

Cabinet Paper material

Proactive release

Minister & portfolio Hon Jan Tinetti, Minister of Education
Name of package Policy settings for amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition and network approval
Date considered 8 May 2023
Date of release

These documents have been proactively released:

Cabinet Paper: Policy settings for amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition and network approval

Date considered: 8 May 2023

Author: Ministry of Education

Appendix: Regulatory Impact Statement: Amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition

Date considered: 8 May 2023

Author: Ministry of Education

Cabinet Minute CAB-23-MIN-0164

Date considered: 8 May 2023

Author: Secretary of the Cabinet

Cabinet Social Wellbeing Committee Minute SWC-23-MIN-0038

Date considered: 3 May 2023

Author: Committee Secretary

Education Report: Cabinet Paper: Policy settings for amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition and network approval

Date considered: 16 March 2023

Author: Ministry of Education

Briefing Note: Cabinet Paper: Amendments to regulation 33 of the Education (Early Childhood Services) Regulations 2008

Date considered: 6 July 2023

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. The applicable withholding grounds under the Act are as follows:

Section 9(2)(a) to protect the privacy of natural persons

Section 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinion

Some deletions have also 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

Policy settings for amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition and network approval

Proposal

- 1 I seek Cabinet approval to issue drafting instructions to the Parliamentary Counsel Office for changes required to the Education (Early Childhood Services) Regulations 2008 (the licensing regulations) to:
 - enable the licence for an existing licensed early childhood education and care centre (ECE centre) to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown; and
 - clarify that the new network approval provisions in the Education and Training Act 2020 and the Education (Early Childhood Services Network Approval) Regulations 2022 (the network approval provisions) will be taken into account when considering an application to amend an existing licence.

Relation to government priorities

- 2 The proposals in this Cabinet paper align with the objectives set out in *He taonga te tamaiti: Every child a taonga – the Early Learning Action Plan 2019–2029*. They support the introduction of the network management function (Action 5.1 of the plan).

Executive Summary

- 3 Since 1 February 2023, unless the proposed service is an excluded early childhood service under the Education and Training Act 2020 (the Act), anyone intending to establish a new licensed early childhood service must first apply for and be granted network approval by the Minister of Education. The intention of the network approval function is to help ensure early learning services are part of a planned, diverse and coherent education ecosystem that is sustainable and meets the needs of communities across New Zealand.
- 4 During passage of the Education and Training Bill in 2022, the previous Minister of Education was informed that a small number of early childhood services were affected by a flood protection project that meant their property was acquired under the Public Works Act 1981. Under the current licensing regulations, any ECE centre on land acquired by the Crown for public works or urban development will have to get network approval before applying for a new licence when moving to new premises.

- 5 In response to this situation, the previous Minister of Education sought advice on what options could be considered so that services on land which is acquired by the Crown for public works or urban development would not be required to seek network approval.
- 6 I propose enabling an ECE centre in this situation to apply to amend its licence to enable it to permanently relocate without first requiring network approval.
- 7 In addition, as the licensing regulations pre-date the introduction of the network approval provisions, they do not state that the Secretary for Education (the Secretary) can take the network approval provisions into account when assessing applications to amend a licence. I propose amending the licensing regulations so that these are clear that the Secretary will take the network approval provisions into account when assessing any application to amend a licence. This change will also help uphold the integrity of the new network management approach such as in situations when current licence holders want to increase the number of children that may be enrolled at the service.
- 8 To support the introduction of network management, in February 2023, the public were consulted on two proposed changes to the licensing regulations:
 - 8.1 enabling the license for an existing ECE centre to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown; and
 - 8.2 clarifying that the network approval provisions can be taken into account when considering an application to amend a license.
- 9 Overall feedback from the consultation process supported these changes and I now seek Cabinet approval to issue drafting instructions to the Parliamentary Counsel Office for these amendments to the licensing regulations.

Consultation indicated clear support for the proposals

- 10 From 30 January to 27 February 2023, the Ministry of Education consulted on proposals to amend the licensing regulations to accommodate Crown acquisition of land and network approval. A discussion document was published online, as well as summary documents in English, Māori and nine Pacific languages. Surveys were able to be completed in English or Māori. The Ministry also engaged with the Sector Advisory Group and held a public online information session to explain the proposals in more detail.
- 11 Eleven survey responses and three written submissions were received on the proposals. Respondents were predominantly European (73%) or Māori (18%), and early childhood service owners or managers (36%) or representatives of non-government organisations (27%). Most respondents were from Tāmaki Makaurau (36%) or te Whanganui-a-Tara (27%), although there were also submissions from four other regions.

- 12 Overall, respondents supported each of the proposals as outlined in Table One:

Table One: Proposals and percentage who agreed or strongly agreed

Proposal		% agreed or strongly agreed
1A. Enable the licence for an existing ECE centre to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown		82%
1B. Proposed restrictions to be built into the amended regulations	i. Will only apply to licensed early childhood education and care centres	91% (and 9% neutral)
	ii. Must be located in the same proximate geographical area	91% (and 9% neutral)
	iii. Number of child places must not be materially different	100%
	iv. Application must be made no less than 30 working days before the intended operational date of the new premises	64% (and 27% neutral)
	v. Application for relocation must be made no later than 3 months from the date the centre is unable to continue at its current location	73% (and 27% neutral)
2. Clarify that the Secretary for Education can take into account network approval provisions when considering an application to amend a licence		82% (and 9% neutral)

Proposed regulatory changes to accommodate Crown acquisition and network approval

Enable the licence for an existing ECE centre to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown

- 13 I propose amending the licensing regulations to create a narrow exception enabling the licence for an existing early childhood education and care centre to be amended, without requiring an application for network approval, where the service has to permanently relocate because its land has been acquired for public works or urban development under the Public Works Act 1981 or the Urban Development Act 2020.
- 14 I also propose enabling the Secretary to consider, to the extent relevant, any matter referred to in the granting of a probationary licence (regulation 11(1)) and the granting of a full licence (regulation 13) when considering any applications to amend a licence (including moving to new premises due to Crown acquisition of land). This includes qualifications, ratios, service size and standards for premises and facilities,

curriculum delivery, health and safety practices, governance, management and administration, and fit and proper status.

