

Cabinet Paper material

Proactive release

Minister & portfolio	Minister Hipkins, Education
Name of package	Commencement of network management for licensed early childhood services and exclusion of Māori immersion services
Date considered	7 March 2022
Date of release	3 May 2022

These documents have been proactively released:

Cabinet Paper: Commencement of network management for licensed early childhood services and exclusion of Māori immersion services

Date considered: 7 March 2022

Author: Minister Hipkins

Cabinet Minutes: CAB-MIN-22-0052

Date considered: 7 March 2022

Author: Cabinet Office

Cabinet Minutes: SWC-22-MIN-0017

Date considered: 2 March 2022

Author: Cabinet Office

Briefing Note: 1281865 Network management Cabinet paper for lodging and talking points

Date considered: 23 February 2022

Author: Ministry of Education

Material redacted

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister's portfolio responsibilities, and is not relevant to the proactive release of this material.

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<http://legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html>

In Confidence

Office of the Minister of Education

Cabinet Social Wellbeing Committee

Commencement of network management for licensed early childhood services and exclusion of Māori immersion services

Proposals

- 1 I seek Cabinet approval to:
 - 1.1 shift the commencement date of network management for early learning services from 1 August 2022 to 1 February 2023
 - 1.2 exclude kōhanga reo chartered to Te Kōhanga Reo National Trust from the need to seek network management approval
 - 1.3 consult further with other Māori immersion services on a definition to exclude them from network management.

Relation to government priorities

- 2 The proposals in this Cabinet paper will support the Government's focus on high quality educational outcomes for our youngest learners. These proposals align with the objectives set out in *He taonga te tamaiti: Every child a taonga – the Early Learning Action Plan 2019-2029*.

Executive Summary

Background

- 3 As Cabinet noted in July 2020, the Ministry of Education (the Ministry) is undertaking a comprehensive review of the early learning regulatory system (the Review) [SWC-20-MIN-0116 refers]. This Review aims to ensure the regulatory system is clear and fit for purpose to support raising the quality of teaching, learning and care for our youngest learners. The Review is being undertaken in three tranches.
- 4 In September 2021, Cabinet agreed to consult on Tranche two proposals [CBC-21-MIN-0087 refers]. Tranche two covered three substantive areas of change – implementing the network management function, regulating for 80% qualified teachers, and strengthening the person responsible requirement.
- 5 This paper only relates to implementing the network management function, specifically the commencement date, and a proposal to exclude Māori immersion services from network management.

The new network management function is currently set to come into effect on 1 August 2022

- 6 Sections 17 and 18 of the Education and Training Act 2020 (the Act) introduce a new network management process for prospective early childhood services seeking a

licence. From 1 August 2022, any applicant seeking a licence will need to seek network management approval from the Minister of Education before being permitted to apply for a licence to operate an early childhood service.

- 7 The purpose of network management is to take a more active role in managing the early learning network. As previously discussed with Cabinet, I have concerns about the oversupply of licensed early childhood services and the corresponding negative impact this has on the availability of teachers in a tight labour market.
- 8 Network management contributes to Objective 5 of the Early Learning Action Plan, *He taonga te tamaiti*: Ensure early childhood services are part of a planned and coherent education ecosystem that is supported, accountable and sustainable.

The Education and Workforce Select Committee is considering changes to the Act

- 9 From 8 September to 13 October 2021, I consulted on proposals for network management requiring changes to the Act. Overall, respondents supported our major proposals and I progressed changes to the Act last year via a Supplementary Order Paper (SOP). The SOP is currently being considered by the Education and Workforce Select Committee, and includes:
 - 9.1 allowing the Minister of Education to introduce National and Regional Statements for network management that outline the Government's priorities for network management and provide data and information on supply and forecast growth, demand and need for licensed early childhood services; and
 - 9.2 strengthening the test of applicant suitability, by strengthening the fit and proper assessment by the Secretary for Education and introducing a new capability assessment by the Minister of Education.

