In absorbing these functions, the ambition is to create a new type of training and education organisation, with different approaches, culture and capabilities; it should not just be the adding together of existing organisations into a larger version of their current state. At the same time, it must be recognised that the NZIST is faced with a substantial integration task, in bringing together many of the functions of existing ITOs and ITPs. Also, a substantial portion of current ITP delivery (particularly at degree level) is not strictly "vocational".

This Annotated Agenda makes the broad assumption that the NZIST will be absorbing ITP and ITO functions. We have further information on many of the issues relating to the ITP sector, and were able to gain a better understanding of the ITP business models during the engagement period. Therefore some of the content in this paper is more specific to the ITP component of the creation of the NZIST.

The structure of this Annotated Agenda is as follows:

- **Overview of stakeholder feedback regarding Proposal Two**
- **Section 1: Overarching Matters**
 - *Item 1: The NZIST Proposal and the inclusion of ITPs within it*
 - *Item 2: Business model of the NZIST*
- **Section 2: Māori/Crown Partnership**
 - *Item 1: Partnering for success – Māori/Crown relationship*
- **Section 3: Machinery of Government**
 - *Item 1: Tertiary Education Institute (TEI) and Crown Entity settings (including Council)*
 - *Item 2: Monitoring and Accountability*
 - *Item 3: Investment Plans*

- **Section 4: Regional Leadership Groups (RLGs) and stakeholder influence within NZIST**
- **Section 5: Other Matters**
 - *Item 1: The name 'NZIST'*
 - *Item 2: Current cash reserves in the ITP sector*
 - *Item 3: Centres of Vocational Excellence*

Overview of stakeholder feedback regarding Proposal Two

1. Based on our stakeholder engagement and a preliminary assessment of submissions, there is general support for the consolidation of some functions for a NZIST, although not universal support for a centralised single entity.
2. Unlike ITOs and a number of other industry submitters, providers – including current ITPs – also tended to support the proposal to take on the role of arranging work-based training. Nearly all ITPs reiterated that they viewed the reforms as an integrated package, and where they supported Proposal Two, did so on the basis that the other two proposals proceeded.
3. Most ITPs and their regional stakeholders have taken the time to think through what an appropriate level of consolidation could be. Most submitters see that there are some clear challenges confronting the ITP sector, and that financial performance across the ITP sector has been uneven. However, a number of ITPs have strongly reiterated that while there are challenges in the sector, they are not failing institutions.
4. Some ITPs have identified that there are additional capabilities that could be introduced via a head office function – such as Universal College of Learning's (UCOL's) concept of a centralised national professional development plan for all ITP personnel, investing in retraining in preparation for transition, with a robust framework for annual development going forward. Others, like Wellington Institute of Technology (Weltec) and Whitireia Community Polytechnic (Whitireia), noted that a centralised model could create a slow moving, innovation stifling organisation that isn't responsive to local needs.
5. There is interest from stakeholders in having a strong regional voice within both the NZIST and Regional Leadership Groups (RLGs). However, there seemed to be general confusion over the function and purpose of the RLGs, whether they would be integrated into part of the NZIST, and the accountability and relationship between the TEC, NZIST, industry skills bodies (ISBs) and other providers.
6. Where comments were made on regional leadership, this was mainly around the importance of retaining decision making at a regional level, or how RLGs could align with iwi boundaries to give effect to local partnerships (reiterated by the ITP Group members – Unitec Institute of Technology, Manukau Institute of Technology [MIT], Waikato Institute of Technology, Western Institute of Technology at Taranaki, Whitireia and WelTec, Tai Poutini Polytechnic [TPP] and The Open Polytechnic). MIT noted the potential that "regions" could begin to reproduce competitive behaviour (such as regional campuses continuing to compete in Auckland). Ara Institute of Technology (Ara) was unsure how a RLG could effectively support regional responsiveness.
7. Several alternative proposals for structure were put forward, including that regional operations of the NZIST should either be fully autonomous (or allow for earned levels of autonomy based on performance). Both Otago Polytechnic and Southern Institute of Technology (SIT) were strongly in support of a devolved model with high levels of autonomy (Otago Polytechnic specifically supporting a parent-subsidiary model), and SIT indicated that – if ITPs had to become part of the NZIST – the Government should absorb those ITPs that are struggling

financially first. Further discussion on business model feedback is provided in Section 1.

8. In addition, through both engagement with ITPs and our formal submission process, a number of ITPs discussed the option to retain their own branding within the national system, and be led by a regional management team responsible for regional academic and financial management.
9. Iwi and Māori appear to have engaged with Proposal Two to the greatest extent. Our engagement with Māori stakeholders found that they desire a strong voice in the NZIST and RLGs (including equal partnership). Māori stakeholders also noted the complexities of determining how to engage with Māori at both a national and regional level. Further analysis of feedback from iwi and Māori is included in Section 3.
10. Those who more strongly oppose Proposal Two argue that their regional ITP is performing well, and they don't see the need for change (such as submitters from Southland and Otago). They are also worried about the potential for creating a monopoly organisation, the loss of local responsiveness and innovation, or are concerned about the impacts of consolidated functions of an NZIST on other areas of provision. This concern is based on the fact that degree level provision, adult and community education, foundation learning, and secondary-tertiary programmes are not technically covered by the scope of the RoVE programme, but likely structural and management changes within the proposed NZIST may impact on their delivery.
11. A number of stakeholders spoke about the role of central Government in the proposed new vocational education system, and suggested that the roles and functions of both the New Zealand Qualifications Authority (NZQA) and TEC be reviewed. TPP also suggested that Education New Zealand should become part of the new organisation to centrally coordinate international partnerships. The TANZ Accord submission – comprising Northland Polytechnic, Toi Ohomai Institute of Technology (Toi Ohomai), UCOL, Ara, NMIT and Otago Polytechnic - recommended creating a new regulatory regime to replace TEC and NZQA.
12. Some stakeholders were interested in who would be appointed to the Council for the NZIST, but generally less interested in how they would be appointed. Some stakeholders also talked about how having a single governance Council for the NZIST would present an opportunity to have the sector being 'led by the best'. Others argued for retention of continued regional governance at the local level within the NZIST, even if it is more narrowly focussed than the present model allows for. SIT suggested that the Council of the NZIST could be made up of the individual chairs of regional operations, overseen by a chair appointed by the Minister.
13. Generally the ITP sector has been supportive of some level of change. Approximately half of the sector have broadly supported the proposal as articulated within the consultation document, while the other half provide more limited support, with the main caveat of retaining differing levels of regional autonomy in regional operations (such as via 'earned autonomy' based on performance).
14. Further detail on stakeholder feedback is incorporated throughout this document.

Advice set out within this Annotated Agenda may change as submissions are analysed

15. Please note that where the views of stakeholders are incorporated throughout this paper (including the above summary), this is based on an initial review of submissions and feedback, and should not be considered a comprehensive submissions analysis.
16. A full assessment of stakeholder views will be provided to you once the submissions analysis process is complete. For any areas where the final analysis differs substantially from our initial assessment (in particular where this affects Officials' advice to you), this will be flagged and revised advice will be provided.

Section 1: Overarching Matters

Item 1: The NZIST Proposal and the inclusion of ITPs within it

17. RoVE, as outlined in the consultation material, proposes changes to the ITP sector, including the:
- absorbing the functions of the current 16 ITPs into a new entity, under a single Council;
 - on-going provision of regional delivery together with centralised support services;
 - establishment of RLGs to provide input into regional skill settings; and
 - creation of centres of vocational excellent (CoVEs), where expertise in a particular area is recognised and developed.
18. The purpose of bring ITPs into a single new organisation was to:
- create a new entity that could provide integration of provider-based and work-based vocational education and training;
 - create a balance between national and regional needs and promote more collaboration between regions and between stakeholders involved in vocational education;
 - ensure a sustainable network of regional provision;
 - provide consistent, quality educational delivery for all New Zealanders, allowing portability and transferability for learners and trainees across regions and delivery modes;
 - ensure strong regional involvement in skill settings, and better connected education at a regional level (between the institute and regional groups); and
 - address competition within the vocational education systems between providers (including ITPs) and industry groups.

Initial assessment of what stakeholders think

19. Based on our stakeholder engagement, Officials consider that:
- submitters** in general are:
 - supportive of the need to change the delivery of vocational education and how ITPs currently operate; and
 - very supportive of the need to reduce competition, bring separate training and funding systems together, and incentivise collaboration (both within the ITP sector, and between the ITP sector and other vocational education groups).
 - ITPs** are:
 - in the majority of cases, supportive of the need for change (in that the current system cannot continue as it is);
 - in one case, SIT, adamantly opposed to the NZIST proposal;
 - in the case of a number (generally, the better positioned ITPs, particularly the TANZ grouping), cautiously accepting of the NZIST proposal, provided that it is delivered in a manner that preserves substantive regional operations and decision rights;
 - in the case of the remainder, generally positive about the proposal, and see significant opportunities in the proposal; and

- in most cases, more accepting of the proposal as part of the package of reforms (especially the shift of the arranging training function and a new funding system) than as a stand-alone proposal.

c. **Concerns** have focussed on:

- the mix of authority and decision making between the NZIST Council, and the regions;
- how the Council would be formed, how regions would have a say in its formation, and how regions would be represented on that Council;
- how the RLGs would be formed and what authority they would have (i.e. their level of influence within the system, such as links with the regional operations); and
- what controls would exist to monitor and manage the performance of the new entity.

Should the NZIST proposal apply to all ITPs?

20. As presented in the RoVE consultation documents, all ITPs would be included in the NZIST. During the consultation period, some ITPs - including Otago Polytechnic and SIT - have explored the option for an opt-in/opt-out model, or for a staged approach to inclusion within the NZIST (moving first a core set of ITPs, then others following over time). Considerations as to the desirability of an end state model that doesn't incorporate all ITPs include:

- The extent to which some of the goals of the reform could be achieved (one system driving consistency, transferability and portability, integration of the arranging training and education systems etc) without all ITPs being included in the new arrangements;
- The impact, culturally, across a range of organisations - some of which are in, and others out - creating a dynamic where there is dual system of the NZIST plus existing ITPs;
- Consequential impacts on the other RoVE proposals (e.g. any further complexity created in transitioning the arranging training function, if there was still a number of ITPs alongside the NZIST; establishment and location of CoVEs);
- Consequential impacts on wider stakeholders' and the Crown's engagement with a more complex vocational education and training system; and
- Whether joining at a later date creates larger barriers to integration (i.e. joining becomes institutionally more challenging the later it occurs).

21. The key considerations for ITPs who wish to 'stand alone' include:

- The expected business model of the NZIST, whether it was perceived as likely to deliver to their stakeholders and communities, and the risks to their operations and service delivery inherent in the changes;
- Whether they could play a part in the wider reforms or not (e.g. taking on arranging training functions);
- How the funding system was managed and the extent to which this supported their viability;
- How the purchase system is managed more generally, and the extent to which it creates the ability to compete with the NZIST (funding of out-of-region provision, including distance and on-line; the ability to attract students to its region); and
- Whether it was perceived to be better to join early, and thus be part of establishment and creation of the new entity, or to be forced to come in later with, inevitably, less of a voice in the NZIST's creation.

22. If given a choice, and a viable future pathway in relation to the points noted above, we expect that:

- SIT would choose to remain outside the NZIST; and

- Some members of the TANZ group may follow this path and would likely explore deeper collaboration and centralisation amongst themselves.

