

# Summary of Underpinning Analysis: 2027 Funding Determination Tertiary Research Excellence Fund

|                           |                       |
|---------------------------|-----------------------|
| <b>Agency responsible</b> | Ministry of Education |
| <b>Portfolio</b>          | Tertiary Education    |
| <b>Date finalised</b>     | 27 August 2026        |

## Good law-making: 9(i)

**The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation**

**Inconsistency identified?** NO

### Summary of agency analysis

All tertiary education providers and other interested groups that are eligible to receive the Tertiary Research Excellence Fund (TREF) were provided with an opportunity to consult on the 2027 funding determination. Consultation was conducted as required by section 423(3) of the Education and Training Act 2020, and the funding determination should therefore be assessed as consistent with the principle.

## Good law-making: 9(j)

**The importance of carefully evaluating—**

- the issue concerned; and
- the effectiveness of any relevant existing legislation and common law; and
- whether the public interest requires that the issue be addressed; and
- any options (including non-legislative options) that are reasonably available for addressing the issue; and
- who is likely to benefit, and who is likely to suffer a detriment, from the legislation

**Inconsistency identified?** NOT APPLICABLE

### Summary of agency analysis

### Good law-making: 9(k)

**The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation**

**Inconsistency identified?** NO

#### Summary of agency analysis

The funding determination had been made in cooperation with the Tertiary Education Commission (TEC), who have been given adequate time to design how they will efficiently allocate the TREF. This funding determination should be assessed as consistent with the principle.

### Good law-making: 9(l)

**Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons**

**Inconsistency identified?** NOT APPLICABLE

#### Summary of agency analysis

The funding determination allocates grant funding and this is not an activity where an outcome can be assessed by expected costs and benefits.

### Good law-making: 9(m)

**Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available**

**Inconsistency identified?** NO

#### Summary of agency analysis

The funding determination is made under the Education and Training Act 2020 for the allocation of the TREF, and as such has already been determined to be the most effective, efficient, and proportional option for funding tertiary research. This funding determination should be assessed as consistent with the principle.

### Rule of Law: 9(a)(i)

**The law should be clear and accessible**

**Inconsistency identified?** NO

**Summary of agency analysis**

The funding determination has been designed in consultation with the TEC. The funding determination clearly and specifically outlines the design and conditions for the TREF, allowing the TEC to implement it accurately. This funding determination should be assessed as consistent with this principle.

**Rule of Law: 9(a)(ii)**

**The law should not adversely affect rights and liberties, or impose obligations, retrospectively**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

**Rule of Law: 9(a)(iii)**

**Every person is equal before the law**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

**Rule of Law: 9(a)(iv)**

**There should be an independent impartial judiciary**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

**Rule of Law: 9(a)(v)**

**Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

### Liberties: 9(b)

Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

### Taking of property: 9(c)

Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless-

- there is a good justification for the taking or severe impairment; and
- fair compensation for the taking or severe impairment is provided to the owner; and
- the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

### Taxes, fees and levies: 9(d)

The importance of maintaining consistency with section 22(a) of the Constitution Act 1996 (Parliamentary control of taxation)

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

### Taxes, fees and levies: 9(e)

Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the

**cost of providing the good or service to which it relates**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

The funding determination manages the funding provided to tertiary education providers and does not impose fees on learners.

## **Taxes, fees and levies: 9(f)**

**Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—**

- the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and
- the costs of efficiently achieving the objective or providing the function

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

## **Role of courts: 9(g)**

**Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

## **Role of courts: 9(h)**

**Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review**

**Inconsistency identified?** NOT APPLICABLE

**Summary of agency analysis**

