



Education Report: **Vocational Education and Training – Achieving greater regional decision-making**

To:	Hon Penny Simmonds, Minister for Tertiary Education and Skills		
Cc:			
Date:	18 April 2024	Priority:	High
Security Level:	In-Confidence	METIS No:	1326769
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Seen by the communications Team:	No	Round Robin:	No

Purpose of Report

1. This report provides you with an update on the work Te Pūkenga is doing to prepare for its proposed disestablishment and to increase regional decision-making. It also seeks your agreement to continue to use existing levers to support this work until legislation that enables structural changes to the vocational education and training system (VET) is in place.

Summary

2. Te Pūkenga has begun work to prepare for disestablishment and return decision-making to the regions. This includes appointing regional leaders, returning national staff back to their former business divisions, and delegating greater decision-making powers to local leadership. Te Pūkenga has also established a disestablishment working group and appointed specialist advisors to support the disestablishment process.
3. You have raised concerns about whether business divisions within Te Pūkenga have sufficient powers to make the key decisions needed to prepare for the return to a regionally-based network of Institutes of Technology and Polytechnics (ITPs). We consider that decisions on the issues you have raised are largely operational and can be taken by Te Pūkenga within the current legislative settings.

4. 9(2)(h)

5.



6. 9(2)(h)



7. We have considered whether a fast-track legislation process, which could provide you with a power to direct Te Pūkenga, would assist the process of returning decision-making to the regions. We consider that such a legislative process, ahead of the substantive legislation changes to enable disestablishment, would create a number of risks and is unlikely to lead to significant changes on the ground, particularly given the readiness of Te Pūkenga to delegate decision making to date.
8. We therefore recommend continuing to utilise ongoing engagement with Te Pūkenga to communicate your intended policy direction and to support Te Pūkenga to increase regional decision making in preparation for disestablishment. You also have the option to appoint up to four members to the Te Pūkenga Council.
9. Should you wish to proceed with a fast-tracked legislation process this year, we recommend testing this early with your colleagues. You have invited your colleagues to discuss the future of the VET system [METIS 1326614 refers]. We will provide you with material to support these discussions.



Recommended Actions

The Ministry of Education recommends you:

- a. **note** that Te Pūkenga has made decisions in several areas to support its proposed disestablishment and to increase regional decision-making

Noted

- b. **note** that there are levers available within current legislative settings that you can use to influence the strategic direction of Te Pūkenga, including making up to four appointments to the Te Pūkenga Council, and general engagement with Te Pūkenga to verbally outline your expectations ^{9(2)(g)(i)}

^{9(2)(g)(i)}

Noted

- c. **agree** to continue to use existing levers to support Te Pūkenga to increase regional decision-making until legislation enabling its disestablishment and other structural changes to the VET system is in place (expected to be mid-late 2025) ^{9(2)(g)(i)}

^{9(2)(g)(i)}

agree

Proa

- d. **agree** that the Ministry of Education proactively release this paper only after full Cabinet consideration of the proposed disestablishment of Te Pūkenga, as part of a communications strategy associated with Government announcements on the proposed VET changes.

Agree / Disagree

Vic Johns
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Ministry of Education
18/04/2024

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17/04/2024

Hon Penny Simmonds
Minister for Tertiary Education and Skills

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Background

10. On 5 April 2024, we provided you with an Education Report and Annotated Agenda to support a discussion at your meeting with officials on 9 April 2024 on advancing the VET system re-design [METIS 1325733 refers]. In your written feedback, you requested information on any potential alternative or transition pathway to amend Te Pūkenga legislation to enable more autonomy while the substantive legislation process is worked through. This briefing responds to that request.
11. Work is underway to prepare for the disestablishment of Te Pūkenga, including modelling to identify what configuration of Institutes of Technology and Polytechnics (ITPs) is most likely to be viable. You are scheduled to report back to Cabinet in July on financial modelling, and potential ITP groupings, ahead of public consultation.
12. Following consultation, and subject to Cabinet approval of final proposals, drafting of a bill to amend the Education and Training Act 2020 (the Act) will begin, enabling the disestablishment of Te Pūkenga and related structural changes to the VET system. It is anticipated that the new legislation will be enacted in mid-late 2025, for implementation from 1 January 2026 [METIS 1325733 refers].
13. In December 2023, you issued a Letter of Expectations to Te Pūkenga, setting out your expectation that it would operate in a manner consistent with the Government's intention to disestablish Te Pūkenga and to support as much regional autonomy as possible. Since then, Specialist Advisors and a new Chief Executive have been appointed to help prepare Te Pūkenga for disestablishment and the transition to regionally based ITPs.

