Te Tāhuhu o te Mātauranga
Ministry of Education

Report: Further changes to VET Bill

To:	Hon Penny Simmonds, Minister for Vocational Education		
Cc:	Hon Erica Stanford, Minister for Education		
Date:	18/09/2025	Deadline:	22/09/2025
Security Level:	In-Confidence	Priority:	High
From:	Andy Jackson, Deputy Secretary, Policy	Phone:	9(2)(a)
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Why are we sending this to you?

- As you are aware, the Education and Workforce Committee have agreed to recommend two changes in their report back on the Education and Training (Vocational Education and Training System) Amendment Bill that are different to previous decisions made on these provisions.
- Separately, we discussed with you the timeline pressures that the election in 2026 creates, and the residual risk that Te Pūkenga/NZIST will reach its disestablishment date of 31 December 2026 without decisions having been made on all of the remaining polytechnic divisions.

What action do we need, by when?

- We recommend that you discuss the Committee's proposed changes at Cabinet and seek agreement to help ensure the Government's position in relation these changes is clear prior to second reading.
- If you agree, the Ministry will prepare material outlining these changes and their associated risks to support an oral item at Cabinet.
- Separately, we seek confirmation to amend the final disestablishment date for Te Pūkenga to 31 March 2027 to mitigate the risk to the remaining polytechnics.

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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. The Committee stage is nearly complete with the Committee due to report back to the House no later than Monday 22 September.

3. On 27 August 2025, the Ministry received the Committee's draft commentary report on the Bill which adopted all the changes the Ministry had recommended in the Departmental Report.

4. On 10 September 2025, Ministry Officials attended the Committee's deliberation meeting where the Committee discussed their proposed feedback on the Bill and indicated two further changes for inclusion in their report. These changes had not previously been raised or discussed with officials. They relate to clauses 318 (specifically, which groups should have representation on polytechnic councils), and 370(e) (which requires ISBs to contribute to an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relations).

5. On 17 September, the Committee met to discuss further amendments to these clauses and voted to include new versions of the clauses (set out below) in their final report back. We note that this information was shared in a private hearing with the Committee members and officials, and is privileged.

6. A further issue discussed in this paper relates to the final disestablishment date of Te Pūkenga in the Bill and the potential risk to the remaining polytechnic divisions if decisions on their future are unable to be taken in time next year.

It is unclear whether the Committee's proposed changes to the Bill represent a formal change in Government Policy

Clause 318

7. One of the two amendments proposed by the Committee in its private consideration of the Bill concerns the drafting error we advised you about on 29 July [METIS 1350504 refers], where the Bill as introduced was at variance with the proposal in the material agreed at Cabinet in December 2024.

8. You agreed that a correction be made to clause 318(1) so that Māori would be included on polytechnic councils without the qualification of "as far as is reasonably practicable".

9. Having previously adopted this recommendation when the Committee considered the Departmental Report, the Committee has now indicated it will not recommend making this correction, instead making further proposed amendments to the clause as follows:

318 Matters to be considered when appointing members of polytechnic's council

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

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(a) 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.~~

10. We wanted to ensure you were aware of this development as the amendment is significantly different to your previous decision on this clause. Additionally, it represents a policy shift away from the need to include representation from these groups as far as reasonably practicable, as previously agreed to by Cabinet when the Bill was approved for introduction in May 2025 [LEG-25-MIN-0077 refers].

11. Given the significant levels of participation by Māori in polytechnic education and training, and the Crown's wider obligations under Te Tiriti, the deletion of any reference to include Māori is problematic. We consider a more appropriate approach to considering Māori representation on polytechnic councils would be through the Treaty References Review lead by the Minister of Justice, and further discussion on this is set out below in paragraphs 21-25.

12. The deletion of references to the other groups in the clause creates additional issues in terms of misalignment with Government policy decisions, and other Government goals. For example, removing the reference to a council of a polytechnic needing to reflect the "industries and commercial activities" in a polytechnic's region, appears to run counter to the General Policy Statement (GPS) of the Bill. The GPS sets out the underlying intention of the Bill is to increase industry involvement in VET, and that

> *"This redesign of the system is consistent with the policy intent for vocational education and training to reflect local and regional education, training, and industry workforce needs. The redesign is intended to support economic productivity in the regions and nationally, and to ensure the vocational education and training system remains responsive to new and emerging industry developments."*

13. The Ministry's view is that ensuring polytechnic councils reflect the relevant industry and commercial groups of a polytechnic's region would be a key action to support this policy aim.