- 15 Clarifying that assessments for a licence amendment, including where an ECE centre is required to move to a new premises, may be to the same level as for a probationary or full licence assessment will give assurance to parents that the new premises meets the regulated requirements.
- 16 I propose that the amendment only applies to licenced ECE centres. This is because hospital-based centres are only licensed to be within a hospital, so it is unlikely they will be acquired for public works.
- 17 Further, while a home used in a home-based service may be acquired, it is not material to the licence because addresses are not listed on the licence. As such, any acquisition of a home under the Public Works Act 1981 or Urban Development Act 2020 would not require a new licence application, and therefore would not trigger the requirement to seek network approval.
- 18 I also propose that the following restrictions are built into the amendment to ensure that the relocated centre maintains the intent of network approval by providing a service of a similar size and location. As there will need to be some flexibility, these applications for a licence amendment will be considered by the Secretary on a case-by-case basis.
 - 18.1 The relocated centre must be located in the same proximate geographical area as the existing centre and serve the same or similar enrolled families or community to ensure the intent of network approval is not undermined and the impact on whānau is minimised.
 - 18.2 The size of the relocated centre and the number of child places accommodated should not be materially different to the existing centre, but there needs to be some flexibility to allow for the fact that some premises might not be exactly the same size.
- 19 I also propose the following constraints to ensure that applications are made in a timely manner:
 - 19.1 The application for an amendment to permanently relocate must be made no less than 30 working days before the intended operational date of the new premises. This is intended to allow time for the application to be considered;
 - 19.2 The application for an amendment to permanently relocate must be made no later than three months from the date the centre is unable to continue operating at its current location. This is intended to avoid an amendment being used to revive an empty licence as well as to help ensure business continuity and minimal disruption for whānau.

Taking network approval provisions into account when considering applications to amend a licence

- 20 There is a risk that the licensing regulations are not sufficiently clear that the Secretary can take the network approval provisions into account when assessing applications to amend a licence.
- 21 The network approval provisions include regulation 9 of the Education (Early Childhood Services Network Approval) Regulations 2022 as well as sections 17(2) and 17A of the Education and Training Act 2020. Elements that may be material to the Secretary's decision whether to amend a licence include the service's location, the number of child places, any special characteristics of the service or any conditions of the service's network approval (if applicable).
- 22 To avoid possible future dispute, I propose the Secretary's position should be clarified and strengthened by amending the regulations to explicitly authorise the Secretary to take the network approval provisions into account when considering whether to amend a licence.
- 23 To ensure that the licence amendment process does not enable services established prior to 1 February 2023 to make amendments that undermine the intention of network management, I propose the Secretary's power to consider the network approval provisions apply to both services that have network approval conditions on their licence and services that do not.
- 24 While there was overall support for Proposal 2, some feedback suggested that the wording should make it clearer that the Secretary of Education will take the network approval provisions into account when considering an application to amend a licence. I agree. I am proposing the final regulatory changes require the Secretary to take the network approvals into account when considering an application to amend a licence.
- 25 One submission expressed concern that the ability to consider the network approval provisions when assessing an application to amend a licence for services that were licence holders prior to 1 February 2023 was against the intent of network management, in particular if this led to a cancellation of the licence.
- 26 However, I consider that it is appropriate for the Secretary to have the power to decline a licence amendment that could materially negatively impact the network, and it would not be keeping with the intent of network management if the Secretary did not have that power. However, while an application to amend a licence could be declined when assessed against the network approval provisions, it would not result in a licence being cancelled unless other significant compliance issues were identified as part of assessing the application to amend. In which case, usual processes for managing identified compliance issues would be followed including processes for cancellation and suspension.
- 27 I note that for certain services applying to amend a licence, the network approval assessment will not be used as grounds to decline a licence amendment. In particular:

- 27.1 Māori immersion services that are excluded from the requirement to obtain network approval¹; and
- 27.2 as per the other proposal in this paper, services which have had their land acquired under the Public Works Act 1981 or Urban Development Act 2020 will be able to have their licence amended to allow the service to permanently relocate without first requiring network approval (assuming the new premises are in the same proximate geographical area and the number of child places accommodated is not materially different to the existing centre).

Implementation

- 28 If Cabinet agrees to these proposals, I will seek Cabinet's approval to the amended regulations in June 2023. I have set out my plan for seeking decisions on the proposed regulatory amendments:

Milestone/Activity	Timeframe
Cabinet Legislation Committee considers regulatory amendments	8 June 2023
Cabinet	12 June 2023
Executive committee	12 June 2023
Regulatory amendments Gazetted	Mid-June 2023
Regulatory amendments come into effect	Mid-July 2023

Financial Implications

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

Legislative Implications

- 30 The regulatory proposals in this paper will amend s33 of the Education (Early Childhood Services) Regulations 2008. I seek approval to issue drafting instructions to PCO to give effect to these proposals.

Impact Analysis

Regulatory Impact Statement

- 31 The Treasury's Regulatory Impact Analysis team has determined that the proposal clarifying that new network approval provisions can be taken into account when considering an application to amend an existing licence is exempt from the requirement to provide a Regulatory Impact Statement (RIS) on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

¹ Excluded early childhood services are defined under section 10 of the Education and Training Act 2020.

- 32 For the proposed changes to the Education (Early Childhood Services) Regulations 2008 regarding Crown acquisition, a RIS has been completed and is attached as Annex 3.
- 33 The Ministry of Education's Quality Assurance Panel has reviewed the RIS *"Amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition"* produced by the Ministry of Education and dated 30 March 2023.
- 34 The panel considers that the RIS meets the Quality Assurance criteria. The RIS provides a convincing case for proposed regulatory changes to allow services to permanently relocate to an alternative site where land is acquired for public works or urban development. The number of services likely to be impacted is small and the proposed changes reflect feedback from stakeholders.

Climate Implications of Policy Assessment

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

Population Implications

- 36 The following population implications have been assessed:

Population group	How the proposal may affect this group
Children	The proposal helps ensure that there is continuity of a like service for children and their whānau that attend services that have had their property compulsorily acquired by the Crown. The proposals also ensure that any applications to amend a licence must not undermine the intent of network management. This will help ensure that services granted network approval meeting Government priorities for the early learning network such as language immersion, or learning support, continue to meet these priorities and needs.
Women	The proposal should ensure that services are retained where they are needed and providing a priority service, giving parents and caregivers, including women, the confidence that they will continue to have access to licensed early learning services for their children.
Māori	<p>The proposals will not significantly affect Maori immersion services, as they are already excluded from the requirement to seek network approval. As such, Māori immersion services will not have their application for a licence amendment declined due to the network approval provisions.</p> <p>The second proposal also supports services that obtained network approval through meeting the priority of being a</p>

	Māori bilingual service, being hapū/iwi-owned or being a service with a distinct Māori identity and culture to continue to meet those conditions of network approval.
Pacific	<p>The broader network management proposals align with Goal 4 of the <i>Pacific Aotearoa Lalanga Fou report</i>: Confident, thriving, and resilient Pacific young people, specifically the sub-goal to improve the experience of Pacific young people in education. This proposal ensures continuity of supply for Pacific communities.</p> <p>The second proposal also supports the services that obtained network approval through meeting the priority of being a Pacific bilingual and immersion service or Pacific language and/or cultural service to continue to meet that condition of network approval.</p>
Disabled people	<p>The proposals support the continuity of supply for disabled children and their family or caregivers. It does this through ensuring that any service, including those with a focus on learning support needs, that has been compulsorily acquired will not need to apply for network approval.</p> <p>The second proposal also supports services that obtained network approval through meeting the priority of being well equipped for children with learning support needs to continue to meet that condition of network approval.</p>

Human Rights

- 37 All of 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. No potential inconsistencies have been identified.