23. It is possible that the fact of the NZIST's existence would strongly incentivise much greater levels of voluntary collaboration between those outside the NZIST. As a general observation, it would be hard to justify, on a principles-driven basis, why only one or two ITPs were allowed to remain outside the NZIST, and not many more. In addition, as the RoVE reforms are being offered as a series of proposals, it would be extremely difficult to justify any ITP being outside of the NZIST when all ITOs are expected to transition functions.

24. Officials' views are that:

- The reforms are aimed at changes to the entire vocational education and training system, and that leaving some ITPs outside the NZIST has the potential to significantly undermine the proposed approach to deliver one system, particularly as the proportion "outside" increases;
- Making the choice voluntary could have the unintended consequence of holding the reforms hostage to the preferences of a small number of ITPs, distracting reform leaders and slowing the reform process;
- Leaving open the question, from the start, as to whether or not a specific ITP will be in the NZIST is more likely to create longer ongoing uncertainty, and divert focus and energy from delivering the reforms to seeking to be outside them;
- Many of the concerns around loss of connection with and ability to be responsive to regional communities can be addressed through the mandate, structure and operations of the NZIST; and
- The transition arrangements do not need to manage the timing and nature of integrating each ITP in the same way.

Recommendations

25. It is recommended that you:

agree that all ITPs should be included in the NZIST

AGREE/DISAGREE

Item 2: Business model of the NZIST

Initial assessment of what stakeholders think

26. ITPs and other stakeholders have presented a range of other options for reform of the sector, including through a 'bring your own model' session on 4 April 2019, which included most ITP Chief Executives. However, none of these models fully described the new type of tertiary organisation the NZIST would need to be in the long term. This may be because the inability to co-design and test models jointly with the industry training sector, who had declined to participate in joint design workshops, limited the scope to explore these issues in depth. As a result, these models seemed to include limited, or minor, consideration of how to integrate the arranging training into the NZIST. Alternatively, the models did not present any radical new organisational type or structure.
27. Key points to note, as regards the potential business models for the NZIST, from the consultation with ITPs are:
- If the NZIST had to occur, Otago Polytechnic and SIT were more supportive of a highly autonomous, devolved business model for the NZIST, with a degree of consolidation mainly

in curriculum development style functions;

- Unitec Institute of Technology (Unitec) recommended that a transition board is established by the Minister and charged with the responsibility for further consultation and detailed design of an effective transition and the desired future state;
- In our bring your own model workshop, only a few ITPs - most obviously Eastern Institute of Technology (EIT) and Northland Polytechnic - identified specifically that the introduction of the arranging training function may require the development of a new type of functionality and capability within the NZIST;
- UCOL, amongst other organisations, advocated for retention of a regional Chief Executive;
- Toi Ohomai noted the tension that exists in having two different customers – learners/trainees and employers – and how these would need to be considered in the new business model;
- Some ITPs – including Unitec – were supportive of a smaller number of regional hub operations;
- The Open Polytechnic and ITP Group submitters were supportive of a single delivery arm for online learning;
- EIT proposed the idea that regional providers be established as Crown entities, operating as subsidiaries of the NZIST within an 'earned autonomy' model, so that high-performing organisations can retain a high degree of decision-making power;
- WITT, TPP and Weltec/Whitireia volunteered to be utilised as a structural change pilot/testing ground for ideas relating to the proposed NZIST; and
- Nearly all ITP submitters were concerned about the loss of regional responsiveness due to the consolidation of functions in a more centralised business model.

Key considerations

28. The key considerations for the NZIST's business model are:

- Which approach is most likely to deliver the benefits sought from RoVE;
- How to achieve gains from greater collaboration and centralisation of key functions while at the same time ensure strengthened regional responsiveness and empowerment;
- To what extent should the ongoing internal organisation of the NZIST be specified or influenced by the Crown (and if so, through what instrument);
- What business model should be assumed as the target for the purposes of understanding the future costs of the vocational education and training system, and for funding by the Crown of transition costs; and
- Depending on the above, how best can clarity and certainty be provided to those who will be affected by the proposed changes (especially learners of all types and staff), and disruption to existing business minimised.

2.1: Potential business models for the NZIST

29. The attached A3 (Appendix A) was discussed with you at the strategy session on 24 April 2019. It outlines at a high level four approaches to the internal organisation of the NZIST, and provides a high level evaluation against some key success criteria (the "sliders" component of the diagram). Please note that all of these models sit on a continuum of integration, and that there is a degree of optionality for all. This A3 provides an analysis of these models, briefly outlined below.

Status quo	Four potential business models			
<p>16x ITPs with autonomous decision making, full authority over delivery and budget management, distributed programme development, variable local involvement</p>	<p>Model A</p> <p>A small, thin head office that sets strategy, monitors the overall performance of regional operations, manages overall capital allocation across the network, sets and mediates the "rules of the game" as between each of the largely self-sustaining regional operations.</p> <p>This is most similar to the Wisconsin Technical College system.</p>	<p>Model B</p> <p>Similar to A, but with consolidation and central control of some functions such as programme development and academic infrastructure. This model could be combined with a significantly reduced number of regions, however, these regions would be mostly autonomous, and could utilise regional Boards.</p>	<p>Model C</p> <p>A further progression from B, with an expectation that there is a consolidation of the majority of platforms and corporate functions, with regional operations focussed on delivery and their local communities. There would be no regional Boards under this model.</p>	<p>Model D</p> <p>The fullest consolidation, with only a "thin" management layer regionally, and the majority of functions and management held centrally.</p> <p>This is most similar to the current operations of Te Wananga o Aotearoa.</p>

Subsidiary Operations

30. Each of the models proposed above assumes that the NZIST is ultimately one organisation. While there are options for retaining regional or other operations in subsidiary companies (as is the case for a number of ITPs now), those would be wholly owned by the NZIST, and thus subject to its absolute control (including the right to appoint all members of a subsidiary's Board, and for subsidiaries' Boards to be comprised solely of senior management of the NZIST). Officials are still working through the implications of using subsidiaries, and will provide advice on this matter in due course.

Key Trade-Offs

31. The key to local responsiveness lies in the connectivity of regional operations to their stakeholders and communities. Although Ministerial expectations can play some part in driving regional responsiveness, this in itself will not drive the connectivity we seek. This connectivity incorporates a mix of factors, tangible and intangible, but which usually include:
- Tacit connections**
 - Council members, who in many if not most cases have other senior governance or management roles in their communities (e.g. in Iwi, business, local Government, the compulsory education sector, District Health Boards etc.). Under a single Council structure, you may get some regionally-based Councillors, but the Council will be less region-specific;
 - The number and variety of ITP management and employees living in the community; and
 - Alumni in the community.
 - Formal connections**
 - Advisory boards; and
 - Apprentices, cadetships, trainees, practicum students and interns working in local businesses, community, education and social services agencies.
 - Connections at the secondary-tertiary interface level in the local community, enabling transitions to the tertiary sector (in conjunction with RLGs)

d. *Commercial ties with locally-based suppliers*

e. *Perceived authority*

- Capacity to respond to demand; and
- The power to say "yes" without reference to higher, non-local authority.

32. The common factor is enduring relationships and trust built over time, and the clearest manifestation that it is working is the sense of ownership that the local community has in the institution. This attitude was reiterated by the Tertiary Education Union (TEU) when it discussed with Officials what it thought were the key elements of connectedness that needed to be enabled in a new vocational education system. TEU provided its opinion that local networks are a complex system of human relationships, and that staff, tutors and employers interact on a number of formal and informal levels. This web of interaction creates trust and credibility on all sides – and that changing the size, role and authority of a campus will have an impact on these connections.
33. The key trade-offs (accepting a degree of simplification of these issues), in moving from Model A towards Model D, are that with greater consolidation comes:
- Better opportunities for creating a consistent teaching and learning infrastructure and platform across the current ITP network;
 - Greater opportunities for long-term efficiency, for a given level of provision;
 - Increasing transaction costs and risks of disruption of achieving that end state; and
 - Increased risks of losing the regional responsiveness and connectivity that underpins the current regional ITP operations (and therefore probably a pathway towards significantly reduced volumes of delivery).
34. Officials consider that an approach similar to Model C best balances these trade-offs and thus the ability to meet the goals of the reform. Model C should therefore be our operating assumption for the purposes of:
- Preparing the business case and costings (both end state and transition) for the Cabinet papers and funding requests; and
 - Communicating the Government's expectations to the sector and its stakeholders.

NZIST Regional Structure

35. We previously proposed enabling legislation that would enable you to set the administrative regions for the NZIST once its operating model was better developed, and other relevant work such as the State Services Commission's review of regional boundaries and the Tomorrow's Schools review are complete [METIS 1183856 refers]. How to set the regional structure is further discussed below.
36. Each of Models A, B and C could be designed with different numbers of regions, for the purposes of NZIST's internal management structure. Model A could retain its regional operations within a smaller or larger number of subsidiaries (in practice, it would probably be far easier for the centre to manage a smaller number of larger subsidiaries). Models B and C could equally be organised around a smaller or larger number of regions.
37. ITPs currently operate somewhat discrete catchments, which sometimes overlap (particularly in main centres), and which are thought of as regions. Officials see opportunity for the management structure of the NZIST to be organised around a smaller number of regions than is implied by the current number of ITPs, depending on appropriate job requirements and spans of control for regional managers (the integration of arranging training, how online and distance learning is integrated into regional operations, and the centralisation of some functions all imply significant change in numbers and roles for the current senior management positions in ITPs). Changing the number of regions from the current arrangement would also be a powerful signal of change, and would help the NZIST achieve the appropriate scale needed to allow staff at the

regional level to effectively support and foster teaching and learning delivery, and community engagement.

38. Officials consider that it is not necessary for the NZIST's internal management structure to be determined by the structure of RLGs (or other such arrangements). Regional management teams could engage with more than one RLG.

Transitional Form

39. It is worth noting that whichever of the business models is selected, in order to minimise risks of disruption within the new entity, Model A is likely to be the simplest Day One structure for the NZIST, and thus the starting point for transition to any other model.

External specification of internal management structure

40. Officials consider that, on a principles basis, the NZIST should, in the long term, have the maximum freedom to organise its internal operations so as to adapt to the environment in which it is operating. It also needs to be able to determine its own pathway towards its desired end state: it may be that there are better immediate opportunities to advance the goals of RoVE, than in changing the Day One structure of the NZIST.
41. Further, Officials consider that at present, we are not in a position to make fully informed decisions as to internal structure, management roles, numbers of regions or the details of an integration pathway (balancing necessity, benefits, cost and risk). Such decisions are better made – and owned – by the NZIST or its establishment entity.
42. Officials recommend an enabling approach is used generally. However, there will also be value in clearly positioning early expectations that the NZIST is not going to simply be an amalgamation of existing ITP operations. If you wish to employ an enabling approach towards the internal organisation of the NZIST, we recommend that you establish this – and the early expectation of change – using the following mechanisms towards the proposed Establishment Board, and formally post organisational stand up on April 1 2020:
- a. a Statement of Intent; leading to a Statement of Performance Expectations;
 - b. a Charter;
 - c. an annual (non-statutory) expectations letter; and
 - d. conditions in capital funding agreements (again, non-statutory).
43. In addition, other mechanisms – such as the appointment of appropriately skilled business or industry representatives to the transitional or end-state Council of the NZIST – would help to ensure that the NZIST moves in the direction sought by Government. We are proposing that the TEC can determine what regional information is required in the NZIST's Investment Plan. However, we recommend that the enabling legislation we had previously proposed, allowing the Government to determine administrative regions, is also advanced, to be available if needed in the interests of the wider system¹.

