Purpose of Report

This report provides the summary of submissions on the Workforce Development Council (WDC) Order in Council (OIC) consultation and seeks your approval to changes to the proposals.

Recommended Actions

The Ministry of Education recommends you:

a. note that we received 214 submissions across all six OIC proposals, and full summaries of submissions on the six OIC proposals are included in appendixes 4-9;

b. note that in Annex 1 we seek your agreement to the Ministry of Educations (the Ministry) recommended changes across all order in council proposals;

c. note that in Annex 2 we seek your decisions to changes the interim Establishment Boards (IEB) have recommended and that the Ministry does not support;

d. note there are several proposed changes specific to each OIC that the IEBs and the Ministry both agree on, these are summarised in Annex 3;

e. agree to changes summarised in Annex 3

Agree / Disagree

f. note decisions on these proposed changes are needed by 24 February to inform the Cabinet paper;

g. note that the Ministry considers Ministerial appointments to the WDCs could be considered minor in nature and therefore made by the Minister without reference to Cabinet Appointments and Honours Committee (APH);
h. **agree** that Ministerial appointments to WDCs be considered minor public appointments;
   These appointments need to go through a regular APH process
   Agree [ ] Disagree [ ]

i. **agree** to proactively release this paper in accordance with the provisions of the Official Information Act (1982).
   Agree [ ] Disagree [ ]

Katrina Sutich  
Group Manager – Tertiary Education  
Te Ara Kaimanawa  
Ministry of Education  
19/02/2021

Gillian Dudgeon  
Deputy Chief Executive – Delivery  
Tertiary Education Commission  
19/02/2021

Hon Chris Hipkins  
Minister of Education  
26/2/2021
Executive summary

1. This paper seeks your agreement to a number of changes to the six OICs as a result of the consultation process. Many of the changes have been recommended by the IEBs and the Ministry supports these changes. In instances where the IEBs and the Ministry have not reached agreement the IEBs recommendation is presented alongside the Ministry’s advice for you to consider. We also seek your agreement that any ministerial appointments to the WDC be considered minor public appointments and consequently do not need to go to APH for consideration.

Background

2. The Tertiary Education Commission (TEC) undertook statutory consultation on the content of the six Order in Council proposals on behalf of the Minister of Education. The consultation ran for approximately 7 weeks from 16 December 2020 until 5 February 2021 [METIS 1246318 refers].

3. Submitters were able to provide feedback via email and via an online feedback form hosted on a consultation platform. The consultation platform contained the proposal documents, background documents, FAQs, and other information. The TEC also organised several Zoom information sessions, which people could attend for more information about the Order in Council proposals or about the Order in Council process, and for the opportunity to ask questions.

4. The total number of submissions received (across all six WDCs) is 214. This includes both email submissions (94) and submissions received via the consultation platform (120).

5. A breakdown of submissions received on each of the WDC Order in Council proposals is outlined in the table below

<table>
<thead>
<tr>
<th>Table 1: Summary of total submissions</th>
</tr>
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<tbody>
<tr>
<td><strong>TOTAL SUBMISSIONS</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>organisations</td>
</tr>
<tr>
<td>individual submitters</td>
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<tr>
<td>Construction &amp; Infrastructure WDC</td>
</tr>
<tr>
<td>Creative, Cultural, Recreation, and</td>
</tr>
<tr>
<td>Technology WDC</td>
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<tr>
<td>Health, Community and Social Services WDC</td>
</tr>
<tr>
<td>Manufacturing, Engineering, and</td>
</tr>
<tr>
<td>Logistics WDC</td>
</tr>
<tr>
<td>Primary Industries WDC</td>
</tr>
<tr>
<td>Service Industries WDC</td>
</tr>
</tbody>
</table>

6. Please note that the totals in this table add up to more than 214 (total number of submissions received). This is due to some submitters commenting across multiple WDCs. Seventeen submissions commented across all WDCs.

7. Appendix 10 lists all the organisations who participated in the consultation, per WDC.

8. Throughout the 7-week consultation period, the TEC organised 16 Zoom information sessions: 2x general overview sessions, 2x Māori-iwi sessions, and 12 (2 per WDC) WDC-specific information sessions. These were attended by an average of 35 persons and/or industry representatives per session.
Process with IEBs

9. The TEC led the consultation process with input from the IEBs on the background and the materials to support the consultation, as well as supporting the online information meetings. Once the consultation period came to an end the submissions were summarised and provided to the IEBs and the Ministry to review and consider any changes.

10. The IEBs and the Ministry met to discuss their sets of recommendations, these fell into several categories:
   a. Where the Ministry proposes changes that go across all IEBs we have discussed these below, including where there was a mix of IEB support.
   b. There were instances where the Ministry and the IEBs were not able to reach agreement and these are included in Annex 2.
   c. In many cases the Ministry supports the IEBs proposals for change, these are included in Annex 3.

Ministry of Education proposed changes across all OICs (Annex 1)

Treaty provisions

11. Several submitters indicated a preference for strengthening or expanding on the Treaty of Waitangi in the purpose statements in the six OICs. Officials consider that the provisions that refer to the Treaty are sufficiently strong and that that the OICs should contain a high-level reference to the Treaty consistent with what is in section 4 of the Education and Training Act (the Act).

12. Furthermore, these changes would require an agreed understanding of the broader implications and effect of referring to the Treaty principles or articles on the operations and monitoring of WDCs.

13. Once established, the OIC enables the WDC to develop strategies and specific polices on how the organisation will operate in a Treaty compliant manner to meet the accountability arrangements set out in the OIC.

14. The Ministry notes that some of the treaty statements are different across the six proposals. Four refer to 'fair and equitable outcomes' and two refer to 'Crown-Māori relations. The Ministry considers that the intention was always for the Treaty statements to be that same across all 6 OICs.

IEB response

15. Two IEBs wanted to refer to the articles, not the principles of the Treaty. Some wanted to 'give effect' to the Treaty. Two indicated that if the Ministry’s proposed change was made to the Treaty statement, they would like to retain reference to 'fair and equitable outcomes' in their purpose statement.

Ministry of Education recommendation

16. The Ministry recommends that all the IEBs have the following Treaty statement: ‘The WDC will contribute to an education system that honours Te Tiriti Waitangi and supports Māori-Crown relations.’

17. The Ministry recommends that the following words are retained elsewhere in the purpose statement: ‘The WDC will contribute to an education system that helps ensure fair and equitable outcomes for all.’
Proposed Purpose and Accountability Arrangements for the Workforce Development Council

18. The purpose statement and accountability provisions are designed to work together to create an overall framework for the performance of the WDC’s functions and to drive accountability. The WDC’s ability to successfully engage with industries, facilitate industry voice, and provide strategic leadership to industries, is crucial to their success.

19. The Ministry proposes some minor adjustments to connect the purpose statement more clearly with the functions of the WDCs, and to recognise the role of industry more clearly within the framework. These changes include:
   a. Linking industry engagement with the WDC’s accountability arrangements from the ground up, so that engagement with industry is clearly linked to the statement of strategic direction.
   b. Changing the phrase “using its industry voice” so that it is clearer that the WDC is accountable for facilitating the voice of its industries and should not be originating industry views and needs.

20. Some submitters noted that the purpose statement includes contributions to the education system but does not sufficiently recognise that WDCs are key contributors to a wider system in which skills are an input into well-functioning labour markets and productivity generally. The Ministry agrees that accountability for this outcome is fundamental for WDCs. Officials propose a new point in the purpose statements to connect WDCs to a well-functioning labour market system and skills for industries and firms now, and in future.

21. Several submitters noted that the Order was silent on the need for performance measures as a part of the accountability arrangements of the WDC. We agree a requirement to develop how the performance of the WDC will be measured should be included in the strategic plan and reported against in the annual report. When drafting the OIC instructions, we will seek to balance enabling WDC and industry to develop their own performance measures, with specific provisions to ensure the WDC can be held to account.

IEB response

22. Several IEBs have indicated that they are comfortable with these recommendations. There was general support for strengthening the recognition of industry in the framework. However, there was some concern about creating an inflexible performance measurement framework.

Ministry of Education recommendations

23. The Ministry recommends changing “use its industry voice” to “facilitates the voices of the prescribed industries.”

24. The Ministry recommends:
   • A cross reference is made to the functions of WDCs in the primary legislation in the purpose section
   • A new point within the purpose statement is included, to the effect that it is the purpose of WDCs “To contribute to a well-functioning labour market system in which industries and firms can access the skills they require, now and in future”

25. That in developing its strategic direction, the council should “engage” with its industries, and “consult” the Minister, vocational education providers, and with...Māori” [abridged].
Collaborations with other WDCs

26. Some submitters asked for more consistency with regards to mechanisms for industry engagement. The IEBs have responded to the particular contexts of the industries under their areas of proposed coverage. The Ministry is supportive of this approach and proposes some minor drafting changes to ensure that each proposal links where necessary to “the specified industries”.

27. Several submitters noted that only one OIC proposal includes a requirement to develop processes to co-ordinate with other WDCs. Several IEBs have indicated that they would like to include a provision that the WDC must establish a process for coordinating with other WDCs. Including this requirement will also go some way to addressing concerns from industries that complement each other but are under the coverage of different WDCs.

28. The Ministry considers that section 396 of the Act already specifies that WDCs must work collaboratively with other WDCs especially on matters of common interest. We consider that the provisions could be strengthened in the OICs. Including a reference to collaboration will be subject to PCOs decision about whether this amounts to repeating the primary legislation. If it does, the PCO will remove it from the OICs.

IEB response

29. Several IEBs support this proposal.

Ministry of Education recommendations

30. The Ministry recommends that the reference to “the specified industries” and the purpose of “the performance of [the WDC’s] functions” appear in the main stem of the lists regarding the establishment of advisory groups.

31. Subject to PCOs decision about whether including this provision amounts to repeating the primary legislation, the Ministry recommends that a clause requiring the WDC to “establish a process for co-ordinating its activities with other workforce development Councils” be included in all six of the Orders.

Minor change to appointments process for the first council

32. The appointment provisions of the first council require an appointments committee (for 5 WDCs) to seek expressions of interest in, or nominations for, appointment as a member of the Council.

33. For operational reasons, TEC want to be able to seek expressions of interest for the first council. This would allow the TEC to seek EOIs for the selection committee and the first council at the same time, which would expedite the overall appointment process. The appointment committee will still be responsible for appointing the first council.

IEB response

34. The IEBs supported this recommendation.

Ministry of Education recommendations

35. The Ministry recommends that the provisions for the appointment of the first council be amended so that the TEC may seek expressions of interest for candidates to be appointed to the first council.
WDC specific proposals where the IEBs and the Ministry of Education have not reached agreement (Annex 2)

36. There are several WDC specific proposals where the IEBs and the Ministry have not reached agreement, these are summarised in Annex 2.

37. The IEBs proposals include changes to their individual OICs in response to submissions on issues already discussed last year for example:
   a. Expanding the purpose statements:
      i. to ‘give effect’ to the Treaty
      ii. to expand the WDCs responsibilities beyond its functions.
   b. Including iwi in consultation requirements.
   c. Referring to articles, not principles in the Treaty statement.
   d. Requesting additional functions.

38. Those themes were not included in the consultation as discussed with the IEBs as either potentially ultra vires (a,b,c) or presenting some risks of detracting from the WDCs core functions at this point in time [see also METIS 1244452].

39. Some other proposed changes from the IEBs in response to submissions include:
   a. Including gender requirements on council.
   b. Establishing Kāhui Ahumai as body.

40. On the request of the IEBs, we have included their proposals for you to consider in Annex 2. A full discussion of the rationale for both views is provided within the individual summaries of each OIC proposal (Annexes 4-9).

41. Officials consider that the Ministry’s proposed changes across all OICs (Annex 1) capture, when possible, the policy intent of the IEBs proposed changes to specific OICs, as well as key themes received through submissions on the same topics.

IEB proposals that the Ministry of Education supports (Annex 3)

42. The Ministry supports the majority of the proposals that the IEBs have made. These are summarised in Annex 3 and the detailed discussion of each proposal is included in the individual Annexes of each OIC proposal (Annexes 4-9).

Changes the Ministry of Education considered but have not progressed

Recognising the Kāhui Ahumai (Māori members of the IEBs) in the OIC

43. Some submitters have asked for the Kāhui Ahumai members to be recognised as a cross-WDC group within the OIC. However, it is not possible to establish the Kāhui Ahumai as a separate body in the OICs, because the primary legislation does not allow for this.

44. In recognition of the contribution Kāhui Ahumai has made to the development of the OICs the majority of IEBs have indicated that they support establishing Kāhu Ahumai in legislation and the group continuing.

45. Officials consider that the current provisions, which include a Treaty statement, accountability arrangements, requirement for Māori members on council, skills and experience requirements and the requirement for WDCs to collaborate with each other and enable collaboration between Māori members on the WDCs.

46. Furthermore, the OIC enables the WDCs to establish and develop operational policies to support the fulfilment of its functions including in a manner that is consistent with
honouring the Treaty. This may include seeking advice from Māori members of other WDCs, or anyone else the WDC considers appropriate to assist them.

**Defining a ‘Māori employer’**

47. A number of submitters have sought clarity on the use of the terms ‘Māori’ and ‘Māori employer’. Many IEBs were also supportive of having a definition. In agreement with the IEBs, officials consider that rather than seeking a single definition of Māori employer in the OIC, each industry should decide on a working definition that is appropriate to them.

**Engagement with iwi**

48. Several submitters, including two iwi, have raised concerns that there are no clear pathways for engagement with iwi and hapū in areas of interest to them. Several IEBs indicated they wanted clear pathways for iwi and hapū to engage with the IEB.

49. We consider the pathways for iwi and hapū to engage with WDCs are enabled by the current provisions. Accountability arrangements across all WDCs require that the WDC must consult with persons who:

   ‘represent Māori in relation to the performance of Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of those population groups in the performance of its functions’

50. It is reasonable to expect that in determining who represents Māori, the Council will consider iwi or hapū in the specified industries. Two IEBs have also mentioned hapū and iwi as part of the OIC sections on industry engagement.

**Recognition of the role of Wānanga**

51. Te Wānanga o Aotearoa requested recognition of the role of wānanga in the purpose statements of the OICs (including requiring consultation with wānanga to ensure their unique provision is recognised).

52. Several IEBs indicated that they were interested to engage with wānanga where appropriate and that the current provisions were sufficient to enable this.

53. Officials consider existing provisions are sufficiently strong to ensure that wānanga’s interests are considered by WDCs.

**Ministerial appointments and the APH**

54. You agreed to establish the six WDCs through six Orders in Council (OIC) to reflect the different needs of industry and the policy intent that WDCs are autonomous industry-driven organisations. As industry driven documents, there is variation between the proposed appointment processes for the six OICs.

55. Outlined below are the proposed OIC appointment processes for the three WDCs with a Ministerial appointment process for their first and/or ongoing Council:

**The Services Workforce Development Council:**

- For the first Council, the TEC will receive all nominations, present a short list and make recommendations to you to appoint the initial chairperson and 3 of the 9 members.
- For the ongoing permanent Council, you will appoint 4 members of the Council and will designate 1 of those members to be the Chairperson. Ministerial appointments will continue as vacancies arise. The Council will send nominations to the TEC, which will present a short list and recommendations to you.
The Muka Tangata People, Food and Fibre Workforce Development Council:

- For the first Council, you will appoint the first members (8 – 12 members). The Chief Executive of the TEC must establish a Nominations Committee, comprising of 5 representatives from the specified industries. The Nominations Committee must submit to you, a list of candidates who it considers suitable for appointment, as members of the Council.

- For the ongoing permanent Council, you appoint the members of the Council in consultation with the Minister, or Ministers responsible for primary industries, in accordance with the membership provisions and the membership criteria of the Order.

The Toi Mai Workforce Development Council:

- For the first Council, you appoint all members (7-9 members). The Chief Executive of the TEC must establish a Nominations Committee comprising 5 representatives from the specified industries. The Nominations Committee must submit to you a list of candidates who it considers are suitable for appointment as members of the Council.

56. The Cabinet Manual states that “all but the most minor public appointments” must be submitted to the appropriate Committee, the Cabinet Appointments and Honours Committee.

57. For TEI governance appointments, as the Minister of Education is the appointing authority (and not Cabinet), the APH Committee provides you with an opportunity to inform your Cabinet colleagues of your intentions and to note any comments they may provide. It also enables the Cabinet Office to maintain a central record of appointments made and to share information on diversity and other aspects of government appointments.

58. The IEBs wanted Ministerial appointments to sanction industry’s choices.

59. The Cabinet Manual states that “as a general rule, Ministers should put before their colleagues the sorts of issues on which they themselves would wish to be consulted. Ministers should keep their colleagues informed about matters of public interest, importance, or controversy”.

60. The Cabinet Manual does not define the criteria to identify minor public appointments. It is up to your judgement as the responsible Minister to determine whether an appointment is a major or minor public appointment.

61. The appointment of members to WDCs could be considered minor public appointments:
   i. in line with policy intent, WDCs are an independent industry led statutory body and WDCs appointments to the Council are to be industry led at arm’s length from Government.
   ii. While WDC are Crown funded, they are fulfilling some of the functions previously covered by ITOs. ITO appointments were gazetted without Government intervention.
   iii. The majority of WDCs do not have any Ministerial appointment, and submissions received during the OIC consultation questioned the extent of the Government’s influence on WDCs.
62. A minor public appointment approach addresses these concerns by emphasising that WDCs remain industry driven. It also diminishes the potential for a perceived discrepancy in Government influence between the appointment processes for the six WDCs.

Risks

Industry leadership and stakeholder fatigue

63. The intent of tasking the IEBs to develop the OICs was to enable an industry led process and to encourage a high level of buy in and industry ownership of WDCs. The complexities of the OIC drafting and approval process continues to be a challenge for IEBs, to the extent that many IEBs do not consider that the OIC proposals reflect their intentions as they expected them to.

64. The IEBs have worked across several fronts to get the WDCs up and running in the agreed timeframe. Whilst officials have been active in supporting the IEBs, some IEB members continue to express frustration. The Ministry and TEC will continue to actively manage the relationship through clear communication, active listening, and engagement.

PCO drafting the OICs

65. The Ministry has been very enabling in terms of expressing the OIC proposals in the way that the IEBs want. Once the proposals are provided to PCO they are likely to want to apply a higher amount of rigour as is appropriate for a legal document.

66. This is likely to result in a number of changes to the proposals that the IEBs feel they have not agreed to. The Ministry has discussed this with the IEBs and they are aware that this will happen. However, this is likely to only partially mitigate the issue that IEBs may feel their intentions have been misrepresented in the final legal instrument.

Next steps

67. To meet our timelines, we will need your decisions on this paper by the 24 of February. If there are any issues you wish to discuss, these can be raised at the agency meeting on 22 February.

68. Subject to the above we will provide you with a draft Cabinet paper for your consideration on 25 February. The paper will seek Cabinet’s approval to the high-level policy decisions contained in each proposal and approval for PCO to draft the orders. Please see the full timeline below.

Table 2: OIC timeline

<table>
<thead>
<tr>
<th>OIC Timeline</th>
<th>Dates</th>
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<tbody>
<tr>
<td>Summary of submissions paper to the Minister seeking any changes to the OIC proposals</td>
<td>18-Feb</td>
</tr>
<tr>
<td>Draft Cabinet paper to Minister</td>
<td>25-Feb</td>
</tr>
<tr>
<td>Departmental/Ministerial consultation</td>
<td>26-Feb</td>
</tr>
<tr>
<td>Minister provides feedback</td>
<td>1-Mar</td>
</tr>
<tr>
<td>Final Cabinet paper to Minister for lodging</td>
<td>3-Mar</td>
</tr>
<tr>
<td>MO lodges the Cabinet paper</td>
<td>4-Mar</td>
</tr>
<tr>
<td>SWC Cabinet committee meeting</td>
<td>10-Mar</td>
</tr>
<tr>
<td>Cabinet meeting</td>
<td>15-Mar</td>
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</tbody>
</table>
PCO drafting | 4 weeks
Draft Cabinet paper to Minister | 26-Mar
Departmental/Ministerial consultation | 29-Mar
MO lodges the LEG Cabinet paper | 8-Apr
LEG Cabinet Committee meeting | 15-Apr
Cabinet meeting | 19-Apr
Executive Council and Governor-General approves regulations | 19-Apr
OICs are passes | 20-Apr
Appointment process begins | 20-Apr
28-day rule/ OIC comes into effect | 20-May

List of Annexes

Annex 1: Ministry of Education proposed changes across all OICs
Annex 2: Summary of WDC specific proposals where the IEBs and The Ministry have not reached agreement
Annex 3: Summary of iEB WDC specific proposed changes supported by the Ministry of Education
Annex 4: Manufacturing, Construction and Engineering summary of submissions
Annex 5: Primary Industries summary of submissions
Annex 6: Services Industries summary of submissions
Annex 7: Creative, cultural, Recreation and Technology summary of submissions
Annex 8: Health, Community and Social Services summary of submissions
Annex 9: Constructions and Infrastructure summary of submissions
Annex 10: List of organisations that submitted
### Annex 1- MoE proposed changes across all OICs

**Recommendations 1 - 10**

<table>
<thead>
<tr>
<th>Ed Report Paras 11 - 17</th>
<th>MoE recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Treaty provisions</td>
</tr>
<tr>
<td>1</td>
<td>Agree that all the OIC proposals have the following Treaty statement: ‘The WDC will contribute to an education system that honours Te Tiriti Waitangi and supports Māori-Crown relations.’</td>
</tr>
<tr>
<td>2</td>
<td>Agree that the following words are retained elsewhere in the purpose statement: ‘The WDC will contribute to an education system that helps ensure fair and equitable outcomes for all.’</td>
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<table>
<thead>
<tr>
<th>Ed Report Paras 18 - 25</th>
<th>Proposed Purpose and Accountability Arrangements for the Workforce Development Council</th>
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<tbody>
<tr>
<td>3</td>
<td>Agree in the purpose statement to changing “use its industry voice” to “facilitates the voices of the prescribed industries”</td>
</tr>
<tr>
<td>4</td>
<td>Agree a cross reference is made to the functions of WDCs in the primary legislation in the purpose section.</td>
</tr>
<tr>
<td>5</td>
<td>Agree to a new point within the purpose statement to the effect that it is the purpose of WDCs is “To contribute to a well-functioning labour market system in which industries and firms can access the skills they require, now and in future.”</td>
</tr>
<tr>
<td>6</td>
<td>Agree that in developing strategic plans, the council should “engage” with its industries, and “consult” the Minister, vocational education providers, and with ...Māori” [abridged].</td>
</tr>
<tr>
<td>7</td>
<td>Agree to include a requirement to develop performance measures to be included in the accountability of the WDC, i.e. to be included in its Statement of Strategic Direction and reported upon in its Annual Report.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ed Report Paras 26 - 31</th>
<th>Collaborations with other WDCs</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Agree that the following proposal be included “establish a process for coordinating its activities with other workforce development Councils”.</td>
</tr>
<tr>
<td>Ed Report Paras 32 - 35</td>
<td>Minor changes to governance</td>
</tr>
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<td>-------------------------</td>
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<tr>
<td><strong>10</strong></td>
<td>Agree that the provisions for the appointment of the first council be amended so that the TEC may seek expressions of interest for candidates to be appointed to the first council.</td>
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**Katrina Sutich**  
Group Manager – Tertiary Education  
Te Ara Kaimanawa  
Ministry of Education  
19/02/2021

**Gillian Dudgeon**  
Deputy Chief Executive – Delivery  
Tertiary Education Commission  
19/02/2021

**Hon Chris Hipkins**  
Minister of Education  
26/2/2021
Annex 2 – Summary of WDC specific proposals where the IEBs and MoE have not reached agreement

**Recommendations 56 - 74**

The recommendations in this table are organised by WDC:
- **Section A)** Manufacturing, Engineering and Logistics
- **Section B)** Primary Industries
- **Section C)** Services - There are no proposed changes specific to the Services WDC that IEBs as agreement was reached on all proposals.
- **Section D)** Health Community and Social Services
- **Section E)** Construction and Infrastructure
- **Section F)** Creative, Cultural, Recreation and Technology

*Note:* For consistency, we have used the WDC names from the consultation documents, rather than the names proposed in the OiCs.