Consultation

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

Communications

- 39 I propose to announce the policy for new regulations later in 2023 following Cabinet approval of the regulations. I do not propose to make any further announcements until this time.

Proactive Release

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

Proactively Released

Recommendations

I recommend that the Committee:

- 1 **note** that in December 2022, the previous Minister of Education agreed to the Ministry undertaking consultation on amending the Education (Early Childhood Services) Regulations 2008 to support the introduction of the network approval process;
- 2 **note** that following consultation, I now seek Cabinet's approval to the policy decisions to amend the Education (Early Childhood Services) Regulations 2008;

Licence can be amended where ECE centre relocates due to Crown acquisition of land

- 3 **agree** to amend regulation 33 of the Education (Early Childhood Services) Regulations 2008 to create a narrow exception to:
 - 3.1 enable the licence for an existing licensed early childhood education and care centre ('ECE centre') to be amended, without requiring an application for network approval, where the service has to permanently relocate because its land has been acquired under either Part 2 of the Public Works Act 1981 or Part 5 of the Urban Development Act 2020;
 - 3.2 enable the Secretary for Education to consider, to the extent relevant, any matter referred to in regulations 11(1) and 13 when considering all applications to amend a licence;
 - 3.3 reflect the following policy settings for enabling the licence for an existing ECE centre to be amended in relation to recommendation 3.1:
 - 3.3.1 the relocated ECE centre must be located in the same proximate geographical area as the existing centre and serve the same or similar enrolled families or community. Proximity will be determined by the Secretary for Education on a case-by-case basis
 - 3.3.2 the size of the relocated ECE centre and the number of child places accommodated should not be materially different to the existing centre. This will be considered by the Secretary for Education on a case-by-case basis.
 - 3.3.3 the application for an amendment must be made:
 - 3.3.3.1 no less than 30 working days before the intended operational date of the new premises; and
 - 3.3.3.2 no later than three months from the date it is unable to continue operating at its current location if the licensed ECE centre will be unable to continuously operate.

Network approval provisions to be taken into account for applications to amend a licence

- 4 **agree** to amend the regulations to clarify that the Secretary for Education must assess applications to amend an early childhood service licence in light of the network approval provisions in the Education and Training Act 2020 and the Education (Early Childhood Services Network Approval) Regulations 2022, and may take into account the aspects of the provisions that the Secretary considers are relevant to the proposal when making a decision
- 5 **note** that the requirement to take the network provisions into account will not apply to services that are excluded from the requirement to seek network approval

Introducing consequential changes to the licensing regulations

- 6 **agree** to any necessary amendments to the Education (Early Childhood Services) Regulations 2008 that are consequential to the above decisions.
- 7 **note** that the recommendations with drafting implications are subject to the Parliamentary Counsel Office's discretion as how best to express these in legislation
- 8 **authorise** the Minister of Education to make minor and technical decisions that may arise during the drafting process without further reference to Cabinet, provided the decisions are consistent with the decisions in this paper

Authorised for lodgement

Hon Jan Tinetti

Minister of Education

Regulatory Impact Statement: Amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition

Coversheet

Purpose of Document

Decision sought:	This RIS supports final Cabinet decisions on proposals to amend the Education (Early Childhood Services) Regulations 2008 to enable the licence for an existing early childhood education and care centre (ECE centre) to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown.
Advising agencies:	Ministry of Education
Proposing Minister:	Hon Jan Tinetti, Minister of Education
Date finalised:	30 March 2023

Problem Definition

There is currently no provision in the Education (Early Childhood Services) Regulations 2008 (the licensing regulations) for an ECE centre to permanently relocate to an alternative site under any circumstance, including where land is acquired for public works or urban development, while retaining its licence.

The proposals outlined in this Regulatory Impact Statement (RIS) seek to enable the licence for an existing ECE centre to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown.

The proposed amendments provide clarity for both service providers and whānau that early childhood provision can continue undisrupted in circumstances where land has been acquired by the Crown.

Executive Summary

Under the current legislative regime, services that have had their land acquired by the Crown under the Public Works Act 1981 (PWA) or Urban Development Act 2020 (UDA) must apply for network approval before applying for a probationary license when moving to new premises.

The rationale for making an exception in this circumstance is that:

- a. the service is not new, therefore there is minimal impact on the licensed early childhood network in the area; and
- b. the service should not be unduly disadvantaged by the Crown's unilateral action.

The Minister of Education (the Minister) considered three options for public consultation where a service has to relocate due to Crown action under the PWA or UDA:

1. Status quo – no change
 - Providers will need to apply for network approval and then apply for a probationary licence before moving to new premises.
2. Create a new exclusion under the Education and Training Act 2020 (the Act)
 - Create an exclusion from the requirement to seek network approval. This option would still require the service to apply for a new probationary licence.
3. Changes to the licensing regulations
 - Amend the licensing regulations to allow a permanent change of location for services impacted by the PWA or UDA.

We consulted on Option 3: changes to the licensing regulations.

Potential positive impacts of Option 3

Amending the licensing regulations is the option that best meets the policy objectives. This option will help to ensure that there is continuity of a like service for children and their whānau who attend services that have had their property compulsorily acquired by the Crown. It will also give providers assurance that their service can continue in the event of Crown acquisition.

Potential negative impacts of Option 3

The primary drawback of this option is that it does not enable effective management of the ECE network to the same extent as the status quo, as providers will be able to relocate to new premises without first applying for network approval.

However, it is proposed to require the relocating centre to be located in the same proximate geographical area and accommodate a similar number of child places different from the existing centre. This will ensure that the legislative intent of network approval is not undermined by the service relocating.

This option was supported by the sector, with 82 percent of survey respondents agreeing or strongly agreeing with the proposal.

Limitations and Constraints on Analysis

Ministerial decision to amend the licensing regulations

Our initial advice provided to the Minister of Education (the Minister) on 16 September 2022 was made following early analysis and recommended maintaining the status quo. This was because:

- We anticipated that the Minister would want any legislative or regulatory changes in effect before the network approval regime commencement date of 1 February 2023. Given the timelines for these potential changes, we did not believe any amendments by this date were feasible; and
- We believed that providers who are required to move to new premises due to Crown acquisition would not be significantly impacted by the requirement to seek network approval, as they would likely be able to demonstrate strong

community/whānau need if they were transferring their current enrolments to a new location nearby.