Other system considerations in structural change

44. The structural changes discussed in this document will not deliver solely on the outcomes sought through Section One, and most notably, will not necessarily deliver on either the sustainability or integration/portability aspects of the proposed reform. In the short term, there is the risk that a focus on structural change will, in fact, delay stabilisation of the sector, as any change management process is likely to result in a number of challenges, with ongoing delivery and continuity being a major focus.

¹ There are other examples of powers Ministers have available to them in the Education Act to act in the interests of the wider system (e.g. s223(a), which allows the Minister to direct a programme not be provided if it has significant implications for resources in the tertiary or vocational education system). This provision is rarely used but available if required.

45. A desire for integration and portability – allowing students the opportunity to transition seamlessly between different parts of the system - depends greatly on the introduction of a consolidated funding system, which is likely to drive the majority of behavioural change in the ITP sector. This portability will also only be made possible via a harmonisation of programmes and qualifications across the NZIST, and the Establishment Board will be in the best position to determine the point at which specific projects within the NZIST – such as a harmonisation - can be achieved.
46. The funding system change that will occur as a part of Proposal Three is not yet progressed sufficiently to be integrated into initial NZIST structural design. These funding system changes should be used with the intention of driving performance, stability and enabling access. The usage of funding levers to encourage participation by existing ITPs, in the absence of a mandated transfer to the NZIST, is not recommended.
47. Finally, the increased integration of provider-based and work-based learning within the NZIST will be required to build in current ITO responsibilities for supporting apprentices and trainees. This is predicated on the need for a concept of anytime, anywhere learning – the ability for learners to engage in education as and when required. The execution of this type of learning is fundamentally different than the traditional academic year/term-based model utilised by parts of the ITP sector, and will be a key cultural shift for the new NZIST. This will require establishment of a shared vision for the NZIST, and key management and leadership during the transition period.
48. Regardless of what business model is chosen for the NZIST, the organisation will be need to be enabled to able to develop capabilities to ensure that compulsory sector students can effectively transition from school to work-based training or campus-based training. This work will build on the current secondary-tertiary interface delivery in the vocational sector, as well as the vocational pathways framework.

Performance of the NZIST for Pacific communities and employers

49. We provided advice jointly to yourself and Hon Jenny Salesa about ensuring a new vocational education system supports Pacific learner success. It will be important to ensure Pacific outcomes are clearly enabled and built into the mission of the NZIST.
50. We will draw on Pacific stakeholders as we work through aspects of the reforms related to the NZIST, including consulting on the proposed Charter, designing RLGs and the further development of the business model of the NZIST. It is an option to consult further on how to ensure the governance of the NZIST can best support Pacific needs and aspirations, as we propose to do for Māori and iwi below.
51. Following our meeting with Hon Salesa on Monday 29 April, we are working on further advice to respond to Hon Salesa's questions about how RoVE will address Pacific stakeholders' priorities.
52. The performance of the NZIST for Māori is addressed in Section Two.

Recommendations

53. It is recommended that you:

agree that the principle that the NZIST should be generally enabled to determine its internal structure

AGREE/DISAGREE

agree that the NZIST should be able to determine the way it organises its management structure in terms of the number and definition of regions

AGREE/DISAGREE

agree that, notwithstanding the points above, your expectations as to the creation of a new organisation with fewer regions are made through the Letter of Expectations and Statement of Intent

AGREE/DISAGREE

agree to also include in legislation the ability for Ministers to make a final determination of administrative regions if needed to manage the interests of the wider system

AGREE/DISAGREE

agree that Model C be used as the assumed target end state for the NZIST, and used as the blueprint for determining the likely range of future costs of the system, and for the purposes of estimating the likely range of transition costs

AGREE/DISAGREE

note that Model A is likely to be the de facto structure of the NZIST on Day One of its establishment, and that further transition and integration would take place from this starting point

NOTED

Section 2: Māori/Crown Partnership

Item 1: Partnering for success – Māori/Crown relationship

Initial analysis of feedback on the creation of a new IST:

54. In general, Māori were strongly supportive of the need for change, and acknowledged that the system needs to do better. There was agreement that competition was not serving learners well and that more collaboration was needed. The speed of consultation meant Māori questioned whether or not the Government was serious and committed to a partnership approach.
55. There was interest in both the national and regional structure of the NZIST, how this would engage with Māori, and how Māori could be involved in the decision making progress. There was strong support for incorporating principles of the Treaty of Waitangi into both the structure and framework for the NZIST, as the basis of partnership between Māori and the Crown. There was also concern at how the new entity would promote and protect Te Reo, and Mātauranga Māori.
56. There was support for integrating a Māori approach up front into the governance and framework of the new NZIST, and that when this doesn't happen there is a tendency to try and incorporate a Māori approach or perspective subsequently as an add-on.

Specific Wānanga, Iwi, Runanga feedback

Wānanga

57. All three **Wānanga** were supportive of the rationale for change– but were also wary of the impact this could have on Wānanga going forward. The comment made by **Te Tauihu o nga Wānanga** (the combined Wānanga representation) was that the proposals should have been discussed with them before being released to the public.

Rūnanga

58. **Te Rūnanga ō Toa Rangatira (Ngati Toa Rangatira), Te Rūnanga ō Ngāi Tahu, and Te Rūnanganui ō te Atiawa**, in separate submissions echoed similar views to those above, that the integration of Treaty principles into the framework for the new NZIST, as the basis of any Māori Crown partnership, was a fundamental requirement. Similarly, there was also a plea for the new NZIST to promote and protect Te Reo and Mātauranga Māori.

Iwi and regional groups

59. **Toi Ohomai** stakeholders made a request for the retention of current regional groups and their relationship with local ITPs, especially when it was working well. A similar view was also expressed by **Te Tai Tokerau** and **Te Tai Rawhiti** iwi and trust boards about the strength of local groups and associations already working in the vocational space. These relationships should form the basis of engagement with both the central NZIST, and regional leadership groups going forward.

A Partnership and Bicultural Approach

60. In order to support Māori learner success and address the inequities for Māori learners in the vocational (and wider tertiary) education system, the Crown (in its kawanatanga role) needs to work in partnership with iwi and Māori (in their tino rangatiratanga role). To achieve this, the NZIST (a Crown entity) needs to be a bicultural entity. This includes a focus on partnership with iwi and Māori and outcomes for Māori learners. This reflects what we have heard from iwi, Māori and other stakeholders and what we know about strategic partnerships with iwi and Māori being key for Māori learner success.

61. This would support incorporating Treaty principles as they apply to education outcomes into the proposed reforms. We have not yet defined the Treaty principles in this work as they are complex and there are many views on these principles including from iwi and Māori. Officials will continue to work on how we define and give effect to these principles in the legislation.
62. In its paper of 24 April, the Ministry of Education has considered the wider impacts of the RoVE reforms for Māori, and how we might give effect to the Treaty in the reforms. In particular, it has highlighted the need for:
- Ensuring Māori learner (students and apprentices) outcomes are a focus area, including enhancing and supporting future education success;
 - Partnering with Māori to design, develop, and deliver education success;
 - Ensuring Māori are able to participate at all levels of the new entity (learners, staff, management, governance); and
 - Understanding and incorporating Māori and iwi community and economic aspirations.
63. This corresponds to the updated Ministry of Education Māori Education Strategic Framework which highlights the importance and need for:
- Māori to exercise authority and agency in education;
 - Education provision that responds to Māori learners in the context of their whanau;
 - A diverse Māori population and responding to this diversity;
 - The identity, language and culture, which matters for Māori learners; and
 - Māori to be free from racism, discrimination and stigma in education.
64. The outcomes in paragraph 62 and principles of the Māori Education Strategic Framework in paragraph 63 above would also be used to guide further work on the proposed reform, for example looking at better and consistent support for Māori transitioning into tertiary and vocational education and support for these learners (in the context of their whānau and hapū) once they are in the system.

Partnership, Governance and Leadership

65. Leadership is a key driver for setting the culture of the NZIST. It is essential that from the outset the NZIST should be established as a bicultural entity, reflected in the structure of the entity as well as the leadership culture of both the permanent Council and transitional body. This will be necessary to support the Crown's partnership with iwi and Māori. There are a range of options available to achieve this outlined below.
66. To support the creation of a bicultural entity, officials recommend that legislation enables the creation of a bicultural governance structure that officials, iwi and Māori would co-create, subject to the Minister of Education's agreement.
67. Further work (part of a co-creation process) and decisions would be required regarding:
- Council make up;
 - Council appointment process;
 - Council constitution and list of duties; and
 - Accountability settings.
68. If a skills based approach is taken to the Council appointment process, then there could be a competency requirement ensuring all members have skills and knowledge of Tikanga, Te Reo, and Mātauranga Māori. This would be a baseline requirement for all Council appointments, and potentially for the establishment board as well.

69. This puts more of an emphasis on the knowledge and capability of all potential Council members, and looks to establish competency with Te Ao Māori as the norm for all Council members. In turn, this sets the benchmark for the rest of the organisation and seeks to normalise knowledge in essential skills (relating to Tikanga, Te Reo, and Mātauranga Māori) as part of the management culture.

70. The Council could be appointed on an explicitly bi-cultural basis:

- No. Discuss Further
- a. One option would involve the selection of Māori Council members as part of the appointment process. A set number of seats in the Council would be reserved for Māori appointees, selected by the Minister in consultation with Māori stakeholders. The number of seats reserved would need to be confirmed, but officials envisage at least half of the seats in the Council would need to be allocated to give substance to the idea of bicultural governance and partnership.
 - b. Another would be to mandate the selection of Māori Council members as part of the appointment process. This is a fairly standard mechanism in many entity boards and Councils, and can have the desired effect of ensuring a permanent Māori voice to drive changes in behaviour, and promote a focus on Māori learners and achievement. Alternatively, it can also have the opposite effect of reducing the wider integration of a Māori perspective, approach, or focus in that Councils efforts become centred on a few members rather than the Council as a whole.

Organisational charter of the NZIST

71. The intended charter is designed to set out the principles, behaviours, and expectations of the NZIST regarding the way it:

- Delivers education outcomes;
- Supports learners; and
- Engages with stakeholders (regions, communities, and industry).

72. A proposed organisational charter, currently envisaged to be in secondary legislation, would embed enduring principles of operation (how it engages and how it delivers) into the NZIST. As such it is an ideal place to include aspects on how the organisation should act when it engages and partner with Māori.

73. We anticipate that this founding document could include aspects such as;

- principles of partnership (consultation as the norm, co-design and joint decision making, engaging with local iwi and hapu);
- a commitment to supporting Te Reo and Mātauranga Māori; and
- better outcomes for Māori learners.

74. Ensuring such principles as an inherent part of the NZIST will contribute to these requirements being embedded in the culture and leadership of the organisation.

Co-creation and engagement

75. The engagement process regarding governance and leadership arrangements also fits in with other work currently underway by the Ministry of Education and TEC, as well as follow up to the RoVE consultation process. The Ministry of Education is currently looking at a set of engagements with Māori stakeholders and other agencies (in relation to its Māori strategic framework) and the issue of RoVE has already been raised. Likewise the TEC is looking at an on-going engagement strategy that includes a possible co-creation process similar to exercises already run with industry training organisations and ITPs.