### Section A) Manufacturing, Engineering and Logistics Workforce Development Council (annex 4)

**Proposed Detailed Governance Arrangements that are Unique for the Workforce Development Council**

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>IEB recommendation:</th>
<th>MoE recommendation:</th>
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<tbody>
<tr>
<td><strong>56</strong></td>
<td><strong>Agree</strong> to the addition of the following provision relating to collaboration with other Workforce Development Councils:</td>
<td><strong>Note</strong> that the Ministry recommends that the provisions relating to collaboration between WDCs be included but pitched at a higher level for inclusion in the 'Mechanisms for Industry Engagement' section.</td>
</tr>
<tr>
<td><strong>Annex 4 Pg. 39</strong></td>
<td><em>The general manager must:</em></td>
<td><strong>Noted</strong></td>
</tr>
<tr>
<td></td>
<td>• identify the specified industries where close collaboration with another workforce development Council is required to ensure that the industry training needs of those industries are met; and</td>
<td><strong>Agree</strong> that the provisions relating to collaboration be included in the 'Mechanisms for Industry Engagement section'</td>
</tr>
<tr>
<td></td>
<td>• establish appropriate engagement models with those other workforce development Councils and specified industries to ensure that the industry training needs of those industries are met.</td>
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</table>

**Agree / Disagree**
## Proposed Additional Functions for the Workforce Development Council

| 57 | iEB recommendation: Agree to include as a function advocacy for industry and career promotion to support efforts to better match the supply and demand of skilled labour. | or | MoE recommendation: Agree not to include as a function advocacy for industry and career promotion to support efforts to better match the supply and demand of skilled labour. | Agree / Disagree |
| 58 | iEB recommendation: Agree to include as a function coordination of workforce development strategies among government agencies and other stakeholders. | or | MoE recommendation: Agree not to include as a function coordination of workforce development strategies among government agencies and other stakeholders. | Agree / Disagree |
| 59 | iEB recommendation: Agree to include as a function research and development and such other activities to support its core and additional functions. | or | MoE recommendation: Agree not to include as a function research and development and such other activities to support its core and additional functions. | Agree / Disagree |

### Section B) Primary Industries (Annex 5)

#### Proposed Purpose and Accountability Arrangements for the Workforce Development Council

| 60 | iEB recommendation: Agree with the following purpose statement: The purpose of Muka Tangata - People, Food and Fibre is to provide strategic direction and leadership across the education ecosystem. It will do this by working collaboratively with learners, industry (including, without limitation, employers, employees, self- | or | MoE recommendation: Agree not to include the iEBs proposed purpose statement purpose statement: | Agree / Disagree |
employed people, volunteers, industry associations and unions),
tangata whenua, stakeholders and the other Workforce Development Councils to give effect to:

- Provide skills leadership to the vocational education sector so that education provision results in graduates with the knowledge, skills and abilities to meet the needs of current and future employers.
- Develop and set standards, assessments and qualifications
- Endorse programmes to ensure they will meet graduate outcomes
- Moderate assessments, monitor quality of educational outcomes and ensure they meet employer needs.
- Provide advice to TEC and government
- Facilitate and channel the industry voice

Through carrying out this purpose the WDC will:

- facilitate (or coordinating?) industry voice to contribute to the creation of a sustainable, globally engaged and adaptive Aotearoa New Zealand;
- contribute to an education system which provides opportunities for all people to reach their full potential and capabilities, including those who have been traditionally underserved by the education system;
- enable an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships;
- plan, implementing and supporting the responses to Aotearoa New Zealand’s current and future workforce needs, taking into account:
  - the transition to a low-emissions and climate resilient Aotearoa New Zealand;
    - new global challenges;
    - emerging technologies;
    - global sustainability goals;
    - the changing nature of work; and

**Note** that the Ministry has assessed the IEBs recommendations and consider that the following points from the IEBs recommendation could be included in the Order, and that doing so would create specific accountabilities for the WDC. See recs below:

<table>
<thead>
<tr>
<th>Agree</th>
<th>that the WDC should be accountable for strategic leadership, as part of its skill leadership function</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree / Disagree</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Agree</th>
<th>that the WDC should be accountable for skill leadership across all aspects of the education system relevant to its coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree / Disagree</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Agree</th>
<th>that in addition to its industry engagements (set out in the section on industry engagement), the WDC should be accountable for collaborating, to the extent that it is necessary or desirable in the circumstances, with learners, tangata whenua, and other stakeholders.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree / Disagree</td>
<td></td>
</tr>
</tbody>
</table>
- the skills, knowledge and qualifications learners need in future, to achieve success for themselves and their communities.

<table>
<thead>
<tr>
<th>Agree</th>
<th>Disagree</th>
</tr>
</thead>
</table>

### Proposed Detailed Governance Arrangements that are Unique for the Workforce Development Council

<table>
<thead>
<tr>
<th>61</th>
<th>iEB recommendation:</th>
<th>MoE recommendation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annex 5</td>
<td>Agree to the formalisation of the Kāhui Ahumahi to provide support and linkages across the WDC to assist and provide support to the WDCs in meeting their responsibilities under Te Tiriti and give an industry lens to support Te Taumata Aronui in their strategic role.</td>
<td>Agree to not formalise the Kāhui Ahumahi to provide support and linkages across the WDC to assist and provide support to the WDCs in meeting their responsibilities under Te Tiriti and give an industry lens to support Te Taumata Aronui in their strategic role.</td>
</tr>
<tr>
<td>Pg. 33</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Agree / Disagree**

If there is strong support for this we should embrace it. I'm happy to change the primary legislation.

**Note** that WDCs will be enabled as part of their powers, and responsibility to collaborate together, to agree to establish a cross-WDC caucus of Māori members.

**Note** that officials acknowledge the desire for the continuation of Kāhui Ahumahi, and the initiative and expert input provided by its members.

### Proposed Additional Functions for the Workforce Development Council

<table>
<thead>
<tr>
<th>62</th>
<th>iEB recommendation:</th>
<th>MoE recommendation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annex 5</td>
<td>Agree to the following additional functions:</td>
<td>Note the Ministry has advised that it is appropriate for WDCs to focus on their core functions in the first few years of operation, and that there will be opportunities further down the line for a mature WDC to seek to include additional functions [METIS1244452 refers]</td>
</tr>
<tr>
<td>Pg. 45</td>
<td>- The WDC will consider how the entire skills ecosystem must be mobilised to build the capability we require in our future workforce. In addition to the vocational education sector, the WDC will provide advice to compulsory education, higher education, industry extension and professional development providers.</td>
<td></td>
</tr>
</tbody>
</table>

**Agree / Disagree**
<table>
<thead>
<tr>
<th></th>
<th>The WDC may undertake commercial work on behalf of industry where it is aligned to the overall objectives and functions of WDC.</th>
<th>Agree not to include any further additional functions.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Agree Disagree</td>
</tr>
</tbody>
</table>

Section C) Health Community and Social Services Workforce Development Council (Annex 8)

Proposed Purpose and Accountability Arrangements for the Workforce Development Council

<table>
<thead>
<tr>
<th></th>
<th>iEB recommendation: Agree that the OiC include the intention to give effect to Te Tiriti o Waitangi through mātauranga Māori and through Ka Hikitia – Ka Hāpaitia or subsequent Māori education and other government strategies that relate to vocational education and training.</th>
<th>or MoE recommendation: Agree that the OiC does not include an intention to give effect to Te Tiriti o Waitangi through mātauranga Māori and through Ka Hikitia – Ka Hāpaitia or subsequent Māori education and other government strategies that relate to vocational education and training.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Agree Disagree</td>
<td>Agree Disagree</td>
</tr>
</tbody>
</table>

Note that the Ministry considers that recognising the role of mātauranga Māori could be included elsewhere in the purpose statement (see recommendation 65).

<table>
<thead>
<tr>
<th></th>
<th>iEB recommendation: Agree to include the following in the purpose statement: • To contribute to an education system which honours Te Tiriti o Waitangi and recognises the role of mātauranga Māori in ensuring fair and equitable outcomes for all.</th>
<th>or MoE recommendation: Agree not to include the following in the purpose statement: • To contribute to an education system which honours Te Tiriti o Waitangi and recognises the role of mātauranga Māori in ensuring fair and equitable outcomes for all.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Agree Disagree</td>
<td>Agree Disagree</td>
</tr>
</tbody>
</table>
| 65  | Annex 8  Pg 13 | **iEB recommendation:** | **Agree** to amend the text, under the section titled proposed purpose and accountability arrangements for the Workforce Development Council, to the following text:  
- The Council must consult with persons, iwi, hapu, or other bodies who, the Council considers on reasonable grounds, represent Māori in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of Māori in the performance of its functions and reforming the vocational education system. | **or** | **MoE recommendation:** | **Agree** not to amend the text, under the section titled proposed purpose and accountability arrangements for the Workforce Development Council, to the following text:  
- The Council must consult with persons, iwi, hapu, or other bodies who, the Council considers on reasonable grounds, represent Māori in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of Māori in the performance of its functions and reforming the vocational education system. |
|     |               | **Agree / Disagree**   |                                                         | **Agree / Disagree**   | **Agree / Disagree** |

**Other feedback**

| 66  | Annex 8  Pg 57 | **iEB recommendation:** | **Agree** to the inclusion of iwi in consultation on reforming the vocational education system, as per Te Kāhui Ahumai’s recommendation. | **or** | **MoE recommendation:** | **Agree** to not make changes as recommended by the IEB that refer to iwi. |
|     |               | **Agree / Disagree**   |                                                         | **Agree / Disagree**   | **Agree / Disagree** |

<p>| 67  | Annex 8  Pg 57 | <strong>iEB recommendation:</strong> | <strong>Agree</strong> to refer to the articles, rather than the principles of Te Tiriti o Waitangi | <strong>or</strong> | <strong>MoE recommendation:</strong> | <strong>Agree</strong> to not refer to the articles, rather than the principles of Te Tiriti o Waitangi |
|     |               | <strong>Agree / Disagree</strong>   |                                                         | <strong>Agree / Disagree</strong>   | <strong>Agree / Disagree</strong> |</p>
<table>
<thead>
<tr>
<th>iEB recommendation:</th>
<th>or</th>
<th>MoE recommendation:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>68</strong> Annex 9 Pg. 12</td>
<td><strong>Note</strong> that the IEB recommends that the following provisions that “contribute” be replaced with “ensure” or “lead” as appropriate throughout the purpose statement.</td>
<td><strong>Note</strong> that the Ministry does not support the IEB recommendation to use ‘lead’ and ‘ensure’ or ‘visible career pathways and a sustainable workforce’ in the purpose statement.</td>
</tr>
<tr>
<td><strong>Agree</strong> that as part of its purpose statement the WDC will “lead the development of a more sustainable, globally engaged and adaptive construction and infrastructure workforce in Aotearoa New Zealand”</td>
<td><strong>Agree</strong> to not include as part of its purpose statement the WDC will “lead the development of a more sustainable, globally engaged and adaptive construction and infrastructure workforce in Aotearoa New Zealand”</td>
<td></td>
</tr>
<tr>
<td><strong>69</strong> Annex 9 Pg. 12</td>
<td><strong>Agree</strong> that as part of its purpose statement the WDC will “ensure the construction and infrastructure vocational education system provides opportunities for all workers to reach their full potential”</td>
<td><strong>Agree</strong> to not include as part of its purpose statement the WDC will “ensure the construction and infrastructure vocational education system provides opportunities for all workers to reach their full potential”</td>
</tr>
<tr>
<td><strong>70</strong> Annex 9 Pg. 12</td>
<td><strong>Agree</strong> that as part of its purpose statement the WDC will “ensure the construction and infrastructure vocational education system honours Te Tiriti o Waitangi to help ensure fair and equitable outcomes for all”</td>
<td><strong>Agree</strong> to not include as part of its purpose statement the WDC will “ensure the construction and infrastructure vocational education system honours Te Tiriti o Waitangi to help ensure fair and equitable outcomes for all”</td>
</tr>
<tr>
<td><strong>71</strong> Annex 9</td>
<td><strong>Agree</strong></td>
<td><strong>Agree</strong></td>
</tr>
<tr>
<td>Pg. 12</td>
<td><strong>Agree</strong> that as part of its purpose statement the WDC will “lead the response to Aotearoa New Zealand’s current and future construction and infrastructure workforce needs”.</td>
<td><strong>Agree to not</strong> include as part of its purpose statement the WDC will “lead the response to Aotearoa New Zealand’s current and future construction and infrastructure workforce needs”.</td>
</tr>
</tbody>
</table>
| 72 | **iEB recommendation:**  
**Agree** in the purpose statement to specify a purpose relating to encouraging visible career pathways and a sustainable workforce pipeline. | **or**  
**MoE recommendation:**  
**Agree to not** include in the purpose statement to specify a purpose relating to encouraging visible career pathways and a sustainable workforce pipeline. |

**Proposed Criteria for the appointment of members for the Workforce Development Council**

| 73 | **iEB recommendation:**  
**Agree** that the provision is updated to ensure at least two members identify as female. | **or**  
**MoE recommendation:**  
**Agree not** to include the IEBs proposal to ensure two members identify as female. |

**Proposed Purpose and Accountability Arrangements for the Workforce Development Council**

| 74 | **iEB recommendation:**  
**Agree** that a clear articulation around Te Tiriti and mātauranga Māori/Māori education that focuses on commitment, accountability and strategic alignment be included in the accountability arrangements. | **or**  
**MoE recommendation:**  
**Agree to not** make the changes the IEB recommends to the Treaty statement and accountability arrangements. |
Note that MoE does not support the IEBs recommendations, we consider the Treaty statement in the purpose statement clearly links to the accountability arrangements.

Katrina Sutich  
Group Manager – Tertiary Education  
Te Ara Kaimanawa  
Ministry of Education  
19/02/2021

Gillian Dudgeon  
Deputy Chief Executive – Delivery  
Tertiary Education Commission  
19/02/2021

Hon Chris Hipkins  
Minister of Education  
26/2/2021
### Annex 3 – Summary of iEB WDC specific proposed changes supported by the Ministry of Education

#### Recommendations 26 - 81

**Document navigation**
The recommendations in this table are organised by WDC:
- Section A) Manufacturing, Engineering and Logistics
- Section B) Primary Industries
- Section C) Services
- Section D) Creative, Cultural, Recreation and Technology
- Section E) Health Community and Social Services
- Section F) Construction and Infrastructure

**Note:** For consistency, we have used the WDC names used in the consultation documents, rather than the names proposed in the OICs.

<table>
<thead>
<tr>
<th><strong>Section A) Manufacturing, Engineering and Logistics Workforce Development Council (Annex 4)</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annex 4 Pg. 12</strong></td>
<td>Proposed Purpose and Accountability Arrangements for the Workforce Development Council</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Annex 4 Pg. 20</strong></th>
<th>Proposed Council Membership Provisions for the Workforce Development Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>27. <strong>Agree</strong> remove the requirement that the remaining members are appointed by the Council, and that this be amended to clarify that appointments should be performed by the appointing body.</td>
<td></td>
</tr>
<tr>
<td>28. <strong>Agree</strong> that co-opting of up to two members (within total of up to 9) will be a function of the Council itself to enable the addressing of skill gaps not met through the appointment processes defined elsewhere in the OIC.</td>
<td></td>
</tr>
<tr>
<td>29. <strong>Agree</strong> that the appointments process should provide for a consultative mechanism between the Council and the committee of the Industry Stakeholder Group in relation to the skill requirements of the Council.</td>
<td></td>
</tr>
<tr>
<td>30. <strong>Agree</strong> that the appointment of up to two governance associates be function of the Council itself.</td>
<td></td>
</tr>
<tr>
<td>Annex 4 Pg. 26</td>
<td>Proposed Criteria for the Appointment of Members</td>
</tr>
<tr>
<td>----------------</td>
<td>-----------------------------------------------</td>
</tr>
</tbody>
</table>
| 31. **Agree** that in relation to skills of Board members, adding “an understanding of, and commitment to, inclusion, eliminating inequality, and understanding the needs of underserved learners, including but not limited to Māori, Pacific peoples, and people living with disabilities”.
| 32. **Agree** that in relation to the overall capabilities available to the Board, adding “a requirement for diversity of age, ethnic background, ideas, and gender, with particular regard to representation of Māori, Pacific peoples, and people living with disabilities”.
| 33. **Agree** that in relation to the overall capabilities available to the Board, adding “an understanding of kaitiakitanga including of the low carbon, low waste circular economy”.

<table>
<thead>
<tr>
<th>Annex 4 Pg. 30</th>
<th>Proposed Appointment to the First Workforce Development Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>34. <strong>Agree</strong> that the appointment committee should be appointed on the basis of expressions of interest from industry, and it be made clear that the appointments committee is responsible for appointments.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Annex 4 Pg. 34</th>
<th>Proposed Appointment to the Permanent Workforce Development Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>35. <strong>Agree</strong> that it is made clear that the Industry Stakeholder Group will be responsible for appointing the permanent Council.</td>
<td></td>
</tr>
<tr>
<td>36. <strong>Agree</strong> that the process of establishing an Industry Stakeholder Group must involve consultation and engagement with industry by the Council.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Annex 4 Pg. 39</th>
<th>Proposed Detailed Governance Arrangements that are Unique to the Workforce Development Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>37. <strong>Agree</strong> that the term of governance associates should be set at up to two years.</td>
<td></td>
</tr>
<tr>
<td>38. <strong>Agree</strong> that a provision be added relating to the quorum for meeting that address significant matters was 75%.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Annex 4 Pg. 50</th>
<th>Mechanisms for Industry Engagement</th>
</tr>
</thead>
<tbody>
<tr>
<td>39. <strong>Note</strong> that the Board recommended changes to the Proposed Detailed Governance Arrangements that are Unique for the WDC to respond to the feedback received on the need to collaborate with other WDCs.</td>
<td></td>
</tr>
<tr>
<td>40. <strong>Note</strong></td>
<td>Note that MoE supports the iEBs recommendations to collaborate but that these may be included in a different section.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>Annex 4</strong> <strong>Proposed Additional Functions of the Workforce Development Council</strong></td>
<td><strong>41. Agree</strong> to include as a function to promote opportunities for all people to reach their full potential and capabilities by supporting quality vocational educational outcomes. <strong>42. Agree</strong> to include as a function to address the needs and aspirations of priority learners including Pacific learners and people with disabilities.</td>
</tr>
<tr>
<td><strong>Annex 4</strong> <strong>Proposed Coverage of the Workforce Development Council</strong></td>
<td><strong>43. Agree</strong> to adopt the following coverage statement changes: <em>Coverage of 6923 ‘Engineering Design and Engineering Consulting Services’ limited to Boat designing service, Chemical engineering consulting service, Drafting service, engineering, Electronic engineering consulting service, Engineering consulting service n.e.c. Hydraulic engineering consulting service, Industrial design service, Marine engineering consulting service, Materials handling engineering consulting service, Mechanical engineering consulting service, Mining engineering consulting service, Naval architecture service, Process engineering consulting service, as all other aspects are covered by the Construction and Infrastructure WDC.</em> <strong>44. Agree</strong> that, where possible, the coverage description outlined above clarify to the extent that the primary activities proposed for the Construction and Infrastructure WDC involve activities associated with the other specified industries for the Manufacturing, Engineering and Logistics WDC that they are within the coverage of Manufacturing, Engineering and Logistics WDC. <strong>45. Agree</strong> to adopt the following coverage statement changes: <em>Coverage of 2591 ‘Jewellery and Silverware Manufacturing’ limited to the manufacturing of jewellery against defined specifications, as all other aspects are covered by Creative, Cultural, Recreation and Technology.</em></td>
</tr>
</tbody>
</table>

**Section B) Primary industries (Annex 5)**

| **Annex 5** **Proposed Name of the Workforce Development Council** | |
### Proposed Council Membership Provisions for the Workforce Development Council

**46. Agree** to Muka Tangata – People, Food & Fibre Workforce Development Council as the name of the Primary Industries WDC, and that the name must include the hyphen.

<table>
<thead>
<tr>
<th>Annex 5 Pg. 19</th>
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<tbody>
<tr>
<td><strong>47. Agree</strong> that the Council comprises no fewer than 8 members and no more than 12 members, as determined by the Council, made up as follows:</td>
</tr>
<tr>
<td>- at least 2 members to provide collective representation of employees, including 1 member to represent Māori employees, nominated by Trade Unions (including NZCTU/CTU Rūnanga) involved in the specified industries, or nominations at large of individual employees involved in the specified industries.</td>
</tr>
<tr>
<td>- no more than 8 members nominated by employers, industry bodies or groups/associations, iwi and Māori, involved in the specified industries, including:</td>
</tr>
<tr>
<td>- at least 1 member nominated by industry associations to provide collective representation of employers in the specified industries; and</td>
</tr>
<tr>
<td>- at least 1 member nominated by Māori employers in the specified industries.</td>
</tr>
<tr>
<td>o a number of additional members as required to bring the total membership of the Council up to the number of members determined by the Council.</td>
</tr>
</tbody>
</table>

**48. Agree** that the Council may co-opt other persons to be a member if necessary, to ensure that the Council has an appropriate mix of skills, leadership and experience, provided that the Council comprises in total no more than the total number of members determined by the Council.

**49. Agree** that the Council as a whole, must have approximately an even balance between members who are Māori and non-Māori.

### Proposed Criteria for the Appointment of Members to the Workforce Development Council

<table>
<thead>
<tr>
<th>Annex 5 Pg. 23</th>
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<tbody>
<tr>
<td><strong>50. Agree</strong> that the Minister will appoint a board that will:</td>
</tr>
<tr>
<td>- have knowledge, skills, and experience relevant to the strategic direction of the Council; and</td>
</tr>
<tr>
<td>- develop and maintain, good working relationships and connections with businesses within the specified industries.</td>
</tr>
<tr>
<td>- have a mix of industry membership</td>
</tr>
</tbody>
</table>
51. **Agree** that when appointing a person to be a member of the Council, the Minister must as far as reasonably practicable, ensure that the Council as a whole has sufficient leadership, knowledge and experience in the following areas:

- the WDC’s specified industries;
- the vocational education system;
- public administration;
- te ao Māori, mātauranga Māori, Te reo Māori and an understanding of the articles of Te Tiriti o Waitangi; and
- Māori business in the WDC’s specified industries.

52. **Agree** to include in the ‘Criteria for the appointment of members’ section text along the following lines (for consistency across OICs provisions):

> When appointing the employee representative required by the membership provisions, the Minister must appoint a person who has a demonstrated ability to provide collective representation of employees and who:

- has the support of a body recognised as representing employees in one or more of the specified industries, or
- otherwise demonstrates that their appointment represents employees collectively in one or more of the specified industries.