I propose to delay the commencement date of network management from 1 August 2022 to 1 February 2023

- 10 The introduction of network management is one of the most significant changes for the early learning sector in over a decade. Earlier last year I was confident that we had sufficient sector readiness and support for the 1 August 2022 commencement date, but I am no longer satisfied that this is the case.
- 11 The current timeline to achieve the 1 August 2022 date was developed before the Delta and Omicron outbreaks and does not take account of significant disruption for the sector and the Ministry of Education. I am now concerned that the 1 August 2022 commencement date will not allow sufficient time:
 - 11.1 to consult with the early learning sector on the detailed regulations and government priorities for the national and regional statements when they are also responding to the impacts of COVID (particularly in the Auckland region).
 - 11.2 for new services establishing to engage with the proposed requirements and, if needed, pivot their proposed service to respond to these. I am aware of services that were intended to be ready for licensing before commencement of network management but are no longer ready due to COVID-19 impacts.

- 12 I am seeking Cabinet approval to shift the commencement date of network management to 1 February 2023 to allow for an additional six month's preparation. This will include any services that are affected by delays in completing processes and obtaining building materials. Additional time will allow Government longer to consult with the sector on the policy for new regulations. It will also give services more time to respond to the National and Regional Statements once they have been issued. I do not think a period of less than six months (i.e. earlier than 1 February 2023) would have a material impact on sector readiness.
- 13 If Cabinet agrees to this change, I will advise the Select Committee in the mid-March Departmental Report on the SOP.

Exclusion of kōhanga reo from network management and intension to consult on exclusion of other Māori immersion services (excluding kōhanga reo)

- 14 On 13 October 2021, Te Kōhanga Reo National Trust requested excluding kōhanga reo from network management or that an alternative process be provided. Jointly the Associate Minister of Education (Māori Education) and I agreed that the Ministry of Education should progress conversations with Te Kōhanga Reo National Trust and other Māori immersion services about excluding all Māori immersion services from network management. I signalled this intention to Cabinet in November 2021 as part of seeking decisions on changes required to the Act [SWC-21-Min-0179 refers].
- 15 I would now like to seek Cabinet approval to exclude from network management all kōhanga reo chartered to Te Kōhanga Reo National Trust. I will progress this change through the Departmental Report on the SOP and Education and Training Amendment Bill (No2).
- 16 I wish to continue conversations with other Māori immersion services specifically on their exclusion as they are not yet in a position to agree on a suitable definition for Māori immersion services. I plan to finalise a definition by May 2022 and introduce another SOP when the Bill to amend the Act is before the House again.
- 17 Growing the supply of early childhood services provided in te reo Māori is a key priority for government and a responsibility under Te Tiriti o Waitangi. The decision to exclude kōhanga reo and other Māori immersion services from network management is intended to acknowledge our obligations under Te Tiriti o Waitangi in relation to partnership and active protection. The kōhanga reo movement and other Māori immersion services are a key contributor to the revitalisation and protection of te reo Māori in early childhood education.
- 18 Exclusion of kōhanga reo and other Māori immersion services from network management will enable these services to seek a licence directly and access government funding for licensed services.

Implementation

- 19 If Cabinet agrees to extend the commencement date, I have set out my plan below to seek decisions on finalising the regulations:

Milestone/Activity	Timeframe
Consultation	April - May 2022
Cabinet approval of final policy settings for new regulations	July 2022

for network management	
Cabinet approval of regulations	August 2022
Start of network management	1 February 2023

Financial Implications

20 There are no financial implications for the Crown from this paper.

Legislative Implications

- 21 The proposals in this paper require changes to the Act. In particular, I will:
- 21.1 progress a change to the commencement date as part of the Departmental Report on the SOP (currently before the Education and Workforce Select Committee)
 - 21.2 progress exclusion of kōhanga reo chartered to Te Kōhanga Reo National Trust as part of the Departmental Report on the SOP (currently before the Education and Workforce Select Committee)
 - 21.3 provide another SOP on the exclusion of other Māori immersion services following consultation.