14. These deletions will remove any specific obligation to have these groups reflected on polytechnic councils. As such, they may weaken the ability of Ministers and councils to make appointments to improve the reach of polytechnics into these communities and to understand and meet their needs. This move appears to be a departure from Government policy. We recommend these changes are discussed at Cabinet and approval sought in order to address any uncertainty arising from the previous Cabinet decisions, and to clarify the Government's current position.

15. To this end, you may wish to consult with the Cabinet Office to seek clarification on the appropriate steps.

Clause 370 (e)

16. The Committee has also indicated an amendment to clause 370 (e) as follows:

370 Performance of industry skills board's functions and duties

When performing its functions and duties under sections 367 to 369, the industry

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skills board must act in a manner that—

(a) …….(unchanged)

(b) …….(unchanged)

(c) …….(unchanged)

(d) …….(unchanged)

(e) ~~contributes to an education system that honours Te Tiriti o Waitangi and supports Māori–Crown relations. must have~~ has regard to the needs of Māori and other population groups as identified in the tertiary education strategy issued under section 7.

17. The Committee's proposed text for 370 (e) replicates the current section 369 (2) (b) of the Education and Training Act 2020 (the Act) for ISBs. This currently applies to Workforce Development Councils (WDCs). However, the Orders in Council for all WDCs also include the requirement that, when performing their functions, they must contribute to an education system that honours Te Tiriti o Waitangi and supports Māori–Crown relations. The WDCs are therefore both required to have regard to the needs of Māori (and other population groups) via the Act, and contribute to an education system that displays these features via their Orders.

18. The ISB Orders in Council are intended to be more standardised and streamlined than those of WDCs, and much of the content previously included in Orders will now be included in primary legislation. As this obligation existed in every WDC Order, it was shifted into the primary legislation as new section 370 (e) during the drafting of the Bill to ensure that the same obligations that currently apply to WDCs will continue to apply to ISBs.

19. The proposed amendment will, in practice, change obligations on ISBs compared to WDCs by removing any direct requirement relating to Te Tiriti and Crown-Māori relations and instead relying on the overarching provisions of section 4 (d) of the Act. The previous wording of 370(e) would have made it clear that this purpose should be reflected in ISBs' performance of their functions. We also note that the Committee's proposed text could be read as confined only to needs that are identified in the Tertiary Education Strategy, without the broader obligation established by the original text.

20. It is unclear whether this amendment represents a formal change in Government policy, however the Ministry recommends this amendment would be more appropriately addressed through the Treaty References Review lead by the Minister of Justice, as discussed below.

Review of Treaty clauses led by the Minister of Justice

21. The Treaty References Review (the Review) has progressed and has now been reported back to Ministers. We propose that, given the proposed deletion of the reference to include Māori in clause 318 and the amendments to clause 370(e) relate to how the Treaty and Crown/Māori relationship is reflected in legislation, they are not progressed at this time and are instead dealt with through the Review.

22. Ensuring consistency in approach to the Treaty across appointments clauses in legislation is a focus of the review. We support the conclusion of the Review that, unless there is a good reason, a consistent approach to how the Treaty and Crown/Māori relationship is provided for in appointments should be taken across the education system.

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23. Additionally, a key focus of the Review is consideration and standardisation of the 'standard' that should be met when providing for the Treaty (e.g. to give effect to, have regard to, take account of, etc). We consider that it is more appropriate that consideration of whether ISBs 'honour' or meet some other standard, and meet the standard in respect of Te Tiriti, the Treaty or both, should be taken within the context of the Review to ensure a consistent approach across the statute book. The previous drafting of clause 370(e) preserved the current state of obligations (as they apply to WDCs, and transferred them to ISBs), and any changes made now for ISBs will pre-empt the ongoing work of the Review.

24. We note the changes are likely to have a heightened degree of scrutiny – for example the disestablishment of Te Pūkenga has been raised as a priority issue for the WAI 3310 claim.

25. For these reasons, it would be better for the Crown to have a settled policy position on these issues. Therefore we recommend these changes are discussed at Cabinet and approval sought to clarify the Government's current position prior to the Bill being reported back to the House.

Final disestablishment date for Te Pūkenga/NZIST

26. A separate issue for your consideration relates to the final disestablishment date for Te Pūkenga/NZIST in the Bill. As discussed with you this week, there are significant risks to the remaining polytechnics if decisions about their future cannot be made by mid-next year.