- We also did not think we could make regulatory change while preserving the integrity of the licensing regime. Specifically, it is important not to undermine the licensing requirements that a centre must meet with regards to service size and standards for premises and facilities.

However, the Minister determined that implementing change prior to 1 February 2023 was not a requirement, and therefore our initial preferred option was not as relevant. The Minister also expressed a commitment to provide assurance to providers that their service could continue operating in the event that their land is acquired by the Crown.

Further advice also proposed regulatory changes that would enable a service to amend its licence to enable a move to a new location while still allowing the Secretary for Education to consider any matter referred to in the granting of a probationary licence or full licence. This will give assurance to whānau that the new premises meet the regulated requirements.

As such, our analysis in this paper determines that regulatory change is the recommended option to achieve the desired outcomes.

Limited public and sector response to consultation

A minor limitation on our analysis is the small number of responses we received to our public consultation on the proposed regulatory changes. From 30 January to 27 February 2023, we received eleven survey responses and three written submissions on the proposals.

However, we believe this low level of engagement was most likely due to the narrow nature of the proposals that are not likely to affect most services. The submissions we received were also strongly supportive of the proposal to amend the regulations and set conditions for services needing to move to new premises due to Crown acquisition.

Effect of limitations and constraints on analysis

As these limitations relate to previous Ministerial direction and the narrow nature of the proposed amendments, they do not impact on the confidence of the Minister when using this analysis to inform their decision.

Responsible Manager(s) (completed by relevant manager)

Peter Mellor
Acting Senior Policy Manager
Early Childhood Education Policy
Te Pou Kaupapahere
Ministry of Education



30/3/2023

Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry of Education
Panel Assessment & Comment:	<p>The Ministry of Education's Quality Assurance Panel has reviewed the Regulatory Impact Statement "Amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition" produced by the Ministry of Education and dated 30 March 2023.</p> <p>The panel considers that the RIS meets the Quality Assurance criteria. The RIS provides a convincing case for proposed regulatory changes to allow services to permanently relocate to an alternative site where land is acquired for public works or urban development. The number of services likely to be impacted is small and the proposed changes reflect feedback from stakeholders.</p>

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Current legislative requirements

1. There is no provision in the current licensing regulations for a licensed service to permanently relocate to an alternative site. This includes instances where a service is acquired by the Crown for public works or urban development under the Public Works Act 1981 (the PWA) or Urban Development Act 2020 (the UDA)¹. If a licensed service moves location permanently it needs to apply for a new probationary licence and pay the required fee.
2. This is a historical policy setting to reinforce that a significant proportion of the licensing requirements are based on a specific site and premises. Therefore, a licensing assessment is desirable to ensure the new facility can meet the minimum health and safety requirements set out in the regulations.
3. There is a provision in the regulations to temporarily relocate from one building to another for up to ten months (regulation 18 of Education (Early Childhood Services) Regulations 2008).

Network management for licensed early childhood services

4. In *He taonga te tamaiti: Every child a taonga - The Early Learning Action Plan 2019-2029*, the Government set an objective for early learning services to be part of a planned, diverse and coherent education ecosystem that is sustainable and meets the needs of communities across New Zealand. Network management is one action to

¹ The PWA and UDA give the Crown power to acquire land from private landowners for public works or urban development, which may include works such as roads and schools. If the Crown is considering acquiring land, the first option to be explored is whether the land can be acquired voluntarily upon reaching a commercial agreement for purchase. If no agreement can be reached, the Crown may compulsorily acquire it, build around it, or cease the project.

support this objective, as it establishes a process to manage the supply of new licensed early childhood services.

5. Since 1 February 2023, any organisation or individual wanting to operate a new licensed early childhood service needs to seek network approval from the Minister before applying for a license. Providers who obtain network approval may have conditions attached to the licence of their service to ensure service delivery is consistent with their network approval.
6. During finalisation of the network approval regulations, we were made aware of four services that were in the process of having their land compulsorily acquired. At that stage, these services would be required to seek network approval before applying for a probationary licence when moving to their replacement premises.

Status quo (in relation to PWA or UDA acquisition)

7. Under current legislative settings, a licensed service² that permanently relocates as a result of being compulsorily acquired will no longer be a licensed service. A provider in this circumstance would need to either:
 - a. apply for network approval (and pay the required fee), then apply for a probationary licence (and pay the required fee); or
 - b. cease operating.
8. These settings mean that any service that is changing its premises requires the Minister to assess the necessity of the service within the network and the suitability of the provider (network management) and then assess the proposed service and new building against education, health and safety requirements (licensing requirements).

Relevant previous documents

9. The [Regulatory Impact Statement: Network Management in Early Learning](#) (5 November 2021) sets out the network approval process and its impact on licence applications.

What is the policy problem or opportunity?

10. Under the status quo, services that have had their land acquired by the Crown must apply for network approval before applying for a probationary license when moving to new premises.
11. The intention of network management is for early learning services to be part of a planned, diverse and coherent education ecosystem that is sustainable and meets the needs of communities across New Zealand. Therefore, the rationale for providing an exception to the requirement for network approval is to ensure continuity of service where:

² Some Māori immersion early learning services are excluded from the network approval provisions and therefore are not required to seek network approval.

- a. the service is not new; therefore, there is minimal impact on the licensed early childhood network; and
 - b. the Crown is acquiring the land under the PWA or UDA and should not disadvantage the service by requiring two regulatory steps (network approval and licensing).
- 12. Under the existing regulations, children and whānau lack assurance that their participation in early childhood education can continue without disruption in the event that their ECE provider has their land acquired by the Crown.
- 13. Although providers in this situation will likely be able to demonstrate strong community/whānau need if they are transferring their current enrolments to their new location, they may still see a risk that their network approval application could be declined.
- 14. There is a need for a tool to help proactively manage the network by allowing continuity of service provision in the event that a centre's land becomes subject to Crown acquisition.

What objectives are sought in relation to the policy problem?

- 15. Our objectives are to:
 - a. ensure that there is continuity of a like service for children and their whānau who attend services that have had their land compulsorily acquired by the Crown; and
 - b. give providers assurance that their service can continue in the event of Crown acquisition.

What options are being considered?