<table>
<thead>
<tr>
<th>Annex 5</th>
<th>Proposed Appointment to the First Workforce Development Council</th>
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<tbody>
<tr>
<td>Pg. 26</td>
<td><strong>53. Agree</strong> that the Nominations Committee must:</td>
</tr>
<tr>
<td></td>
<td>• determine the constitution of the Council, in accordance</td>
</tr>
<tr>
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<td>with the membership provisions, including the number of</td>
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<td></td>
<td>members on the Council (8 - 12 members) and the manner in</td>
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<td></td>
<td>which the directly appointed members are to be selected</td>
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<td></td>
<td>and appointed;</td>
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<td></td>
<td>• comprise 5 members who reflect the composition of the WDC</td>
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<td></td>
<td>(i.e. employee representation, employer representation,</td>
</tr>
<tr>
<td></td>
<td>Māori employer representation).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Annex 5</th>
<th>Proposed Appointment to the Permanent Workforce Development Council</th>
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</thead>
<tbody>
<tr>
<td>Pg. 29</td>
<td><strong>54. Agree</strong> to change the membership provisions so that members</td>
</tr>
<tr>
<td></td>
<td>may be appointed for a 3-year term and that members may be</td>
</tr>
<tr>
<td></td>
<td>appointed for up to 2 terms.</td>
</tr>
</tbody>
</table>
55. **Agree** to draft a process for the management of nominations for the ongoing council with the following features, in addition to the existing provisions:

- The council makes an assessment of the knowledge, skills and experience required, and other requirements (e.g. based on the criteria for appointment of members and the required composition of the council), for the appointment or appointments
- The council must consult widely with its industries to determine a group of candidates who meet the skills requirements the council
- The council makes recommendations to the Minister following this consultation

56. **Note** that the intended operational approach to the council making the assessment referred to above is to use a skills matrix developed for the purpose

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<table>
<thead>
<tr>
<th>Annex 5</th>
<th>Proposed Mechanisms for Industry Engagement for the Workforce Development Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pg. 43</td>
<td><strong>57. Agree</strong> to include the following statement in the main stem of the clause:</td>
</tr>
<tr>
<td></td>
<td><em>The Council must engage with iwi, Māori and legislated and statutory national Māori bodies connected to the specific industries, to assist in giving effect to te Tiriti o Waitangi</em></td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Annex 5</th>
<th>Proposed Coverage of the Workforce Development Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pg. 29</td>
<td><strong>58. Agree</strong> that space is made in the OiC for the development of the ANZSIC codes or of a new code set that takes into account the uniqueness of industry in Aotearoa.</td>
</tr>
<tr>
<td></td>
<td><strong>59. Note</strong> that we will discuss with PCO how to draft this clause in such a way as to ensure emerging industries such as Mātauranga Māori industries that are not covered by the codes can be included in the coverage where they are part of the primary industries.</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Section C) Services (Annex 6)</th>
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<tbody>
<tr>
<td><strong>Annex 6</strong></td>
</tr>
<tr>
<td>Pg. 52</td>
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</table>
61. **Agree** that the wording in the OiC be amended so that it is clear that the council must have at least 3 members who are Māori, but that this may include the representatives outlined earlier in the clause.

62. **Agree** that a clause be added to limit the maximum number of terms for any member to two terms.

63. **Agree** to amend the OiC to refer to “Co-chair” (rather than “co-chairperson”) throughout.

64. **Agree** that a clause be added to create a requirement to collaborate with other WDC along the following lines:

   The WDC must:
   - identify the specified industries where close collaboration with another workforce development Council is required to ensure that the industry training needs of those industries are met; and
   - establish appropriate engagement models with those other workforce development Councils and specified industries to ensure that the industry training needs of those industries are met.

65. **Agree** to amend coverage relating to ANZSIC code 2591 to include: Coverage of 2591 Jewellery and Silverware Manufacturing (limited to the creative design and making of jewellery, as all other aspects are covered by Manufacturing, Engineering and Logistics).
<table>
<thead>
<tr>
<th>Agree to recommendations 26 - 81 as detailed above</th>
<th>Agree / Disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section E) Health Community and Social Services Workforce Development Council (Annex 8)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Annex 8 Pg. 35</strong></td>
<td>Proposed Detailed Governance Arrangements that are Unique to the Workforce Development Council</td>
</tr>
<tr>
<td>66. <strong>Agree</strong> to an additional statement to allow the option of appointing co-chairs, for example the following (from Primary’s OiC): The council may appoint two members to be co-chairpersons</td>
<td></td>
</tr>
<tr>
<td><strong>Annex 8 Pg. 51</strong></td>
<td>Proposed Coverage of the Workforce Development Council</td>
</tr>
<tr>
<td>67. <strong>Agree</strong> to the following amendment to the high-level descriptors: Beauty and skin therapy services to Skin and nail therapy services</td>
<td></td>
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<tr>
<td><strong>Section F) Construction and Infrastructure (Annex 9)</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Annex 9 Pg. 13</strong></td>
<td>Proposed Purpose and Accountability Arrangements for the Workforce Development Council</td>
</tr>
<tr>
<td>68. <strong>Agree</strong> in the purpose statement to include specific references to construction and infrastructure throughout the purpose statements to complement the term specified industries.</td>
<td></td>
</tr>
<tr>
<td><strong>Annex 9 Pg. 20</strong></td>
<td>Proposed Council Membership Provisions for the Workforce Development Council</td>
</tr>
<tr>
<td>69. <strong>Agree</strong> that the Council comprises 8 or 9 members. Eight members are appointed by the appointment committee (for the first Council) or the selection committee (for the permanent Council). The Council itself may co-opt one further member.</td>
<td></td>
</tr>
<tr>
<td>70. <strong>Agree</strong> that the requirement that employee representatives be endorsed by the Council of Trade Unions should be replaced with a clarification that the organisation may be one of the entities that may nominate an employee representative.</td>
<td></td>
</tr>
<tr>
<td>71. <strong>Agree</strong> that at least 2 members are nominated by employers in the specified industries to represent them to, one of which must be nominated by a Māori employer, and at least one of the members so appointed should be Māori.</td>
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<tr>
<td>Annex 9 Pg. 24</td>
<td>Proposed Criteria for the appointment of members to the Workforce Development Council</td>
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<tr>
<td>75. Agree</td>
<td>that the Council as a whole must have approximately an even balance between members of the Council who are Māori and non-Māori.</td>
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<table>
<thead>
<tr>
<th>Annex 9 Pg. 26</th>
<th>Proposed Appointment of the First Workforce Development Council</th>
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</thead>
<tbody>
<tr>
<td>76. Agree</td>
<td>that members may be appointed by the Council for a period of between 2 and 4 years.</td>
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<thead>
<tr>
<th>Annex 9 Pg. 29</th>
<th>Proposed Appointment of the Permanent Workforce Development Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>77. Agree</td>
<td>that Council must establish a selection committee to oversee the appointment of members to the Council with an independent chairperson, representatives of the specified industries and a subcommittee of Council members.</td>
</tr>
<tr>
<td>78. Agree</td>
<td>that members may be appointed by the Council for a period of between 2 and 4 years.</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Annex 9 Pg. 46</th>
<th>Additional functions</th>
</tr>
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<tbody>
<tr>
<td>79. Agree</td>
<td>to include as a function to promote opportunities for all people to reach their full potential and capabilities by supporting quality vocational educational outcomes; and</td>
</tr>
<tr>
<td>80. Agree</td>
<td>to include as a function to address the needs and aspirations of priority learners including Pacific learners and people with disabilities.</td>
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<thead>
<tr>
<th>Annex 9</th>
<th>Proposed Coverage of the Workforce Development Council</th>
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<tbody>
<tr>
<td>Pg. 49</td>
<td>81. <strong>Agree</strong> to the following coverage statement:</td>
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<tr>
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<tr>
<td>• Coverage of 6923 ‘Engineering Design and Engineering Consulting Services’ limited to Building consulting service, Building inspection service, Civil engineering consulting service, Construction consulting service, Electrical engineering consulting service, Geotechnical engineering consulting service, Pipeline engineering consulting service, Quantity surveying service, Sanitary engineering consulting service, Traffic engineering consulting service, as all other aspects are covered by the Manufacturing, Engineering and Logistics WDC.</td>
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</table>

82. **Agree** that, where possible the coverage description above clarify to the extent that the primary activities proposed for the Manufacturing, Engineering and Logistics WDC involve activities associated with the other specified industries for the Construction and Infrastructure WDC that they are within the coverage of Construction and Infrastructure WDC.

**Katrina Sutich**  
Group Manager – Tertiary Education  
Te Ara Kaimanawa  
Ministry of Education  
19/02/2021

**Gillian Dudgeon**  
Deputy Chief Executive – Delivery  
Tertiary Education Commission  
19/02/2021

**Hon Chris Hipkins**  
Minister of Education  
26/2/2021
Consultation on WDC Order in Council

Manufacturing, Engineering and Logistics Order in Council – Summary of Submissions
Manufacturing, Engineering and Logistics Order in Council – Summary of Submissions

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Name of the Workforce Development Council

Summary of Clause

The Hanga-Aro-Rau Manufacturing, Engineering and Logistics Workforce Development Council is established on the date the Order in Council is made.

Summary of Submissions

1. Submitters that agreed with the proposed name found that:
   a) The proposed name represents a logical industry grouping
   b) The name is simple and suitable for its intended purpose

2. Te Wānanga o Aotearoa commented across all WDCs that they believe all Orders in Council should have a Te Reo Māori descriptor in their title/name for WDCs. They state that respect for and inclusion of Te Reo Māori as an official language of Aotearoa New Zealand, must be a requirement for government entities from the outset, than that Kupu Māori, in this context is not a “nice to have” or a work in progress, it is fundamental.

3. Printing Industries NZ Inc. suggests that the official name should be the Manufacturing, Engineering and Logistics WDC, with the Māori strapline underneath.

4. One submitter recommends that all WDCs should consider having “people” in their name, not just the "Muka Tangata People, Food and Fibre WDC". They argue that all WDCs are focused on the importance of people.

5. The Zero Waste Network believes that the proposed name only covers half of the industries under the umbrella of the WDC, and that it omits the second half of a product's life cycle: the recovery chain. They submit that the name should be expanded to embrace the whole of the product lifecycle and that this should be referenced in the Māori and English sections of the name.

6. The Road Transport Forum NZ believes that the name of the WDC must include the word "transport" as that is well understood by New Zealanders. They propose that the word "logistics" is replaced by "transport" as they feel that most people looking for a career will understand transport in the first instance. Alternatively, they propose adding "transport" to the name. This was supported by AA Driving School, who argue that the training to become a driving instructor does not fit under logistics, but could be called transport.

7. Engineering New Zealand, New Zealand Board of Engineering Diploma and The BEngTech Management group request that the primary coverage of engineering-related industries (and ownership of the NZDE) reside with the Waihanga Ara Rau Construction and Infrastructure WDC. With this move, they would also want the word ‘engineering’ removed from the title of the MEL WDC.
8. The Meat Industry Association comments that the MEL WDC won’t be a service provider – it is an industry group for, essentially, determining the quals and skills standards for the industries it covers – and that, as such, it does not require a name that requires corporate “branding”.

9. One submitter who (strongly) disagreed with the name found that it was too long.

Responses and Recommendations

<table>
<thead>
<tr>
<th>Interim Establishment Board – Response</th>
<th>Interim Establishment Board – Recommendations</th>
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<tbody>
<tr>
<td>The Board noted the feedback proposing the adoption of the word transport in place of logistics but considered that the term logistics appeared to be more holistic in nature.</td>
<td>The Board recommended no change to the name.</td>
</tr>
<tr>
<td>The Board considered use of the term supply chain given its currency and more comprehensive nature, but considered on balance that industry which was the primary foci of the WDC’s attention would understand the term logistics in this context.</td>
<td></td>
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<tr>
<td>The Board noted the feedback in relation to the incorporation of the concepts of the circular economy and was comfortable that the meaning of the te reo name captured this appropriately.</td>
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<tr>
<th>Ministry of Education – Response</th>
<th>Ministry of Education – Recommendations</th>
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Purpose of the Workforce Development Council and Accountability Arrangements

Summary of Clause

Purpose
The purposes of the Hanga-Aro-Rau Manufacturing, Engineering and Logistics Workforce Development Council are:

- to use its industry voice to contribute to the creation of a sustainable, globally engaged and adaptive Aotearoa New Zealand;
- to contribute to an education system which provides opportunities for all people to reach their full potential and capabilities, including those who have been traditionally underserved by the education system;
- to contribute to an education system which honours Te Tiriti o Waitangi to help ensure fair and equitable outcomes for all;
- to work with learners, industry (including, but not limited to, employers, employees, self-employed people, volunteers, industry associations and unions), tāngata whenua, stakeholders and the other workforce development Councils and other organisations to deliver the outcomes the Council seeks;
- to plan, implement and support the responses to Aotearoa New Zealand’s current and future workforce needs, taking into account:
  - the transition to a low-emissions and climate resilient Aotearoa New Zealand;
  - new global challenges;
  - emerging technologies;
  - global sustainability goals;
  - the changing nature of work, and
  - the skills, knowledge and qualifications learners need in future to achieve success for themselves and their communities.

Accountability arrangements

Performance of functions

- The Council in the performance of its functions must give effect to:
  - the purposes of the Council; and
The Tertiary Education Strategy issued under section 7 of the Act.

The Council must consult with persons or bodies who, the Council considers on reasonable grounds, represent Māori in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of Māori in the performance of its functions.

The Council must consult with persons or bodies who, the Council considers on reasonable grounds, represent specific population groups in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of those population groups in the performance of its functions.

**Statement of strategic direction**

At least every 3 years the Council must publish on an Internet site maintained by, or on behalf of, the Council a statement setting out its strategic direction for the next 5 years, including how the Council intends to give effect:

- to the purposes of the Council; and
- to relevant parts in the Tertiary Education Strategy.

The Council must consult with the specified industries, the Minister, vocational education providers, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

**Annual report**

The Council must present to the specified industries and to the Minister an annual report on the performance of its functions, including (without limitation):

- an outline of the progress made towards achieving the goals and objectives set out in the statement of strategic direction; and
- the audited financial statements of the Council.

**Summary of Submissions**

**Purpose**

10. The Tertiary Education Union (TEU) drafted an alternative purpose statement, which they believe could be applied across all WDCs. Their alternative statement is based on a synthesis of the various purpose statements across the Orders in Councils, but with a number of minor additions. Their suggested additions focus on inclusivity and diversity (bi-culturalism).
11. The Employers and Manufacturers Association (EMA), Māori and Pasifika trades training Auckland, Specialist Trade Contractors Federation, NZ Construction Industry Council and Business NZ would like to see the Orders in Council for all six WDCs be more explicit and contain stronger language regarding the role of the WDCs. They believe that ‘contribution to the education system’ is weak in relation to the importance and the ‘leading’ role of the WDCs.

12. Business NZ, the Māori and Pasifika trades training Auckland, Specialist Trade Contractors Federation and NZ Construction Industry Council, and one other individual submitter recommend that the purpose statement should refer to the WDCs’ responsibility to deliver on skills for industry, its accountability to industry, and its role in ensuring a well-functioning workforce and labour market system.

13. Māori and Pasifika trades training Auckland comments that the purpose of each WDC needs to be
   a) specific to their industry, their workforce, and the outcomes of the work the industry does.
   b) specific about the role of the WDC in making sure the education system meets the needs of the industry (and workforce).
   c) brief and to the point
   d) stronger intentional statement than “proposed”.

14. Te Wānanga o Aotearoa (TWoA):
   a) Suggest that the purpose and engagement approach should be consistent across all WDCs to ensure good outcomes for Māori, and to ensure that wānanga are able to engage across all of the WDCs in a consistent, clear manner.
   b) Recommend that the purpose should be amended to acknowledge (collaboration with) wānanga. They also believe that the OiCs should explicitly include the requirement to authentically consult with “persons or bodies” in relation to “s369(2)(b)” and Section 367 (s367) of the Act (which makes provision for the responsibilities which WDCs have for wānanga in particular), to ensure that the wānanga have confidence that their provision will be properly recognised and acknowledged.
   c) Expressed concern that the majority of the OiCs suggests that the purpose of honouring Te Tiriti for WDCs is to “help ensure fair and equitable outcomes for all”, rather than, the more appropriately described position from Ka Hikitia, that is “to give practical effect to Tiriti o Waitangi in the [vocational training] system”.

15. Several submitters, including the Meat Industry Association (MIA) want to see the basic roles / functions of the WDCs (as set out in the Act) included in the Order in Council.

16. Dairy Companies Association of New Zealand (DCANZ) that the primary purpose statement should be “work in the best interests of the New Zealand economy in general, and the specified industries in particular, to lead the provision of an industry-centric vision of skills and training needs and the effective translation of this vision into standards, qualifications and curriculum, that enhance and grow workforce capability”. They believe
that the other elements of the currently proposed purpose should be included as supporting objective statements which guide the WDC when carry out activities to fulfil its primary objective.

17. The Meat Industry Association believes that the proposed Purpose Statement is lengthy and vague, and they recommend that either further consultation is undertaken between TEC and industries to develop a more focused and relevant Purpose Statement, or that it be deleted.

18. Printing Industries NZ Inc. propose a change to the clause to read “Contribute towards the creation of a workforce that meets industry needs in the Manufacturing, Engineering, and Logistics sectors and is fit for work in a sustainable, globally engaged and adaptive Aotearoa New Zealand”.

19. The Specialist Trade Contractors Federation and NZ Construction Industry Council believe that the proposed purpose statement is vague, lacks key points of accountability and does not reference the manufacturing, engineering and logistics industries. They recommend that:

    a) The purpose should be specific to the manufacturing, engineering and logistics industries, the manufacturing, engineering and logistics workforce and the outcomes of the work the industry does. i.e. “Ensuring that the manufacturing, engineering and logistics vocational education system honours the Te Tiriti o Waitangi to help ensure a fair and equitable system for all”.

    b) The list of the issues Te Hanga-Aro-Rau should take account of should be deleted from the purpose – these will change over time and should be captured in the Statement of Strategic Intent.

20. Outdoor Fabric Product Association of New Zealand (Inc.) believe that the purpose of the WDC should be confined to workforce education.

21. Motor Trade Association Inc. expressed that it is unclear how the industry voice of MEL WDC creates a globally engaged Aotearoa when its key activity is influencing the design of skills training for industry.

22. NZ Heavy Haulage Association proposes that the purpose of the council should be to help recognise the knowledge and skills of all participants in the industry.

**Accountability Arrangements**

23. The Tertiary Education Union (TEU) recommends that:

    a) The following sub-bullet points (taken from the Primary OiC) are included under the ‘Accountability Arrangements - Performance of functions’ for each of the six WDC Orders in Council:

        • The Council in the performance of its functions must give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies that relate to vocational education and training. This recommendation was supported by Te Wānanga o Aotearoa (TWoA).

    ii. The Council in the performance of its functions must:

        • act in a manner which is consistent with the goals and objectives of the vocational education system as a whole;
Manufacturing, Engineering and Logistics Order in Council – Summary of Submissions

- work collaboratively with providers, including work-based trainers and employers, to ensure that qualifications, standards, and learning packages, enable successful outcomes for all learners; and
- advocate for, and contribute to, policies that meet the needs of industries covered by the Council, particularly as they relate to vocational education, career promotion and planning, and the funding of education and training.

b) The ‘Accountability Arrangements – Statement of strategic direction’ section states that:
   i. The statement of strategic intent should include how the Council intends to give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies
   ii. The Council must consult with the specified industries, the Minister, vocational education providers, Te Pūkenga, relevant Centre(s) of Vocational Excellence, Regional Skills Leadership Groups, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

24. The Employers and Manufacturers Association recommends that there must be some measure of how well WDCs are performing, both in engaging with industry and in providing the necessary skills for business.

25. While supporting the overall purpose of the WDC, NZMarine Industry Association would like to see the accountability arrangements strengthened to ensure that skill standards are relevant and aligned to the requirements of industry, and that the mechanisms provide for meaningful and relevant consultation and accountability to all of the industries covered by the WDC.

26. Business NZ recommends that:
   a) The accountability arrangements are significantly strengthened to explicitly include mechanisms to ensure that skill standards are relevant and aligned to the professionalization and regulatory requirements for industry.
   b) Given the broad scope of industry coverage, strengthened accountability to industry and articulation of how it will manage the broad coverage scopes should be built into the accountability mechanisms.
   c) The Annual Report in the accountability arrangements should require the setting of key performance indicators and commitment of service levels to industry for WDC’s to report against.

27. One submitter recommended that the accountability arrangements should require WDCs to consult with RSLGs.

28. Mazda NZ and Printing Industries NZ believe that engagement / consultation (in relation to Accountability Arrangements – Performance of functions) should primarily focus on industry.
Manufacturing, Engineering and Logistics Order in Council – Summary of Submissions

a) Mazda NZ also comment that there should be a focus on learners. They comment that adding Māori consultation to this list is appropriate and fair, however excluding the fore-mentioned two groups and only including Māori is too restrictive. They believe that Te Taumata Aronui could play a role in this, and wonder whether consultation with this group could be made a requirement.

29. Dairy Companies Association of New Zealand (DCANZ) recommends that:
   a) Performance measures are included that have been consulted on with stakeholders in the statement of strategic direction;
   b) A requirement for the annual report to be both published and presented by the Council to stakeholders at an annual meeting;

30. Printing Industries NZ Inc. comment that:
   a) In regard to statement of strategic direction, consultation on a statement should take place more frequently than three yearly due to current pace of change.
   b) In regard to annual report, should include a requirement for measurement against key performance indicators (as currently required by ITOs) and a commitment to service levels to industry.
   c) The first bullet point under ‘Mechanisms for Industry Engagement’ provides a mechanism for the specified industries to provide input to the Council on the performance of its functions, and should be included in the Accountability Arrangements.
   d) The Performance of Functions should include a requirement to consult with industry, not just with Māori and other specific population groups.

Responses and Recommendations

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<thead>
<tr>
<th>Interim Establishment Board Response</th>
<th>Interim Establishment Board Recommendations</th>
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<tbody>
<tr>
<td>The Board noted feedback in relation to the strengthening of the purposes in relation to Te Tiriti, specific references to Ka Hikitia and collaboration with ngā wānanga.</td>
<td>Agree that the purpose provisions refer to both Ka Hikitia – Ka Hāpaitia and Action Plan for Pacific Education 2020–2030 and corresponding and future strategies.</td>
</tr>
<tr>
<td>The Board noted the importance of strengthening the provisions in relation to collaboration across the WDCs articulated in submissions.</td>
<td>Note that that the iEB supports strengthened provisions relating to collaboration among the WDCs to be adopted in all OICs (and the iEB makes specific recommendations in this regard elsewhere in this summary).</td>
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</table>

Ministry of Education Response

Ministry of Education Recommendation

12
| The Ministry notes that another iEB, Primary, has included a direct reference to Ka Hikitia and future strategies in addition to the Tertiary Education Strategy. Although we included this in the draft for consultation, and support the thinking behind doing so, we note that it is unorthodox to reference strategies in secondary legislation that are created at the Cabinet and agency (but not legislative) level. It may therefore turn out that we need to revisit the recommendation once PCO draft the Orders. | Note that the Ministry supports the iEB's recommendations.  
Note that referencing Ka Hikitia, which is not directly required by primary legislation, in secondary legislation, may create technical drafting issues. |
Manufacturing, Engineering and Logistics Order in Council – Summary of Submissions

Council membership provisions

Summary of Clause

• The Council comprises 7, 8 or 9 members made up as follows:
  o at least 1 member nominated by Māori employers in the specified industries, to represent them;
  o at least 1 member nominated by trade unions and endorsed by the Council of Trade Unions to represent employees in the specified industries;
  o at least 1 member nominated by employers in the specified industries, to represent them; and
  o the remaining members are appointed by the Council to bring the total membership of the Council up to 7, 8 or 9 members as determined by the Council.

• The Council as a whole must have approximately an even balance between members of the Council who are Māori and non-Māori.