Recommendations

76. It is recommended that you:

note that to support Māori learner success and address the inequities for Māori learners in the vocational (and wider tertiary) education system, the Crown (in its kawanatanga role) needs to work in partnership with iwi and Māori (in their tino rangatiratanga role).

NOTED

agree that from the outset, the NZIST should be established as a bicultural entity, reflected in the structure of the entity as well as the leadership culture of both the permanent Council and the Establishment Council

AGREE/ DISAGREE

agree that legislation enables the creation of a bicultural governance structure that Officials, iwi and Māori co-create subject to the Minister of Education's agreement

AGREE/ DISAGREE

note that, to address the overarching problem definition that the vocational education system underserves its Māori learners, Officials are working on how to give effect to the Treaty of Waitangi in the RoVE proposals.

NOTED

This whole area of work needs to be framed consistent with the Crown-Māori relationship work being undertaken by Hon Davis.

Before Ministers can sign-up to a bicultural entity structure we need a much clearer definition of what that means. The intention is right but the wording/concept needs more work.

Section 3: Machinery of Government

Item 1: TEI and Crown Entity settings

1.1: What form should the NZIST take?

Form of the proposed NZIST

77. The advice below assumes that the proposed NZIST will be a single organisation, under the control of a Board and Chief Executive. We received little feedback on the actual legal form of the proposed NZIST, with commentary focused around decision-making authority and autonomy.

Level of Ministerial influence over NZIST during establishment phase and longer term

78. There was limited feedback from the consultation on machinery of Government issues. The main exception is that we received a significant level of feedback about the proposal for the Minister to appoint the whole Council, where significantly more respondents disagreed or strongly disagreed with the proposal than agreed or strongly agreed. Of the respondents that disagreed, their disagreement averaged at the stronger end. This feedback may imply a desire for relatively low levels of Ministerial influence over the governance of the proposed NZIST. This would reflect the principles that exist in the system currently. Those that commented expressed a desire to remove the governance of NZIST from the politics of the day, and were concerned about politicisation.
79. There was general support for the concept of a Charter as a guiding document, and support for stakeholder influence in its content.
80. In addition, as discussed in a later section on staff and student voices, feedback from staff and student unions and associations was to include these stakeholders specifically on the Council.
81. The current governance arrangements are both legal and administrative. They reinforce the Minister's distance from the governance of the institutions, and rely to some extent on the existence of, and competition between, sixteen ITPs to incentivise performance and manage deficiencies across the system.
82. The key choice is the extent to which the Minister will have influence over the NZIST. This influence may be different during its establishment phase, where the need to enforce guide rails may be higher, than in a steady state, where levers related to monitoring and performance could be sufficient. However, even during the steady state period, NZIST will be a nationally focussed entity with dominant influence in the system, and presents a significant strategic opportunity from the point of view of the Crown, and a risk to manage, e.g. on behalf of regional and other stakeholders. A closer relationship between the Minister and the NZIST would provide assurance that transition and ensuing change processes are well-managed, that progress is being made towards educational outcomes sought, that emergent risks are visible and well-managed, and that public confidence is maintained.
83. We therefore propose a group of settings for the establishment and the steady state of the NZIST that give the Minister relatively greater influence than now (see table below), balanced by the proposed organisational charter, which will direct a focus onto meeting the needs of stakeholders.
84. The current settings around academic freedom are proposed to be retained. The following table sets out the areas where change is recommended:

Governance domain	Current settings	Choices	Rationale
<p>Council appointments</p> <p><i>Note that more detailed design of the Council is discussed in a subsequent section</i></p>	Minister makes up to four appointments.	<p>a) Minister makes all appointments – greater influence</p> <p>b) Minister makes all appointments, but consults stakeholders about all but four appointees², – and must have regard to their views. – greater influence but modified by stakeholder input</p> <p>c) Minister makes up to four appointments allowing room for the Chair to appoint additional directors – no change.</p> <p><i>(note – as per the Section 2 – the appointment process would also include Māori appointees).</i></p>	Key lever to ensure that the entity's governance is well-aligned to Government's expectations and aspirations.
Who the Council's duties are owed to	The Act is silent.	Leave consistent with the current Education Act – no change.	Consistent with the current position for all TEIs within the Act.
Setting annual performance requirements - Minister's annual letter of expectations – <i>non statutory lever</i>	Minister of Education sends to TEC.	Have a second annual letter of expectation addressed to both TEC and NZIST, or to TEC and copied to NZIST, in relation to Minister's priorities and expectations for the NZIST ³ - more directional influence.	Reflects the closer relationship between the Minister and NZIST in the (3-5 year) establishment phase.
The Charter	Not in place now.	Character of NZIST and scope of role set out in the principal Act; charter with operating principles prepared following consultation, and formed as a regulation (secondary legislation).	<p>Provides an opportunity to set out:</p> <ul style="list-style-type: none"> Treaty principles which will bind the Council's governance The responsibilities for national consistency and regional responsiveness Responsibility for responding to key stakeholders (including Pacific learners and industries in addition to industries and communities more generally), <p>You indicated we should make the framework for setting the charter enabling. Proposal to initially set the charter in secondary legislation creates less demand on legislative process; allows more time for engagement with stakeholders (AA1 refers), and could help drive mission during establishment phase if new body is involved in its development.</p>

² This is the process adopted by, for example, the Civil Aviation Authority.

85. Most importantly the success of the reforms depend on cultural change – not just what the NZIST does, but a shared vision across the leadership about the way it operates, and how it goes about its business. Appointments to the Establishment Board and Council will also need to be reflective of the bicultural governance principles outlined in Section 2.
86. The governance arrangements we recommend support that culture change, but are not sufficient alone. The key will be the direction and shared vision from the Council to the CE, about how s/he is to operate and lead, and from the CE to his/her leadership team and to all staff. This will need to be carefully thought through as an on-going process; should be part of the formal expectations on the entity during establishment; and will need to be factored into the TEC's monitoring.

Your ongoing relationships with the Council – soft levers

87. The hard levers – formal and/or statutory - that you have in relation to governance arrangements, including Council appointments, are necessary but not sufficient in shaping your relationship with the Council.
88. Softer, relationship levers are commonly used in the Crown entity world more generally to support the development of a high trust, confident, dynamic and no surprises relationships between boards, Ministers, and their monitoring agencies. These rely on regular, frequent meetings between the board chair, the board and the Minister (normally supported by the monitoring agency) – with the frequency and kind of meetings determined by the performance of the entity, as well as by the needs of all parties to maintain a rich relationship.
89. Induction and ongoing training and support of individual Council members, and for the Council as a whole, will help to maximise the Council's chance of success. Training and induction would usually be designed by the monitor, in consultation with the Chair, and with the Minister, as appropriate. The TEC currently provides induction programmes and support for Council members, and we anticipate that it will develop arrangements for NZIST Councillors.

Alignment to mission during establishment (i.e. Council during the transition phase - for three years after 1 April 2020)

90. The high stakes of the transition and establishment period, and the importance of both educational and financial outcomes to the Crown, learners and employers, suggest that a closer, more conventional monitoring relationship in the short- to medium-term should provide a richer flow of information to you directly, albeit within the context of advice and support by TEC and NZQA.
91. The above table sets out options for a steady state. It is very common, however, to have a deliberately smaller Council with specific expertise required to establish an entity such as the NZIST. It could, for example, start off with a five or seven member Council, tasked with working alongside a consultative group or groups with memberships that cover the needed perspectives (e.g. regional, industry, iwi/ Māori etc, reflecting a commitment to bicultural governance that is ingrained from the first operations of the NZIST). The composition of such an Establishment Board would reflect the partnership approach to the governance of NZIST recommended in Section 2.
92. This structure could be set out in a schedule to the enabling legislation, with a sunset clause set for, for example, 2-3 years.
93. In the establishment phase, it is highly likely that the Chair of the NZIST will be a significant, intensive role, as they will effectively be a flag bearer for the new organisation and will be accountable for significant levels of community and industry engagement as aspects of its ongoing operation are co-designed. As a result, if this happens, we are likely propose to Cabinet to pay outside the existing maximum payable fee of \$45,000 during the establishment phase. This establishment Chair will need to ensure they appoint a CEO that is able to work within the more "commissioner"-type of role of the Chair. Our experience, however, is that this arrangement would need to move to a more conventional relationship in time if NZIST is going

to be able to attract the most highly capable people into the CEO role.

Statement of Intent

94. TEIs currently do not have to develop a statement of intent. The non-application to this part of the Crown Entities Act to TEIs is part of their general autonomy from government.
95. Further strengthening of the governance arrangements would involve NZIST developing a Statement of Intent. It is a well-developed instrument in the legislative regime for statutory Crown entities, and reflects both your stewardship responsibilities, and those of the entity. This could be complimented by your provision of a Statement of Performance Expectations (SoPE).
96. The conventional approach – which we recommend – is that you would have the ability to direct in relation to the content of the Statement of Intent (SOI), and that the Council is required to give effect to it.
97. The use of the SOI for the NZIST would enable a more targeted approach in guiding the NZIST strategic direction than would ordinarily be available under the TES. The scope of the TES encompasses the entire tertiary education sector and is developed in consultation with all stakeholders. Consequently, it may lack the necessary specificity and ability to signal direction that would be prudent during the foundation phase of the NZIST. An SoI provides the “middle-ware” between the high-level TES and responsibilities of the Council in governing the institution.

Recommendations

98. It is recommended that you:

agree that the NZIST is established as a TEI (albeit one-of-a-kind) and subject to the relevant provisions of the *Education Act 1989* and the *Crown Entities Act 2004*, except where specifically varied

AGREE/DISAGREE

agree that all Council members are appointed by the Minister

AGREE/DISAGREE

OR

that all Council members are appointed by the Minister, with all but four following consultation with stakeholders (Recommended)

AGREE/DISAGREE

OR

that up to four appointments are made by the Minister (as now)

AGREE/DISAGREE

note the above appointment options include any Māori appointees selected in response to bicultural governance principles

NOTED

agree that the Minister will send an annual Letter of Expectations to the NZIST and TEC setting out the Government's priorities for the NZIST

AGREE/DISAGREE

agree that the NZIST will be required to provide a SoI (which would allow Ministerial direction over its content); and a statement of performance expectations

AGREE/DISAGREE

agree to establish a working practice of regular meetings with NZIST Chair and Council

AGREE/DISAGREE

agree that the principle of academic freedom, autonomy and independence remain as they are in s160 and s161 of the Education Act 1989

Agree

Disagree

AGREE/DISAGREE

indicate whether we should explore an Establishment Council of 5-7 members to be in effect for the first 2-3 years of the NZIST's operation only

EXPLORE/DO NOT EXPLORE

note that the establishment Chair of NZIST is likely to be an intensive role, which will have implications for the role of the initial CEO and the working relationship between them

NOTED

1.2: The structure of the NZIST Council (end state entity)

99. Allowing for a range of Council members as the current settings 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.
100. 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.
101. 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.
102. NZIST will have a significantly larger stakeholder base than that of any other TEI. Council membership that seeks to be fully representative of such a wide range of stakeholders would make the Council too large to be effective.
103. However, 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.
104. Officials recommend that an expectation is put 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, within the framework of a partnership governance approach set out in Section 2. This would be stronger than the current wording in section 222AD of the Education Act.
105. Decisions about including reference to the principles of the Treaty in the primary legislation (see section 3 item 1, Crown Treaty Partnership) will have implications on what should be considered when appointing Council members for NZIST, for example skills in Te Ao Māori and experience in partnering with iwi, Hapu and Māori organisations.