Population Implications

22 I have assessed the following implications:

Population group	How the proposal may affect this group
Children	More active management of the network is intended to help ensure all children have access to quality early learning settings and prevent unintended consequences of over-supply.
Women	Some communities are still underserved, while some areas have experienced service growth beyond demand. This impacts on service viability and parent choice. The proposed network management settings would identify where there is demand for new services. This should stimulate the establishment of new services, thus enabling women to access early learning for their children. Network management should also provide opportunities for women to enter the early learning workforce (as teachers and managers) and the wider workforce.
Māori	The proposals to exclude kōhanga reo and other Māori immersion services will reduce barriers of entry for new services that wish to deliver early learning in te reo Māori. This will benefit Māori who are the predominant users of those services.
Pacific	More active management of the network is intended to help ensure all children have access to quality early learning settings and prevent unintended consequences of over-supply. My proposed change to the date of commencement will give new Pacific services

	more time to prepare for network management. This paper aligns with Goal 4 of the Pacific Aotearoa Lalanga Fou report: Confident, thriving, and resilient Pacific young people, specifically the sub-goal to improve the experience of Pacific young people in education. The proposals will help to ensure Pacific children receive quality early learning education and will give new Pacific early learning services more time to prepare for network management.
Disabled people	Overall, network management is intended to help lift the quality of early learning settings and have a better managed network of early childhood services. This may benefit disabled children who use licensed early childhood services.

Human Rights

- 23 The proposals appear to be consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. A final determination as to the consistency of these proposals with the New Zealand Bill of Rights will only be possible when the regulations have been drafted.

Impact Analysis

Regulatory Impact Statement

- 24 Treasury's Regulatory Impact Analysis team has determined that the proposal regarding the network management of licensed early childhood services is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities. It is also exempt on the grounds that it has been addressed by existing impact analysis. Refer [SWC-19-MIN-0157 and previous Regulatory Impact Statements <https://assets.education.govt.nz/public/Documents/Ministry/Legislation/ETB/Network-Planning-in-Early-Learning.pdf> and https://assets.education.govt.nz/public/Documents/Early-Childhood/network-management/Regulatory-Impact-Statement_-Network-Management-in-Early-Learning.pdf].

Climate Implications of Policy Assessment

- 25 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to these proposals as the threshold for significance is not met.

Consultation

- 26 The Treasury, Department of Prime Minister and Cabinet, Public Service Commission, Te Puni Kokiri, Ministry for Pacific Peoples, Ministry for Women, Ministry of Business, Innovation and Employment, Ministry of Social Development, the Office for Disability Issues, the Ministry of Health, Ministry of Justice, Oranga Tamariki, Education Review Office and the New Zealand Qualifications Authority have been consulted.

Communications

- 27 Following Cabinet's endorsement, the Education and Workforce Select Committee will be advised as part of the Departmental report on the SOP. Once the Select Committee has been advised, I will then communicate the decisions in this paper.

Proactive Release

- 28 I intend to proactively release this Cabinet paper subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Education recommends that the Committee:

- 1 **agree** to amend the commencement of network management from 1 August 2022 to 1 February 2023
- 2 **agree** to exclude kōhanga reo chartered to Te Kōhanga Reo National Trust from network management
- 3 **agree** to consult further with other Māori immersion services on a definition to exclude them from network management.