Summary of Submissions

31. The Tertiary Education Union commented that the parameters pertaining to the size, make-up, and mandatory membership requirements of the Councils should be consistent for each of the six WDCs whilst allowing for flexibility within those parameters. They put forward an alternative council membership proposal in which:

   a) The Council comprises 8, 9, or 10 members, as determined by the Council, made up as follows:
      i. 1 member nominated by Māori employers in the specified industries, to represent them;
      ii. 1 member nominated by Māori employees in the specified industries, to represent them;
      iii. 1 member nominated by employees, the Council of Trade Unions, and unions representing employees in the specified industries, to represent them;
      iv. 1 member nominated by the employers in the specified industries, to represent them;
      v. 1 member from the Pacific community;
vi. 1 member from Te Pūkenga involved in the provision of education in the specified industries nominated by subsidiary employees, to represent them. (the TEU Unitec branch voiced their support for this specific recommendation)

vii. The remaining members appointed by the Council to bring the total membership of the Council up to 8, 9, or 10 members as determined by the Council

b) The Council as a whole must have approximately an even balance between members of the Council who are Māori and non-Māori

c) When seeking nominations for an employee representative, the Council or the appointments committee must:

i. take all reasonable steps to notify employees in the specified industries about the process for nominating members;

ii. ensure that the persons nominated for appointment have the support of a sufficient number of employees in the specified industries; and

iii. not specify who is eligible to be nominated for appointment as a member except as provided for in the Order, or in any rules.

d) The Council may co-opt up to 2 persons for no more than 3 years to be a member if necessary or desirable:

i. to ensure that the Council has an appropriate mix of skills, leadership, and experience, provided that the Council comprises in total no more than 10 members;

ii. to provide opportunities for people of different age, ethnicity, ideas, and gender to develop the knowledge, skills, and experience in governance necessary to be appointed as a member of a professional governing body;

iii. to increase opportunities for participation at a governance level by Māori, Pacific peoples, and people living with disabilities;

iv. to draw on the experience, knowledge, and views of learners; and

v. to ensure that over the long-term there is adequate representation of Māori, with the aim of contributing towards an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

32. The MIA recommends that the council membership provisions read as follows. The Council comprises 7, 8 or 9 members made up of as follows:

a) At least 1 member nominated by trade unions and endorsed by the Council of Trade Unions to represent workers in the specified industries;

b) A majority of members nominated by employers or industry associations to represent the major industrial sectors or groups of industries from the specified industries, including at least 1 representative from each of:

i. Food and beverage processing industries (ANZSCIC code C11)

ii. Plastics, wood, chemical, textiles, metal, machinery and equipment manufacturing and printing industries (ANZSCIC codes C12-C25)
iii. Engineering and technical services industries (ANZSCIC codes M69)
iv. Transport and warehousing industries (ANZSCIC codes I).

c) The remaining members are appointed by the Industry Stakeholder Group selection panel to provide for governance expertise and to ensure diversity of ethnicity and gender from people within the specified industries on the Council.

33. The MEL interim Establishment Board, supported by HERA and Competenz, would like to clarify that it was their intention for the:

a) appointing body (either the Appointments Committee or the Industry Stakeholder Group) to appoint between five and seven members, and
b) Council itself to co-opt up to two members and one or two governance associates. This change would require the removal of the Industry Stakeholder Group’s (and Appointments Committee’s) proposed power to determine the number of members on the Council.

34. Steel Construction New Zealand believes the appointing entity should appoint the Council members, with only two additional members being allowed to be co-opted by the council itself. They submit that they prefer the model presented during the industry engagement process.

Māori / Pasifika representation

35. Several submitters commented on the Māori representation, as included in the Order in Council:

a) Te Wānanga o Aotearoa commented that all OICs should include opportunities for Māori employee representation, to ensure that vocational education and training is responsive to Māori apprentices and trainees. They believe this is particularly critical in areas with high Māori participation (such as Primary Industries, Services, Creative, Logistics and Community).

b) Māori and Pasifika trades training Auckland recommends that the number of employer representatives needs to be increased to four, including Māori and Pasifika business leaders.

c) DCANZ highlighted the (apparently competing) compositional requirements for the Council to have an even balance between members who are Māori and non-Māori and to as far as reasonably possible reflect the age, ideas, ethnicity and gender of the people within its specified industries and in New Zealand as a whole. They state that on face value it appears that achieving either one of these could limit the ability to achieve the other. The Meat Industry Association (MIA) voiced the same concern.

d) NZ Heavy Haulage Association commented that the requirement for an even balance of Māori and non-Māori members could be challenging to achieve with the criteria for sufficient representation of Māori, Pacific peoples and disabled people.

e) Printing Industries NZ Inc. stated that, while Māori representation is important, making appointments meet a quota doesn't provide the right framework for a balanced board. They believe that having a 50/50 model creates an over-representation of Māori on the board, particularly when bases on the ratio of learners. They recommend that the statement should be amended to allow for minimum of two Māori people on Council.
f) The Meat Industry Association states that it is not clear why there must be an even balance of Māori and non-Māori on the board of the MEL WDC. They argue that undertaking Treaty partnership obligations does not require an even balance of Māori and non-Māori board members.

g) Several individual submitters also commented on this topic:
   i. Some individual submitters stated that having half the members as Māori and half as non-Māori was overly restrictive.
   ii. One submission claimed the requirement was discriminatory, unfair, and unjustified.
   iii. One submitter found that while the WDC seeks to increase Māori participation in VET, appointments to the council should not favour a minority group to such an extent.
   iv. Another submitter states that if there are provisions to include specific ethnicities, then there should be provisions made to redress other inequities such as gender.

36. Several submitters, including the Employers & Manufacturers Association (EMA), Dairy Companies Association of New Zealand, Specialist Trade Contractors Federation, New Zealand Construction Industry Council, and the Māori and Pasifika trades training Auckland highlighted the need for a clear definition of Māori / Pasifika business / employer. Māori and Pasifika trades training Auckland recommend the definition includes 50% ownership base with stated intentions to promote Māori and/or Pasifika economic position in the trades sector. This process would include clear consultation with business and community organisations that promote Māori and Pasifika participation in the trades including: AMOTAI, Pacific Business Trust, Iwi and Hapu Corporations.

37. The Specialist Trade Contractors Federation and New Zealand Construction Industry Council stated that clarification is needed for the meaning of “an even balance” for “Māori / Non-Māori” composition. They wonder whether this means equal numbers, proportionate to population or has another meaning.

38. Business NZ recommends that the Council membership provisions should be strengthened and consider Māori representation more broadly in terms of the industries which have high proportions of Māori and Pacific in their workforce, rather than just representation at the Board table.

Industry representation

39. Several organisations, including the Employers & Manufacturers Association (EMA), Business NZ, Meat Industry Association (MIA), and NZMarine, would like to see increased industry / employer representation in the proposal:
   a) Employers & Manufacturers Association (EMA), Business NZ and Printing Industries NZ recommend that each council should have at least 50% representatives from that industry coverage area, to ensure it is an 'industry-led' organisation.
   b) The Meat Industry Association (MIA) stated that “a majority” of the Council must be representatives from the industries covered by the MEL WDC.
c) NZMarine believes that a significant proportion of WDC board members should be made up of industry experienced people that have graduated from an apprenticeship and/or are involved with companies employing apprentices or trainees.

d) The Specialist Trade Contractors Federation and New Zealand Construction Industry Council recommend that the minimum number of employers should be increased to four (including two nominated by Māori employers).

40. Business NZ notes that it does not consider that Māori representation and industry representation are mutually exclusive.

41. The Zero Waste Network suggests that at least 2 members should be nominated by employers in the specified industries, one from the supply side and one from the recovery side of the chain to reflect the different perspectives and training needs of each. They also believe that there should be representatives from large, small and social enterprises within the specified industries and industry associations.

42. The Specialist Trade Contractors Federation and New Zealand Construction Industry Council recommend that it should be made clear that manufacturing, engineering and logistics industry associations are able to nominate employer representatives (including Māori representatives).

43. Motor Trade Association Inc. believes that, at the very least, it might be expected that a representative from each of the "M", "E", and "L" segments would be required. Although they do express concern that the automotive sector could be ignored in such a scheme as even within those three areas there is a massive breadth of activities to cover.

**Employee representation**

44. The Council of Trade Unions (CTU) recommends that:

   a) each WDC include at least two worker representatives, of which at least one be a representative of Māori workers. (this recommendation was also voiced by First Union)

   b) the appointment of each worker representative on a WDC require endorsement from the CTU.

   c) a consistent process be established for appointments to WDCs. In any case where an appointments panel is convened, this should include representatives from CTU, Business NZ and iwi/Māori.

45. Business NZ recommends that the Council membership provisions should include working with BusinessNZ and the CTU to utilise the tripartite approach to governance arrangements rather than building in special provisions for union representation and endorsement.

46. First Union recommends that an explicit statement mandating union representation be included.

47. First Union state they are comfortable with the suggestion that Te Rūnanga endorses Māori worker candidates.

48. The NZ Dairy Workers Union recommends that:
a) All six WDC OIC proposals should stipulate that only nominations and/or endorsements from trade unions involved in the WDC coverage areas or from the CTU/Te Rūnanga should be accepted for WDC representatives tasked with the collective representation of employees, both Māori and non-Māori;

b) All six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

49. One submitter found that the criteria for employee representation being supported by the CTU is very limiting and risks excluding many people.

Council size

50. The Specialist Trade Contractors Federation and New Zealand Construction Industry Council recommend the Council comprising between 7-9 members (NZCIC prefers 8-9 members).

51. Motor Trade Association Inc. recommends that the number of members should be an odd number to ensure deadlocks do not form.

Skills-based council

52. There were mixed opinions on having a skills-based council:

a) The Specialist Trade Contractors Federation and New Zealand Construction Industry Council agree that Council members should be appointed based on their knowledge, skills, and experience rather than being a purely representative Council.

b) The Meat Industry Association opposed the creation of a “skills-based Board”, because, in their experience, this can become dominated by people with governance experience but are not directly accountable to the industries or shareholders they are intended to serve. They also argue that the requirement for 50/50 Māori / non-Māori representation does not evidence a skill-based council.

c) Employers & Manufacturers Association (EMA) suggest that:

i. meeting the many criteria (e.g. setting up organisations, expertise in education and relevant industry, experience in financial and change management, and gender and ethnic balance) should not be at the exclusion of industry expertise.

ii. that WDC Committee members from industry are not from one specific stream of that coverage area.

Other

53. One submitter recommends the inclusion of RSLG members (potentially co-opted) on the council.

54. Printing Industries NZ Inc.
a) Recommends that the MEL Council have the ability to co-opt up to two people to the Council to ensure an appropriate mix of skills, leadership and experience and to ensure that any gaps in the skills referenced in the Membership Criteria can be filled.

b) Believes that the provision ignores the requirement under the criteria for appointment of members that Pacific and disabled people are also to be represented.

Responses and Recommendations

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<tr>
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<tr>
<td>The Board was concerned about the perception reflected in the submissions that the proposed OIC suggested that the Council would appoint itself.</td>
<td>Agree to remove the requirement that the remaining members are appointed by the Council, and that this be amended to clarify that appointments should be performed by the appointing body.</td>
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<td>The Board considered that this provision reflected an error in drafting and noted that the Board was clear in its documentation following stakeholder engagement that the appointing bodies would be responsible for appointments to the Council, with the exception of co-opted members.</td>
<td>Agree that co-opting of up to two members (within total of up to 9) will be a function of the Council itself to enable the addressing of skill gaps not met through the appointment processes defined elsewhere in the OIC.</td>
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<tr>
<td>The Board noted that the Council would necessarily need a consultative role with the Industry Stakeholder Group to share information on the skill gaps and requirements for appointment.</td>
<td>Agree that the appointments process should provide for a consultative mechanism between the Council and the committee of the Industry Stakeholder Group in relation to the skill requirements of the Council.</td>
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<td>The Board considered that a diagrammatic view of the appointments process would aid understanding among stakeholders.</td>
<td>Agree that the appointment of up to two governance associates be function of the Council itself.</td>
</tr>
<tr>
<td>The Board considered feedback proposing a strengthening of the learner voice in the composition of the Council. There was discussion of the benefits of increasing employee representation, including in terms of giving effect to Te Tiriti, the locus of responsibility for articulating the learner voice and the implications for representation of employers.</td>
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<tr>
<td>The Board considered increasing the number of members of the Board, making more deliberate use of the governance associates provision, adjusting the terms of employee representatives and making use of the co-opt provision to provide for greater employee representation.</td>
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<tr>
<td>The Board considered whether one of the governance associates could be appointed from among employees. The Board noted that there are</td>
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provisions for a learner voice which may provide avenues for employees to be represented.

The Board was concerned about feedback that interpreted the Council composition requirements in relation to employer representation as setting the number as one member only.

The Board noted that the criteria for appointment of members provided for members to have leadership experience in at least one of the specified industries covered by the Council, which would have the effect in practice of appointing several employers or their representatives.

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### Criteria for the appointment of members

#### Summary of Clause

- **The appointing body (either the Appointments Committee or the Industry Stakeholder Group) must appoint as members of the Council persons who have:**
  - leadership experience in at least one of the specified industries covered by the Council;
  - experience, or an understanding of, either or both governance and public administration (except for governance associates in development roles);
  - a commitment to inclusion and addressing the needs of underserved learners;
  - a commitment to act with impartiality, honesty, integrity, and manaakitanga; and
  - in the case of the employer representative, the support of employers in the specified industries; and in the case of the employee representative, the support of the Council of Trade Unions.

- **When appointing members to the Council the appointing body (either the Appointments Committee or the Industry Stakeholder Group) must ensure that during the two years following the establishment of the Council, the Council has:**
  - sufficient experience in establishing new organisations, enterprises or businesses; and
  - sufficient experience in leading industry, business transformation and change management.

- **When appointing a person to be a member of the Council, the appointing body (either the Appointments Committee or the Industry Stakeholder Group) must, as far as reasonably practicable, reflect the diversity of age, ideas, ethnicity and gender of the people within the specified industries and in New Zealand as a whole and must ensure that the Council has:**
  - representatives from both large and small enterprises within the specified industries and industry associations;
  - sufficient representation of Māori, Pacific peoples and disabled people;
  - sufficient experience in, or engagement with, the vocational education and training system;
  - enough members with skills in te ao Māori, including te reo Māori and mātauranga Māori, to ensure that the Council is able to give proper consideration to Māori perspectives in undertaking its duties and functions;
  - a deep understanding and commitment to the principles of Te Tiriti o Waitangi; and
Summary of Submissions

55. The TEU recommend that, at a minimum, each of the Orders in Council should include the following criteria for the appointment of members to the Council:

As a whole, the Council must have:

a) A deep understanding of, and commitment to, the principles of Te Tiriti o Waitangi.

b) Strong knowledge and networks within te ao Māori.

c) A sufficient number of members with skills in te ao Māori, including te reo Māori and mātauranga Māori, to ensure that the Council is able to give proper consideration to Māori perspectives in undertaking its duties.

d) Experience in Māori business within specified industries.

e) Strong experience in, or engagement with, the vocational education and training system, including pedagogical expertise in teaching, learning (including adult teaching and learning), and pastoral care.

f) An understanding of, and commitment to, inclusion, eliminating inequality, and understanding the needs of underserved learners, including but not limited to Māori, Pacific peoples, and people living with disabilities.

g) Diversity of age, ethnic background, ideas, and gender, with particular regard to representation of Māori, Pacific peoples, and people living with disabilities.

h) A commitment to act with impartiality, honesty, integrity, and manaakitanga.

i) Representatives from both large and small and medium enterprises within the specified industries.

j) The support of, in the case of the employee representatives, the Council of Trade Unions or unions representing employees in the industry.

k) Sufficient knowledge of community organisations.

l) Leadership experience in at least one of the specified industries covered by the Council.

m) Knowledge, skills, and experience relevant to the strategic direction of the Council.

n) Experience in governance and public administration.
Manufacturing, Engineering and Logistics Order in Council – Summary of Submissions

o) Experience in financial analysis and management.

56. Business NZ recommends that:
   a) the criteria for the appointment of members should include experience, relationships or knowledge of industry associations and the relevant regulatory and professional standard bodies
   b) The Council membership provisions should be strengthened to ensure members are able to provide leadership and broad industry connections and insights, including on the strategic and regulatory outlook for different industries. This recommendation was also made by the Employers & Manufacturers Association (EMA).

57. BCITO and the Motor Trade Association (MIA) recommend that all Orders in Council include a requirement that, for the first two years, the Council has members with experience in establishing new organisations and leading change.

58. The Zero Waste Network suggests adding depth of knowledge and experience in making the shift to a low carbon, low waste circular economy to the list of qualities and experience required in council members and sufficient experience leading stakeholders through emissions and resource efficiency transitions.

59. NZ Heavy Engineering Research Association strongly support the skills based criteria and two tiered skills approach and support the desire for inclusivity and honouring of Te Tiriti.

60. Some submitters who agreed with the proposals stated that:
   a) They believe the criteria will provide balance
   b) The criteria will ensure a sound council with a cross section of the essential governance skills.

61. One person argues that:
   a) Māori, Pacific and disabled people’ be replaced with ‘otherwise under-represented groups’ or something similar.
   b) Any legislation that specifies specific groups (with the exception of the Treaty of Waitangi) risks being criticised of favouritism.
   c) The data that refers to these specific groups may become outdated in a relatively short time.

62. Some submitters who disagreed with the proposed criteria found it confusing and claimed that:
   c) The requirement to reflect a diversity of age, ideas, ethnicity, and gender is contradictory to the criteria for appointment of an even balance of Māori and non-Māori.
   d) The additional requirements that the Council has sufficient expertise/representation of Māori /Pacific is also unclear as people may have different ideas of what this means.
e) It is unclear what proper consideration to Māori perspectives involves and why it is singled out as other perspectives including new immigrants or those with disabilities are not mentioned.

63. One submitter suggested:
   a) Adding transgender under the third bullet point of ‘criteria for appointment of members’.
   b) Removing the word ‘deep’ from the same list as that is an immeasurable quality - just using the word ‘understanding’ achieves the goals of the document.

64. Outdoor Fabric Product Association of New Zealand (Inc.) disagreed with the proposed criteria and expressed concerns that the pre-allocation of seats may result in a WDC that cannot be described as industry led. They hope that as far as reasonably practicable, the composition of the WDC will reflect the diversity of ethnicity, cultural background, and gender of the people within the specified industries and in NZ as a whole.

Responses and Recommendations

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<tr>
<td>The Board welcomed the feedback on the criteria for Council members, particularly in relation to diversity and sustainability. The Board was satisfied that the other criteria were appropriate.</td>
<td>Agree that in relation to skills of Board members, adding “an understanding of, and commitment to, inclusion, eliminating inequality, and understanding the needs of underserved learners, including but not limited to Māori, Pacific peoples, and people living with disabilities”. Agree that in relation to the overall capabilities available to the Board, adding “a requirement for diversity of age, ethnic background, ideas, and gender, with particular regard to representation of Māori, Pacific peoples, and people living with disabilities”. Agree that in relation to the overall capabilities available to the Board, adding “an understanding of kaitiakitanga including of the low carbon, low waste circular economy”.</td>
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Appointment of the first Council

Summary of Clause

- The first members of the Council must be appointed in accordance with the membership provisions and membership criteria of the Order.
- The first members of the Council may be appointed for a term of between 1 year and 4 years.
- For the purpose of appointing the first members of the Council, the Chief Executive of the Tertiary Education Commission must establish an Appointments Committee comprising 5 representatives from the specified industries and one other member who is appointed as an independent chairperson.
- The Appointments Committee must:
  - determine the constitution of the Council in accordance with the membership provisions, including the number of members on the Council (7, 8 or 9 members) and the manner in which the directly appointed members are to be selected and appointed;
  - seek expressions of interest in, or nominations for, appointment as a member of the Council from:
    - employers in the specified industries, to represent them;
    - employees in the specified industries, to represent them;
    - the Council of Trade Unions; and
    - industry associations involved with the specified industries.
  - identify the persons who it considers are suitable for appointment as member of the Council; and
  - appoint the first members of the Council.

Membership of Council reduced until all appointments made

- The number of Council members is proportionately reduced until the date on which each member referred to in the membership provisions is appointed to the Council.
- No action of the Council is invalid merely because any member has not been appointed to the Council on the commencement date of the Order.
Summary of Submissions

65. The MEL interim Establishment Board, supported by HERA and Competenz, would like to clarify that it was their intention for the:
   a) appointing body (either the Appointments Committee or the Industry Stakeholder Group) to appoint between five and seven members, and
   b) Council itself to co-opt up to two members and one or two governance associates.
   This change would require the removal of the Industry Stakeholder Group's (and Appointments Committee's) proposed power to determine the number of members on the Council.

66. Printing Industries NZ Inc. strongly agreed stating that this provides an independent process for appointment of the first board.

67. DCANZ recommends that
   a) There should be a limit on the timeframe operation of the Council under reduced membership.
   b) The Council, in its entirety, is appointed by either the Appointments Committee or Industry Stakeholder Group, taking into account the overall matrix of required skills, perspective and experience. For rotational vacancies the Council should provide input to the Industry Stakeholder Group on skills needed to complement those of sitting Council members and ensure a strong overall Council composition.

68. Motor Trade Association Inc. commented that the Industry Stakeholder Group should be established earlier to ensure that the WDC hit the ground running in terms of having connection and providing voice for industry.

69. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

70. Motor Trade Association Inc. believes that it will be difficult for the employer sector to establish an election or nominating process for a one-off nomination/election process.

Term

71. Outdoor Fabric Product Association of New Zealand (Inc.) believes that half the members of the Council should be appointed for a term of 18 months and the other members for a term of 3 years.
Responses and Recommendations

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<td>The Board addressed feedback in relation to the process of appointing the Council and the role of appointing bodies elsewhere in the document. The Board noted the feedback about the term of appointments but was satisfied that the proposed term was appropriate given the need for a degree of continuity and stability.</td>
<td>Agree that the appointment committee should be appointed on the basis of expressions of interest from industry, and it be made clear that the appointments committee is responsible for appointments.</td>
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Appointment of the permanent (or ongoing) Council

Summary of Clause

Process for appointment of members

- The Council must establish an Industry Stakeholder Group and appoint as members of the Industry Stakeholder Group persons who represent a broad range and diversity of views across the specified industries.
- A member of the Council cannot also be a member of the Industry Stakeholder Group.
- The Industry Stakeholder Group must appoint an independent chairperson who must have sufficient knowledge, skill or experience in te ao Māori including te reo Māori and mātauranga Māori.
- The role of the Industry Stakeholder Group is to:
  - determine the constitution of the Council in accordance with the membership provisions, including the number of members on the Council (7, 8 or 9 members) and the manner in which the directly appointed members are to be selected and appointed;
  - appoint members of the Council in accordance with the membership criteria;
  - provide feedback to the Council on its strategic direction and performance; and
  - provide advice and information to the Council from an industry perspective on the matters arising from the performance of its functions.
- The Industry Stakeholder Group may meet as often as it considers necessary for the effective performance of its role and must meet with the Council at least once each year, or as the Council thinks fit, to discuss the strategic direction of the Council.

Process for appointment of members

- The members of the Council are appointed by the Industry Stakeholder Group as follows:
  - The Industry Stakeholder Group must appoint a Selection Panel comprising five members, including the chairperson of the Industry Stakeholder Group.
  - Members of the Council cannot be appointed to the Selection Panel.
  - The Selection Panel must:
Manufacturing, Engineering and Logistics Order in Council – Summary of Submissions

- seek nominations for membership of the Council from employers, employees, the Council of Trade Unions and industry associations from the specified industries;
- identify from the persons nominated those persons who would be suitable for appointment as members of the Council; and
- recommend to the Industry Stakeholder Group persons who it considers are suitable for appointment as members of the Council.

- The Industry Stakeholder Group must consider the recommendations made by Selection Panel and appoint as members of the Council those persons who are best suited for appointment as a member, having regard to the requirements for the appointment of members.

**Term of appointment**

- Members may be appointed by the Industry Stakeholder Group for a period of between 2 and 4 years.
- When making appointments, the Industry Stakeholder Group must specify a term of appointment having regard to the need to maintain enough continuity in membership of the Council and must ensure that no fewer than half the appointed members remain in office throughout a given calendar year.
- Members may be reappointed to the Council provided the total of any consecutive or non-consecutive terms does not exceed 8 years.

**Summary of Submissions**

72. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

73. The NZ Dairy Workers Union recommends that all six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

74. The MEL interim Establishment Board, supported by HERA and Competenz, would like to clarify that it was their intention for the:
   a) appointing body (either the Appointments Committee or the Industry Stakeholder Group) to appoint between five and seven members, and
   b) Council itself to co-opt up to two members and one or two governance associates.

   This change would require the removal of the Industry Stakeholder Group's (and Appointments Committee's) proposed power to determine the number of members on the Council.