106. The current assumption is that the Minister will also appoint the Chair and Deputy Chair of the Council. We note the trade-offs associated with relatively greater Ministerial influence in item 1. We recommend that you make these appointments if you choose to appoint four Council members as now. If you choose to appoint all members of Council, it is an option to allow the Council to appoint its own Chair and Deputy Chair. Allowing the Council itself to do this gives it some level of independence, although this may be nominal. This may be a useful setting once the NZIST has reached steady state. However, in the establishment period (i.e. in the first 2-3 years after 1 April 2020), the Chair is likely to be a flag-bearer for the NZIST, and it will be very important that an appropriate person is appointed for this period.
107. We therefore recommend you appoint the Chair and Deputy Chair during the establishment phase, (i.e. no change to current settings for ITPs), and include the question of whether to continue this practice in the proposed review within seven years.

Recommendations

108. It is recommended that you:

note that we have asked you to indicate your interest in an Establishment Council of 5-7 members, and that the below recommendations apply to any enduring arrangements

NOTED

agree that the NZIST Council be between 8 and 12 members in a steady state organisation, and it will reflect the principles of bicultural governance included in Section 2;

AGREE/DISAGREE

agree that the legislation sets out an expectation that the Minister will consider the desirability of reflecting gender, ethnic and socio-economic diversity across New Zealand, within the framework of a partnership governance approach set out in Section 2.

and relevant skills, experience + knowledge.

AGREE/DISAGREE

agree that the Minister appoint the Chair and Deputy Chair ~~during the establishment phase, and review these arrangements within seven years~~

AGREE/DISAGREE

1.3: Including staff and student voice in NZIST governance decisions

Feedback from our consultation

109. As part of the consultation, the NZUSA, TEU and the Council of Trade Unions (CTU) supported strong representation, in particular for staff and student representatives to make up one third of the NZIST Council. The NZUSA and other student representatives indicated they would like to see more consistent student representation across the NZIST, which can be achieved through student representation at every level, in particular:

- NZIST Council – two student seats;
- Student advisory subcommittee – reports to the NZIST Council;
- Regional leadership groups – at least two students;
- Regional students associations – regional campus; and
- Campus committees – across all relevant committees.

Strengthening staff and student voice

110. You have indicated that the voices of staff and students should be a strong part of the NZIST's governance [feedback on B/18/00942 refers]. Officials have identified three options to achieve this, beyond the provisions currently in legislation (of a staff and student representative on Council, which provision only comes into effect on 24 October 2019), which we consider would result in diluted staff and student perspectives in the proposed single NZIST model.

111. A core trade-off is between the level of assurance that staff and student perspectives get heard, e.g. by setting a framework for this to happen in advance, and issues with complexity of arrangements, which can lead to the arrangements being ineffective if they are too complex to manage efficiently.

Option 1: An enabling approach to ensure staff and student voice in the NZIST

112. The advantage of an enabling approach is that it would limit complexity and allow the IST to set up its own structures, in consultation with its stakeholders, to take staff and student perspectives into account. Staff and student voice could then be included in the performance monitoring of the NZIST.

113. The risk with this approach is that you may not get the level or type of input from staff and students that you, or stakeholders, are expecting, which could in the worst case, result in the same or less staff and student voice than present. Experience with requiring TEIs to consult students, e.g. in relation to setting compulsory student services fees, suggests that compliance with such requirements can be difficult to achieve. The TEC's ability to monitor and enforce such requirements is also limited through a lack of independent information and clear levers.

114. In addition, students report that their current ability to organise consistently and be free and frank in their advocacy roles is constrained in practice. Inconsistent resources between different student associations appears to be a significant issue. Learners in the industry training sector are not organised in any meaningful way at all. Staff have tertiary unions to provide advocacy services, but this should not be conflated with a role of providing governance-level staff perspectives.

115. There are ways mitigate these risks to an extent. These include:

- Directional language in the NZIST's proposed charter and any other directional tools (such as Ministerial letters of expectation, if applicable); and
- Capability funding for students associations and/or changes to strengthen students associations.

Option 2: A national-level staff and student committee or committees

116. The NZIST Council could be required to establish a committee consisting of staff and student representatives from each region and industry trainees, to provide advice on decisions that affect its staff and students. The NZIST would be obligated to take this into account as part of their decision-making process. Such advice could be solicited or unsolicited. You indicated this was your initial preferred approach in December 2018, linked to regional representation [feedback on B/18/00942 refers]

117. This approach is similar to the current legislative framing for academic boards (but would apply to a separate committee of the Council). Given the role of staff and students in academic boards, the advice of staff and student committees could provide regional and national staff and student perspectives on budget trade-offs, capital allocations, student support arrangements and other aspects of the business model such as the required flexibility of operation of campuses.

118. While this arrangement adds complexity, and may lock in arrangements that, with good practice could be made more efficiently, it would be significantly stronger in ensuring staff and student perspectives are given weight in the governance of NZIST than option 1.

119. It is also an option to modify the approach of the Council consisting of Ministerial appointments

only, and including a staff and student representative. This would be consistent with recent changes to the Act that reinstated staff and student representation onto TEI Councils. However, for a national organisation, we believe that the proposal to consult stakeholders (including students and staff) before making the majority of appointments sufficiently considers the need for these perspectives at Council level, subject to the need for Council to consider advice from the proposed staff and student committee.

Recommendations

120. It is recommended that you:

agree that the Education Act establishes one or more staff and student committees as committees of the NZIST national Council

AGREE / DISAGREE

agree that the NZIST national Council be required to consider advice from the staff and student committee or committees.

AGREE / DISAGREE

1.4: Academic board

121. The current legislation mandates that TEIs have an Academic Board that comprises the institution's staff and students, including the chief executive, to:

- Advise the Council on matters relating to courses of study or training, awards, and other academic matters; and
- Exercise powers delegated to it by the Council.

122. This is the only committee of the Council currently mandated by the Education Act. However, the Council may create other committees as required, and the Academic Board may also delegate to sub-committees, e.g. to address regional or industry academic matters.

123. There was some feedback on the question of Academic Boards. Much of the written feedback was to retain academic decision making at regional level, and to retain students and staff on the Academic Board. Some feedback was to the effect that we would need to consider the role of Academic Boards in light of any shift of the arrangement of training function into providers.

124. We assess that the current provisions of the Act are sufficiently enabling for the proposed NZIST to manage the academic advice workflow of a consolidated national organisation, which is likely to be higher in volume and complexity than for any existing TEI. We expect that the structures the NZIST determines would be guided by principles that might be contained in its charter (about linkages with industry for vocational education delivery, for example, and drawing on regional expertise for its committees), and through the regulatory and funding frameworks.

125. For a consolidated organisation that will bring in industry training arrangements, there may be some merit in including more industry voice in the process of academic advice. Doing so would reinforce the reforms, and has the potential to create a tension that might be desirable in the development of the Academic Board's advice. However, we think this is likely to occur within the current framework via NZIST's likely changed staff profile, which will include more industry facing staff in addition to provider-based staff. As it develops, the business model of the NZIST will be to understand the business needs of employer stakeholders in a fundamental way, to fulfil the arranging training function proposed for the NZIST. We recommend therefore maintaining the Academic Board as a body internal to the NZIST, and consisting of the chief executive, staff and students of the institution. s 9(2)(f)(iv)

126. Industry voice will be inputted into NZIST in a number of other ways. External perspectives are represented on the national Council, and at regional levels through advice from the proposed RLGs. Industry Skill Bodies will drive industry standards into programmes, and this will input industry needs into the consideration of the academic advice to the Council.
127. A number of submissions suggested that the name 'Academic Board' was not fit for purpose for a vocational education institution. There may be some merit in changing the name of the committee to something along the lines of 'Vocational Education and Academic Board' in recognition of the fact that NZIST will be a degree granting institution in addition to a vocational education provider, but that vocational provision has different teaching and learning considerations including the extent of alignment required to the production model of firms. Such a shift would also send the NZIST a signal about the need to work with the standards set by ISBs, as academic institutions currently do with professional bodies.
128. There is however a risk that such a change in the framework would erode the value of degree-level provision over time (or be characterised as doing so by competing providers), if the public perceives that programmes approved by a vocational education and academic board are of a different standard to those of other providers. The extent to which this risk materialises will depend on the ability of NZIST to establish itself as the premiere provider in the vocational space at all levels.
129. On balance, we do not recommend changing the name of the academic board, but rather explicitly acknowledging links of training to workplace delivery whether in or outside of industry training agreements as a part of the academic board's role in providing advice.

Recommendations

130. It is recommended that you:

note that the current framework in legislation allows the existing role of the Academic Board to be of ongoing value to the NZIST

NOTED

note that s 9(2)(f)(iv)

NOTED

agree to include workplace delivery in the description of the advice the Academic Board should provide to the Council

AGREE/DISAGREE

Item 2: Monitoring and Accountability

2.1: Statutory Interventions Framework and Monitoring

131. The statutory interventions framework for NZIST should provide levers that TEC can use as part of an effective risk management framework. We recommend that the overarching framework of interventions is retained, but with modifications. This would support a 'steady state' NZIST to be

sustainable, agile, able to deliver on its charter outcomes, and financially viable. A table of currently available statutory interventions is attached as Appendix C.

132. The Treasury provided advice to the Minister of Finance for discussion with you (*T2019/532 refers*), recommending a tight-loose-tight approach for direction setting (tight), governance (loose), and monitoring (tight). The proposals below are aligned to this approach.

133. Our view is that all the changes proposed below can be implemented without impinging on the institutional independence and freedom provided for TEIs in s160, or the academic freedom provided for TEIs in s161 of the Education Act 1989.

Effectiveness of statutory interventions for ITPs

134. The current interventions framework is set up to preserve TEIs' independence and freedom up to the point that there is demonstrable risk to the operation or long-term viability of a TEI, or the educational performance of students at an ITP⁴. As the use of the interventions framework removes independence and autonomy, there is a reputational disincentive for ITP Councils to be subject to the intervention framework, or to proactively seek support from the TEC. Officials have concluded that this setting is insufficient for the NZIST.

135. Creating a single NZIST would increase the educational and financial consequences of institutional failure, and significantly increase the cost of Crown financial assistance if it were needed. However, it will also increase the ability of the provider to withstand and recover from shocks in parts of its operation, assuming the settings give it the ability to cross-subsidise or leverage its balance sheet (which would absolutely be the case in Models B, C and D proposed above, and possible but more onerous in Model A). The risks to be managed are not only of organisational failure, but of failing to deliver on the Government's objectives for industry, regions, learners, employers (the national interest).

136. The key features of the current framework incorporate a:

- Single point of accountability and intervention (the Council);
- Graded range of interventions from requiring information through to dismissal of the Council; and
- Set of risk criteria to trigger the interventions.

137. Officials consider that this underlying framework remains fit for purpose, but requires three critical modifications:

- The risk criteria need to be balanced across educational and organisational performance as well as financial performance;
- The risk criteria need to be more forward-looking, particularly those that trigger the more extreme interventions such as appointment of a Commissioner (currently these tend to operate retroactively i.e. when the institution is about to run out of money); and
- The risk criteria need to be able to consider material parts of the organisation, not be limited to the whole of the NZIST (this recognises the systemic importance of the NZIST and seeks to avoid situations such as the consolidated TAFEs of South Australia losing accreditation for many trades programmes).