16. We identified three options for the Minister's consideration and to determine what options we would consult the public on:
 - a. status quo; or
 - b. create a new exclusion under the Act; or
 - c. changes to the licensing regulations.
17. There is no ability to relax the requirements under the status quo, ie, not require network approval, although the Ministry of Education (the Ministry) can offer advice and support in line with its regulatory responsibility.
18. The options were assessed against the five following objectives:
 - **maintains accessible provision** – regulatory change should not impede or disrupt the accessibility of early learning provision to whānau
 - **provides clarity to providers** – regulations should provide clarity to ECE providers.
 - **enables effective management of the ECE network** – regulatory change should not undermine the legislative intent of network approval
 - **changes can be implemented promptly** – there should be no unnecessary delay of the commencement of the new provisions, to provide clarity for providers and whānau
 - **minimal impact on legislation** – we are seeking to minimise legislative changes to avoid operational and system consequences.

Option One – Status quo

19. Under this option, a provider³ in this circumstance would need to:
 - a. apply for network approval (and pay the required fee); and
 - b. apply for a probationary licence (and pay the required fee).
20. This option enables the Minister to assess if the service is still needed within the network and the suitability of the provider (network management), and then assess the proposed service and new building against education, health and safety requirements (licensing requirements).
21. This option is simpler to implement because it retains the current provisions. Network management has also been well signalled in the Act since 2020.

³ That is not an excluded Māori immersion service.

22. However, the status quo does not give clarity to providers that their service can continue in the event of Crown acquisition, as they may see a risk that their network approval application could be declined. However, in our view it is likely that providers in this situation will be able to demonstrate strong community/parent need if they are transferring their current enrolments to their new location.
23. This option would also cost time and money for affected services, as they would be required to apply for network approval and then for a probationary licence.

Option Two – Create a new exclusion under the Act

24. Under this option we would create an exclusion in the Act from the requirement to seek network approval. The provider would be able to apply for a new probationary licence directly. This option would be similar to the current exclusion for Māori immersion services.
25. This option would still require the service to apply for a new probationary licence (and pay the required fee). If a provider meets the licensing requirements it must be granted a licence and funded.
26. Implementing this option would take longer as it would require an Education and Training Amendment Bill.

Option Three – Changes to the licensing regulations

27. Under this option we would amend the regulations to allow a permanent change in location for services impacted by the PWA or UDA. It would still be important that checks of the new premises were undertaken to ensure that they met aspects of the licensing regulations related to premises, but other requirements, such as curriculum could be assumed to continue.
28. Under the amended regulations, a relocating service will still be required to move to new premises in a similar geographical area with a similar number of child places as their existing premises to ensure the intent of network approval is not undermined by the relocating service.
29. We would need to discuss with the Parliamentary Counsel Office how best to articulate the policy intent in the regulatory changes.

How do the options compare to the status quo/counterfactual?

Key for qualitative judgements:

++ much better than the status quo + better than the status quo 0 about the same as the status quo - worse than the status quo -- much worse than the status quo

	Option One – Status quo	Option Two – Create an exclusion under the Act	Option Three – Changes to the licensing regulations
Maintains accessible provision	0	++ Under this option, a service will be able to move to new premises without first applying for network approval. This would provide assurance to providers and whānau that ECE provision can continue in the event of Crown acquisition of land.	++ Under this option, a service will be able to move to new premises without first applying for network approval. This would provide assurance to providers and whānau that ECE provision can continue in the event of Crown acquisition of land.
Provides clarity to providers	0	+ This option will exclude services from the requirement to apply for network approval. However, this option would still require the service to apply for a new probationary licence (and pay the required fee).	++ This option will exclude services from the requirement to apply for network approval and would allow services to move to a new premises without applying for a new probationary license.
Enables effective management of the ECE network	0	+ This option helps proactively manage the network by allowing continuity of service provision in the event of Crown acquisition of land, and enabling the Ministry to avoid activating the network approval process for instances where the impact on the network is minor due to Crown acquisition.	+ This option helps proactively manage the network by allowing continuity of service provision in the event of Crown acquisition of land, and enabling the Ministry to avoid activating the full network approval process for instances where the impact on the network is minor due to Crown acquisition.
Changes can be implemented promptly	0	-- Amendments to the Act can only be made once per year, so changes cannot be made promptly.	- Amending the regulations may take several months but can be made more promptly than amendments to the Act.
Minimal impact on legislation	0	-- This option requires change to primary legislation.	- This option requires change to secondary legislation.
Overall assessment	0	0	+3

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

30. As outlined in the analysis table above, amending the licensing regulations is the option that best meets the policy objectives. This option will help to ensure that there is continuity of a like service for children and their whānau who attend services that have had their land compulsorily acquired by the Crown. It will also give providers assurance that their service can continue in the event of Crown acquisition.
31. Another advantage of this option is that it helps proactively manage the network by enabling the Ministry to avoid activating the full network process for instances where the impact on the network is minor due to Crown acquisition of land. We also propose amending the regulations to require the relocated centre to be located in the same proximate geographical area and accommodate a number of child places that is not materially different to the existing centre. This will ensure that the legislative intent of network approval is not undermined by the relocating service.
32. This option and the proposed restrictions were also supported by the sector during consultation.
 - 82 percent of survey respondents agreed, or strongly agreed, with the proposal to amend the licensing regulations to enable the license for an existing ECE centre to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown.
 - 91percent of survey respondents agreed to amending the licensing regulations to require the new premises to be located in the same proximate geographical area as the existing premises (9 percent were neutral on this).
 - 100 percent of survey respondents agreed to amending the licensing regulations to ensure the number of child places must not be materially different to the existing premises.

What are the marginal costs and benefits of the option?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	One-off. Services will only be faced with this as a one-off if they are required to relocate when their property has been compulsorily acquired. If they do, then this proposal will have a very low impact and will be significantly less than the status quo.	Low	Low
Regulators	Ongoing. We do not anticipate that there will be many cases. However, this will be an ongoing issue for the Ministry, as the regulator.	Low	Low
Other parties	Nil. The intent of the change is to ensure any impact on families and whānau is minimal and to ensure ongoing provision of service.	Low	Low
Total monetised costs		N/A	N/A
Non-monetised costs		Low	Low
Additional benefits of the preferred option compared to taking no action			
Regulated groups	One-off. For the small number of services that we anticipate will be affected by compulsory acquisition, it provides clarity and minimal administrative cost to services and helps to ensure they can continue to run their business. Providers will not be required to pay the \$575 fee to apply for network approval or the \$2,817.50 fee for a new licence application.	Medium	Low
Regulators	Ongoing. This strengthens the Ministry's ability to ensure there is limited impact on services and whānau in situations where there is no impact on the network due to Crown acquisition of land.	Low	Low
Other parties	One-off. It helps to ensure that there is continuity of early learning services to families and whānau.	Medium	Low
Total monetised benefits		N/A	N/A
Non-monetised benefits		Medium	Low

Section 3: Delivering an option

How will the new arrangements be implemented?