27. Because it is an election year, there is less time available in 2026 to make decisions and implement them. The Government has the right to govern until the result of the election is confirmed. However, there is a convention that significant appointments are not made during a three-month period prior to the election. At the latest, this will commence in July 2026 and appointments to new polytechnic Councils would be likely to meet this threshold.

28. While two of the four remaining polytechnics (WITT and Weltec/ Whitireia) are nearing the point where a decision can be made to stand them up, the final two polytechnics (Northtec and Tai Poutini) will require decisions to be made next year. If decisions are not made and the polytechnics remain within Te Pūkenga/NZIST, there is a significant risk that Te Pūkenga/NZIST will reach its disestablishment date of 31 December 2026 and the options for these polytechnics would become very limited.

29. From a practical point of view, in the absence of legislative options to resolve any such situation, the only way to manage it would be through emergency cash injections. There is significant value in not having to take such a course of action with an impending deadline for dissolution of Te Pūkenga that cannot be moved.

30. Whilst the intention remains that all required decisions are made by June, amending the final date for the disestablishment of Te Pūkenga/NZIST in the Bill from 31 December 2026 to 31 March 2027 will provide a backstop date to mitigate the risk for the remaining two polytechnic divisions, and ensure the Government does not run out of 'runway' to make the necessary decisions. If the additional three months are required for this decision-making, Te Pūkenga./NZIST would need to retain sufficient funding to keep the polytechnics going over that period (and its own remaining operations).

31. You will still be able to disestablish Te Pūkenga earlier if all the future pathways for the four polytechnics can be resolved in the first half of next year.

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32. We understand you agreed to this change at your officials meeting on 16 September, and we recommend the new date can be included in the proposed Amendment Paper currently being drafted without the need to go back to Cabinet, on the grounds that it is minor and technical.

Next Steps

33. In relation to the Select Committee's additional changes to the Bill, if you agree to provide an oral item at Cabinet to seek clarity on the Government's current position, the Ministry will prepare material to support this.

34. In relation to the final disestablishment date for Te Pūkenga/NZIST, once we receive this signed paper as confirmation from you, we will provide instructions to the Parliamentary Counsel Office to change the date to 31 March 2027 in the Amendment Paper already being prepared.

Recommended Actions

The Ministry of Education recommends you:

note the Education and Workforce Committee have indicated it will recommend two further changes to the Bill that are different to previous decisions made on these aspects of the Bill

Noted

note that you previously agreed that a correction be made to clause 318(1) so that Māori would be included on polytechnic councils without the qualification of "as far as is reasonably practicable"

Noted

note the Committee's proposed changes include deleting the references to all the groups listed to be reflected "as far as reasonably practicable" on a polytechnic council in clause 318, leaving only the words "reflect the communities in the region that the polytechnic serves"

Noted

note the deletion of reference to the other groups in the clause creates other issues in terms of misalignment with Government policy decisions and the aim to ensure councils can meet the needs of their regions

Noted

note the proposed changes also include deleting the current wording of clause 370(e) and replacing it with "*has regard to the needs of Māori and other population groups as identified in the tertiary education strategy issued under section 7"*

Noted

note that given aspects of these clauses relate to how the Treaty and Crown/Māori relationship is reflected in legislation the Ministry proposes they are not progressed at this time and are instead dealt with through the broader review of Treaty clauses being led by the Minister of Justice

Noted

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agree to discuss both of the Committee's proposed changes at Cabinet and seek agreement to ensure the Government's current position is clear prior to second reading on 7 October 2025

Agree **Disagree**

note there are significant risks to the polytechnic divisions remaining within Te Pūkenga/NZIST if decisions about their future cannot be made by mid-next year

Noted

agree to amend the final date for the disestablishment of Te Pūkenga/NZIST in the Bill from 31 December 2026 to 31 March 2027 to provide a backstop date to mitigate this risk

Agree **Disagree**

note this paper is being copied to Minister Stanford due to the proposed NCEA changes including the role for ISBs in secondary-tertiary pathways.

Noted

Proactive Release:

agree that the Ministry of Education release this paper with any information needing to be withheld done so in line with the provisions of the Official Information Act 1982.

Agree **Disagree**

Andy Jackson

Deputy Secretary, Policy

Te Pou Kaupapahere

18/09/2025

Hon Penny Simmonds

Minister for Vocational Education

20/09/25

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