⁴ For example:

- a. Even with the lowest intervention (s195B) the chief executive of the TEC has to have reasonable grounds to believe the TEI may be at risk, and has to specify the information required that is related to the risk. To require specialist help (s222A) or a performance improvement plan (s222B), the TEC needs to already know what is going wrong and how it could be fixed.
- b. To meet the threshold for the highest intervention (Crown Commissioner), a TEI has to be failing in its statutory duties, systems, infrastructure, material obligations, or servicing its debts (related to the gazetted Risk Assessment Criteria).

138. The above will likely require us to define or change the terms "at risk", "reasonable grounds", and the definitions of "considers" and "believes." Serious risk is currently set at a very high threshold attached to the Risk Assessment Criteria, and should be reconsidered for the NZIST (see Appendices B and C). It would also require significant changes to the TEC's monitoring practices (detailed in the sections below). These would be worked out in policy development and drafting instructions to Parliamentary Counsel Office.

Consultation on legislative changes

139. The technical discussion document for Proposal Two did not seek feedback on statutory interventions, noting that "Officials will develop advice about what these powers should look like, and whether changes to the status quo are required, once key decisions about the institution's legislative and governance framework are made".
140. Officials anticipate further consultation on any changes that may be proposed. We believe the select committee process could provide sufficient opportunity for consultation on what revised statutory intervention powers would look like in legislation.

Monitoring NZIST

141. The advice below is provided on the basis that the existing overall framework, which has the TEC monitoring TEIs (which are Crown entities for limited provisions of the Crown Entities Act 2004), will continue to apply. Given the role and scale of the NZIST in the reformed system, we will need to test as we go on that this arrangement will be effective.
142. When TPP, Whitireia and Unitec required financial support from the Crown, the data and information they provided to the TEC through regular monitoring hadn't shown that these ITPs were at risk, until their operational or financial difficulties were well advanced.
143. As noted above, in order to be able to activate any of the amended intervention criteria, TEC's monitoring framework requires a significant shift, from largely financially-based monitoring that puts TEC in a reactive space, to monitoring a wider range indicators so as to identify issues before they manifest as financial difficulties, with changed expectations, so that NZIST will proactively engage with the TEC on emerging issues. This also implies far more detailed reporting and disclosures by NZIST on the performance of its component parts. This would entail a much greater degree of TEC oversight of NZIST's business. We also propose an obligation on NZIST to report on any subsidiaries and joint ventures.
144. At the same time, there needs to be a clear distinction between oversight and accountability, with the NZIST Council having full accountability for ensuring that risks to NZIST are monitored, identified, well-managed and mitigated.

A wider range of risk indicators

145. Early risk indicators may not only be financial. It will also be important to focus on educational risk. Risk indicators may derive more from robustness of strategy, the calibre of the Council (especially the Chair) the calibre of the Chief Executive and the relationship between the Chair and the Chief Executive, the culture of the NZIST, risks of specific activities, and potential changes in the NZIST's operating environment. Interventions would need to be available where the whole or any material part of the NZIST present educational or financial risk, although it will be important to work through rather than around the Council in making the intervention.
146. At least initially, NZIST will be a combination of many unprofitable activity areas, some marginally profitable activity areas, and a few highly profitable areas. This diversity means there will be little insight into risks from NZIST's overall profitability level. Furthermore, financial failure at the NZIST level would be preceded by a series of smaller campus-level failures.
147. As the TEC's powers relate to organisations, some explicit inclusion of powers to monitor at the campus level may also be needed.

148. A key area for TEC oversight will be the quality of information flow from NZIST management to the Council, and the Council asking the necessary tough questions of management. To support this, we recommend that:

- NZIST supplies Council papers and those from sub-committees (e.g. audit and risk) to the TEC; and
- The Council undertakes a mandatory annual review of its performance and the performance of individual members, with the assistance of an external facilitator, and informs the TEC of the review findings and how the Council will respond. This could also include the quality of internal reporting to the Council as part of its scope.

149. Determining the range and frequency of information needed to identify risk early without being unnecessarily onerous on the NZIST may require developing a new monitoring framework with input from the NZIST Establishment Board. It is important that reporting requirements are manageable and useful for both NZIST and TEC. We will ensure relevant legislative provisions are broad enough to enable this.

150. We recommend including a clause in the NZIST's enabling legislation that allows TEC to get information from NZIST as is reasonable and required. The power for a monitoring agency to require information is fairly standard, for example NZQA has broad powers to request information as part of its rule-setting powers.

151. Building effective senior level relationship management between TEC and NZIST is the most effective way to manage Crown risk going forward, with an open and no surprises trust relationship built between TEC relationship managers and NZIST senior management. This may require more resource and support from TEC to support such a focus, particularly during the establishment phase.

152. Officials suggest clarifying that the TEC can require information about any subsidiaries and joint ventures of NZIST. In some circumstances the TEC may need to deal directly with subsidiaries and joint ventures, although it will be important to maintain the single point of accountability with the NZIST's Council.

Recommendations

153. It is recommended that you:

agree to propose changes to the Education Act 1989, so that thresholds for use of the existing statutory interventions in the case of NZIST can be triggered early enough to manage risks before interventions become necessary.

AGREE/DISAGREE

agree that interventions should be available where the whole or any material part of the NZIST present educational or financial risk

AGREE/DISAGREE

agree to propose changes to the Education Act 1989 providing for the TEC to obtain information from NZIST as required, without use of statutory interventions, including from any subsidiaries and joint ventures

AGREE/DISAGREE

note that if you wish to modify the statutory interventions for NZIST, then further consultation will be necessary, and this may take place during the Select Committee process.

NOTED

note that specifying new monitoring information and processes will require careful consideration so as not to overwhelm TEC or be unnecessarily onerous to NZIST while effectively managing the risk, and that discussions could be started with the transitional Council.

NOTED

note that effective senior level, sound and trusted relationship management between TEC and the NZIST is the most effective way to monitor risk and that this will require senior level resource to support such relationship management.

NOTED

2.2: Capital and Financial Transactions

154. Capital and financial transactions for the NZIST present the same central challenge to monitoring: that NZIST will be a more robust entity than the 16 ITPs, but with the risk of a single point of failure. The key aspects of this are set out below:

Questions	Responses from consultation (preliminary assessment)	Current state	Proposed NZIST considerations	Recommendation
<i>Would the broad framework of the consent process outlined in section 192 of the Education Act 1989 be fit for purpose when considering a single NZIST?</i>	Low levels >10 responses directly on this More respondents agreed.	Applications to date made piecemeal. Financial viability and educational outcomes considered. TEIs can usually put forward a good case for both. Difficult to decline unless business case very poor, as S192 does not say what the Secretary should consider. Key consideration is TEI's ability to service the proposed debt.	Banks may see a greater implied guarantee for borrowing, and offer to lend more to NZIST. Need to look at total level of debt that could service. For 2019, the combined financial position of all ITPs is a \$40 million deficit. Borrowing or a Crown capital injection may be needed to maintain liquidity initially (TEC)	If NZIST is allowed to borrow, the Secretary of Education to issue borrowing consent under s192 for the total amount of debt that NZIST could incur. Get external expert advice on the total amount of debt that NZIST can service, and keeping this conservative, particularly in establishment phase. Consider whether we can specify what the Secretary should consider before approving or declining requests under s192 (4).
<i>Should the framework consent process be extended to include all major financial transactions for NZIST?</i>	Low levels >10 responses directly on this More respondents agreed.	TEIs can make capital investments without any oversight, provided they do not need to borrow.	NZIST will need to make a lot of capital decisions. Need to decide what is major. A number of low cost projects could collectively carry risk - need to be part of a capital Investment Plan. NZIST should have power to set a capital development strategy and balance regional arm needs, with appropriate oversight to manage risk.	The Secretary of Education has a general power of approval over capital projects valued a \$15M or above whole-of-life cost (aligned to general Government delegations), but has a power to delegate to the NZIST Council. The delegation can be tailored, and can be changed by the Secretary, following consultation with Cabinet. Projects part of capital asset management strategy. Suggest regular assisted strategic exercise after the initial stocktake to support capital asset management / capital expenditure plan.

Are the current thresholds for significant disposals sufficient?	<p>Low levels >10 responses directly on this</p> <p>More respondents agreed.</p>	<p>Property disposal thresholds were recently developed in consultation with the sector.</p> <p>They are likely to be sufficient for NZIST in the medium term. Initially, NZIST is unlikely to meet the criteria to use the disposal thresholds. Another Gazette notice may be needed initially to enable NZIST to dispose of lower value capital assets without needing consent from the Secretary each time.</p>	<p>NZIST will be slightly bigger than University of Auckland (based on estimated revenue), though with considerably more students. It would fall into top threshold band, able to dispose of property valued up to \$15 million without seeking approval of the Secretary. The thresholds apply to individual property disposals.</p>	<p>Wait to make changes until we review the thresholds use across all sectors.</p> <p>A capital asset stocktake would provide information on the number of disposals that would fall outside the current top threshold and whether there are any issues for NZIST.</p>
Desirability of a comprehensive stocktake – formulating an asset management strategy. Who should carry this out?	<p>Around 25 responses, approx. 2/3 supported.</p> <p>Suggestions for lead: TEC, Infrastructure Commission, Audit NZ.</p>	<p>Stocktake not part of current state</p> <p>One ITP noted critical need for capital investment in some of their campuses for the health and safety of learners and staff, and another that the current state of property was a drag on its financial performance.</p>	<p>Consultation ideas: clean balance sheet' and 'education landing pad' approaches.</p>	<p>The stocktake by an independent third party and development of an NZIST capital assets strategy should be a task for the establishment Board (we will include third party options for Cabinet to consider)</p> <p>Consider use of clean balance sheet approach.</p> <p>Education landing pads considered as part of asset management strategy.</p>

s 9(2)(f)(iv)

Recommendations

158. It is recommended that you:

agree that the stocktake by an independent third party and development of an NZIST capital assets strategy should be a task for the establishment Board (we will include third party options for Cabinet to consider)

AGREE / DISAGREE

agree to a general power of approval over capital projects for the Secretary of Education valued a \$15M or above whole-of-life cost (aligned to general Government delegations), but with a power to delegate to the NZIST Council. The delegation can be tailored, and can be changed by the Secretary following consultation with the Minister (who will by convention consult Cabinet)

AGREE / DISAGREE

agree to specify what the Secretary should consider in relation to S192 decisions to approve or decline requests (this might be linked the NZIST Charter).

AGREE / DISAGREE

agree to get external expert advice on the total amount of debt that NZIST can service, and to keeping this conservative, particularly in establishment phase

AGREE / DISAGREE

note that the Secretary of Education could grant a borrowing consent under s192 for up to this amount

NOTED

agree to attach borrowing consent and capital projects approval to the overall capital management strategy of NZIST, to be managed within pre-approved borrowing consent limits, so that within this, individual projects over the threshold value would require individual approval from the Secretary of Education

AGREE / DISAGREE

agree that the initial NZIST capital strategy should go to the joint Ministers of Finance and Education, rather than TEC for approval

AGREE / DISAGREE

note that we do not propose changing the current disposal thresholds at this time, and further advice on this could follow the capital stocktake.