Authorised for lodgement

Hon Chris Hipkins

Minister of Education



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Social Wellbeing Committee: Period Ended 4 March 2022

On 7 March 2022, Cabinet made the following decisions on the work of the Cabinet Social Wellbeing Committee for the period ended 4 March 2022:

SWC-22-MIN-0017 **Commencement of Network Management for
Licensed Early Childhood Services and Exclusion of
Māori Immersion Services** CONFIRMED
Portfolio: Education

Out of scope

Michael Webster
Secretary of the Cabinet



Cabinet Social Wellbeing Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Commencement of Network Management for Licensed Early Childhood Services and Exclusion of Māori Immersion Services

Portfolio Education

On 2 March 2022, the Cabinet Social Wellbeing Committee (SWC):

- 1 **noted** that:
 - 1.1 in September 2021, the Cabinet Business Committee approved consultation on Tranche two proposals of the early learning regulatory system, including implementing a network management function [CBC-21-MIN-0087];
 - 1.2 in November 2021, SWC agreed to final policy settings for early childhood network management and noted that the Minister of Education (the Minister) intended to submit a paper to SWC in 2022 on remaining proposals [SWC-21-MIN-0179];
- 2 **noted** that network management is due to commence on 1 August 2022, but there are concerns the sector is not sufficiently prepared;
- 3 **agreed** to amend the commencement date of network management from 1 August 2022 to 1 February 2023;
- 4 **noted** that:
 - 4.1 growing the supply of early childhood services provided in te reo Māori is a key government priority and a responsibility under Te Tiriti o Waitangi;
 - 4.2 Te Kōhanga Reo National Trust has raised concerns that any additional compliance from network management may pose a barrier to setting up new kōhanga;
- 5 **agreed** to exclude kōhanga reo chartered to Te Kōhanga Reo National Trust from network management;
- 6 **agreed** that officials undertake further consultation with other Māori immersion services on their exclusion from network management.

Rachel Clarke
Committee Secretary

Attendance: (see over)

Present:

Rt Hon Jacinda Ardern
Hon Grant Robertson
Hon Kelvin Davis
Hon Chris Hipkins
Hon Carmel Sepuloni (Chair)
Hon Andrew Little
Hon Poto Williams
Hon Kris Faafoi
Hon Peeni Henare
Hon Wille Jackson
Hon Jan Tinetti
Hon Dr Ayesha Verrall
Hon Aupito William Sio
Hon Meka Whaitiri
Hon Priyanca Radhakrishnan

Officials present from:

Office of the Prime Minister
Office of the Chair
Officials Committee for SWC

Proactively Released



Briefing Note: Network management Cabinet paper for lodging and talking points

To:	Hon Chris Hipkins, Minister of Education		
Date:	23 February 2022	Priority:	High
Security Level:	In Confidence	METIS No:	1281865
Drafter:	Paul Scholey	DDI:	9(2)(a)
Key Contact:	John Brooker	DDI:	9(2)(a)
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

This briefing provides you with a Cabinet paper on network management updated to reflect agency and ministerial feedback. To meet timeframes for advising the Education and Workforce Select Committee as part of the Departmental Report, the Cabinet paper must be lodged on Thursday, 24 February 2022.

This briefing also provides talking points for Cabinet Social Wellbeing Committee on Wednesday, 2 March 2022.

Recommendations

- a **lodge** the attached Cabinet paper by Thursday 24 February
- b **agree** that the Ministry of Education release this briefing once Cabinet has considered the proposals with any information that may need to be withheld done so in accordance with the Official Information Act 1989.

Release / Not release



John Brooker
Group Manager
Te Puna Kaupapahere

23/02/2022



Hon Chris Hipkins
Minister of Education

23/ 2/ 2022

Consultation with other agencies

- 1 On Tuesday 15 February, we provided you with a draft Cabinet paper seeking approvals for final policy settings for early childhood network management [METIS 1281615 refers].
- 2 We consulted with other government agencies from 16 February to 21 February 2022. Agencies were largely supportive of our proposals to extend commencement and exclude Māori immersion services, but we made some adjustments to the paper in line with feedback:
 - a. we provided more context for the decision to extend the commencement date
 - b. we strengthened the rationale for excluding kōhanga reo and Māori immersion services.

Next Steps

- 3 The timeline for seeking Cabinet approval is outlined below.
- 4 Following Cabinet approval, we propose to advise the Education and Select Committee as part of the Departmental Report on the Supplementary Order Paper.