75. The Meat Industry Association:
a) Supports the concept of an Industry Stakeholder Group, but they believe the purpose of this group should not be to "represent a broad range and diversity of views" , but to ensure that all the industries – small and large - are able to have a voice appropriate for their size.

b) Believes that the independent chairperson of the Industry Shareholder Group should be appointed primarily because of:
   i. senior leadership and governance experience;
   ii. direct experience of the manufacturing, engineering and logistics industries.

c) They believe that the Industry Stakeholder Group should be based on the proportion of vocational learners or employees, not on the number of industries. MIA believes that the Order in Council using the term “major industries and groups of related industries” allows for the large industries to be represented and for smaller or more fragmented industries to coalesce into groups, and that the text also state that representation is based on the number of learners in those industries or groups of industries.

76. Printing Industries NZ Inc. note that they agree with the appointment, role and term of Industry Stakeholder group, but expressed disagreement with the statement the independent Chairperson must have sufficient knowledge, skill, or experience in te ao Māori. They recommend that:
   a) It should state the Group must incorporate that skill, in order to not limit the appointment of the Chair.
   b) Chairperson must foremost have knowledge of vocational education and industry training in the MEL sector with te ao Māori as a preference.

77. NZMarine Industry Association commented that the Order in Council needs to have more information on the composition and method of appointing industry representatives to the WDC board and to the Industry Stakeholder Groups. They also wish for smaller and successful industries such as the marine and composites industries being entitled to a voice on the Industry Stakeholder Groups, something they say the proposal does not elaborate on nor give them confidence that this will necessarily be the situation.

78. Some submitters, including Dairy Companies Association of New Zealand (DCANZ), Meat Industry Association, and Steel Construction NZ, disagree with the proposed appointment process, as they believe it sets out an inherent conflict of interest, where the Council appoints an Industry Stakeholder Group, who in turn appoints the Council.
   a) DCANZ recommends that there are clear lines of accountability to industry, via an industry stakeholder representative group. They also believe there should be a requirement for the Stakeholder Group to be constituted in such a way as to strike an appropriate balance between the breadth of industries within WDC coverage the depth of trading requirements that exits within individual industries.
   b) MIA suggests that "The MEL WDC shall have an Industry Shareholder Group comprising the major industries and groups of related industries covered by the MEL WDC (based on the number of learners in each industry or group of similar industries) and to ensure industry engagement and that the MEL WDC is responsive to industry needs."

79. DCANZ requests that the Order in Council proposal be amended so that the Council, in its entirety, is appointed by either the Appointments Committee or Industry Stakeholder Group, taking into account the overall matrix of required skills, perspective and experience.
80. Steel Construction New Zealand believes that:
   a) The co-opting option is necessary
   b) There should be equal representation on the industry advisory group.
   c) No industry should have domination.

81. Outdoor Fabric Product Association of New Zealand believes that the MEL WDC has been the most detailed out of all WDCs in this area, and they prefer the approach taken by other WDCs, which is far less prescriptive, allowing for an organic evolution.

82. Motor Trade Association Inc. believes that it will be difficult for the employer sector to establish an election or nominating process for a one-off nomination/election process.

Responses and Recommendations

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<td>The Board noted that its definitive preference for the Industry Stakeholder Group to be responsible for appointments was not clearly articulated in the proposal.</td>
<td>Agree that it is made clear that the Industry Stakeholder Group will be responsible for appointing the permanent Council.</td>
</tr>
<tr>
<td>The Board noted the feedback about the composition of the group and emphasised the importance of providing balance in terms of representation of smaller and larger industries.</td>
<td>Agree that the process of establishing an Industry Stakeholder Group must involve consultation and engagement with industry by the Council.</td>
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<tr>
<td>The Board noted that the mechanisms for industry engagement needed to be well-defined during the establishment of the WDC, particularly in terms of the relationship with the Industry Stakeholder Group.</td>
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</tbody>
</table>
### Detailed governance arrangements that are unique to each Workforce Development Council

#### Summary of Clause

**Appointment of chairperson, co-chairpersons, deputy chairperson (as applicable)**

**Appointment of co-chairpersons**

- The Council must appoint two of the members to be co-chairpersons, by notice in writing stating the date on which the appointment takes effect.
- When appointing co-chairpersons, the Council must ensure that each co-chairperson has demonstrated a commitment to working with each other as active partners with a shared kaupapa/outlook aligned with the purpose and functions of the Council.
- Each co-chairperson holds that office until:
  - the co-chairperson resigns from that office; or
  - the co-chairperson is removed from it by the Council; or
  - the co-chairperson ceases to hold office as a member; or
  - the term of office specified on appointment expires.

- A person may be reappointed as co-chairperson for a further term.
- A co-chairperson may, without resigning as a member, resign from that office by written notice to the Council. The notice of resignation must state the date on which the resignation takes effect.
- The Council may, after consultation with the person concerned, remove a co-chairperson of the Council from that office by written notice to the person. The notice of removal must state the date on which the removal takes effect.
- The Council must determine a policy relating to the functions and responsibilities of the co-chairpersons including the process for determining:
  - which co-chairperson will chair each meeting;
  - the allocation of the duties and responsibilities between the co-chairpersons; and
  - which co-chairperson is for the time being responsible for overseeing the performance of the general manager.

#### Meetings

*Proactively Released* | *Proactively Released*
• The co-chairperson may convene meetings to be held at the time and place that the co-chairperson determines and must give at least seven days’ notice in writing of those meetings to members.
• Meetings can be held by means of electronic communication.
• The quorum for the meetings is 60% of the members then holding office, rounded up to the nearest whole number.
• All questions arising at any meeting must be decided by a majority of those members present with the co-chairperson chairing the meeting having a casting vote.
• The casting vote of the co-chairperson can only be exercised on any matter by agreement with the other co-chairperson.
• However, if a matter that is likely to have a significant effect on the operation, management or coverage of the Council will be considered at the meeting, then any questions arising in connection with that matter will require a three-quarters (75%) majority of the members present at the meeting.
• The Council must determine the criteria for assessing whether a matter is likely to have a significant effect.
• A resolution in writing signed by a majority of members is as valid as if it had been passed at a meeting of those members.
• An irregularity in a notice of a meeting is waived if all members entitled to receive the notice either:
  o attend the meeting without objection to the irregularity; or
  o do not attend the meeting but agree before the meeting is held to the waiver of the irregularity.
• Except as set out above or by law, the Council may determine its own procedures for regulating meetings and conducting its affairs.

Collective duties of the Council
• The Council must act in a manner consistent with its functions, duties, and powers.
• The Council must perform or exercise its functions, duties, and powers efficiently and effectively.
• The Council must ensure that it operates in a financially responsible manner and, for this purpose, that it prudently manages its assets and liabilities.

Governance associates
• The Council must appoint 1 or 2 persons to be non-voting associate members of the Council (“governance associates”) to:
  o provide opportunities for people of different age, ethnicity, ideas, and gender to develop the knowledge, skills, and experience in governance necessary to be appointed as a member of a professional governing body;
Summary of Submissions

83. Te Kāhui Ahumahi (made up of all Māori interim Establishment Board members) request that their collective is formalised in each OiC so as not to leave the establishment/continuation of a Kāhui Ahumahi to chance. This suggestion was supported by another submitter who asked to consider a Māori Workforce Development Council and that we consider all Māori members across all of the workforce development councils being able to form a Kahui Korowai (Māori governance with direct position / role that connects to the CEO).

WDC collaboration

84. Several submitters – including Business NZ, BCITO, New Zealand Certified Builders Association, Engineering NZ, NZ Marine Industry Association, Printing Industries NZ, and PrefabNZ – highlighted the importance of WDC collaboration to an effective VET system, and would like to see this formalised in the Orders in Council. They refer to the Construction & Infrastructure WDC Order in Council, which already has a provision to this effect.

- BCITO also recommends that the provision from the Construction & Infrastructure WDC Order in Council is broadened to include collaboration with skills bodies (e.g. regulators or professional organisations)
- Business NZ and NZ Marine Industry Association highlights the opportunity for WDCs to work collaboratively to share best practice and recognize opportunities to better serve business by sharing relevant resources and materials to deliver skill solutions
- Several submissions point out that this collaboration is particularly of interest for sectors that are covered by or regularly have to engage with several WDCs.
- Printing industries NZ recommend that the general manager must:
  - Identify the specified industries and establish appropriate engagement models where close collaboration with another workforce development Council is required to ensure that the industry training needs of those industries are met; and
  - Work collaboratively with other workforce development Councils to share best practice and recognise opportunities to share relevant resources and materials to better deliver skills solutions for industry.
e) PrefabNZ expressed concern that the C&I WDC and the MEL WDC will operate in silos and either duplicate areas of work and/or leave significant gaps in covering the needs of the offsite sector.

Chair / Co-Chairs / Deputy Chair

85. The MEL interim Establishment Board made a submission in which they would like to include the requirement that “The Council must appoint two of the members to be co-chairpersons, one of whom must be Māori, by notice in writing stating the date on which the appointment takes effect.”, rather than the earlier wording that stated “When appointing co-chairpersons, the Council must ensure that each co-chairperson has demonstrated a commitment to working with each other as active partners with a shared kaupapa/outlook aligned with the purpose and functions of the Council.”

86. Business NZ and the EMA believe that the Chair or Co-Chair should be an industry representative.

87. NZ Heavy Haulage:
   a) Believes that the requirements to ‘appoint an independent chairperson who must have sufficient knowledge, skill, or experience in te ao Māori including te reo Māori and mātauranga Māori” may limit the number of people available to fulfil this role.
   b) Is concerned on how voting would work in practice between to co-chairs.
   c) Suggests to appoint a deputy chair instead.

88. Motor Trade Association Inc. believes that there is a risk that the council will not be able to fully represent an industry perspective given the broad number of industries needing to be heard, and they believe this risk is compounded by use of co-chairs. Given that the appointment criteria addresses diversity concerns, MTA question the need for co-chairs.

89. Printing Industries NZ Inc. believes that the appointment of co-chairs could make the governance process inefficient and ineffective.

90. Outdoor Fabric Product Association of New Zealand (Inc.) express that they prefer the model of a single chairperson.

91. The Meat Industry Association does not agree to two co-chairs, as they believe it is unnecessary and clouds accountability.

Quorum

92. DCANZ recommends that the quorum and decision-making thresholds should be adjusted for the Council to limit the possibility for significant decisions to be made by a minority of members. They suggest that the quorum threshold be lifted to 75% for meetings where there is a significant matter on the agenda for consideration.

Governance associates

93. Outdoor Fabric Product Association of New Zealand (Inc.) support the concept of governance associates as it provides others opportunities to lead but feel the opportunity should be available to all people and would remove the criteria that has been included.
94. Printing Industries NZ Inc agrees with the provision for Governance Associates but believe this should be in addition to, not instead of, the ability to co-opt.

95. The Meat Industry Association believe that the appointment of ‘governance associates’ should not be mandated in the Order in Council, and should rather be left to the Council as they see fit.

96. NZ Heavy Haulage Association believes the 2-4 year term for governance associates is too long, and suggests a one year term to be available.

Responses and Recommendations

<table>
<thead>
<tr>
<th>Interim Establishment Board Response</th>
<th>Interim Establishment Board Recommendations</th>
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<tbody>
<tr>
<td>The Board noted the feedback that the term of governance associates was not defined and agreed that this should be clarified.</td>
<td>Agree that the term of governance associates should be set at up to two years.</td>
</tr>
<tr>
<td>The Board noted the feedback that the quorum be lifted to 75% for significant matters and agreed that this should be adopted. The Board was concerned to clarify that a quorum of 75% and support of 75% of members present is required for these decisions.</td>
<td>Agree that a provision be added relating to the quorum for meeting that address significant matters was 75%.</td>
</tr>
<tr>
<td></td>
<td>Agree to the addition of the following provision relating to collaboration with other Workforce Development Councils:</td>
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<td>The general manager must:</td>
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<td></td>
<td>• identify the specified industries where close collaboration with another WDC is required to ensure that the industry training needs of those industries are met; and</td>
</tr>
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<td></td>
<td>• establish appropriate engagement models with those other WDCs and specified industries to ensure that the industry training needs of those industries are met.</td>
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<tr>
<th>Ministry of Education Response</th>
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<tbody>
<tr>
<td>The Ministry concurs with the iEB’s clarifications relating to the term of governance associates and the setting for a quorum of members required to address significant matters.</td>
<td>Note that the Ministry agrees with the iEB’s recommendations relating to the term of governance associates and the setting for a quorum of members required to address significant matters.</td>
</tr>
<tr>
<td>While the Ministry agrees with the proposal to include provision relating to collaboration between WDCs, sheeting the responsibility to the General manager rather than the Council risks creating uncertainty relating to accountability, particularly as the primary legislation includes a requirement</td>
<td>Note that the Ministry recommends that the provisions relating to collaboration between WDCs be included, but pitched at a higher level for inclusion in the ‘Mechanisms for Industry Engagement’ section.</td>
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</tbody>
</table>
That councils must collaborate. We therefore propose creating common wording appropriate for the “Mechanisms for Industry Engagement” section of each OIC. This is discussed in the main paper.

**Agree** that the provisions relating to collaboration be included in the ‘Mechanisms for Industry Engagement section’.
Detailed governance arrangements that are the same across all Workforce Development Councils

Summary of Clause

Eligibility for appointment

- The following persons are disqualified from being members of the Council:
  - a person who is an undischarged bankrupt;
  - a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any enactment;
  - a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988;
  - a person in respect of whom a personal order has been made under that Act that reflects adversely on the person’s:
    - competence to manage their own affairs in relation to their property; or
    - capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare.
  - a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless the person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person;
  - a member of Parliament;
  - a person who is disqualified under any Act.

Revocation of appointment of members

- The Industry Stakeholder Group may revoke the appointment of a member of the Council for just cause.
- The revocation must be made by written notice to the member, stating the date on which the revocation takes effect, which must be no earlier than the date on which the notice is received, and the reasons for the revocation.
- The Council may revoke the appointment of a member with as little formality and technicality, and as much expedition, as is permitted by:
  - the principles of natural justice;
  - a proper consideration of the matter; and
the Council’s policy, if any, on revocation of appointment of members.

- A member of the Council is not entitled to any compensation or other payment or benefit relating to the member ceasing, for any reason, to hold office as a member.
- The term ‘just cause’ includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the Council or the individual duties of members (depending on the seriousness of the breach).

**Individual duties of members**

- A member of the Council may not contravene, or cause the contravention of, or agree to the Council contravening the Education and Training Act 2020.
- A member of the Council must, when acting as a member, act with honesty and integrity.
- A member of the Council must, when acting as a member, act in good faith and not pursue the member’s own interests at the expense of the Council’s interests.
- A member of the Council must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation):
  - the nature of the Council;
  - the nature of the action; and
  - the position of the member and the nature of the responsibilities undertaken by the member.
- A member must comply with a code of conduct for members issued by the Council.
- A member of the Council who has information in the member’s capacity as a member that would not otherwise be available to the member, may not disclose that information to any person, or make use of, or act on, that information, except:
  - in the performance of the Council’s functions; or
  - as required or permitted by law; or
  - when the member is first authorised to do so by the Council and the disclosure, use, or act in question does not, or is unlikely to, prejudice the Council.

Members must:
act in the interests of the Council as a whole; and
act in a manner that promotes the performance of the functions and the duties of the Council.

Accountability for performance of duties

- The individual duties of the members are owed to the Council.
- A member is not liable for a breach of an individual duty under this Act except as provided below:
  - if a member does not comply with their individual duties, the Council may revoke the appointment of that member;
  - the Council may bring an action against a member for breach of any individual duty.
- This provision does not affect any other ground for removing a member from office.
- Accountability for performance of duties under this provision does not affect anything else for which the member may be liable under any Act or rule of law arising from the act or omission that constitutes the breach.

Personal liability of members

- A member of the Council is not personally liable for any act done or omitted to be done by the Council or any loss to the Council arising out of any act done or omitted to be done by the member if the act or omission was (so far as the member’s involvement is concerned):
  - in good faith; and
  - in performance or intended performance of the functions of the Council.

Continuation in office

- Each member of the Council continues in office (unless the member ceases to hold office) until a successor is appointed or elected.
- A member may resign from office by written notice to the Council signed by the member.
- The resignation is effective on receipt by the Council of the notice, or at any later time specified in the notice.
- A member of the Council ceases to hold office if the member:
  - resigns; or
  - is removed from office; or
  - becomes disqualified from being a member; or
otherwise ceases to hold office in accordance with any enactment.

**Ordinary vacancies**

- The Council must ensure that any ordinary vacancies are filled as soon as practicable using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.

**Extraordinary vacancies**

- An extraordinary vacancy occurs when a member dies or ceases to hold office.
- If an extraordinary vacancy occurs within 6 months of the expiry of the vacating member’s term the Industry Stakeholder Group may appoint a replacement or leave the vacancy open.
- If an extraordinary vacancy occurs more than 6 months before the expiry of the vacating member’s term, the Council must ensure that a replacement is appointed using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.
- A person appointed to fill an extraordinary vacancy holds office only for the remainder of the vacating member’s term.

**Administrative provisions**

- The powers of the Council are not affected by any vacancy in its membership.
- The Council may appoint committees to advise it on any matters relating to the Council’s functions and powers.

**Conflicts of interest**

- A member who has an interest in a matter relating to the Council must disclose to the Council details of the interest as soon as practicable after the member becomes aware that the member is interested.
- The details that must be disclosed are:
  - the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
  - the nature and extent of the interest (if the monetary value cannot be quantified).
- A member who has an interest in a matter:
  - may not vote or take part in any discussion or decision of the Council or any of its committees relating to the matter, or otherwise participate in any activity of the Council that relates to the matter; and
A person has an interest in a matter if the person:

- may derive a financial benefit from the matter; or
- is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
- may have a financial interest in a person to whom the matter relates; or
- is a partner, director, officer, board or Council or committee member of a person who may have a financial interest in a person to whom the matter relates; or
- otherwise directly or indirectly has an interest in the matter.

The term ‘matter’ means the Council’s performance of its functions or exercise of its powers or an arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Council.

Delegation

- The Council can delegate any of the functions or powers of the Council (other than the power to appoint a general manager) to a member or members of the Council, the general manager, a committee appointed by the Council, any other person approved by the Council, or a subsidiary of the Council.
- Delegations are made by resolution and written notice to the delegate.
- The power to delegate cannot be further delegated.
- The person to whom functions or powers are delegated can exercise those functions or powers with the same effect as if the delegate were the Council.
- A person who purports to act under delegation is presumed to be acting in accordance with a delegation unless proven otherwise.
- The Council can still exercise a power or function that has been delegated and remains liable for all acts that are performed under delegation.
- A delegation can be revoked by the Council by notice in writing, or by any other method specified in the delegation.

Appointment of general manager and other employees

- The Council:
  - must appoint a person who is not a member of the Council to be its general manager; and
• may appoint any other employees it thinks necessary for the efficient performance of its functions.

• The general manager is:

  o responsible for the efficient and effective management of the Council; and

  o must give effect to the policies and directions of the Council in relation to the performance of its functions.

• The general manager may be referred to by any other title that the Council determines.

Rules

• The Council may make rules providing for the nomination, selection and appointment of members to the Council.

• The Council may make rules for any purpose relating to the performance of its functions.

• When preparing rules (and any amendments to them), the Council must take all reasonable steps to consult those affected by the rules.

• The Council must take all reasonable steps to ensure that those affected by the rules are aware of their existence and are able to obtain copies of them.

Summary of Submissions

97. NZ Heavy Engineering Research Association found that the arrangements are common sense and good practice.

98. Printing Industries NZ Inc. agreed provided the Council's abilities to make rules cannot allow them to contract out of anything contained in the OiC.

99. Outdoor Fabric Product Association of New Zealand (Inc.) strongly agree and support common governance arrangements across WDCs.

Responses and Recommendations

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<thead>
<tr>
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<tbody>
<tr>
<td>The Board noted the feedback in support of these provisions.</td>
<td>No change is recommended.</td>
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</table>
Mechanisms for industry engagement

Summary of Clause

The Workforce Development Council must establish one or more national industry advisory groups:

- to provide a mechanism for the specified industries to provide input to the Council on the performance of its functions;
- for the Council to share information about how it has performed its functions; and
- to enable industry to raise issues and concerns about the governance, management and operation of the Council.

The Council must establish a process for co-ordinating its activities with other workforce development Councils in relation to complementary industries.

The Council must report regularly to the specified industries and national advisory groups on the performance of its functions.

Summary of Submissions

100. The TEU recommends that, in order to ensure consistency in approach across the WDCs, a single set of mechanisms and principles which can apply to each of the six WDCs.

The engagement model must:

a) describe the arrangements or opportunities for regular interaction between the specified industries and the Council, including at least one annual meeting with representatives of the specified industries;
b) establish a process for co-ordinating its activities with other WDCs in relation to complementary industries;
c) establish a process for engagement with unions regarding the performance or exercise of its functions, duties, and powers;
d) establish a process for engagement with industry peak bodies to understand and contribute to strategies developed by industry peak bodies;
e) ensure the Council reports regularly to the specified industries and national advisory groups on the performance of its functions, including, specifically, on its engagement with small and medium enterprises;
Manufacturing, Engineering and Logistics Order in Council – Summary of Submissions

f) ensure the Council makes arrangements (for example, by establishing industry stakeholder groups) for ensuring that employers and Māori employers, industry bodies, employees, independent earners, iwi/hapū partners, learners, unions, Te Pūkenga, Centres for Vocational Excellence, Regional Skills Leadership Groups, and other parties with an interest in the specified industries, as determined by the Council, have an adequate opportunity to provide input to the Council in support of the performance of its functions including, without limitation, to:

i. gain deeper understanding of the breadth of the specified industries;

ii. provide information and views on current, emerging, and future skills and knowledge requirements of employees working in the specified industries;

iii. identify and maximise the opportunities of particular groups of learners, including Māori, Pacific peoples, women, and people living with disabilities, whether specific to the coverage of the Council or as part of a wider group of learners coming within the coverage of other WDCs;

iv. provide information and views that will assist the Council in formulating its advice to the Tertiary Education Commission on investment in vocational education and workforce planning for the specified industries;

v. provide information and views on reviews of industry qualifications;

vi. provide information and views on career pathways into and within the specified industries;

vii. provide information and views that will assist the Council to undertake strategic workforce leadership research, advice, and support to all specified industries;

viii. enable industry and providers to raise issues and concerns about the governance, management, and operation of the Council.

101. The Employers & Manufacturers Association (EMA) recommends that the role of the Industry Stakeholder Groups gets more defined and that there is an obligation for the Council to take their feedback into consideration and/or act upon their feedback.

102. The Tertiary Education Union (TEU), Council of Trade Unions (CTU), and First Union recommend that the mechanisms for industry engagement in each Order require inclusion of unions. The New Zealand Dairy Workers Union supports this recommendation, and specifies that this inclusion concerns both unions involved in the specified WDC coverage area, as well as the CTU/Te Rūnanga. They also state that all six OIC proposals should also include an obligation that relevant trade unions and the CTU/Te Rūnanga should be directly involved in, and members of, any industry stakeholder groups established by a WDC (this was also voiced by First Union).

103. Māori and Pasifika trades training Auckland believes that existing associations should have a collective voice.

104. Te Kāhui Ahumahi believes that the partnership must be evident in the secondary legislation to ensure that the intent of the Act is met, and they recommend that the Orders in Council should mention iwi or Māori industry under the mechanisms for industry engagement.

105. One submitter believes that the mechanisms should include:
a) Regular engagement with RSLGs.

b) Recognition of the opportunity to build understanding of, and help address, the barriers to and opportunities for increasing labour market participation of some population groups (as per the Primary Industries WDC Order in Council).

106. Several submitters, organisations and individuals, highlighted that the WDC is likely to experience challenges when engaging with the broad range of industries within the coverage of the WDC. Many comment on the risk that the voices of smaller, less ‘visible’ industries within the coverage of the WDC will not be heard. One submitter highlighted that smaller industries need a clear path for regular engagement.

