



Briefing Note: Talking points for the network management SOP,
LEG Committee on 9 December 2021

To:	Hon Chris Hipkins, Minister of Education		
Date:	6 December	Priority:	Medium
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Purpose of paper

This paper provides talking points for the Cabinet paper *Education and Training Amendment Bill (No 2) - Supplementary Order Paper: Approval for Release*, which will be considered by Cabinet Legislation Committee on 9 December 2021.

Proactive release

Agree that this briefing will be proactively released after the Supplementary Order Paper (SOP) has been referred to select committee.

Agree / Disagree



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Te Puna Kaupapahere
06/12/2021



Hon Chris Hipkins
Minister of Education

9 /12/ 2021

Talking Points: *Education and Training Amendment Bill (No 2):
Supplementary Order Paper: Approval for Introduction*

Proposal

1. I am seeking agreement to release a Supplementary Order Paper to amend the network management provisions of the Education and Training Act 2020.
2. Sections 17 and 18 of the Education and Training Act 2020 introduced network management for licensed early childhood services. Network management approvals examine the need for an early childhood service and the suitability of the applicant. These provisions will come into force on 1 August 2022.
3. The SOP amends sections 17 and 18 of the Bill to:
 - introduce National and Regional Statements to provide potential applicants with quality information. This includes Government priorities, forecast growth, and demand and supply of licensed early childhood services
 - clarify that some factors that the Minister of Education must take into account as part of their decision-making role need only be assessed at a high level
 - shift the initial administrative assessments of suitability of the applicant to the Secretary, and provide a right to appeal this assessment
 - strengthen the test of applicant suitability by strengthening the fit and proper assessment by the Secretary, and by introducing a new capability assessment by the Minister
 - introduce provisions to provide transparency about the process, which includes imposing conditions of approval and specifying when extensions to conditions or approval would be considered
 - provide for transitional provisions and consequential amendments to the Education (Early Childhood Services) Regulation 2008.

The paper seeks to amend a previous Cabinet decision

4. I am also seeking agreement to amend a previous Cabinet decision.
5. In November this year, Cabinet agreed to change the Act to ensure the high-level decision-making role of the Minister of Education is clear. This decision had the effect of applying the high-level assessment to the Minister's approval decisions themselves.
6. As the SOP was being drafted, it became clear that the high-level assessment is more appropriately applied to some factors that the Minister must take into account when making an approval decision (for example the relevant attributes of the area to be served), rather than the decision itself.
7. I am seeking agreement that the high-level assessment aspect is applied to the relevant attributes of the area to be served, rather than the approval decision itself.

Minor and technical drafting changes

8. Cabinet authorised me to make decisions on any matters that may arise during the drafting process without further reference to Cabinet, subject to the decisions being consistent with

the policy decisions. I have used this authority to make the following changes, as set out in the SOP:

- the Minister will consider applications for approval in relation to the findings of National and Regional Statements
- the Minister may specify conditions subsequent to application approvals and may also amend or revoke existing conditions. This ensures flexibility in different scenarios
- the Secretary must consider any health conditions that may affect an applicant's ability to comply with the Act and the terms of the licence. This includes both licensing regulations and any future regulations created for network management
- the Secretary may only finalise an adverse fit and proper assessment after considering the applicant's response to the assessment.

The Education and Training Amendment Bill (No 2)

9. The SOP will amend the Education and Training Amendment Bill (No 2). The Bill is currently awaiting its first reading and referral to the Education and Workforce Committee.
10. Once the SOP has been released, I intend to refer it to the select committee for consideration at the same time as the Bill.