Work underway to prepare for disestablishment of Te Pūkenga

14. Since receiving your Letter of Expectations in December 2023, Te Pūkenga has implemented several initiatives to prepare for its disestablishment and increase regional decision-making. This includes (but is not limited to):
 - Established a disestablishment working group to oversee the proposed disestablishment, provide support to management, and enable quick and effective decision-making.
 - Stopping its 'Creating our futures' organisational restructure, which was moving towards being one organisation, and returning as many individuals to their previous roles in business divisions as possible. Through this process, 308 staff have returned to, or have remained in, their business division role.
 - Appointed regional leaders for each former ITP business division from within the network to ensure decision-making is being regionally led as much as possible.
 - Implemented a new delegation policy to allow for greater regional and divisional decision-making, particularly around financial and staffing decisions.
 - Issued instructions to the business divisions to start removing Te Pūkenga branding from all materials and multimedia. This will be a progressive process to minimise the cost of removing the brand.
 - Appointed Specialist Advisors to support regional leaders and advise on future viability, including where expenditure reductions could be achieved.
 - Accelerated work to reduce the size of its head office and return impacted staff members to business divisions where possible.



15. In our view, there has been a clear willingness by the Council and Chief Executive of Te Pūkenga to support the intended disestablishment as much as possible and implement actions that move away from a national organisation to individual, regionally focused business divisions.
16. The Council and management of Te Pūkenga are also working closely and co-operatively with the Tertiary Education Commission (TEC) on how it can support the proposed disestablishment process.

There are limits to the extent to which you can require Te Pūkenga to take action to prepare for disestablishment, prior to legislative change...

17. 9(2)(g)(i)

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21. The current approach you are taking of communicating and encouraging Te Pūkenga through regular interaction, both directly and through the TEC, appears to be having good effect. We would recommend that you engage directly with the Council Chair to communicate your expectations. Further to this, you are also able to influence the strategic direction of Te Pūkenga through ministerial appointments to the Te Pūkenga Council (there are currently four ministerial appointments you could make).
22. While Te Pūkenga continues to work towards its proposed disestablishment, any actions do need to be balanced against the Council's responsibilities under the Act,



particularly delivering on the Charter and supporting overall financial viability. There is also a limit on the Council's ability to progress disestablishment activity until there is further clarity on the design of the new VET system.

You have raised concerns about whether business divisions within Te Pūkenga have sufficient powers to make key decisions

23. While the former ITP business divisions have been delegated additional decision-making powers, you have raised instances of where decisions continue to be made centrally, which you consider is impacting on their overall viability.
24. In particular, you have expressed concern that the individual business divisions of Te Pūkenga are unable to set their own fees for international students and market regional differences or to develop bespoke programmes that respond to the needs of their region.
25. Subject to the Council's agreement, international fees and programme development can be addressed within the existing operational settings and do not require legislative change.^{9(2)(h)}

Approval of programmes tailored to the needs of specific regions

26. Under the Act, the New Zealand Qualifications Authority (NZQA) can only grant programme approval and accreditation to institutions. Institutions are defined under the Act as Universities, Wānanga and Te Pūkenga. However, for the purposes of the programme approval and accreditation sections of the Act, (sections 441 to 444) the definition of an institution includes Government Training Establishments, registered establishments (registered PTE's) relevant schools, and Workforce Development Councils.
27. In the case of Te Pūkenga, as it is only institutions that can apply for programme approval and accreditation, it is Te Pūkenga itself, which must apply for programme approval and accreditation, rather than individual business divisions of Te Pūkenga which are not legal entities as such. However, NZQA can (and do) receive change requests for existing programmes from individual business divisions of Te Pūkenga and NZQA can grant accreditation to Te Pūkenga for accreditation to provide programmes only at particular sites of Te Pūkenga, if appropriate.
28. As you are aware, Te Pūkenga has been undertaking a process of programme unification to reduce duplication of effort and proliferation of programmes. NZQA has agreed that, for the unified programmes developed by Te Pūkenga, it will accredit individual sites under the Te Pūkenga umbrella. However, this will still require Te Pūkenga to have the capability to retain oversight of the programme and its delivery.
29. Once new entities are formed, accreditation can be transferred, as long as the receiving entity can demonstrate it has the capability to manage the quality assurance requirements of the programme and has established links within the local community to ensure the programme meets their needs.
30. There is nothing in the current legislation or Te Pūkenga Charter that requires Te Pūkenga to carry out programme unification. Te Pūkenga could choose to cease work on programme unification and return programme development responsibilities to the business divisions. However, the Te Pūkenga Academic Board would need to retain oversight of programme development and continue to meet its obligations under section 324 (2) of the Act, and Te Pūkenga, as the legal entity, would need to continue