Date	Activity
23 February	Final Cabinet paper provided to Minister's Office for lodging
24 February	Paper lodged
2 March	SWC
7 March	Cabinet
14 March	Advise the Education and Workforce Select Committee of the proposed changes (as part of the Departmental Report)

Proactively Released

Annex 2: Talking points

Proposal

1. I am seeking Cabinet's approval to:
 - 1.1 delay the commencement date of network management for early learning services from 1 August 2022 to 1 February 2023
 - 1.2 exclude kōhanga reo chartered to Te Kōhanga Reo National Trust from the need to seek network management approval
 - 1.3 consult further with other Māori immersion services on a definition to exclude them from network management.
2. These proposals will support the Government's focus on high quality educational and care outcomes for our youngest learners. These proposals align with the objectives set out in *He taonga te tamaiti: Every child a taonga* – the Early Learning Action Plan 2019-2029.

What is the early learning network management function?

3. Sections 17 and 18 of the Education and Training Act 2020 (the Act) introduce a new network management process for prospective early childhood services seeking a licence.
4. From 1 August 2022, any applicant seeking a licence will need to seek network management approval from the Minister of Education before being permitted to apply for a licence to operate an early childhood service. The purpose is to take a more active role in managing the early learning network.
5. I progressed changes to the Act last year via a Supplementary Order Paper (SOP) based on proposals that I consulted on from 8 September to 13 October 2021.
6. The SOP is currently being considered by the Education and Workforce Select Committee, and includes:
 - 6.1. allowing the Minister of Education to introduce National and Regional Statements for network management and
 - 6.2. strengthening the test of applicant suitability

Delaying commencement date of network management

7. I am seeking Cabinet approval to shift the commencement date of network management from 1 August 2022 to 1 February 2023 to allow for an additional six month's preparation.
8. There are a number of issues with the current commencement date:
 - 8.1. Preparation for the sector and Ministry has proved to be more complex than originally planned and presents additional challenges in the context

of also responding to the evolving demands from COVID-19 (including the expected peak of Omicron in mid-March).

- 8.2. Under the existing commencement date, the sector has little time to engage with the development of the National and Regional Statements and detailed regulations and, if needed, pivot their proposed service to respond to these.
- 8.3. Some new services will now be subject to network management that were not expecting to be, due to delays in their establishment associated with COVID.
9. Additional time will also allow Government to consult with the sector for longer on the policy for new regulations. It will give services more time to respond to the National and Regional Statements once they have been issued. I do not think a period of less than six months (i.e. earlier than 1 February 2023) would have a material impact on sector readiness.
10. If Cabinet agrees, I will progress this change through the Departmental Report on the SOP and Education and Training Amendment Bill (No2).

Exclusion of kōhanga reo from network management

11. On 13 October 2021, Te Kōhanga Reo National Trust requested excluding kōhanga reo from network management or that an alternative process be provided. Jointly the Associate Minister of Education (Māori Education) and I agreed that the Ministry of Education should progress conversations with Te Kōhanga Reo National Trust and other Māori immersion services about excluding all Māori immersion services from network management.
12. The Ministry has now concluded these conversations with the Trust, who agree with the proposal to exclude kōhanga reo from network management.
13. I would therefore like to seek Cabinet approval to exclude from network management all kōhanga reo chartered to Te Kōhanga Reo National Trust. This is to reduce any future barriers to the establishment of new services that deliver the early learning curriculum in te reo Māori. Growing the supply of early childhood services provided in te reo Māori is a key priority for government and a responsibility under Te Tiriti o Waitangi.
14. If Cabinet agrees, I will progress this change through the Departmental Report on the SOP and Education and Training Amendment Bill (No2).
15. I wish to continue conversations with other Māori immersion services on their exclusion as they have not yet agreed on a suitable definition for these services. I plan to finalise a definition by May 2022 and introduce another SOP when the Bill to amend the Act is before the House again.