NOTED

s 9(2)(f)(iv)

Opportunity to change the mechanism by which we engage over investment

159. As noted in the recent Treasury briefing of 3 April 2019 entitled *Designing the Accountability, Governance and Monitoring Arrangements of the New Zealand Institute of Skills and Technology*, RoVE offers an opportunity to reset sector expectations about the level of Crown Oversight, and also to determine the most appropriate means of managing investment within such a large organisation.
160. To some extent, this will be determined by Proposal Three, and how that lands in terms of the new unified funding system and how that impacts on the investment planning process for all providers. Additionally, the transfer of the arranging training functions ITOs to providers will also have a major effect on the overall process and level of funding, how this is incorporated into current activities and planning, and how this shapes future education delivery on the part of TEIs.
161. Regardless of the factors involved, the investment process for the NZIST will need to be different to our current approach to investment, in order to achieve the goals envisaged for vocational education. However, it will also need to be flexible and responsive to deal with, and react to, the size and scope of the NZIST. Given the possible length of the establishment phase for the NZIST (plus a unified funding system, and the transfer of training arrangement), changes to the investment process will need to be carefully considered, coordinated, and phased in over time.

3.1: Investment goals and process

General investment approach regarding a new NZIST

162. In the first instances the investment process for the NZIST will need to take into account the general vocational education goals and tasks envisaged for reforms overall. This includes aspects such as:
- deliver **more and better vocational education** across all regions that is relevant to the changing needs of employers and learners, resulting in more employers engaging in the industry training system;
 - deliver **the skills that employers need**, resulting in more employers engaging in the industry training system,
 - create an **integrated system** where collaboration is incentivised, and which gives voice to the users of the system: learners, employers, regions, communities, and the staff within it;
 - uphold and **enhance Māori/Crown relationships** and the Treaty of Waitangi, which includes imbedding the implications of this partnership in governance and structural arrangements across the new system;
 - create **clear roles** to support integration, strong specialist functions, and avoid conflicts of interest;
 - ensure the **new system is future proofed** so that it can respond effectively to new challenges and opportunities as they arise; and
 - take into account the **transition risks**, and the potential effects of uncertainty and/or disengagement by learners, employers, tertiary education staff, and other stakeholders.
163. In terms of setting goals for the NZIST and its education delivery, it will be important to ensure the above requirements are also incorporated into the TES. The TES not only sets the immediate goals for all providers in terms of vocational education delivery, it also provides the framework for working with other parts of the wider delivery system as a whole.
164. Further work to clarify exactly how system wide goals and requirements are expressed in the TES, and through the investment process, will need to be undertaken, potentially looking at

changes to investment processes in out-years as the NZIST establishes itself and “settles” its current delivery and structure.

Funding responsibilities of TEC and NZIST at a regional level

165. It will be necessary to gain clarity about the role of TEC and NZIST in making funding allocation decisions across the network of provision. We do not believe it is desirable for both to be responsible for broad or detailed budget allocations to regions or industries.
166. The suggested approach is that the TEC generally take a high-level approach to investment in the proposed NZIST, allowing NZIST to make operational decisions on how to allocate budget across its network that most effectively give effect to its mission. This also accounts for the fact that not all funding to the IST will be for vocation education – there will continue to be a substantial amount of funding for degree level and above provision which the TEC will continue to have a role in.
167. At the same time, the Government would signal its expectation of regional or industry goals via the TES and investment process (as it does now), but with a requirement on the part of the IST to demonstrate how it will meet, and how it has met – those goals and expectations.
168. Under the proposed reforms, the TEC would also be expected to give consideration to the recommendations of RLGs, and of Industry Skills Bodies, who would advise the TEC on skills needs. The NZIST Investment Plan, therefore, needs to give the TEC an adequate understanding of the regional direction of each campus, how the NZIST is responding to the specific needs of regional stakeholders, and how it is managing trade-offs between regional needs and national interests.

Proposed regional approach

169. Our view is that the current Investment Plan requirements for ITPs may not provide this level of detail. The TEC does have the ability through gazetted criteria to add specific requirements to the way investment plans respond to education goals and needs, but it is unclear whether or not this can be used in relation to a single provider. s 9(2)(f)(iv)
170. Due to feedback about a desire for some control within the regionals over provision, and Government’s stated goal of fostering and improving regional delivery through the reforms, our preference is to require the NZIST investment plan include a regional ‘lens’ as a legislative requirement. Additionally, the TEC should be able to specify an Investment Plan format if necessary, which would enable the TEC to require additional information as needed.
171. Aside from addressing on-going regional goals regarding the NZIST investment process, it may also provide greater flexibility for the TEC in terms of managing transitional requirements over the next 2-3 years (especially as the NZIST is established, delivery and investment requirements change and evolve, and the new entity integrates regional functions into a new structure).
172. It will also be the starting process for establishing a performance baseline for the IST, in terms of how it delivers against regional goals and targets (something the TEC can work on and look to establish early during the establishment phase).

Process

173. Regional sub plans would (at a minimum) include for each administrative region (see discussion in Section 1):
 - Concrete information on NZIST consultation with stakeholders including what needs regional stakeholders have identified (including RLGs and Māori/iwi);
 - How the regional operation of NZIST will give effect to the TES and the NZIST charter in that region;
 - NZIST’s proposed mix of provision for the region; and
 - Any tensions/trade-offs/issues for the region in terms delivery options (number and quality of providers).

174. If you agree, we anticipate ring-fencing some legislative requirements for the NZIST (which would not affect Investment Plan settings for other TEOs). At the same time, we would also look at how Investment Plan levers could be strengthened for the NZIST (although some of these could also be accomplished through changes to monitoring and invention tools).
175. Appendix D analyses available levers to drive a regional focus in NZIST, and to give assurance to the Government that TEC will have sufficient oversight of NZIST's regional delivery through the Investment Plan process.

Recommendations

176. It is recommended that you:

agree to the inclusion of a regional focus in the drafting instructions for the definition of the NZIST (a)

AGREE/DISAGREE

OR

agree to providing for additional NZIST Investment Plan requirements in its own section of the Act, with relevant sections worded so that the TEC can require a regional break down of delivery (b)

AGREE/DISAGREE

note that, if (a) is preferred, then we anticipate that Investment Plan requirements and criteria requirements would include an explicit regional focus.

NOTED

note that, if (b) is preferred, then the TEC will be able to set Plan Guidance and criteria and templates to require regional information.

NOTED

Discuss further.

I envisage the NZIST "charter" being legislated and a strong regional emphasis being part of it

"The Regional Guarantee".

That would suggest one investment plan with an accountability regime to ensure NZIST meets its requirement to invest in the regions.

4. Regional Leadership Groups

Section 1: Regional Leadership Groups (RLGs) and stakeholder influence within NZIST

1.1: RLGs

Context

177. At the Labour Market Ministers meeting on 13 March 2019, Ministers indicated that they see RLGs as having a role wider than the focus on providing advice to the NZIST national office and TEC described in the consultation material. This broader role envisages RLGs being overarching regional labour market planning bodies - a single regional organisation that would coordinate immigration, welfare and training issues at a regional level.

178. Submitters from the consultation, and sector and stakeholder discussions during engagement, identified that, while sector and stakeholders saw value in a way for regional voice to be influential for the NZIST in particular, they were uncertain about whether RLGs would fill that role, due to their relatively undefined roles and purpose. Consultation consistently highlighted the importance of regional voice in the training needs of a region.

What RLGs need to do for the vocational education and training system

179. The broader role of RLGs envisaged by Ministers means then RLGs will need to be independent from the NZIST, and have a role in advising all providers about skill needs. RLGs will have a broader focus on regional labour markets, rather than on matters internal to the NZIST at a local level. If RLGs were a part of the NZIST, it would create a conflict between the role of advising the NZIST of its regional skills needs and the role of advising the TEC on the purchasing of regional tertiary education. The advice role of the NZIST to the TEC would strongly favour delivery by the NZIST rather than other providers in the regions. As discussed below, MBIE is also envisaging a membership for RLGs capable of encompassing roles wider than the skills supply system.

180. However, given the importance of regional and community voice in regional tertiary provision, we consider that RLGs could provide the following functions to the education system, which would support the accountability of all providers to deliver the training needed in the regions.

181. Broadly, we envisage a champion of regional needs that could evolve to influence the interfaces between schools, tertiary education and employment, provide regional planning and co-ordination in a similar way to industry skills bodies (only with a broader focus that extends to community needs, foundation and degree level provision).

182. There are two broad options for how this could look, set out in the following sections. In either case, a RLG would need:

- The ability to have influence;
- Community buy-in, and regional iwi and Māori integration;
- Resources and funding – and capability (which would need to be developed);
- A focus on the skills dimension of regional economic development – but alignment with regional economic development strategies;
- Clear mission and direction; and
- Relationships with TEC and ISBs as relevant that enables changes in investment where needed.

RLGS provide skills information and advice

183. As a first step, RLGs could be focussed on information and advice on regional tertiary provision needs, to support local skills development. The granularity required for this to be useful has yet to be determined, but focus could initially be placed on information about demand and the type, level and range of provision needed to meet it. This could include advice on the preferred location and mode of delivery.
184. We envisage a key role of the RLGs' will be to advise the TEC's purchasing and funding decisions related to their region. Like the advice received from ISBs, we envisage that the TEC would have to take that advice into account when making its investment decisions. If you agree, we would need to explore the mechanism by which this would happen. Regional level advice from RLGs, combined with national level skills advice from ISBs would inform TEC investment decisions at the regional level.
185. RLGs would be transparent and also provide this information to regional education providers such as the NZIST, PTEs and wānanga to help them make decisions about the range and types of provision they offer in each region. This could take the form of a regional skills plan. The ISBs and TEC, however would hold decision making rights over funding, while the RLG could, on behalf of the region, advocate for the investment needed in a region's plan. This could be given teeth via the Tertiary Education Strategy and public accountability for decisions by the TEC and ISBs.
186. This set of functions would require tertiary funding (in addition to whatever funding they may receive for the wider labour market co-ordination work envisaged by Labour market Ministers), but because this is a relatively constrained set of functions, it may be possible to begin funding for the needs of the tertiary skills supply system out in front of their other longer term functions. It would be feasible for a group of regional leaders to drive (with some resources to help them to do it).

RLGs become entities that are central to the regional skills system

187. The functions of the RLGs could evolve over time. A further option is for RLGs to be at the core of the skills system for a region and work towards strong regional alignment. This would be a much broader role in which RLGs would actively and transparently work to:
- Better align regionals skills supply and demand, particularly over time and using the wider set of levers from the immigration and welfare systems as well as skills provision;
 - Align providers with iwi and employers;
 - Drive processes similar to the tai Tokorau regional Investment Plans (tailored for the different regions);
 - Provide balance to the potentially anti-competitive behaviour of the IST through a possible brokerage function;
 - Prioritise the social and cultural development of people from that region.
188. RLGs could also work to improve areas where industry or tertiary providers are not aligned or where those relationships are not functioning well.
189. At this level, we would expect RLGs to work closely and influence employers, industry, iwi, all regional providers including the IST and ISBs. This set of functions is likely to require significantly greater organisational form, which is likely to make the leadership group into a Board governing a more substantial organisation.

Membership of RLGs

190. Once we know what functions we expect from the RLGs, then we can consider and co-construct with regional stakeholders, who might sit on these groups. This is likely to change according to the region, for example an RLG in South Auckland may want strong Pacific representation.

191. We assume that as a minimum, iwi and/or Māori will want to be on RLGs. Strong representation of Māori education, industry and employer interests would also better support RLGs to be independent representative bodies with a cross-sector regional focus. But we think it is important to note that iwi and Māori may not consider this sufficient to be consistent with a partnership approach and that we should be open to considering alternative ways of ensuring regional Māori and iwi voice are considered. For example, iwi may wish to develop their own regional skills plans which mirrors what the TEC would expect from RLGs. These could be inputs to one or more RLGs and directly to the TEC.

