Te Tāhuhu o te Mātauranga
Ministry of Education

# Report: Draft VET Departmental Report for Education and Workforce Committee

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| To: | Hon Penny Simmonds, Minister for Vocational Education | | |
| Cc: | | | |
| Date: | 29/07/2025 | Deadline: | 31/07/2025 |
| Security Level: | In-Confidence | Priority: | High |
| From: | 9(2)(a)<br>VET Programme Manager | Phone: | 9(2)(a) |
| Drafter: | 9 | METIS No: | 1350504 |

## Why are we sending this to you?

- You are receiving this Departmental Report on a 'no surprises' basis.
- The report is the Ministry's analysis of public submissions on the Education and Training (Vocational Education and Training System) Amendment Bill (the 'Bill') and recommended changes to the Bill.
- This report is to be provided to the Education and Workforce Committee in the Ministry's capacity as advisors to the Committee.

## What action do we need, by when?

- The report is due with the Education and Workforce Committee by 3pm Friday, 1 August 2025.
- Please advise if you would like to discuss further any of the Ministry's recommendations by midday Thursday, 31 July 2025.

## Key facts, issues and questions

- The Ministry are required to serve as advisors to the Education and Workforce Committee.
- The Departmental Report is provided to the Committee in accordance with our obligations under that role.
- We will work hard over the next two days to get the Report into a final version to present to the Committee.

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## Alignment with Government priorities

1. This report supports the redesign of the vocational education and training (VET) system, which is one of your priorities for the Vocational Education portfolio.

## Background

2. The Education and Training (Vocational Education and Training System) Amendment Bill was introduced to Parliament on 13 May 2025, and following its first reading on 20 May 2025, was referred to the Education and Workforce Committee.
3. The Ministry of Education (along with support from the Tertiary Education Commission (TEC) and New Zealand Qualifications Authority (NZQA)) have acted as advisors to the Committee on matters relating to the Bill. The Departmental Report is the Ministry's advice to the Committee and is provided to you on a 'no surprises' basis.
4. The deadline for the report to be lodged with the Committee is 3pm, Friday 1 August 2025. We have worked hard within tight time constraints to deliver this Departmental Report in the time available, noting that it is still draft and subject to further proofing and editing.
5. Over the next 48 hours we will work to better streamline the report, remove repetition and improve readability and consistency.

## Submissions and key themes

6. Public submissions on the Bill were open from 21 May 2025 until 18 June 2025. Oral submissions on the Bill were heard by the Committee on 10 and 11 July 2025.
7. There were 210 written submissions and 32 oral submissions.
8. Overall, submissions largely coalesced around the following key areas:
    - 8.1. The changes to the industry levy provisions
    - 8.2. The two-step transition process for work-based learning divisions out of Te Pūkenga and into Industry Skills Boards, including a perceived prohibition on enrolling new learners
    - 8.3. Concerns around expanded Ministerial powers and government oversight through control of appointments
    - 8.4. Reduced requirements concerning representation on polytechnic councils for staff, students, Māori, Pacific peoples and disabled people
    - 8.5. Clarity on federation entry and exit.
9. Further, there was a significant number of submissions that included comment on inadequate funding of the sector. However, as this is outside the scope of the Bill, we have not addressed these comments directly.
10. The approach we have taken in preparing the Departmental Report is to review submissions, provide our analysis and make recommendations for change where the amendment:
    - 10.1. remains consistent with government policy decisions and
    - 10.2. enhances and improves the workability of the legislation.
11. At the end of the Departmental Report in **Annex 1: Summary of recommended amendments to the Bill**, is a table setting out each of the recommended changes and amendments.

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## Recommendation regarding changes to the industry levy

12. Many submitters commented on changes to the current levy provisions, with most arguing that the current higher legislative thresholds in the Act should be retained. A number also requested greater robustness around limiting what the levy could be used for, specifically referencing the good practice guidelines issued by the Office of the Auditor-General.

13. In our analysis and response, we have noted that decisions were taken by the Government to amend the provisions to make it easier for an Industry Skills Board to demonstrate industry support for a levy, rather than setting out specific legislative requirements.

14. We concur with submitters that the Office of the Auditor-General's guidance on levies is relevant to these levy provisions and we expect these to be reflected in any levy order developed under these provisions.