107. The Meat Industry Association is concerned that by giving an equal voice to all industries irrespective of size, the WDC will give disproportionate attention to those myriad small industries, to the detriment of meeting the needs of very large industries such as meat processing.

108. Some submitters, organisations and individuals, commented on how they believe that the current engagement proposed is not detailed enough. They request clarification in the follow areas:

a) To what extent education providers will be engaged by WDCs?

b) How will the Industry Stakeholder Group be appointed, what are the required attributes for ISG members, and what is their maximum term served?

c) How will the “national industry advisory groups” interact with the Stakeholder Industry Group?

   i. DCANZ proposes that:

   • The role of the industry stakeholders group is to provide industry with a peak level engagement mechanism for the purposes of holding the Council to account for performance, from a pan-industry perspective. Its ability to do this is through both engagement with the Council and appointment of Council members. Not all specified industries will be directly represented on the Stakeholders group at any one time.

   • The role of the national industry advisory groups is to provide a mechanism for engagement at a more sector specific level (e.g. animal products manufacturing). All specified industries should have the opportunity to be directly represented in a national industry advisory group which has a focus of relevance to them.

   • The relationship between the two groups be formed by relevant national advisory groups having the ability appoint one or more persons to the Industry Stakeholders Group.

   d) What funding will be available to industry to enable them to provide comprehensive advice and project work?

109. The STCF and NZCIC believes that the definition of industry, in terms of who the WDC needs to engage, should include employers, employees, industry associations and unions.
110. NZ Heavy Engineering Research Association highlighted a need to ensure the Industry Stakeholder Group maintains its industry representation across all industries represented by MEL WDC, and not just the larger ones. NZ Heavy Haulage Association, Outdoor Fabric Product Association of NZ, and others made a similar argument.

111. One submitter found that there is a need for close connection from WDCs to local industry.

112. Printing Industries NZ Inc. believes that the national advisory group should:

a) Provide information and views on current, emerging and future skill requirements for the specified industries

b) Provide information and views that will assist the Council in formulating its advice to TEC on investment in vocational education and workforce planning for the specified industries."

Responses and Recommendations

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<tr>
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<tbody>
<tr>
<td>The Board was persuaded that there was value in extending the engagement mechanisms in relation to other WDCs to be more expansive.</td>
<td>Note that the Board recommended changes to the Proposed Detailed Governance Arrangements that are Unique for the WDC to respond to the feedback received on the need to collaborate with other WDCs.</td>
</tr>
<tr>
<td>The Board noted the feedback in relation to the detail of the engagement mechanism but considered that flexibility ought to be provided to enable the WDC and industry to develop and alter these mechanisms as appropriate.</td>
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<tr>
<td>See discussion under the unique governance section.</td>
<td>Note that MoE supports the iEBs recommendations to collaborate but that these may be included in a different section.</td>
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</tbody>
</table>
Additional functions of the Workforce Development Council

Summary of Clause

There are no additional functions.

Summary of Submissions

113. One submitter suggests that this could refer to assisting RSLGs to plan for and address regional workforce needs.

114. The TEU recommends that ‘additional functions’ included in the Primary Services OiC pertaining to [1] the promotion of opportunities that are conducive to learners reaching their full potential and [2] addressing the needs and aspirations of priority learners including Pacific learners and people living with disabilities, should be included in all six OiCs. [Note: Some feedback was received regarding the ‘Additional functions’ within the Primary Services WDC Order in Council, please refer to the Primary Industries WDC Summary of Submissions]

115. Te Kāhui Ahumahi submitted that performance of functions must include engagement with the Tiriti Partner. They expect this will lead to joint decision making frameworks, mana Tiriti frameworks and outcomes that meet the goals of the Act.

116. The Road Transport Forum NZ believes that the specific mandate and deliverables for the WDC should include marketing to secondary schools and their students of industries such as transport.

117. NZ Heavy Engineering Research Association believe that there are additional functions recommended by the iEB (during their engagement activities) that could have gone into the Order in Council.

Responses and Recommendations

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<tr>
<td>The Board was concerned to ensure that the provisions for additional functions were mirrored across the WDCs collectively where possible, particularly in light of the feedback received.</td>
<td><strong>Agree</strong> to include as a function advocacy for industry and career promotion to support efforts to better match the supply and demand of skilled labour.</td>
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<td><strong>Agree</strong> to include as a function coordination of workforce development strategies among government agencies and other stakeholders.</td>
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</tbody>
</table>
Is it government policy to allow the following two functions to be included in the OICs:

- to promote opportunities for all people to reach their full potential and capabilities by supporting quality vocational educational outcomes; and
- to address the needs and aspirations of priority learners including Pacific learners and people with disabilities.

These were included in one other draft Order that went for consultation (Primary). They were included because they do not impose additional costs, as well performing WDCs should be focussing on undertaking these, and for the same reason would not be likely to distract the WDC from its core functions in the early phases of the WDC’s existence. We note that three of the proposed additional functions risk being at variance with standing orders because they re-state the legislated leadership function in more detail. As we think the WDC can undertake each of these items under their existing functions, including these in law as functions risks ambiguity. The two remaining functions are framed more broadly and speak more to performance than scope of activities.

### Ministry of Education Response

### Ministry of Education Recommendation

<table>
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<tr>
<th>Ministry of Education Response</th>
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<td>Is it government policy to allow the following two functions to be included in the OICs:</td>
<td>Note that the Ministry supports the inclusion of to promote opportunities for all people to reach their full potential and capabilities by supporting quality vocational educational outcomes.</td>
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<tr>
<td>• to promote opportunities for all people to reach their full potential and capabilities by supporting quality vocational educational outcomes; and</td>
<td>Note that the Ministry supports the inclusion of to address the needs and aspirations of priority learners including Pacific learners and people with disabilities.</td>
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<td>• to address the needs and aspirations of priority learners including Pacific learners and people with disabilities.</td>
<td>Note that the Ministry does not support the inclusion of the following functions:</td>
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<td>These were included in one other draft Order that went for consultation (Primary). They were included because they do not impose additional costs, as well performing WDCs should be focussing on undertaking these, and for the same reason would not be likely to distract the WDC from its core functions in the early phases of the WDC’s existence. We note that three of the proposed additional functions risk being at variance with standing orders because they re-state the legislated leadership function in more detail. As we think the WDC can undertake each of these items under their existing functions, including these in law as functions risks ambiguity. The two remaining functions are framed more broadly and speak more to performance than scope of activities.</td>
<td>Agree not to include as a function coordination of workforce development strategies among government agencies and other stakeholders.</td>
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<td>Agree not to include as a function research and development and such other activities to support its core and additional functions.</td>
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<td>Agree not to include as a function advocacy for industry and career promotion to support efforts to better match the supply and demand of skilled labour.</td>
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Coverage of the Workforce Development Council

Summary of Clause

The coverage of the Council comprises the workforce development activities in relation to employers, providers, and employees or people seeking to be employed in work related to manufacturing, engineering or logistics in any of the industries listed below, with the following qualifications:

- Coverage of 1492 ‘Wooden Structural Fitting and Component Manufacturing’ excludes prefabricated timber wall frames and roof trusses, as it is covered by the Construction and Infrastructure WDC.
- Coverage of 3234 ‘Fire and Security Alarm Installation Services’ excludes closed circuit video surveillance system installation, repair of installed burglar security alarm systems and security system installation, as it is covered by the Construction and Infrastructure WDC.
- The Council recognises that the industry classification ‘Air Conditioning and Heating Services’ encompasses the industry known as ‘Mechanical Building Services’.

[An exhaustive list of ANZSIC codes was included in the Consultation proposal document]

Summary of Submissions

118. New Zealand Institute of Quantity Surveyors Inc. (NZIQS), BCITO, NZCIC and other submitters recommend that the ANZSIC code M692300 Engineering Design and Engineering Consulting should be allocated to the Construction and Manufacturing WDC, rather than the MEL WDC. They believe this is an anomaly that should be fixed, and they argue this would:
   a) enable the civil engineering consulting industry to be properly involved in the programmes that serve it;
   b) enable the civil engineering diploma and degree programmes to meet the requirements of the civil engineering industry
   c) recognise the fact that the Construction and Infrastructure WDC is more relevant to most of the activities undertaken in the engineering consulting industry.

119. Engineering New Zealand, New Zealand Board of Engineering Diploma, and Bachelor of Engineering Technology Management Group request that the primary coverage of engineering-related industries (and ownership of the NZDE) reside with the Waihanga Ara Rau Construction and Infrastructure WDC as most graduates from the programme currently move into industry sectors covered by this WDC. With this move, they recommend the title of the ‘Manufacturing, Engineering and Logistics’ be amended, and the word ‘engineering’ removed from the title of that WDC.
120. The Chartered Institute of Logistics and Transport do not support the logistics sector being under the umbrella of the MEL WDC, as they would rather see a separate WDC for the entire logistics, transport, supply chain sector, including international trade. They believe that transport, logistics and supply chain management cover a huge employment sector, and that within the current WDC structural environment, an imbalance unduly favouring large manufacturing and/or engineering companies may occur. They believe that there are many logistics companies, the bulk of which are small operations and our concern is that most of these small companies or organisations will not receive fair representation.

121. The Jewellery Industry Registration Board of New Zealand requests that Manufacturing Jewellery and Watch and Clockmaking [Jewellery and Silverware Manufacturing] be placed under the MEL WDC, rather than the CCRT WDC.

122. The Zero Waste Network believe they have identified a gap in the ANZSIC classification, resulting in several industries without an appropriate classification label:

- a) Recycling and/or disposal of packaging.
- b) Consumption, use, repair, and reuse of goods and materials (apart from 5 separate classifications for repairs and maintenance)
- c) Recovery of parts and materials i.e. the reverse logistics involved in collecting, sorting, processing and marketing recovered materials.
- d) Composting of food and organic matter generated through the growth, extraction, processing, production and consumption phases.
- e) Fibre, plastics, glass, textile, timber, construction and demolition, scrap metal and e-waste recycling, reprocessing and remanufacturing, and the inclusion of materials as recycled content in new products.
- f) Environmental education, product stewardship, behaviour change, education for sustainability
- g) Social enterprise and community enterprise.

123. The Employers & Manufacturers Association comments that the coverage areas should not be limited to what is noted at the time of the Order in Council. They state that skills and the labour market are dynamic, and the coverage areas in the OIC should reflect that.

124. Business NZ and the Employers & Manufacturers Association (EMA) raised concern about the use of ANZSIC codes as a source of industry coverage areas. They believe that ANZSIC codes are outdated, and too prescriptive for an agile education system that must adapt quickly to deliver the education and skills needs of businesses. Both recommend using ‘skill clusters’, which they believe would support greater discussion in both education and industry on greater skill transferability.
Responses and Recommendations

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| The Board noted feedback about the suitability of ANZSIC codes for some industries but was satisfied that the option was the least bad option. The Board carefully considered feedback in relation to the engineering industries and was satisfied that there was a strong case for enabling alignment of complementary activities with the relevant coverage of the Construction and Infrastructure and Manufacturing, Engineering and Logistics WDCs. The Board carefully considered feedback about the coverage of the Jewellery manufacturing industry and was satisfied that there was a strong case to distinguish between the trade-related components of the industry and the more creative components. | Agree to adopt the following coverage statement changes:  
- Coverage of 6923 ‘Engineering Design and Engineering Consulting Services’ limited to Boat designing service, Chemical engineering consulting service, Drafting service, engineering, Electronic engineering consulting service, Engineering consulting service n.e.c., Hydraulic engineering consulting service, Industrial design service, Marine engineering consulting service, Materials handling engineering consulting service, Mechanical engineering consulting service, Mining engineering consulting service, Naval architecture service, Process engineering consulting service, as all other aspects are covered by the Construction and Infrastructure WDC.  
Agree that, where possible, the coverage description outlined above clarify the extent that the primary activities proposed for the Construction and Infrastructure WDC involve activities associated with the other specified industries for the Manufacturing, Engineering and Logistics WDC that they are within the coverage of Manufacturing, Engineering and Logistics WDC.  
Agree to adopt the following coverage statement changes:  
- Coverage of 2591 ‘Jewellery and Silverware Manufacturing’ limited to the manufacturing of jewellery against defined specifications, as all other aspects are covered by Creative, Cultural, Recreation and Technology. |

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<td>MoE supports the iEBs recommendations.</td>
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Other feedback

Summary of Submissions

Other feedback from WDC-specific submissions

125. NZ Marine Industry Association - Having had 25 years’ experience in leading, developing and facilitating industry training to very standards for the marine and more recently composites industries, they note that the funding required to enable the WDC to successfully carry out and achieve its vision and objectives as detailed in this proposal will be substantial. They support the proposed WDC and its referred roles, subject to it and the industries participating in the WDC being funded by the Government to the level required for its success.

126. NZ Heavy Engineering Research Association highlighted that there is a strong need for the WDC to represent all members and ensure there are mechanisms in place to protect the voice of relevant industries, not just those who are the loudest or largest.

127. Engineering & Education Consulting limited found that MEL WDC should allow for regular review of its duties and delegations to ensure fairness for all enterprise, educational delivery, and the learners of manufacturing, engineering, and logistics.

128. Alpha Training, and Development Centre's submission stated that their readings of RoVE have given them hope that the causes of the failures of vocational education courses in the private education sector have been identified and that mechanisms are in place to restore what was initially intended and to prevent them from being interfered with again.

129. Wood Wise Ltd. were concerned that most people in their industry feel there isn’t a strong understanding of wood manufacturing in Competenz and with the MEL WDC there is going to be further dilution.

130. AsureQuality Academy as a PTE, welcome on-going engagement to support vocational education in NZ as a business and state:

   a) They seek further guidelines on the role of the WDC in providing employers with advisory brokerage services and whether there is a criteria for offering these services and recommending programmes and/or educational institutions would be valuable and provide transparency.

   b) They support the proposal of a unified funding system for all provider-based and work-integrated education. Further information about the requirements and criteria to access this funding would be beneficial when appropriate, as well as further support for providers who may undertake training historically arranged by the ITO’s
131. Southland and Otago Regional Engineering Collective are keen to ensure their voice is heard, potentially via the relevant industry advisory group, as it emerges and would be keen to stay connected to MEL WDC discussions as they develop (Note that SOREC covers Southland AND Otago - the survey would only enable one region to be selected)

132. Outdoor Fabric Product Association of New Zealand (inc) expressed that:
   a) Overall they have received excellent support and training from their current ITO and are disappointed in the reforms.
   b) Fearful that it will be an inevitable loss of experience and service to their learners as the transition to the WDCs occurs.
   c) They expect that as a small industry in NZ, their voice will be lost following reforms and their learners will be disadvantaged.

133. PrefabNZ expressed:
   a) Their concern that the offsite sector is covered by 2 WDCs (C&I and MEL).
   b) Concerned that the 2 WDCs will operate in silos and either duplicate areas of work and/or leave significant gaps in covering the needs of the offsite sector.
   c) Failure for the 2 WDs to work collaboratively will undermine OSM sector contribution to high performing construction sector
   d) They recommend the TEC monitor closely how all WDCs collaborate when there is sector cross-over between WDCs.

134. Road Transport Forum NZ had additional feedback:
   a) That Road freight transport has been somewhat excluded in past models, but given the industry’s significance to the New Zealand economy and supply chain and they generally supports the establishment of WDCs as per the Education and Training Act 2020.
   b) Industry-led training critical to the success of the road freight transport industry. The wish to continue to effectively shape the curriculum of industry training, particularly in the development of micro-credentials for both existing and future industry employees
   c) It is essential to get the practical application of the establishment and operation of the WDCs right from the start.
   d) They have not been well served in the past, but now that have stepped up and established an industry traineeship and need absolute assurance that the RoVE structure will aid that.

135. Motor Trade Association Inc. express that:
   a) Thought needs to be given to a mechanism for the industry to raise concerns with the council.
   b) The shift from referring to ‘industry training’ to ‘vocational education’ seems to infer that it is less likely that small business owners will be able to access relevant operating skills training from people who understand their industry.
Manufacturing, Engineering and Logistics Order in Council – Summary of Submissions

c) Asking for better consideration of the needs of business owners as part of industry training.
d) Size and shape of the WDCs risk further distance and disconnect between employers, industry, and the training establishment.

136. A submission expressed concern over:
   a) Disappointment in the language of the proposals being too difficult to understand.
   b) Concern over affirmative action for Māori and Iwi for specific consultation and no other groups such as European, Asian, Irish, and Pacific.
   c) They believe the tertiary stage is too late to gather trades people into education, this should instead start at the intermediate and secondary school stages.
   d) Encourage the reopening of woodwork shops and metalwork shops to get students invested in a trade career early on so by the time they leave school they can be qualified after a number of years at the likes of Weltec.
   e) Disappointment in the lack of response in applications for a qualified Fitter and Turner to employ.
   f) There’s an issue with the education system rewarding under-achievers which contributes to employers being let down with most school leavers that lack basic Math, Physics, and English.

137. A submitter stated that they found the documents and the survey very difficult to read and assumed there won’t be much feedback from fellow tradies which should be the main focus, otherwise it more waste of tax paper money.

138. A submitter stated that the needs of the industries these reforms were meant to support have been ignored in favour of models and classification code.

139. A submitter stated that the needs of industry that these reforms were meant to support have been ignored in favour of models and classification codes. The big picture has been lost in bureaucracy, a focal point for the future of work has been scrapped, and NZ will be worse off because of it.

Other feedback from submissions that comment across WDCs (this section will be identical across all Summaries of Submissions)

140. Te Rūnanga o Ngāi Tahu makes the following submissions on the establishment of Workforce Development Councils:
   a) That Te Tiriti o Waitangi be honoured and therefore a cornerstone of the education system in Aotearoa. Any tertiary education institutions sector, including the WDCs, should positively reflect the bicultural foundations and have a firm commitment to Te Tiriti frameworks.
   b) As a Treaty Partner to the Crown, Te Rūnanga expects commitment to ensuring the rights of Ngāi Tahu whānui to access an equitable and successful journey in our education system. There needs to be deliberate investment for success in those most impacted by the systems failure to date. It is important that measures of success are co-designed with Māori.
c) Ngāi Tahu and all Māori should have the opportunity to achieve success in the tertiary sector and subsequent employment pathways. However, this should not come at the expense of their identity as Ngāi Tahu. The system should recognise and privilege mātauranga Māori, helping to empower their identity as Ngāi Tahu rather than detract from it.

d) The governance and ensuing structures involved in designing, developing and implementing RoVE, should privilege Ngāi Tahu aspirations and values within our takiwā. The governance structures of this review process, including Te Taumata Aronui should have access to high quality Māori strategy and policy advice at all levels as this review proceeds. Māori capacity and capability is required in these structures to internally analyse and develop responses that meet Crown obligations as a Te Tiriti partner, to ultimately ensure success for Ngāi Tahu whānui and all Māori.

e) The WDCs should have a firm commitment to be driven by Te Tiriti frameworks. This will provide a foundation to ensure equity is achieved for Ngāi Tahu and all Māori in the tertiary education sector and in turn contribute to equity in employment, particularly in high skilled and future focused industries.

f) In instances where Ngāi Tahu identify training and education of specific interest to Ngāi Tahu whānui, we would expect the opportunity to engage as a Treaty Partner.

g) Ultimately, the expectation is that the tertiary sector and WDCs should have the following outcomes at the heart of their functions, ensuring a contribution to strong and vibrant Ngāi Tahu and Māori community:

i. Ngāi Tahu and all Māori students and learners achieving success in the tertiary education sector,

ii. Ngāi Tahu and all Māori governors, staff and teachers engaged in the tertiary education sector achieving success,

iii. Ngāi Tahu and all Māori achieving success upon entering the workforce from the tertiary sector, as a result of successful engagement in this space.

141. Waikato-Tainui observes a noticeable absence of engagement provisions with hapu and iwi in these proposals. As a Te Tiriti partner to the Crown, they assert that this oversight must be addressed if WDC’s are to give genuine and authentic expression to their obligations under Te Tiriti o Waitangi.

142. The TEU recommends there should be greater consistency across the six Orders in Council, and that there is opportunity to take the best aspects the proposals and apply them to each of the six WDCs.

143. Te Kāhui Ahumahi submitted that:

a) The formulaic composition of the OICs suggests that the same tools are going to be used and therefore the aspiration of ‘transformation’ will not be achieved.
b) The purpose and performance functions outlined in the OiC are not asking the WDCs to do anything substantively different apart from applying a lens of industry.

c) Honouring Te Tiriti means that no one-size-fits-all solution is acceptable, however, we see six OiCs that are substantially uniform and use government language that marginalises the Tiriti relationship.

d) Nowhere in the performance functions or statement of strategic direction sections in the six OiCs are we told what transformation will be delivered, by when and for whom.

e) If these things are not in the legislation, they become optional. This has not served Māori aspirations in the past.

f) To have a set of OiCs that do not mention iwi and how the transformation of the vocational education system will honour Te Tiriti is remiss. Honouring Te Tiriti is a partnership.

g) Mention of the principles of Te Tiriti o Waitangi in the criteria for the appointment of members is a big red flag to Māori. Principles, or the three Ps as they are commonly known, is a redefinition and a colonial interpretation of the three articles of Te Tiriti. Therefore we ask that any inclusion of Tiriti principles be replaced with the Articles of Te Tiriti

h) There is no mention of the role that Mātauranga Māori, Māori and iwi will play in any of the six OiCs despite the Act. There will always be compromise unless there is an independent, autonomous and Māori appointed and centred entity that secures this taonga for our future generations.

i) Mātauranga Māori is alluded to in the criteria for appointment but is not supported anywhere else in the document. The appointment process will test this notion. As it stands, the appointment process will be led by TEC and the Ministry of Education; they will appoint members to the appointment panels. In one case, TEC will select nominees to be appointed by the Minister. To put government in control of this process means that industry, Māori and Iwi are not in the role the Act envisages. How do the OiCs assure Māori and Iwi that their voices are going to be heard?

144. The Employers & Manufacturers Association:

a) Welcomes required industry representation from both small and large enterprises on the Council Board for some WDCs. However, small business representatives will likely be under resourced. Defining 'small' business will signpost to businesses of that size that they are welcome on the WDC’s. Specifying the obligations of Committee membership will also help ensure small business can be at the table.

b) Applauds the inclusion of governance development associates to upskill individuals on the WDCs. The role and the criteria for appointment should be defined to avoid the risk of unstructured or ad hoc developmental support for these people.

145. BusinessNZ comment that further emphasis needs to be put on working with industry associations and employer groups to utilise significant work that has already been undertaken on workforce planning, and ensure retention of the many excellent work based training programmes in the
existing system, particularly given that workforce planning and skills development are also being undertaken through other government work programmes like MBIE’s Industry Transformation Plans, or MPI’s Food and Fibre Skills Action Plan.

146. Taituarā - Local Government Professionals Aotearoa stated that there is an opportunity for central and local government to work together to jointly develop the public sector workforce.

147. Tāne Mahuta NZ Limited commented that all OIC’s across the 6 WDC’s are mainstream, with limited attention to honouring the 3 Treaty (not Te Tiriti) principles of Partnership, Protection and Participation. This is perhaps due to no Māori member on the Services iEB and limited Māori membership in governance. Primary is the only OIC reflecting partnership at 50/50 membership. Consistent calls by Māori for Māori membership and representation in “services’ were not attended to or ignored. Te Tiriti values and principles, on the other hand, sits outside the honourable duties reflected in the OIC’s or attempts to include.

148. One submitter strongly recommends that the WDCs will need to employ staff resources, who have significant understanding of industry skill needs and how they can be defined and applied coherently along with the qualifications that support them. If this is done correctly, then qualifications definition, assessment and updating will be much simplified by the use of stable constructs, where only minor knowledge updating will be required year on year. This will provide longer term validity of qualifications and the resulting benefits to their holders in rapidly evolving contexts.

149. One submitter commented that they do not believe the once-in-a-lifetime opportunities (with the concurrent establishment of WDCs and RSLGs) for stronger connections between WDCs and other parts of the labour market system powerfully enough. They believe that a systemic approach to workforce development and supply by the WDCs and their members needs to be made explicit.