33. The new arrangements will come into force through a decision by Cabinet to approve changes to the licensing regulations. We envision these changes will be enacted by amending regulation 33 of the licensing regulations to:
- enable the licence for an existing ECE centre to be amended, without requiring an application for network approval, where the service has to permanently relocate because its land has been acquired under either Part 2 of the Public Works Act 1981 or Part 5 of the Urban Development Act 2020;
 - enable the Secretary for Education to consider, to the extent relevant, any matter referred to in regulations 11(1) and 13 when considering all applications to amend a licence;
 - reflect the following policy settings for enabling the licence for an existing ECE centre to be amended:
 - The relocated ECE centre must be located in the same proximate geographical area as the existing centre and serve the same or similar enrolled families or community. Proximity will be determined by the Secretary for Education on a case-by-case basis.
 - The size of the relocated ECE centre and the number of child places accommodated should not be materially different to the existing centre. This will be considered by the Secretary for Education on a case-by-case basis.
 - The application for an amendment to an existing licence must be made:
 - no fewer than 30 working days before the intended operational date of the new premises; and
 - no later than three months from the date it is unable to continue operating at its current location if the licensed ECE centre will be unable to continuously operate.
34. This will require developing operational policy to support the policy proposals to support the issuing of guidance to the sector and to ensure that our regional staff are aware of the amendment so that they can advise services if/when the situation arises.

How will the new arrangements be monitored, evaluated, and reviewed?

35. This change will require minimal monitoring, particularly as we are not anticipating there will be many cases. Services that have had their licence amended to enable them to move to new premises following Crown acquisition will have no further additional obligations or reporting requirements.
36. We will assess the impact on services and the feedback from providers on how well it achieves the goals of ensuring that there is continuity of a like service for children and their whānau and giving providers assurance that their service can continue in the event of Crown acquisition. We will monitor other scenarios in which other centres may be required to move.
37. We will review the amendment and process that it is providing the clarity, continuity and minimal disruption that we intend.



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 5 May 2023


On 8 May 2023, Cabinet made the following decisions on the work of the Cabinet Social Wellbeing Committee for the period ended 5 May 2023:

out of scope

SWC-23-MIN-0038 **Policy Settings for Amendments to the Education (Early Childhood Services) Regulations to Accommodate Crown Acquisition and Network Approval** CONFIRMED
Portfolio: Education

Out of scope

Out of scope



Rachel Hayward
Secretary of the Cabinet

Proactively Released



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.

Policy Settings for Amendments to the Education (Early Childhood Services) Regulations to Accommodate Crown Acquisition and Network Approval

Portfolio Education

On 3 May 2023, the Cabinet Social Wellbeing Committee:

Background

- 1 **noted** that in December 2022, the Minister of Education agreed to the Ministry of Education undertaking consultation on amending the Education (Early Childhood Services) Regulations 2008 to support the introduction of the network approval process;
- 2 **noted** that following consultation, approval is sought to the following policy decisions to amend the Education (Early Childhood Services) Regulations 2008;

Licence can be amended where ECE centre relocates due to Crown acquisition of land

- 3 **agreed** to amend regulation 33 of the Education (Early Childhood Services) Regulations 2008 (the regulations) to create a narrow exception to:
 - 3.1 enable the licence for an existing licensed early childhood education and care centre ('ECE centre') to be amended, without requiring an application for network approval, where the service has to permanently relocate because its land has been acquired under either Part 2 of the Public Works Act 1981 or Part 5 of the Urban Development Act 2020;
 - 3.2 enable the Secretary for Education to consider, to the extent relevant, any matter referred to in regulations 11(1) and 13 when considering all applications to amend a licence;
 - 3.3 reflect the following policy settings for enabling the licence for an existing ECE centre to be amended in relation to paragraph 3.1:
 - 3.3.1 the relocated ECE centre must be located in the same proximate geographical area as the existing centre and serve the same or similar enrolled families or community (proximity will be determined by the Secretary for Education on a case-by-case basis);

- 3.3.2 the size of the relocated ECE centre and the number of child places accommodated should not be materially different to the existing centre (this will be considered by the Secretary for Education on a case-by-case basis);
- 3.3.3 the application for an amendment must be made:
- 3.3.3.1 no less than 30 working days before the intended operational date of the new premises; and
 - 3.3.3.2 no later than three months from the date it is unable to continue operating at its current location if the licensed ECE centre will be unable to continuously operate;

Network approval provisions to be taken into account for applications to amend a licence

- 4 **agreed** to amend the regulations to clarify that the Secretary for Education must assess applications to amend an early childhood service licence in light of the network approval provisions in the Education and Training Act 2020 and the Education (Early Childhood Services Network Approval) Regulations 2022, and may take into account the aspects of the provisions that the Secretary considers are relevant to the proposal when making a decision;
- 5 **noted** that the requirement to take the network provisions into account will not apply to services that are excluded from the requirement to seek network approval;

Introducing consequential changes to the licensing regulations

- 6 **agreed** to any necessary consequential amendments to the regulations as a result of the above decisions;
- 7 **invited** the Minister of Education to issue drafting instructions to the Parliamentary Counsel Office (PCO) to give effect to the above decisions, subject to PCO's discretion as how best to express these in legislation;
- 8 **authorised** the Minister of Education to make minor and technical decisions that may arise during the drafting process without further reference to Cabinet, provided the decisions are consistent with the decisions in the paper under SWC-23-SUB-0038.

Rachel Clarke
Committee Secretary

Present:

Hon Kelvin Davis
Hon Grant Robertson
Hon Dr Megan Woods
Hon Jan Tinetti (Chair)
Hon Dr Ayesha Verrall
Hon Peeni Henare
Hon Priyanca Radhakrishnan
Hon Ginny Andersen
Hon Barbara Edmonds
Hon Willow-Jean Prime
Jo Luxton, MP

Officials present from:

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

Education Report: Cabinet Paper: Policy settings for amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition and network approval

To:	Hon Jan Tinetti, Minister of Education		
Cc:	Jo Luxton, Parliamentary Under-Secretary		
Date:	16 March 2023	Priority:	Medium
Security Level:	In Confidence	METIS No:	1306019
Drafter:	Kahu Rapira-Davies	DDI:	2)(a)
Key Contact:	Paul Scholey	DDI:	s9(2)(a)
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

This paper seeks your agreement to Ministerial consultation on the attached draft Cabinet paper on amendments to the Education (Early Childhood Services) Regulations 2008. Feedback is needed before 30 March 2023 to ensure the paper can be finalised and lodged in time for consideration by the Social Wellbeing Committee (SWC) on 5 April 2023.