15. As a mitigation, officials are recommending that industries are consulted (as required in new Section 385A (2)) so that they understand all terms of the levy that could be imposed. Accordingly new Section 385A (2) (a) should be amended to read "the industry skills board has undertaken adequate consultation **on the proposed levy order** with the levy group concerned" [Additional text in bold]. This sets out that an ISB must consult with the affected group on the Order itself – and thus how the matters set out in Schedule 16 and 17 are reflected in it – rather than only on whether a levy could be implemented or not.

## Recommendations on the two-step transition process for work-based learning divisions (including continued enrolment of learners)

16. Of those who submitted on work-based training provisions in the Bill, there were low levels of support for the proposed approach. Most of these submitters requested that the Bill allow for a one-step transition directly from Te Pūkenga into PTE status, particularly where there was a proven track record of experience, capability, industry support and delivery.

17. This was further exacerbated by submitters interpreting clause 155 as meaning that work-based learning divisions would not be permitted to continue to enrol learners. Submitters concerns were that it removes learner and employer choice, creates risk and adds complexity and administrative burden. Further, it restricts the ability for a work-based learning division to enrol learners while assuming there is ready capacity elsewhere in the system. It has the effect of requiring work-based learning divisions to promote or redirect learners to another provider.

18. Officials have noted that the work time available between passage of the Bill in mid-October and the transfer of work-based learning divisions out of Te Pūkenga on 1 January 2026 is approximately eight weeks. Allowing some Work Based Learning divisions (or parts thereof) to transition directly to a Private Training Establishment (PTE) would limit TEC's ability to manage the process in a way that ensures a comprehensive and coherent network of provision, and negatively impact on the TEC's ability to implement the VET redesign in the timeframes set.

19. In addition, there are a number of steps that need to occur to register a PTE and NZQA has advised that it takes a minimum of 50 working days to complete their approval process for a PTE. This means that few if any divisions would, in practice, be able to follow a one-step process and meet the intended 1 January 2026 date for transition.

20. On balance, officials consider that the current timeframes for delivery and the substantial implementation work programme mean that the system risks of this proposed change outweigh the benefits and no changes to the two-step process in the Bill are recommended.

21. For the avoidance of doubt and greater clarity regarding the ability for work-based learning divisions to continue enrolling, we propose rewording clause 155 to say TEC can stop enrolments, rather than TEC has to approve enrolments. We recommend changing cl. 155 (1) to read "An industry skills board may enrol a new trainee in a training activity unless

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TEC has removed approval to enrol a trainee or class of trainees by notice in writing to the industry skills board."

### Recommendation on expanded Ministerial powers and government oversight

22. Some submissions were concerned that the appointment of industry representatives was not sufficiently industry-led, and either opposed or sought clarification of the process for appointing industry members – including through the Bill directly stating that industry would *appoint* rather than *nominate* Board members. Some submitters expressed particular concern at the transition provision for Ministerial appointees to appoint industry representatives (from a list of industry nominees). They were concerned that this could continue past the first Board.

23. Other submitters commented on the proportion of Ministerial Council appointments on polytechnics, with a number preferring a lower proportion, for example, no more than one quarter to one third. Submitters sometimes had alternative proposals, for example, for designated places for particular groups.

24. We have noted in our response to the Committee that Cabinet has taken decisions on the number of Ministerial appointments, notably:-

    24.1. Ministerial appointments on Industry Skills Boards are intended to reflect the Government's interest in ensuring an effective and efficient standards-setting system. The majority of Board members will be selected from industry nominations, and

    24.2. Ministerial appointments to Councils are not equivalent to Ministerial control over councils. Once appointed to a council, members must act in the best interest of the institution (see Schedule 11, clause 10 of the principal Act). Appointments by the Minister provide an opportunity to ensure the council has particular skills, expertise or relationships they can bring to the council.

### Recommendations regarding reduced requirements for representation on polytechnic councils

25. Cabinet decisions were taken to legislate for a relatively small, skills-based Council for polytechnics, but also that the parties responsible for appointing members have to ensure a set of matters are considered in deciding upon appointments.