Responses and Recommendations

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<td>The Board noted the feedback and did not identify any compelling reasons for change.</td>
<td>No changes are recommended.</td>
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Consultation on WDC Order in Council

Primary Industries Order in Council – Summary of Submissions
Primary Industries Order in Council – Summary of Submissions

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Primary Industries Order in Council – Summary of Submissions

Name of the Workforce Development Council

Summary of Clause
The Muka Tangata People, Food and Fibre Workforce Development Council is established on the date the Order in Council is made.

Summary of Submissions

1. New Zealand Apples & Pears Incorporated and Horticulture New Zealand Incorporated (with support from several industry organisations) supports the proposed name, but note for consistency and clarity that the term “Food and Fibre Sector” replace the use of “primary industries” – stating that the two terms are used in different places throughout the OiC.

2. DairyNZ supports the use of Muka Tangata as the name for the WDC, with a strapline of Food & Fibre Workforce Development Council.

3. One submitter recommends that the WDC should be named “Food, Fibre and the Environment WDC”. They note that the CoVE is named Food and Fibre because the public did not equate the Primary Industries to the horticulture and agriculture sector, and these sectors have a significant effect on our environment. They also state that we have one opportunity to be imaginative and forward thinking, and that we should signal that our environment is right up there when it comes to producing food.

4. Te Wānanga o Aotearoa commented across all WDCs that they believe all Orders in Council should have a Te Reo Māori descriptor in their title/name for WDCs. They state that respect for and inclusion of Te Reo Māori as an official language of Aotearoa New Zealand, must be a requirement for government entities from the outset, than that Kupu Māori, in this context is not a “nice to have” or a work in progress, it is fundamental.

5. One submitter thinks the name is very long and could perhaps be simplified. They state that it does not represent their industry sector group.

Responses and Recommendations

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<td>Primary iEB considered this feedback. This recommendation takes into account feedback on the length of the name.</td>
<td>Agree to Muka Tangata – People, Food &amp; Fibre Workforce Development Council as the name of the Primary Industries WDC, and that the name must include the hyphen.</td>
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So as not to cause confusion, we propose to retain the use of “Workforce Development Council” in the name to reduce confusion and anticipate over time that it may be dropped from the working name.

The WDC will determine how the name is used for specific purposes.

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<td>The Ministry has no further view about the name.</td>
<td>Note that the Ministry supports the IEB’s recommendation.</td>
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Purpose of the Workforce Development Council and Accountability Arrangements

Summary of Clause

Purpose

The purposes of the Muka Tangata People, Food and Fibre Workforce Development Council are:

- to use its industry voice to contribute to the creation of a sustainable, globally engaged and adaptive Aotearoa New Zealand;
- to contribute to an education system which provides opportunities for all people to reach their full potential and capabilities, including those who have been traditionally underserved by the education system;
- to contribute to an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships;
- to work with learners, industry (including, without limitation, employers, employees, self-employed people, volunteers, industry associations and unions), tāngata whenua, stakeholders and the other Workforce Development Councils to give effect to the Council's strategic direction;
- to plan, implement and support the responses to Aotearoa New Zealand’s current and future workforce needs, taking into account:
  - the transition to a low-emissions and climate resilient Aotearoa New Zealand;
  - new global challenges;
  - emerging technologies;
  - global sustainability goals;
  - the changing nature of work; and
  - the skills, knowledge and qualifications learners need in future, to achieve success for themselves and their communities.

Accountability arrangements

Performance of functions

- The Council in the performance of its functions must give effect to
  - the purposes of the Council;
  - the Tertiary Education Strategy issued under section 7 of the Act;
Primary Industries Order in Council – Summary of Submissions

• Ka Hikitia or subsequent Māori education strategies that relate to vocational education and training;

• The Council in the performance of its functions must
  o act in a manner which is consistent with the goals and objectives of the vocational education system as a whole;
  o work collaboratively with providers, including work-based trainers and employers to ensure that qualifications, standards, and learning packages, enable successful outcomes for all learners; and
  o advocate for, and contribute to, policies that meet the needs of industries covered by the Council, particularly as they relate to vocational education, career promotion and planning and the funding of education and training.

• The Council must consult with persons or bodies representing who the Council considers on reasonable grounds, represent Māori in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of Māori, in the performance of its functions.

• The Council must consult with persons or bodies representing who, the Council considers on reasonable grounds, represent specific population groups, in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of those population groups in the performance of its functions.

Statement of strategic direction

• At least every 3 years the Council must publish on an Internet site maintained by or on behalf of the Council, a statement setting out its strategic direction for the next 5 years, and how the Council intends to give effect:
  o to the purposes of the Council;
  o to relevant parts in the Tertiary Education Strategy; and
  o Ka Hikitia or subsequent Māori education strategies that relate to vocational education and training.

• The Council must consult with the specified industries, the Minister, vocational education providers, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

Annual report

• The Council must present to the specified industries, and to the Minister, an annual report on the performance of its functions, including (without limitation):
  o an outline of the progress made towards achieving the goals and objectives set out in the statement of strategic direction; and
  o the audited financial statements of the Council.
Primary Industries Order in Council – Summary of Submissions

Summary of Submissions

6. Some submitters who (strongly) agreed with the purpose and accountability were supportive of the WDC's purposes with regard to the Treaty, Māori-Crown relationships, and opportunities for all, but stated that these need to be delivered and not be "lip service".

Purpose

7. The Tertiary Education Union (TEU) drafted an alternative purpose statement, which they believe could be applied across all WDCs. Their alternative statement is based on a synthesis of the various purpose statements across the Orders in Councils, but with a number of minor additions. Their suggested additions focus on inclusivity and diversity (bi-culturalism).

8. The Employers and Manufacturers Association (EMA), Māori and Pasifika trades training Auckland, and Business NZ would like to see the Orders in Council for all six WDCs be more explicit and contain stronger language regarding the role of the WDCs. They believe that ‘contribution to the education system’ is weak in relation to the importance and the ‘leading’ role of the WDCs.

9. Business NZ, the Māori and Pasifika trades training Auckland, and one other individual submitter recommend that the purpose statement should refer to the WDCs’ responsibility to deliver on skills for industry, its accountability to industry, and its role in ensuring a well-functioning workforce and labour market system.

10. Māori and Pasifika trades training Auckland comments that the purpose of each WDC needs to be
   a) specific to their industry, their workforce, and the outcomes of the work the industry does.
   b) specific about the role of the WDC in making sure the education system meets the needs of the industry (and workforce).
   c) brief and to the point
   d) stronger intentional statement than “proposed”.

11. Te Wānanga o Aotearoa (TWoA):
   a) Suggest that the purpose and engagement approach should be consistent across all WDCs to ensure good outcomes for Māori, and to ensure that wānanga are able to engage across all of the WDCs in a consistent, clear manner.
   b) Recommend that the purpose should be amended to acknowledge (collaboration with) wānanga. They also believe that the OiCs should explicitly include the requirement to authentically consult with "persons or bodies" in relation to "s369(2)(b)" and Section 387 (s367) of the Act (which makes provision for the responsibilities which WDCs have for wānanga in particular), to ensure that the wānanga have confidence that their provision will be properly recognised and acknowledged.
c) Expressed concern that the majority of the OiCs suggests that the purpose of honouring Te Tiriti for WDCs is to “help ensure fair and equitable outcomes for all”, rather than, the more appropriately described position from Ka Hikitia, that is “to give practical effect to Tiriti o Waitangi in the [vocational training] system”.

12. Federated Farmers believe the key purpose of the WDC is to meet the collective training needs of employers and prospective employees of the primary industries, and to achieve this requires a strong working relationship with industry bodies and other representative organisations.

13. Dairy NZ believes that the purpose includes a mix of aspirations to which the WDC will contribute, but for which it cannot be held accountable, as well as describing operating principles that would fit more appropriately in the “performance of functions” section of the OIC. They recommend these need to be stripped out to ensure the purpose is clear.

14. Several submitters – including DairyNZ, New Zealand Apples & Pears and Horticulture New Zealand, NZ Forest Owners, Forest Industry Contractors Association, and NZ Forestry and Wood Processing Workforce Council – recommended that the statutory functions of the WDC and that the requirement for WDCs to work collaboratively with industry bodies, employers and learners should be stated in the Order in Council.

15. Dairy NZ, New Zealand Apples & Pears, and Horticulture New Zealand (with support from several industry organisations) believes that the purpose should include for WDCs to facilitate and channel the industry voice. In their submissions, they argue that WDCs themselves are not a voice for or of industry.

16. One submitter submitted that the statements regarding underserved learners and regarding ‘honouring Te Tiriti o Waitangi and supporting Māori-Crown relationships are a step in the right direction because they have been historically overlooked.

17. Seafood New Zealand Limited would like to ensure the purpose statement is clear that the WDC must be industry led and work with the industries it serves to ensure their voice is heard across the education system. They would like to see the purpose clearly focussed on meeting the needs of employers and employees (and potential employees), to reflect to the original intention of the reform and the changes made to the Act.

Accountability Arrangements

18. The Tertiary Education Union (TEU) recommends that the ‘Accountability Arrangements – Statement of strategic direction’ section states that:
   a) The statement of strategic intent should include how the Council intends to give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies
   b) The Council must consult with the specified industries, the Minister, vocational education providers, Te Pūkenga, relevant Centre(s) of Vocational Excellence, Regional Skills Leadership Groups, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

19. The Employers and Manufacturers Association recommends that there must be some measure of how well WDCs are performing, both in engaging with industry and in providing the necessary skills for business.
20. Federated Farmers believe there must be clear accountability from WDC to provide evidence that education providers are working alongside industry to ensure students are graduating with the skills and knowledge needed to be successful in the primary industries.

21. One submitter recommended that the accountability arrangements should require WDCs to consult with RSLGs.

22. Business NZ recommends that:
   a) The accountability arrangements are significantly strengthened to explicitly include mechanisms to ensure that skill standards are relevant and aligned to the professionalization and regulatory requirements for industry.
   b) Given the broad scope of industry coverage, strengthened accountability to industry and articulation of how it will manage the broad coverage scopes should be built into the accountability mechanisms.
   c) The Annual Report in the accountability arrangements should require the setting of key performance indicators and commitment of service levels to industry for WDC’s to report against.

23. Seafood New Zealand Limited suggests that the Order in Council should include mechanisms to ensure the WDC acts transparently and consults and reports to industry. They believe this is particularly important in the area of providing investment advice to TEC.

24. The Primary TITO believes that the industry voice is not strong enough and accountability mechanisms such as “that the WDC has pursued the industries interests as they relate to education and the supply of graduates” needs to be built into the Order in Council.

25. While supporting the proposed accountability arrangements, the New Zealand Apples & Pears and Horticulture New Zealand (with support from several industry organisations) recommend the following additions:
   a) A requirement to consult with industry organisations
   b) A requirement to present an annual report, strategic plan and work plan to stakeholders including industry organisations
   c) A requirement that the WDC develop performance measurement and accountability framework with industry (this is also recommended by DairyNZ in their submission) and report on the achievement of these measures and the framework in the WDC’s annual reports.

26. DairyNZ recommends that:
   a) Industry bodies/associations should be recognised as key informants on skills needs in the sector, and there should be a requirement for WDCs to consult with them.
   b) Industry strategies (collectively) must be referenced as source documents that guide WDC strategy to cement industry leadership of the WDC.

27. The NZ Trainers’ Association and the IPG Equine Industry highlighted that transparency via open communication should be a priority.
Responses and Recommendations

<table>
<thead>
<tr>
<th><strong>Interim Establishment Board Response</strong></th>
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</thead>
<tbody>
<tr>
<td>The Primary iEB considered this feedback.</td>
<td><strong>Agree</strong> with the following purpose statement:</td>
</tr>
<tr>
<td>The primary legislation is quoted in the proposed statement deliberately to bring more clarity without having to revert to primary leg and enable the OIC to stand alone.</td>
<td>The purpose of Muka Tangata - People, Food and Fibre is to provide strategic direction and leadership across the education ecosystem. It will do this by working collaboratively with learners, industry (including, without limitation, employers, employees, self-employed people, volunteers, industry associations and unions), tangata whenua, stakeholders and the other WDCs to give effect to:</td>
</tr>
<tr>
<td>The proposed changes to this purpose is responding to feedback.</td>
<td>i. Provide skills leadership to the vocational education sector so that education provision results in graduates with the knowledge, skills and abilities to meet the needs of current and future employers.</td>
</tr>
<tr>
<td>We agree that this purpose facilitates the industry voice across the system rather than ‘use its industry voice’.</td>
<td>ii. Develop and set standards, assessments and qualifications.</td>
</tr>
<tr>
<td>We agree that purpose statements need to be measurable and the WDC can be accountable for them. We note that the operationalisation will build the systems to enable a programme of measurement and accountability. Accountability is back to industry (defined by iEB in OIC) within the WDC coverage.</td>
<td>iii. Endorse programmes to ensure they will meet graduate outcomes.</td>
</tr>
<tr>
<td>The WDC will develop an accountability and outcomes framework that sets key performance indicators and industry expectations of service levels.</td>
<td>iv. Moderate assessments, monitor quality of educational outcomes and ensure they meet employer needs.</td>
</tr>
<tr>
<td>We consider that this is better drafting than the original proposal because there is a broad definition of industry.</td>
<td>v. Provide advice to TEC and government.</td>
</tr>
<tr>
<td>Through carrying out this purpose the WDC will:</td>
<td>vi. Facilitate and channel the industry voice.</td>
</tr>
<tr>
<td>• facilitate (or coordinating?) industry voice to contribute to the creation of a sustainable, globally engaged and adaptive Aotearoa New Zealand;</td>
<td>• contribute to an education system which provides opportunities for all people to reach their full potential and capabilities, including those who have been traditionally underserved by the education system;</td>
</tr>
<tr>
<td>• enable an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships;</td>
<td>• plan, implementing and supporting the responses to Aotearoa New Zealand’s current and future workforce needs, taking into account:</td>
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Primary Industries Order in Council – Summary of Submissions

<table>
<thead>
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<th>Ministry of Education Response</th>
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<tbody>
<tr>
<td>The iEB has, in response to submitters, recommended a new introductory paragraph to the purpose statement. We think it is unlikely that the aspects of the introduction that restate functions from the primary legislation in different language are able to be drafted into secondary legislation. However, the iEB in making this recommendation wants to ensure a firm direction is provided to the WDC council that:</td>
<td>Note that the Ministry has assessed the iEBs recommendations and consider that the following points from the iEBs recommendation could be included in the Order, and that doing so would create specific accountabilities for the WDC.</td>
</tr>
<tr>
<td>• In giving effect to its skill leadership function, the WDC’s should be accountable for strategic leadership, and leadership across all aspects of the education system (i.e. not to interpret it in a narrow and operational way).</td>
<td>Agree that the WDC should be accountable for strategic leadership, as part of its skill leadership function.</td>
</tr>
<tr>
<td>• In addition to the duties of WDCs to collaborate with the bodies named in s369(2)(c), the WDC should be accountable for collaborating with a set of further stakeholders (named in the iEB’s recommendation)</td>
<td>Agree that the WDC should be accountable for skill leadership across all aspects of the education system relevant to its coverage.</td>
</tr>
<tr>
<td>In both of these cases, the Ministry supports the policy direction, as both of these are best practice we would want to see all WDCs do. If these points were included, the WDC would be held accountable for its performance in strategic leadership, and for collaborating with these groups of stakeholders. Including it in law runs the risk of challenge if, for example, resources limit the amount of collaboration that is possible. We therefore recommend the drafting accounts for this risk, for example by including wording similar to the wording in s369(2)(c), i.e. “to the extent that it is necessary or desirable in the circumstances…”. We however, do not recommend doubling this</td>
<td>Agree that in addition to its industry engagements (set out in the section on industry engagement), the WDC should be accountable for collaborating, to the extent that it is necessary or desirable in the circumstances, with learners, tangata whenua, and other stakeholders.</td>
</tr>
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</table>
point of accountability up with that of industry engagement, and recommend
drafting accordingly.
Council membership provisions

Summary of Clause

- The Council comprises no fewer than 8 members and no more than 12 members, as determined by the Council, made up as follows:
  - at least 2 members, including 1 member to represent Māori employees, nominated by employees, the Council of Trade Unions and unions representing employees in the specified industries;
  - no more than 8 members nominated by employers in the specified industries, including:
    - at least 1 member nominated by the employer associations representing employers in the specified industries; and
    - at least 1 member nominated by Māori employers in the specified industries.
  - a number of additional members as required to bring the total membership of the Council up to the number of members determined by the Council.

- The Council may co-opt other persons to be a member if necessary, to ensure that the Council has an appropriate mix of skills, leadership and experience, provided that the Council comprises in total no more than the total number of members determined by the Council.

- The Council as a whole, must have approximately an even balance between members who are Māori and non-Māori.

Summary of Submissions

28. The TEU suggests the following arrangements for council membership across the WDCs:
   a) The Council comprises 8, 9, or 10 members, as determined by the Council, made up as follows:
      i. 1 member nominated by Māori employers in the specified industries, to represent them;
      ii. 1 member nominated by Māori employees in the specified industries, to represent them;
      iii. 1 member nominated by employees, the Council of Trade Unions, and unions representing employees in the specified industries, to represent them;
      iv. 1 member nominated by the employers in the specified industries, to represent them;
v. 1 member from the Pacific community;

vi. 1 member from Te Pūkenga involved in the provision of education in the specified industries nominated by subsidiary employees, to represent them. (the TEU Unitec branch voiced their support for this specific recommendation)

vii. The remaining members appointed by the Council to bring the total membership of the Council up to 8, 9, or 10 members as determined by the Council.

b) The Council as a whole must have approximately an even balance between members of the Council who are Māori and non-Māori

c) When seeking nominations for an employee representative, the Council or the appointments committee must:
   i. take all reasonable steps to notify employees in the specified industries about the process for nominating members;
   ii. ensure that the persons nominated for appointment have the support of a sufficient number of employees in the specified industries; and
   iii. not specify who is eligible to be nominated for appointment as a member except as provided for in the Order, or in any rules.

d) The Council may co-opt up to 2 persons for no more than 3 years to be a member if necessary or desirable:
   i. to ensure that the Council has an appropriate mix of skills, leadership, and experience, provided that the Council comprises in total no more than 10 members;
   ii. to provide opportunities for people of different age, ethnicity, ideas, and gender to develop the knowledge, skills, and experience in governance necessary to be appointed as a member of a professional governing body;
   iii. to increase opportunities for participation at a governance level by Māori, Pacific peoples, and people living with disabilities;
   iv. to draw on the experience, knowledge, and views of learners; and
   v. to ensure that over the long-term there is adequate representation of Māori, with the aim of contributing towards an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

29. DairyNZ, Seafood NZ, New Zealand Apples & Pears, and Horticulture New Zealand (with support from several industry organisations) recommend that there shouldn’t be any restrictions on who can nominate employer and industry members to the council. They believe that the nomination process left open to any person, body, association or union in one of the specified industries, as industry bodies currently seem excluded from making nominations.

Māori / Pasifika representation
30. Several submitters commented on the Māori representation, as included in the Order in Council:
   a) Te Wānanga o Aotearoa commented that all OICs should include opportunities for Māori employee representation, to ensure that vocational education and training is responsive to Māori apprentices and trainees. They believe this is particularly critical in areas with high Māori participation (such as Primary Industries, Services, Creative, Logistics and Community).
   b) Māori and Pasifika trades training Auckland recommends that the number of employer representatives needs to be increased to four, including Māori and Pasifika business leaders.

31. Several submitters, including the Employers & Manufacturers Association (EMA) and the Māori and Pasifika trades training Auckland highlighted the need for a clear definition of Māori / Pasifika business / employer. Māori and Pasifika trades training Auckland recommend the definition includes 50% ownership base with stated intentions to promote Māori and/or Pasifika economic position in the trades sector. This process would include clear consultation with business and community organisations that promote Māori and Pasifika participation in the trades including: AMOTAI, Pacific Business Trust, Iwi and Hapu Corporations.

32. Business NZ recommends that the Council membership provisions should be strengthened and consider Māori representation more broadly in terms of the industries which have high proportions of Māori and Pacific in their workforce, rather than just representation at the Board table.

33. DairyNZ comments that the even balance between Māori and non-Māori members across the council is a worthy aspiration and should be applied where practicable. However, they believe that such goals should not prevent the Minister from appointing a capable Council in a timely fashion and neither should it detract from the ability of the council to appoint the independents they need carry out the purpose of the WDC.

34. One submitter does not agree with the requirement for even balance between Māori and non-Māori, and argues that the best people should be appointed to the roles, based on their experience not their ethnic background. This individual also states that there should be a strong academic representation as well.

35. Several organisation comment that the requirement for an even balance between members who are Māori and non-Māori is not a true representation of the population, employers or work-force.

36. The New Zealand Apples & Pears and Horticulture New Zealand (with support from several industry organisations) recommend that the WDC should reflect the makeup of the industries covered by the Primary Industries WDC, to honour te Tiriti o Waitangi and the importance of minority cultures and ethnicities being serviced. They also submit that they believe that, as drafted, this section is confusing as to Māori representation and that this should be clarified.

Industry representation

37. The Employers & Manufacturers Association (EMA) and Business NZ recommend that each council should have at least 50% representatives from that industry coverage area, to ensure it is an ‘industry-led’ organisation.
   a) Employers & Manufacturers Association suggest that:
Primary Industries Order in Council – Summary of Submissions

i. meeting the many criteria (e.g. setting up organisations, expertise in education and relevant industry, experience in financial and change management, and gender and ethnic balance) should not be at the exclusion of industry expertise.

ii. that WDC Committee members from industry are not from one specific stream of that coverage area

b) Business NZ also believes that the Chair or Co-Chair be from industry. Business NZ also note that it does not consider that Māori representation and industry representation are mutually exclusive.

38. DairyNZ comments that, when appointing the council, the Minister must ensure the council has appropriate representation from specified industries.

39. Federated Farmers commented that it is essential that the WDC clearly represents the needs of the various primary industry sectors and has strong connections to these industries to ensure that this is occurring. For this to occur, the Governance must be made up of appropriate representatives from the various sectors and ensure that they have both a voice that is listened to and accountability to who they represent.

40. One submitter who agreed with council membership stated that Council membership is fine as long as each industry has representation. The submitter questioned whether smaller groups whether smaller groups will be represented by one of the larger groups (i.e., apiculture).

41. One submitter highlighted the need for each industry to be represented on the WDC, and questioned whether smaller groups would be represented by one of the larger groups.

**Employee representation**

42. The Council of Trade Unions (CTU) recommends that:

   a) each WDC include at least two worker representatives, of which at least one be a representative of Māori workers. (this recommendation was also voiced by DairyNZ and First Union)

   b) the appointment of each worker representative on a WDC require endorsement from the CTU.

   c) a consistent process be established for appointments to WDCs. In any case where an appointments panel is convened, this should include representatives from CTU, Business NZ and iwi/Māori.

43. Business NZ recommends that the Council membership provisions should include working with BusinessNZ and the CTU to utilise the tripartite approach to governance arrangements rather than building in special provisions for union representation and endorsement.

44. First Union recommends that an explicit statement mandating union representation be included.

45. First Union state they are comfortable with the suggestion that Te Rūnanga endorses Māori worker candidates.

46. The NZ Dairy Workers Union recommends that:
Primary Industries Order in Council – Summary of Submissions

a) All six WDC OIC proposals should stipulate that only nominations and/or endorsements from trade unions involved in the WDC coverage areas or from the CTU/Te Rūnanga should be accepted for WDC representatives tasked with the collective representation of employees, both Māori and non-Māori;

b) All six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

c) If the above recommendations are not accepted, the Primary Industries WDC OIC proposal on “Council membership provisions” should at least be amended to reinforce the statutory requirement for the collective representation of employees and should read “at least 2 members to provide for the collective representation of employees, including 1 member to represent Māori employees, nominated or endorsed by employees, the Council of Trade Unions and unions representing employees in the specified industries”.