Recommended Actions

The Ministry of Education recommends you:

- a. **note** that the attached draft Cabinet paper seeks Cabinet approval to issue drafting instructions to the Parliamentary Counsel Office for proposed changes to the Education (Early Childhood Services) Regulations 2008 to:
 - i. enable the licence for an existing ECE centre to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown; and
 - ii. clarify that the new network approval provisions will be taken into account when considering an application to amend an existing licence;
- b. **note** that the Ministry is undertaking agency consultation from Thursday 16 March 2023 as agreed with your office;

Noted

Noted

- c. **agree** to start Ministerial consultation on the attached draft Cabinet paper:

Agree Disagree

- d. **note** that we are aiming to lodge the final Cabinet paper with the Social Wellbeing Committee on Thursday 30 March to ensure it is considered before the Easter Parliamentary recess;

Noted

- e. **agree** this Education Report is proactively released after the amendments to the regulations have been gazetted, with any information that may need to be withheld done so in line with the provisions of the Official Information Act 1982.

Release Not release

P. Scholey

Paul Scholey
Senior Policy Manager
Te Pou Kaupapahere | Policy
16/03/2023

J. Tinetti

Hon Jan Tinetti
Minister of Education

22/03/2023

Background

1. In *He taonga te tamaiti: Every child a taonga - The Early Learning Action Plan 2019-2029*, the Government set an objective for early learning services to be part of a planned, diverse and coherent education ecosystem that is sustainable and meets the needs of communities across New Zealand. Network management is one action to support this objective, as it establishes a process to manage the supply of new licensed early childhood services.
2. Since 1 February 2023, unless excluded, anyone intending to establish a new licensed early childhood service must first apply for and be granted network approval by the Minister of Education.
3. On 15 December 2022, the then Minister of Education agreed to publicly consult on two proposed changes to the Education (Early Childhood Services) Regulations 2008 [METIS 1300975] to better align the regulations with the new network approval provisions. These proposals address the following issues:
 - i. enabling the licence for an existing ECE centre to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown; and
 - ii. clarifying that the new network approval provisions can be taken into account when considering an application to amend an existing licence.

Enabling the license for an existing ECE centre to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown

4. Under the current regulations, from 1 February 2023 any ECE centre on land acquired by the Crown for public works or urban development must get network approval before applying for a new licence when moving to a new premises.
5. We proposed amending the Education (Early Childhood Services) Regulations 2008 to create an exception enabling the licence for an ECE centre to be amended, without requiring an application for network approval, where the service has to permanently relocate because its land has been acquired by the Crown under the Public Works Act 1981 or the Urban Development Act 2020.

Taking network approval provisions into account for applications to amend a licence

6. As the current regulations pre-date the introduction of network approval, they do not state that the Secretary can take network approval provisions into account when assessing applications to amend a licence (regulation 33 of the Education (Early Childhood Services) Regulations 2008). We propose amending the regulations to make this clearer.
7. We want to ensure that the licence amendment process does not enable services established before 1 February 2023 to make amendments that undermine the intention of network management. The proposed changes will also clarify that the Secretary's power to consider the network approval provisions applies to all services whether they have network approval conditions on their licence or not.

Consultation feedback

8. We consulted on the proposed regulatory amendments from 30 January 2023 to 27 February 2023.
9. We received 11 survey responses and three written submissions on our regulatory proposals. Overall, respondents were supportive of the proposals as outlined in the original discussion document, as the table below shows.

Proposal		% agreed or strongly agreed
1A. Enable the licence for an ECE centre to be amended, without requiring an application for network approval, where the ECE centre has to permanently relocate because its land has been acquired by the Crown		82%
1B. Proposed restrictions to be built into the amended regulations	i. Will only apply to licensed early childhood education and care centres	91% (and 9% neutral)
	ii. Must be located in the same proximate geographical area	91% (and 9% neutral)
	iii. Number of child places must not be materially different	100%
	iv. Application must be made no less than 30 working days of the intended operational date of the new premises	64% (and 27% neutral)
	v. Application for relocation must be made no later than three months from the date it is unable to continue at its current location	73% (and 27% neutral)
2. Clarify that the Secretary for Education can take into account network approval provisions when considering an application to amend a licence		82% (and 9% neutral)

10. While there was overall support for Proposal 2, we did receive some comments and suggestions. The Ministry's Early Learning Regulatory Review advisory group and one written submission suggested the regulations say the Secretary for Education **must** take network approval provisions into account when considering applications to amend a licence (rather than 'can'). The feedback suggested that this would improve clarity and fairness, as it was clearer that the Secretary would take network provisions into account on all licence amendment applications. We agree with this suggested change.
11. The key concern raised was that network approval considerations could be used to cancel a licence for a service established before network approval was introduced. We are not seeking a change that would effectively retrospectively apply network approval to established services applying to amend a licence. For the avoidance of any doubt we will make that clear in the drafting instructions to the Parliamentary Counsel Office. However, an application to amend a licence could potentially be declined on network grounds (for example if the service wanted to significantly increase its licence size in an area which was already well-served). When services apply to amend a licence, the Secretary is required, under the Regulations, to review the licence. If non-compliance issues (set out in the Regulations) are identified, the Ministry has well-established processes for responding to and managing these, including processes for suspension and cancellation.

12. A more detailed summary of consultation feedback on the proposals in this paper is attached as Annex Two. In line with its usual processes, and the Ministry intends to publish a consultation summary report outlining the feedback received shortly.

Cabinet Social Wellbeing Committee

13. The attached Cabinet paper seeks approval to issue drafting instructions to the Parliamentary Counsel Office for changes required to the Education (Early Childhood Services) Regulations 2008.
14. Note that we are aiming to lodge the final Cabinet paper with the Social Wellbeing Committee on Thursday 30 March to ensure it is considered before the Easter Parliamentary recess.

Next steps

15. We propose to follow the timeline as set out below. Please note that the Ministry is undertaking agency consultation on this from Thursday 16 March 2023 as agreed with your office. We will send you a revised Cabinet paper on Thursday 30 March 2023 for lodgement with the Social Wellbeing Committee. On current expected timelines, the regulatory amendments would come into effect in mid-July 2023.

Date	Activity
16 March – 27 March 2023	Agency consultation
By 30 March	Ministerial consultation
30 March 2023	Paper lodged for Social Wellbeing Committee
5 April 2023	Cabinet Social Wellbeing Committee
11 April 2023	Cabinet
By 2 May 2023	PCO drafting regulatory changes
3 May 2023	Paper to Minister to approve for consultation
9 May 2023	Minister provides feedback
10 May – 24 May 2023	Joint Departmental and Ministerial consultation
1 June 2023	Lodge paper with Cabinet Office
8 June 2023	Cabinet Legislation Committee
12 June 2023	Cabinet
Mid-June 2023	Regulatory amendments gazetted
Mid-July 2023	Regulatory amendments come into effect

Annexes

- Annex 1: (Draft) Cabinet paper: Policy settings for amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition and network approval
- Annex 2: Consultation on Amendments to Education (Early Childhood Services) Regulations to accommodate Crown acquisition of land and network approval: Survey responses

Proactively Released

**Consultation on Amendments to Education (Early Childhood Services)
Regulations to accommodate Crown acquisition of land and network approval:
Survey responses**

Total responses to this survey: **11**
All survey participants responded to all questions.