26. While there is nothing in the Bill that precludes staff and students from being appointed to Councils, the parties making the appointments have to consider all the matters required and satisfy themselves that doing so would result in a council that, as far as reasonably practicable, meets the requirements.

27. To discharge the duties of councils in clause 321 (c), which are to "ensure the polytechnic operates in a way that allows the polytechnic to develop meaningful relationships and to engage with communities at a local level, including industries, Māori employers, hapū and iwi, and Pacific communities", the council will need to oversee structures that can allow for this.

28. In October 2024, you agreed that the matters to be considered when making appointments to an ITP council include the need to have regard to the principle that a council should, as far as reasonably practicable, reflect the industries and commercial activity, the ethnic, gender, and socio-economic diversity, and the diversity of abilities, of the communities it serves, and should include Māori [ER 1336888 refers].

29. This was reflected in the drafting instructions issued to Parliamentary Counsel Office (PCO) on 18 December 2024. However, clause 318 (1) of the Bill currently states:

    (1) The council of a polytechnic should, as far as is reasonably practicable —
        (a) reflect the communities in the region that the polytechnic serves, including (without limitation) their—

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(i) industries and commercial activities; and
(ii) ethnic, gender, and socio-economic diversity; and
(iii) diversity of abilities; and

(b) include Māori.

30. We have identified that this is different to what you agreed in October 2024, and the instructions issued to PCO. A significant number of submitters commented that they thought the "as far as reasonably practicable" should not apply to the inclusion of Māori on the council. To ensure the provision reflects what you agreed and that Māori membership is included without any qualification, we propose amending the clause as follows:

(1) The council of a polytechnic should, ~~as far as is reasonably practicable~~ —

(a) as far as is reasonably practicable reflect the communities in the region that the polytechnic serves, including (without limitation) their—

(i) industries and commercial activities; and

(ii) ethnic, gender, and socio-economic diversity; and

(iii) diversity of abilities; and

(b) include Māori.

31. Please confirm if you are comfortable with this amendment to rectify the PCO drafting error.

## Legislative Scrutiny memorandum by the Office of the Clerk of the Committee

32. On 7 July 2025, the Committee Staff of the Education and Workforce Committee provided their advice to assist the Committee's scrutiny of the Bill, by raising matters related to the legislation's design the Committee may wish to consider in greater detail. This was contained in the Legislative Scrutiny Briefing Memorandum.

33. The Committee resolved to seek further information from the Ministry on all four of the issues raised in the Scrutiny memorandum. Annex 4 sets out the Ministry's responses.

## Next Steps

34. We have provided you with a draft Departmental Report which we consider addresses the substantial issues raised through submissions.

35. We will continue to peer review and quality assure the report over the next two days, as well as proofing and editing.

36. We will need any feedback or suggestions from your office by 5 pm, Thursday 31 July 2025 in order to meet the 3pm deadline for lodging the following day.

## Annexes

The following are annexed to this paper:

Annex 1: The Education and Training (Vocational Education and Training System) Amendment Bill Departmental Report to the Education and Workforce Select Committee **- DRAFT**

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## Recommended Actions

The Ministry of Education recommends you:

a. **note** that the draft Departmental Report is provided to the Education and Workforce Committee in the Ministry's capacity as the advisors to the Committee

**Noted**

b. **note** that officials will continue to edit, peer review and quality assure the Departmental Report prior to lodging with the Education and Workforce Committee on 3pm Friday 1 August 2025

**Noted**

c. **agree** to the amendment to clause 318 (1) to rectify the drafting error

**Agree / Disagree**

d. **agree** to provide any feedback or suggestions on the Departmental Report to Ministry officials by 5pm Thursday 31 July 2025

**Agree / Disagree**

**Proactive Release:**

e. **agree** that the Ministry of Education release this paper once the Education and Workforce Committee have reported back on the Education and Training (Vocational Education and Training System) Amendment to clause Bill with any information needing to be withheld done so in line with the provisions of the Official Information Act 1982.

**Agree / Disagree**

9(2)(a)

**VET Programme Manager**

**Te Pou Kaupapahere**

29/7/25

Hon Penny Simmonds

**Minister for Vocational Education**

30/7/25

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## Annex 1: The Education and Training (Vocational Education and Training System) Amendment Bill Departmental Report to the Education and Workforce Select Committee - DRAFT

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