



Education Report: Cabinet paper: Policy approvals for final policy settings for early childhood network management

To:	Hon Chris Hipkins, Minister of Education		
Date:	22 October 2021	Priority:	High
Security Level:	In Confidence	METIS No:	1273665
Drafter:	Siobhan Murray	DDI:	9(2)(a)
Key Contact:	John Brooker	DDI:	
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

This paper seeks your agreement to agency and Ministerial consultation on the attached draft Cabinet paper about early childhood network management. We need your feedback by Tuesday 26 October 2021.

Summary

- 1 The attached draft Cabinet paper seeks policy approvals for final changes to the Education and Training Act 2020 to implement early childhood network management following recent public consultation. If you agree, we will release this paper for agency and Ministerial consultation.
- 2 We will provide you with a revised draft Cabinet paper by 10 November following combined consultation with agencies and your Ministerial colleagues. Final papers must be lodged on 11 November for consideration at Cabinet Social Wellbeing Committee on 17 November 2021. This timeframe will allow a Supplementary Order Paper to be drafted in time for December 2021, when the Education and Training Amendment Bill (No. 2) is first introduced.

3

9(2)(f)(iv)

Recommended Actions

The Ministry of Education recommends you:

- a. **provide** feedback on the draft Cabinet paper by Tuesday 26 October 2021

- b. **agree** that the Ministry can release the attached draft Cabinet paper for agency and Ministerial consultation

Agree / Disagree

- c. **confirm** your previous decision not to provide for any transitional provisions for services (including new builds) that are not licensed by 1 August 2022 (and have not already applied for a licence) [METIS 1255416 refers]

Yes / No

- d. **agree** this Education Report is proactively released in December, once changes to the network management provisions in the Act are included in the Education and Training Amendment Bill (No. 2), 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



John Brooker
Group Manager
Te Puna Kaupapahere

22/10/2021

Hon Chris Hipkins
Minister of Education

___/___/___

Background

1. The Ministry of Education is undertaking a comprehensive review of the early learning regulatory system. During 8 September 2021 – 13 October 2021 we consulted on:
 - a. Implementing the new network management function for licensed early childhood services
 - b. Regulating for 80% qualified teachers and strengthening the person responsible requirement in teacher-led centres and hospital-based services
 - c. Strengthening the person responsible requirement for home-based services.

Respondents supported our major proposals requiring changes to the Act

2. We received 101 survey responses and 17 written submissions on network management. Respondents were predominantly European/Pākehā/NZ European (74%) or Māori (15%), and early learning owners or managers (57%) or teachers (24%), and from education and care services (74%). Most respondents were based in Auckland (46%) or Canterbury (19%).
3. Although we only received 101 survey responses and 17 written submissions, we had over 200 people attend information sessions about the proposals.
4. Overall, respondents supported our major proposals put forward for consultation (see Table One below):

Table One: Major proposals and % that agreed or strongly agreed

Proposal	% agreed or strongly agreed
National and Regional Statements <ul style="list-style-type: none">Introducing National and Regional Statements andConsulting with the early learning sector and Iwi/Māori	85% 90%
Two proposals to challenge decisions <ul style="list-style-type: none">Judicial review of Minister of Education's decision and appeal in District Court of Secretary for Education's determination	65% (an additional 23% were neutral)
Proposals to improve the fit and proper test	91%
A new assessment of the capability of the applicant to deliver the service	95%
Proposals to set conditions on approved applications	78%
Proposals to clarify when extensions will be considered	78%

Feedback about new builds

5. While the proposals were well supported, we received many questions and comments about the impact of network management on new builds. These respondents are involved in building projects that have received building and resource consent and where they have invested significant funding. They were concerned that these new services will not be guaranteed to receive network management approval. Some of these respondents may have also been directly impacted by COVID-19 Alert Levels, building and supply constraints, and/or global issues related to shipping.

6. Some of the feedback is noted below:

- a. *The most significant part of this legislation is the lack of consideration to alter the date of 1 August for implementation. NZ has been and continues to go through one of the most significant events in its history.*
- b. *New builds and timing is my biggest concern about this - and with some more security for them, if they get approval pre-build or pre- resource/building consent phase extensions should be more secure.*
- c. One respondent also suggested a transitional provision to provide certainty for persons that have committed to the establishment of a new centre:
 - i. *Subsection (1) shall not apply where a person has obtained a current valid resource consent from the consenting authority to establish and operate an education and care centre or service under (1)(a)-(c) prior to 1 March 2022.*

7. In June 2021 you agreed not to provide for any transitional provisions for services that are not licensed by 1 August 2022 (and have not already applied for a licence) [METIS 1255416 refers]. Our communications were clear that applicants must apply for licensing before 1 August 2022 or factor in network management approval into their process.
8. We have not provided an exemption for new builds in the transitional provisions, but consider people involved in new builds will continue to lobby government on this matter. We seek your confirmation that we continue with the previously agreed approach.

Network management Cabinet paper

9. We have provided you with a draft Cabinet paper seeking approval for final policy settings for managing the network of licensed early childhood services. This Cabinet paper focuses on changes required to the Education and Training Act 2020. The paper also seeks approval to issue drafting instructions for a Supplementary Order Paper (SOP) to include these proposals in the Education and Training Amendment Bill (No. 2).
10. The intention is to introduce the SOP when the Bill is referred to the Education and Workforce Committee in December, which will enable a full select committee process for these proposals.
11. We will come back to you next year on the policy changes for new regulations for network management and the content for the National and Regional statements.

Education and Training Amendment Bill (No. 2)

12. On 26 October 2021, you will receive the draft Cabinet paper for the Bill [The Education and Training Amendment Bill (No 2) - draft Approval for Introduction Cabinet paper - METIS 1264141 refers] for agency and Ministerial consultation. The Education and Training Amendment Bill (No. 2) is scheduled for introduction and referral to Select Committee in December 2021.

9(2)(f)(iv)

Next Steps

17. Subject to your agreement, we will undertake agency consultation on the draft Cabinet paper and discussion documents in parallel with Ministerial consultation between 26 October and 9 November 2021. Following feedback, we will provide you with a final Cabinet paper for lodgement on 11 November, for consideration at Cabinet Social Wellbeing Committee on 17 November. The timeline is outlined below.
18. This timeline does not have room for slippage as it is driven by finalising Act changes before the implementation date of network management on 1 August 2022.

Date	Activity
26 October	Your feedback on draft Cabinet paper
26 Oct – 9 Nov	Agency and Ministerial consultation
4 November	Regulatory Impact Statement provided to Minister's Office under the no surprises policy
10 November	Final Cabinet paper, and regulatory impact statement provided to Minister's Office for lodging
11 November	Paper lodged
17 November	SWC
22 November	Cabinet
22 November	Drafting instructions issued for Supplementary Order Paper (SOP)
24 November	Draft Cabinet paper and SOP to Minister for consultation

¹ Government funding provided for early learning buildings.

Date	Activity
25–30 November	Agency & Ministerial consultation
1 December	Cabinet paper to Minister to approve for lodging
2 December	Paper lodged
9 December	LEG
13 December	Cabinet
Week of 13 December	SOP referred to Select committee to be considered with Education and Training Amendment Bill (No 2)

Annexes

Annex 1: (Draft) Cabinet paper: Policy approvals for final policy settings for early childhood network management