Process for progressing RLGs

192. The Labour Market Ministers Group indicated that they expect RLGs to be set up slowly, over months and years, building on existing and developing regional groups or processes. We also expect to co-design RLGs with communities and iwi.

193. It is possible in some cases that the development of NZIST's systems of stakeholder input (as proposed) will be out in front of RLGs, although some models for RLGs, such as those for primary industries in Northland, and the co-ordination driven by the needs of just transitions in Taranaki, are already advanced.

194. Since the RLGs are likely to have a strong skills and employment focus, our view is that they could be led by MBIE with strong input and engagement from MoE and MSD.

MBIE's proposed approach to regional labour market planning

195. MBIE will be providing a briefing to the next Labour Market Ministers' Group meeting on 23 May to seek Ministers' agreement to the direction of regional labour market planning, ahead of the report back to Cabinet on the proposed changes to temporary migration at the end of June.

196. At this stage, MBIE's thinking is that the role and function of the RLGs as an overarching regional labour market planning body will be to develop:

- A detailed understanding of the skills supply and demand in their regional labour market;
- An understanding of the desired future state of the regional labour market; and
- A regional labour market plan which sets out how the future state will be achieved, including commitments for actions from the parties around the table.

197. Given this role, membership in regional leadership groups would need to be sufficiently broad to encompass local industry and firms, agencies with supply-side functions, economic development agencies, iwi, and unions.

Legislation requirements

198. As information and advice are not statutory functions, Education legislation is unlikely to be required for RLGs to input into the reformed vocational education system. For example, funding determinations and/or letters of expectation to the TEC could direct how the TEC and providers engage with RLGs. The TEC's investment and planning processes with tertiary providers can also set expectations for how tertiary providers engage with RLGs. This approach also provides scope to engage with iwi and Māori at a regional level.

199. MBIE has advised that legislation is unlikely to be required for the wider regional functions envisaged for RLGs.

Recommendations

200. It is recommended that you:

agree that as a first step, the RLG's key education functions will be to provide information and advice on regional skills needs to the TEC and regional providers

AGREE/DIAGREE

agree that the TEC will be required to take advice received from RLGs into account when making its investment decisions

AGREE/DIAGREE

note that ^{will} ~~over time~~, RLGs ~~could~~ become entities central to the regional skills system.

NOTED

5. Other Matters

Item 1: The name 'NZIST'

The majority of submissions do not support the current working title of 'NZIST'

201. Submitters appear to dislike the proposed name of the NZIST. Several stakeholders noted that they would have liked a Māori name, that the name was too long (which would have an impact on branding activities), and that there was already an NZIST in New Zealand (the New Zealand Institute of Science and Technology). Sector responses mostly did not favour the use of the word 'skills' in the title, particularly given levels of higher education across the sector and related to international recruitment.

Recommendations

202. It is recommended that you:

agree that the proposed Establishment Board will become responsible for ~~determining~~ ^{advising on} an appropriate name for the NZIST

AGREE/DISAGREE

agree that you continue to use the working name "New Zealand Institute of Skills & Technology" until such time that the proposed Establishment Board is able to determine an appropriate name, in consultation with stakeholders. This will likely mean that the name NZIST will be used in legislation

AGREE/DISAGREE

Item 2: Current cash reserves in the ITP sector

203. This section explores the issues of:

- Whether existing ITP cash reserves should, in principle, be ring-fenced within the NZIST for the benefit of their successor regional operations; and
- If "yes", what mechanism might be used to achieve this.

204. If some form of ring-fencing is to be further investigated or pursued, we will provide further advice on how the amounts to be ring-fenced would be determined.


205. Several ITPs, and most vocally SIT, have proposed such ring-fencing, and also that this is incorporated in legislation. The arguments have two core strands:

- A general concern that current reserves have been deliberately built over time by governance and management, and that such reserves should not pay off the debts incurred by others, particularly when said debts have arisen as a consequence of poor governance and management; and

206. A more specific desire to preserve funding for known/planned capital expenditure that might not yet be approved or contracted.

207. The table below summarises the individual net cash/debt positions for each of the ITPs, as at the end of 2018:

s 9(2)(b)(ii)



208. The arguments against ring-fencing are:

- It undermines the ability of the NZIST to manage the finances of the institute as a whole, especially in relation to directing capital spend to its highest value use over time;
- It is financially inefficient to maintain substantial term debt and cash balances;
- It is likely to have unpredictable longer-term impacts on the management of the institution (haves and have-nots; pressure for expenditure on assets that might make sense locally but not nationally, etc); and
- It is inconsistent with the treatment of other potential liabilities or risks (i.e. effectively it localises a financial asset, while nationalising financial liabilities).

209. In arguments in favour of ring-fencing are:

- Where there is some special purpose for which the cash has been accumulated (e.g. insurance pay-outs against a rebuild programme); and
- Ring-fencing is likely to smooth transition and resistance to the NZIST from staff, students and communities that do not support it (where there is an opportunity to ring-fence).

210. Officials do not recommend that existing cash reserves are ring-fenced. Where ring-fencing is sought so as to meet specific planned capital expenditure, other mechanisms are available for continuing that commitment (approval of a long-term capital plan and inclusion in this of key projects that meet regional requirements).

211. If some form of formal ring-fencing were to proceed, there are issues that will need to be addressed:

- a. **Determining the amounts to be ring-fenced.** Officials recommend that a detailed methodology for determining ring-fenced amounts be developed. This would probably deduct from current cash balances an appropriate allowance for working capital/liquidity, and any quantifiable financial liabilities (to manage in part the points above under 221).
- b. **Determining the mechanism through which ring-fencing will be achieved.** This could be through legislation, or instructions given to the NZIST, and supported by accounting separation and reporting on the cash balances.
- c. **Control rights over the ring-fenced amounts.** This could be held by NZIST central management and governance (Officials' preference), or local management. Conceivably ~~it could be vested in third parties~~ (e.g. through vesting the sums in a locally-managed trust, for the benefit of the local NZIST operation).

212. A further technical issue is whether the income from any ring-fenced cash fell within the ring-fencing or not. Officials' advice is that it should not, as this would further complicate the financial management of the NZIST and its component operations, and the incentives around use of the ring-fenced sums. Officials can explore these matters further if required.

213. In such situations, the NZIST will need to obey any legally binding conditions that currently apply to individual ITPs. The establishment and transition arrangements will also need to ensure to the maximum extent possible that new arrangements cannot be put into place by any ITPs.

Recommendations

214. It is recommended that you:

agree that ITPs' cash reserves are not ring-fenced within the NZIST

AGREE/DISAGREE

agree that Officials consider options for the NZIST's Capital Management Plan to commit to regional projects

AGREE/DISAGREE

Ring-fence reserves over \$15m.

Item 3: Centres of Vocational Excellence (CoVEs)

Key feedback from the consultation

215. ITPs mostly supported the idea of CoVEs and many submissions indicated what kind of CoVE they would be best placed to host.

216. ITOs tended to support the idea of CoVEs, and were keen to be closely involved in their design. They made some suggestions for what CoVEs could do and what level of the system they should operate at. The ITOs were especially concerned about their ability to influence CoVEs once they were up and running, ITOs suggested that ISBs own or have strong representation on the governance of CoVEs, or control CoVE funding.

217. Both ITOs and ITPs, and other wider stakeholders, seemed unsure as to what a CoVE actually would do, or how it would operate – or be funded.

How CoVEs can recognise and build excellence in vocational education

218. It is proposed that CoVEs be hosted by the IST or wānanga and that CoVEs would both be awarded in recognition of excellence, and to build excellence in the system.
219. We consider that the best way to recognise and then build excellence is through setting a high standard for the achievement of 'CoVE status' in the system. While a CoVE could be hosted in a regional arm of the NZIST or a wānanga, it should operate as a consortium that brings together relevant expertise in a particular area.
220. To achieve CoVE status we consider that the selection criteria should require the applicant to demonstrate certain baseline attributes, such as industry-relevant provision, high qualification completion rates, and excellent employment outcomes. Applications would also need to demonstrate how the proposed CoVE bring together capability across the network and how it would work with ISBs. The CoVE could then be tasked with building further excellence through an additional set of functions (potential functions discussed below).
221. Designed this way, CoVEs could quickly bring providers and industry together to collaborate on specific tasks. As such, it would need to include the relevant ISBs as participants. However, it may replicate the proposed funding system changes, which are themselves intended to enhance collaboration between providers and business. Given this, it is important to consider the additional functions that CoVEs could undertake in order to be a genuine centre of excellence, as distinct from a highly performing institution.

Potential functions of CoVEs

Baseline functions

222. CoVEs could build excellence in one or all of the following broad areas:

- Maintaining and growing excellent provision within its area of speciality through drawing together excellence within the overall network;
- Sharing high quality curriculum and programme design with the rest of the system including across regions and potentially wānanga and PTEs; and
- Providing additional services to the vocational system.

223. A key question still to be worked through is who should take the role of curriculum and programme design. It is possible that CoVEs could coordinate this role.

Providing additional services to the vocational system

224. CoVEs could provide additional functions to the system that are not intended to be provided by either the NZIST or an ISB. The kinds of functions a CoVEs should perform (which would depend on the scope of the NZIST and ISBs' functions) could include:

- Training support for employers to improve their teaching ability;
- Share applied research with providers and industry to improve knowledge exchange;
- Focus on pathways through vocational education, including from school;
- Provide learning technologies across the network to minimise cost and duplication of high cost equipment; and
- Provide best practice pastoral care to learners and advice to providers/employers to support good outcomes.

225. If you are interested in CoVEs having these kind of functions, we will work through the options and implications in more detail.

Timing

226. You have indicated that you would like to announce one or two CoVEs in the second half of the year. We recommend that decisions about CoVEs are made after you have made decisions regarding the roles and functions of the other bodies in the system, such as ISBs and the potential NZIST. This would mean we could provide you with advice on CoVEs in July, following the RoVE policy decisions Cabinet paper in June.
227. As CoVEs do not require legislation, this timing will not delay implementation. It would ensure that the design complements the roles of legislated bodies in the system to avoid the potential for sector confusion and replication of educational services. This would still allow you to announce a process for establishing a small number of CoVEs by the end of 2019.

Funding for CoVEs

228. We have assumed a cost of between s 9(2)(f)(iv) per year for a CoVE, largely based on the cost of operating Centres of Research Excellence and the ICT Graduate Schools. We will be in a better position to estimate the likely costs in more details once their core functions are decided.
229. Funding for the establishment of CoVEs needs to be considered in the context of the overall funding available for RoVE. Budget 2019 has set aside \$197m to help manage the costs of RoVE, and we have signalled this may not be sufficient to cover all establishment and transition costs. A small number of CoVEs could be established as part of implementing RoVE, though would reduce the funding available for other costs. The ongoing costs of CoVEs would need to be secured through reprioritisation of existing funding and/or a future Budget as the RoVE contingency does not include out-year funding. The next AA will cover managing the overall fiscal implications of RoVE, and the possibility of increasing the \$197m contingency via the Cabinet report-back in June, once the likely final 2018/19 expenditure across Vote Tertiary Education becomes clearer.

Recommendations

230. It is recommended that you:

discuss Officials' current thinking on an approach to CoVEs

NOTED

note that Officials recommend options for CoVEs be considered in July, after policy decisions on the functions and role of ISBs and NZIST are made.

NOTED

I'd like to be able to
announce at least the
basic details in July
with the rest of the
package.