In which region do you live?

Option	Total	Percent
Tai Tokerau [Northland]	0	0.00%
Tāmaki Makaurau [Auckland]	4	36.36%
Waikato	1	9.09%
Wairariki [Bay of Plenty]	1	9.09%
Tairāwhiti [Hawke's Bay]	0	0.00%
Taranaki-Whanganui-Manawatū	1	9.09%
Whanganui-a-Tara [Wellington]	3	27.27%
Tau Ihu-Tai Poutini [Nelson-Marlborough-West Coast]	0	0.00%
Waitaha-Rēkohu [Canterbury and Chatham Islands]	0	0.00%
Ōtākou-Murihiku [Otago-Southland]	1	9.09%
Other	0	0.00%
Prefer not to say	0	0.00%
Not Answered	0	0.00%

Which of the following best describes your connection to the early learning sector?

Option	Total	Percent
Early childhood service owner or manager	4	36.36%
Early childhood service teacher or educator	0	0.00%
Early childhood service worker (other)	0	0.00%
Parent, whānau or caregiver	0	0.00%
Member of the general public	1	9.09%
Representative of a non-government organisation	3	27.27%
Other	3	27.27%
Prefer not to say	0	0.00%
Not Answered	0	0.00%

What type of early childhood service(s) are you associated with?

Option	Total	Percent
Education and Care (Puna Reo)	3	27.27%
Education and Care (Other)	6	54.55%
Home-based	2	18.18%
Hospital-based	0	0.00%
Kindergarten	0	0.00%

Kōhanga Reo	1	9.09%
Playcentre	2	18.18%
Playgroup	1	9.09%
Other	2	18.18%
Prefer not to say	0	0.00%
Not Answered	0	0.00%

Which ethnic group(s) do you belong to? Please select all that apply.

Option	Total	Percent
Asian	0	0.00%
European	8	72.73%
Māori	2	18.18%
Middle Eastern/Latin American/African	0	0.00%
Pacific Peoples	0	0.00%
Other	0	0.00%
Prefer not to say	2	18.18%
Not Answered	0	0.00%

Do you agree with the proposal to enable the licence for an existing ECE centre to be amended, without requiring an application for network approval, where the service has to permanently relocate because its land has been acquired by the Crown?

Option	Total	Percent
Strongly agree	7	63.64%
Agree	2	18.18%
Neutral	0	0.00%
Disagree	2	18.18%
Strongly disagree	0	0.00%
Not Answered	0	0.00%

Do you agree with the proposed restrictions to be built into the amended regulations in relation to an application to amend a licence to allow an ECE centre to permanently relocate because its land has been acquired by the Crown?

Option	Total	Percent
Strongly agree	3	27.27%
Agree	7	63.64%
Neutral	1	9.09%
Disagree	0	0.00%
Strongly disagree	0	0.00%
Not Answered	0	0.00%

Restrictions - The relocated centre must be located in the same proximate geographical area as the existing centre and serve the same or similar enrolled families or community

Option	Total	Percent
Strongly agree	2	18.18%
Agree	8	72.73%
Neutral	1	9.09%
Disagree	0	0.00%
Strongly disagree	0	0.00%
Not Answered	0	0.00%

Restrictions - The size of the relocated centre and the number of child places accommodated should not be materially different to the existing centre

Option	Total	Percent
Strongly agree	4	36.36%
Agree	7	63.64%
Neutral	0	0.00%
Disagree	0	0.00%
Strongly disagree	0	0.00%
Not Answered	0	0.00%

Restrictions - The application for an amendment must be made no less than 30 working days before the intended operational date of the new premises

Option	Total	Percent
Strongly agree	2	18.18%
Agree	5	45.45%
Neutral	3	27.27%
Disagree	1	9.09%
Strongly disagree	0	0.00%
Not Answered	0	0.00%

Restrictions - The application for permanent relocation must be made no later than 3 months from the date it is unable to continue operating at its current location

Option	Total	Percent
Strongly agree	1	9.09%
Agree	7	63.64%
Neutral	3	27.27%
Disagree	0	0.00%
Strongly disagree	0	0.00%
Not Answered	0	0.00%

Do you agree with the proposal to clarify that the Secretary for Education can take into account network approval provisions when assessing an application to amend a licence?

Option	Total	Percent
Strongly agree	3	27.27%
Agree	6	54.55%
Neutral	1	9.09%
Disagree	0	0.00%
Strongly disagree	1	9.09%
Not Answered	0	0.00%

Consultation on Amendments to Education (Early Childhood Services) Regulations to accommodate Crown acquisition of land and network approval: Written submissions

Total written submissions: 3

	Submitter
1	Montessori Aotearoa New Zealand
2	Auckland Kindergarten Association
3	Office of Early Childhood Education



Briefing Note: Cabinet Paper: Amendments to regulation 33 of the Education (Early Childhood Services) Regulations 2008

To:	Hon Jan Tinetti, Minister of Education		
To:	Hon Jo Luxton, Associate Minister of Education		
Date:	6 July 2023	Priority:	Medium
Security Level:	In Confidence	METIS No:	1307135
Drafter:	Peter Mellor	DDI:	s9(2)(a)
Key Contact:	Paul Scholey	DDI:	s9(2)(a)
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

This briefing provides:

- the final Cabinet paper on the amendments to the Education (Early Childhood Services) Regulations to accommodate Crown acquisition and network approval.
- talking points for the paper *Education (Early Childhood Services) Amendment Regulations (No 2) 2023* at Cabinet Legislation Committee on 20 July 2023.

Summary

The attached final Cabinet paper seeks authorisation for submission to the Executive Council of the Education (Early Childhood Services) Amendment Regulations (No 2) 2023.

Proactive Release

agree that the Cabinet paper and this Briefing Note are proactively released following the gazetting of the regulations, with any information that may need to be withheld done so in line with the provisions of the Official Information Act 1982.

Hon Jan Tinetti

Agree / Disagree

Hon Jo Luxton

Agree / Disagree

P. Scholey


Paul Scholey
Senior Policy Manager
Te Pou Kaupapahere | Policy

06/07/2023



Hon Jan Tinetti
Minister of Education

09/07/2023



Hon Jo Luxton
Associate Minister of Education

16/7/23

s9(2)(g)(i)

Proactively Released