to submit programmes to NZQA for approval and accreditation and retain overall responsibility for quality assurance matters.

31. Within Te Pūkenga there are over 100 programmes which are expiring at the end of 2024. As the head office functions are wound down, these will be returned to the regions where decisions can be taken on whether to seek accreditation to continue delivery or to let that programme expire. For vocational programmes, Te Pūkenga will need to work with the relevant Workforce Development Council as they assess the relevance of each programme.

Te Pūkenga intends to continue amending its delegations framework to support increased decision-making in the regions

32. The TEC met with Te Pūkenga Chief Executive this week who shared their proposed approach to reviewing delegations once the current devolving of head office functions back to the regions occurs in the coming weeks.
33. By the end of May 2024, Te Pūkenga expects to have put in place a new delegations framework that will see key areas such as property, pricing, international recruitment, and digital and physical procurement delegated to business divisions within a tiered framework. Delegations applicable to each regional business divisions will be based on agreed risk and capability criteria. We understand that the new delegations are likely to provide greater flexibility on international fees and potentially programme development.
34. While in some areas its Council will be ultimately responsible for final decisions, Te Pūkenga is attempting to ensure as many decisions as possible are being made by regional business divisions.
35. As this work progresses, we will keep you updated on changes to the delegations' framework, particularly as they relate to international fees and recruitment, and ensuring greater autonomy over programme development. The TEC also recently provided you a short update on the international enrolment recovery at Te Pūkenga (AM-24-00213 refers).

Alternative legislation pathway to enable more regional autonomy

We have considered whether legislation change this year would support a smoother transition and greater regional decision-making by Te Pūkenga business divisions...

36. As noted, following Cabinet agreement to final policy proposals, drafting of a bill to enable the disestablishment of Te Pūkenga and other changes to the VET system can commence. We estimate this to be in late 2024, based on the proposed Cabinet timeline [METIS 1325733 refers].
37. This timeline anticipates that the new legislation will be enacted in mid-to-late 2025, with new ITPs established in time for the beginning of the 2026 academic year.
38. It could be possible to run an additional legislative change process providing a power for the Minister for Tertiary Education and Skills to direct Te Pūkenga to prepare for the transition of functions to new entities and subsequent disestablishment. A highly truncated process would be needed, should you wish to progress legislative change this year.



...however, we do not consider a ministerial power to direct Te Pūkenga would lead to any substantial changes on the ground

39. In order to gain agreement for fast-tracked legislation change, you would need to gain Cabinet's agreement very soon to making the change in advance of the more substantive changes. You would also need to present a case that the benefits of legislation passed in 2024 justify an exceptionally truncated timeframe for Parliamentary Council Office drafting and consideration by select committee, and no public consultation.
40. As Parliament cannot legislate in anticipation of further legislation being passed, any provisions would need to remain fit-for-purpose for an indefinite period, or remain in place for a set period, without relying on the substantive legislation being passed.
41. There are a number of additional risks and trade-offs associated with a fast-track legislation process. These include:
 - It is unlikely that a regulatory impact analysis would indicate that regulatory change is necessary, given that there are a number of actions that Te Pūkenga can take within the current legislative settings to prepare for the proposed disestablishment.
 - Progressing legislative changes this year would require significant Ministry resources, which would need to be diverted from the substantive VET redesign work programme.
 - Cabinet may not approve the proposal without knowing what the intended future state of the VET system is, which cannot be confirmed until after consultation is complete.
42. We recommend continuing to use existing levers to support and encourage Te Pūkenga to increase regional decision-making. If you do wish to proceed with a fast-tracked legislation process this year, we recommend testing this early with your colleagues.

Next Steps

43. Should you wish to proceed with a fast-tracked legislation process this year, we suggest testing this with your colleagues at the first ministerial meeting to discuss the future of VET.