Other

47. One submitter recommends the inclusion of RSLG members (potentially co-opted) on the council.

48. One individual acknowledges that the scope of the WDC is huge so the council won’t be able to speak for every industry listed. The submitter wants to ensure that there is a clear structure for consulting with the right industry people. They give the example of the Veterinary care industry which has its own set of needs and requirements that are distinct from the other industries listed and they are concerned that they will get lost in the grouping and lose autonomy.

Responses and Recommendations

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<tbody>
<tr>
<td>The Primary IEB has considered this feedback. This was a drafting mistake which the iEB proposes correcting. The iEB also proposes to include industry associations as they appeared to be missing from the original proposal. We’ve responded to the feedback and wish to ensure there is no limiting of who can nominate. Feedback notes what is important is that those appointed have the relevant skills, knowledge, connection to industry rather than who nominates them.</td>
<td>Agree that the Council comprises no fewer than 8 members and no more than 12 members, as determined by the Council, made up as follows:</td>
</tr>
<tr>
<td>o at least 2 members to provide collective representation of employees, including 1 member to represent Māori employees, nominated by Trade Unions (including NZCTU/CTU Rūnanga) involved in the specified industries, or nominations at large of individual employees involved in the specified industries.</td>
<td>o no more than 8 members nominated by employers, industry bodies or groups/associations, iwi and Māori, involved in the specified industries, including:</td>
</tr>
</tbody>
</table>
A skills and representation matrix is how this will be operationalised and has been lost from this draft.

- at least 1 member nominated by industry associations to provide collective representation of employers in the specified industries; and
- at least 1 member nominated by Māori employers in the specified industries.
  - a number of additional members as required to bring the total membership of the Council up to the number of members determined by the Council.

**Agree** that the Council may co-opt other persons to be a member if necessary, to ensure that the Council has an appropriate mix of skills, leadership and experience, provided that the Council comprises in total no more than the total number of members determined by the Council.

**Agree** that the Council as a whole, must have approximately an even balance between members who are Māori and non-Māori.

---

**Ministry of Education Response**

The Ministry accepts the iEB’s rationale. There is a discussion of the skills matrix below in the section dealing with the process for appointing members to the ongoing council.

The Ministry considers that the recommendations for the employee representative may need to be strengthened to provide clarity on who may be appointed as the employee representative. Where this has not been clear in other IEB templates we have added provisions in the ‘Criteria for the appointment of members’ section that lay out what the appointing body/person must consider when making the employee representative appointment.

---

**Ministry of Education Recommendation**

- **Note** that the Ministry agrees with the iEB’s recommendation.

- **Note** that the Ministry recommends additional provisions that provide for what the appointing body must take into account when appointing the employee representative position and that these are included in the section below on Criteria for the appointment of members’.
Criteria for the appointment of members

Summary of Clause

- The Minister must appoint persons who:
  - have knowledge, skills and experience relevant to the strategic direction of the Council; and
  - have, or have the ability to develop and maintain, good working relationships and connections with businesses within the specified industries.

- When appointing a person to be a member of the Council, the Minister must as far as reasonably practicable, ensure that the Council as a whole has sufficient:
  - experience in the specified industries;
  - experience in the vocational education system;
  - experience in public administration;
  - experience in te ao Māori, mātauranga Māori, Te reo Māori and an understanding of the principles of Te Tiriti o Waitangi; and
  - experience in Māori business in the specified industries.

Summary of Submissions

49. The TEU recommend that, at a minimum, each of the Orders in Council should include the following criteria for the appointment of members to the Council:

As a whole, the Council must have:

a) A deep understanding of, and commitment to, the principles of Te Tiriti o Waitangi.

b) Strong knowledge and networks within te ao Māori.

c) A sufficient number of members with skills in te ao Māori, including te reo Māori and mātauranga Māori, to ensure that the Council is able to give proper consideration to Māori perspectives in undertaking its duties functions.

d) Experience in Māori business within specified industries.
Primary Industries Order in Council – Summary of Submissions

e) Strong experience in, or engagement with, the vocational education and training system, including pedagogical expertise in teaching, learning (including adult teaching and learning), and pastoral care.

f) an understanding of, and commitment to, inclusion, eliminating inequality, and understanding the needs of underserved learners, including but not limited to Māori, Pacific peoples, and people living with disabilities.

g) Diversity of age, ethnic background, ideas, and gender, with particular regard to representation of Māori, Pacific peoples, and people living with disabilities.

h) A commitment to act with impartiality, honesty, integrity, and manaakitanga.

i) Representatives from both large and small and medium enterprises within the specified industries.

j) The support of, in the case of the employee representatives, the Council of Trade Unions or unions representing employees in the industry.

k) Sufficient knowledge of community organisations.

l) Leadership experience in at least one of the specified industries covered by the Council.

m) Knowledge, skills, and experience relevant to the strategic direction of the Council.

n) Experience in governance and public administration.

o) Experience in financial analysis and management.

50. Business NZ recommends that:

a) the criteria for the appointment of members should include experience, relationships or knowledge of industry associations and the relevant regulatory and professional standard bodies

b) The Council membership provisions should be strengthened to ensure members are able to provide leadership and broad industry connections and insights, including on the strategic and regulatory outlook for different industries. This recommendation was also made by the Employers & Manufacturers Association (EMA).

51. BCITO recommends that all Orders in Council include a requirement that, for the first two years, the Council has members with experience in establishing new organisations and leading change.

52. BusinessNZ recommends that the criteria for the appointment of members should include experience, relationships or knowledge of industry associations and the relevant regulatory and professional standard bodies.
53. NZ Forest Owners, Forest Industry Contractors Association, and NZ Forestry and Wood Processing Workforce Council believe that member criteria require strong discussions with industry and the educational sector to ensure the people not only with strengths being sought but collectively are providing the skills that are defined and required to make this entity have mana and buy in by industry NOT education centric.

54. One submitter commented that "members should be appointed based on their skills and experience".

**Experience / background in education**

55. Several submitters argue that, apart from industry experience, the council also requires experience in the field of education. They comment that some members of the Council should have strong educational background and sound pedagogic knowledge, given the many education-related functions of the WDCs.

**Skills matrix**

56. The Muka Tangata interim Establishment Board commented that it was their intention that a skills matrix, informed through industry leadership, be included in the Order in Council to inform the composition of the first board and that the nomination panel for Ministerial appointment process be led by iEB members who have determined not to stand for appointment to the Establishment board. They believe that this may provide some confidence to the many industries covered by this WDC that industry, and not government policy, is leading this process.

57. DairyNZ noted that, based on what was discussed during engagement and development process for the Order in Council, they expected that a skills and representation matrix would be mentioned in the Order in Council, but that this is not the case.

**Responses and Recommendations**

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<tr>
<td>Primary iEB has considered this feedback.</td>
<td>Agree that the Minister will appoint a board that will:</td>
</tr>
<tr>
<td>The key question is how to ensure that the board membership has a good mix of industry membership, without building a representation model, across the industries in its coverage, i.e. a good mix of industry coverage.</td>
<td>• have knowledge, skills and experience relevant to the strategic direction of the Council; and</td>
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<td>We have taken on board concerns that the small guys won’t have a voice and it will be dominated by the big guys and vice versa, mitigating board capture, ensuring that it is not so tight we can’t get anyone on the board, and bearing in mind that there needs to be a future focus.</td>
<td>• develop and maintain, good working relationships and connections with businesses within the specified industries.</td>
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<td></td>
<td>• have an appropriate mix of industry membership</td>
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<td></td>
<td>Agree that when appointing a person to be a member of the Council, the Minister must as far as reasonably practicable, ensure that the Council, as a whole, has sufficient leadership, knowledge and experience in the following areas:</td>
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</tbody>
</table>
Some of these changes are sharpening the focus of the appointment process and are not material changes.

- the WDC’s specified industries;
- the vocational education system;
- public administration;
- te ao Māori, mātauranga Māori, te reo Māori and an understanding of the articles of Te Tiriti o Waitangi; and
- Māori business in the WDC’s specified industries.

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<tr>
<td>The Ministry accepts the iEB’s rationale for its response. We expect that when drafting the concept of “sufficient leadership” the clause may need to refer to “is capable of exercising sufficient leadership, and has sufficient knowledge and experience”, or something similar. The Ministry considers that the recommendations for the employee representative may need to be strengthened to provide clarity on who may be appointed as the employee representative. Where this has not been clear in other IEB templates we have added provisions that lay out what the appointing body/person must consider when making the employee representative appointment.</td>
<td>Note that the Ministry agrees with the iEB’s recommendation. Note that the Ministry recommends additional provisions that provide for what the appointing body must take into account when appointing the employee representative position. Agree to include in the ‘Criteria for the appointment of members’ section text along the following lines: When appointing the employee representative required by the membership provisions, the Minister must appoint a person who has a demonstrated ability to provide collective representation of employees and who:</td>
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<td>• has the support of a body recognised as representing employees in one or more of the specified industries, or</td>
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<td></td>
<td>• can otherwise demonstrate that their appointment represents employees collectively in one or more of the specified industries.</td>
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Primary Industries Order in Council – Summary of Submissions

Appointment of the first Council

Summary of Clause

- The first members of the Council must be appointed by the Minister, in accordance with the membership provisions and membership criteria of the Order.
- The first members of the Council may be appointed for a term between 6 and 18 months.
- For the purpose of making appointments to the first Council, the Chief Executive of the Tertiary Education Commission must establish a Nominations Committee, comprising of 5 representatives from the specified industries.
- The Nominations Committee must:
  - determine the constitution of the Council, in accordance with the membership provisions, including the number of members on the Council (7, 8 or 9 members) and the manner in which the directly appointed members are to be selected and appointed;
  - seek expressions of interest, or nominations for appointment as a member of the Council; and
  - submit to the Minister, a list of candidates who it considers suitable for appointment, as members of the Council.

Membership of Council reduced until all appointments made

- The number of Council members is proportionately reduced, until the date on which each member referred to in the membership provisions, is appointed to the Council.
- No action of the Council is invalid, merely because any member has not been appointed to the Council on the commencement date of the Order.

Summary of Submissions

58. The Employers and Manufacturers Association (EMA) believes that Ministerial appointment does not reflect an industry led organisation, as a Minister may have limited access and knowledge of the nuances and specific skills required in that sector.

59. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

60. The NZ Dairy Workers Union recommends that all six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.
61. The NZ Dairy Workers Union notes that the Primary Industries WDC OIC proposal on “Appointment of the first Council” contains an error in the fourth dot point and should read “determine the constitution of the Council, in accordance with membership provisions, including the number of members on the Council (8 to 12 members)...” as this aligns with the Council composition outlined in the Primary Industries OIC’s proposal on “Council membership provisions”. This error is pointed out by Seafood NZ as well.

62. The New Zealand Apples & Pears Incorporated and Horticulture New Zealand Incorporated (with support from several industry organisations) recommend that the nomination committee be appointed by the Minister, not the Chief Executive of the TEC, on the recommendation of the SEG (Primary Industry Group).

63. The NZ Trainers’ Association and IPG equine industry agrees, stating that "So long as membership provisions are amended to accurately reflect the industry participants".

### Responses and Recommendations

<table>
<thead>
<tr>
<th>Interim Establishment Board Response</th>
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</table>
| IEB agree on the intent of these two statements. OIC is not saying the proposed function has to be done in the first year. The OIC will be more enduring than implied by this commentary. This is about what can be done not has to be done – an enabler. Primary iEB considered feedback and believe this is a minor and one-off occurrence. Membership numbers were a mistake in the drafting. The iEB agreed 8 – 12 members This is a change from the original OIC submitted. iEB also wanted members of the Primary iEB who are not putting their names forward to be on the nomination panel to create a core and ensure continuity of intent. | Agree that the Nominations Committee must:  
• determine the constitution of the Council, in accordance with the membership provisions, including the number of members on the Council (8 - 12 members) and the manner in which the directly appointed members are to be selected and appointed;  
• comprise 5 members who reflect the composition of the WDC (i.e., employee representation, employer representation, Māori employer representation). |

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>The Ministry accepts the iEB’s rationale for its response. We note that the iEB originally wanted members of the iEB not putting their names forward to form some or all of the nominations group. However, the iEB is a not a legal entity and as such we could not find a way to draft this approach into a legal instrument. The process of the iEBs proposing their own nominations in this</td>
<td>Note that the Ministry agrees with the iEB’s recommendation.</td>
</tr>
</tbody>
</table>
Primary Industries Order in Council – Summary of Submissions

way also raised natural justice issues. The convening of the nominations committee, which the members of the iEB who are not nominees for the council itself, would be eligible for, was the response to these issues.

Appointment of the permanent (or ongoing) Council

Summary of Clause

Process for appointment of the permanent Council

- The members of the Council are appointed by the Minister, in consultation with the Minister or Ministers responsible for primary industries, in accordance with the membership provisions and the membership criteria of the Order.

Term of appointment

- When making appointments, the Minister must specify a term of appointment having regard to the need to maintain enough continuity, in membership of the Council in each calendar year.
- Members may be appointed for a period of between 3 to 6 years.
- Members may be reappointed to the Council.

Summary of Submissions

64. The Employers and Manufacturers Association (EMA) believes that Ministerial appointment does not reflect an industry led organisation, as a Minister may have limited access and knowledge of the nuances and specific skills required in that sector.

65. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

66. The NZ Dairy Workers Union recommends that all six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

67. DairyNZ recommends that:
a) A nominations management process must be included for the appointment of the on-going council. This should be referenced as a rule to be developed, as noted under the Rules section in the Common Governance Arrangements.

b) Alternatively, the process as outlined for the initial Council can be adapted:

i. The Council must establish a Nominations Committee, comprising of 5 representatives from the specified industries. This committee may be supplemented with executive recruitment expertise.

ii. The Nominations Committee must:
   ▪ determine the requirements of new members in terms of industry representation, skills, and experience in accordance with the membership provisions,
   ▪ seek expressions of interest, or nominations for appointment as a member of the Council; and
   ▪ submit to the Minister, a list of candidates who it considers suitable for appointment, as members of the Council

68. One submitter argued that there should be separate [selection] committees for the disciplines in Primary Industries as there is very little overlap between the different industries / disciplines within Primary.

69. One submitted likes the provision for continuity, and believes this would “avoid the merry go round of ideas”

Term of appointment

70. DairyNZ, New Zealand Apples & Pears, and Horticulture New Zealand (with support from several industry organisations) believe that a tenure of up to six years is too long, and that it can be counterproductive for both innovation and accountability.

   a. DairyNZ recommends that members should be appointed for a period of 2 to 4 years.
   b. New Zealand Apples & Pears and Horticulture New Zealand recommend that the tenure should be three years.
Responses and Recommendations

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<tbody>
<tr>
<td>Primary iEB has considered feedback. The IEB decided that there needs to be a clear term rather than a range of years. This is tidier and clearer about membership expectations.</td>
<td>Agree to change the membership provisions so that members may be appointed for a 3-year term and that members may be appointed for up to 2 terms.</td>
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<tr>
<td>The Ministry accepts the iEB’s rationale for making this change.</td>
<td>Note that the Ministry agrees with the iEB’s recommendation.</td>
</tr>
<tr>
<td>Dairy NZ noted that a process for the ongoing management of nominations be included, either as a rule to be developed, or through a similar process to that for nominations to the first council. The Ministry notes that the Primary iEB has advocated for the use of a skills matrix as a method for assessing nominees.</td>
<td>Agree to draft a process for the management of nominations for the ongoing council with the following features, in addition to the existing provisions:</td>
</tr>
<tr>
<td>Setting out a process for making nominations to the Minister for the ongoing council would have two main advantages – it would allow the WDC to adopt a skills matrix at the operational level, and it would ensure the Minister’s appointments come from the pool of nominees such a process offers him or her.</td>
<td>• The council makes an assessment of the knowledge, skills and experience required, and other requirements (e.g. based on the criteria for appointment of members and the required composition of the council), for the appointment or appointments.</td>
</tr>
<tr>
<td>The iEB discussed this point and wanted such a process to allow for the council to assess the required skills first, using the proposed skill matrix, and then consult with industry in the widest sense before recommending nominees to the Minister.</td>
<td>• The council must consult widely with its industries to determine a group of candidates who meet the skills requirements of the council.</td>
</tr>
<tr>
<td>Note that the intended operational approach to the council making the assessment referred to above is to use a skills matrix developed for the purpose.</td>
<td>• The council makes recommendations to the Minister following this consultation.</td>
</tr>
</tbody>
</table>
Detailed governance arrangements that are unique to each Workforce Development Council

Summary of Clause

Appointment of chairperson, co-chairpersons, deputy chairperson (as applicable)

Appointment of chairperson

- The Council must appoint one member to be chairperson, by notice in writing stating the date on which the appointment takes effect.
- The Council may appoint two members to be co-chairpersons, but must first determine a policy relating to the functions and responsibilities of the co-chairpersons, including the process for determining:
  - which co-chairperson will chair each meeting;
  - the allocation of the duties and responsibilities between the co-chairpersons; and
  - which co-chairperson is for the time being responsible for the overseeing the performance of the general manager.
- If the Council appoints co-chairpersons, then the provisions of this clause apply to each co-chairperson.
- The chairperson holds that office until:
  - the chairperson resigns from that office; or
  - the chairperson is removed from it by the Council; or
  - the chairperson ceases to hold office as a member; or
  - the term of office specified on appointment expires.
- A person may be reappointed as chairperson for a further term.
- The chairperson may, without resigning as a member, resign from that office by written notice to the Council. The notice of resignation must state the date on which the resignation takes effect.
- The Council may, after consultation with the person concerned, remove a chairperson of the Council from that office by written notice to the person (with a copy to the Council). The notice of removal must state the date on which the removal takes effect.
The Council may appoint one of the members as deputy chairperson, by notice in writing stating the date on which the appointment takes effect.

If a chairperson (or both co-chairpersons) is absent, the deputy chairperson may exercise the powers of the chairperson.

The deputy chairperson holds that office until:

- the deputy chairperson resigns from that office; or
- the deputy chairperson is removed from it by the Council; or
- the deputy chairperson ceases to hold office as a member; or
- the term of office specified on appointment expires.

A person may be reappointed as deputy chairperson for a further term.

The deputy chairperson may, without resigning as a member, resign from that office by written notice to the Council. The notice of resignation must state the date on which the resignation takes effect.

The Council may, after consultation with the person concerned, remove a deputy chairperson of the Council from that office by written notice to the person. The notice of removal must state the date on which the removal takes effect.

**Meetings**

The chairperson or co-chairpersons may convene meetings to be held at the time and place that the chairperson determines, and must give at least seven days’ notice in writing of those meetings to members.

Meetings can be held by means of electronic communication.

The quorum for the meetings is half of the members holding office, rounded up to the nearest whole number, plus one additional member. For example, if there are 9 members of Council, then a quorum is 4.5 rounded up to 5 members plus 1 additional member, so that in total 6 members is required for a quorum.

All questions arising at any meeting may be decided by consensus, but otherwise must be decided by a majority of members with the chairperson chairing the meeting having a casting vote or, if the chairperson is absent, with the deputy chairperson having a casting vote.

However, if a matter that is likely to have a significant effect on the governance arrangements, operation, management or coverage of the Council will be considered at the meeting, then any questions arising in connection with that matter will require a two-thirds majority of the members present at the meeting.

The Council must determine the criteria for assessing whether a matter has a significant effect.
A resolution in writing signed by a majority of members, is as valid as if it had been passed at a meeting of those members.

An irregularity notice of a meeting is waived if all members entitled to receive the notice either:

- attend the meeting without objection to the irregularity; or
- do not attend the meeting but agree before the meeting is held to the waiver of the irregularity.

Except as set out above or by law, the Council may determine its own procedures for regulating meetings and conducting its affairs.

Collective duties of the Council

The Council must:

- act in a manner consistent with its purposes, functions, duties, and powers;
- perform or exercise its functions, duties, and powers efficiently and effectively and in a manner consistent with the spirit of service to the public and industry;
- operate in a financially responsible manner and, for this purpose, that it prudently manages its assets and liabilities;
- ensure as far as possible that the decisions of the Council are made openly and transparently and, in particular, that any specified industries, persons or bodies affected by matters before the Council are given an opportunity to contribute to the decisions made by the Council in relation to those matters.

Summary of Submissions

71. Te Kāhui Ahumahi (made up of all Māori interim Establishment Board members) request that their collective is formalised in each OiC so as not to leave the establishment/continuation of a Kāhui Ahumahi to chance. This suggestion was supported by another submitter who asked to consider a Māori Workforce Development Council and that we consider all Māori members across all of the workforce development councils being able to form a Kahui Korowai (Māori governance with direct position / role that connects to the CEO).

72. The NZ Trainers’ Association and IPG equine industry both agreed with the proposed detailed governance arrangements. In particular they strongly agree with “Ensure as far as possible that the decisions of the council are made openly and transparently, and in particular, that any specified industries, persons or bodies affected by matters before the Council are given an opportunity to contribute to the decisions made by Council in relation to those matters.”
Primary Industries Order in Council – Summary of Submissions

73. One submitter voiced their support for the provisions for meetings via electronic communication.

**WDC collaboration**

74. Several submitters – including Business NZ, BCITO, New Zealand Certified Builders Association, Engineering NZ, and NZMarine Industry Association – highlighted the importance of WDC collaboration to an effective VET system, and would like to see this formalised in the Orders in Council. They refer to the Construction & Infrastructure WDC Order in Council, which already has a provision to this effect.

a) BCITO also recommends that the provision from the Construction & Infrastructure WDC Order in Council is broadened to include collaboration with skills bodies (e.g. regulators or professional organisations)

b) Business NZ highlights the opportunity for WDCs to work collaboratively to share best practice and recognize opportunities to better serve business by sharing relevant resources and materials to deliver skill solutions

c) One submitter points out that this collaboration is particularly of interest for sectors that are covered by or regularly have to engage with several WDCs.

**Chair / Co-Chairs / Deputy Chair**

75. Business NZ believes that the Chair or Co-Chair should be from industry.

**Responses and Recommendations**

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<tbody>
<tr>
<td>Primary iEB has considered this feedback and believe in response that this is critical to maintaining linkage across the WDC system.</td>
<td>Agree to the formalisation of the Kāhui Ahumahi to provide support and linkages across the WDC to assist and provide support to the WDCs in meeting their responsibilities under Te Tiriti and give an industry lens to support Te Taumata Aronui in their strategic role.</td>
</tr>
<tr>
<td>This linkage will assist the WDC system to engage effectively across industry training areas and provide support across the six WDCs that may be common to all.</td>
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<tbody>
<tr>
<td>MoE does not support the iEBs recommendations. We note that the framework of the OICs is enabling and flexible, and allows WDCs to establish committees and cross-WDC caucuses.</td>
<td>Note that the Ministry does not support including the iEB’s recommendation in the Order.</td>
</tr>
<tr>
<td>Note that officials acknowledge the desire for the continuation of Kāhui Ahumahi, and the initiative and expert input provided by its members.</td>
<td></td>
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</tbody>
</table>
Note that WDCs will be enabled as part of their powers, and responsibility to collaborate together, to agree to establish a cross-WDC caucus of Māori members to provide support and linkages across the WDC to assist and provide support to the WDCs in meeting their responsibilities under Te Tiriti and give an industry lens to support Te Taumata Aronui in their strategic role.

Agree to not formalise the Kāhui Ahumahi.

Detailed governance arrangements that are the same across all Workforce Development Councils

Summary of Clause

Eligibility for appointment

The following persons are disqualified from being members of the Council:

- a person who is an undischarged bankrupt;
- a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any enactment;
- a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988;
- a person in respect of whom a personal order has been made under that Act that reflects adversely on the person’s:
  - competence to manage their own affairs in relation to their property; or
  - capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare.
- a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless the person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person;
- a member of Parliament;
- a person who is disqualified under any Act.

Revocation of appointment of members
The Minister may, on the recommendation of the Council, revoke the appointment of a member of the Council for just cause.

The revocation of appointment must be made by written notice to the member, stating the date on which the revocation takes effect, which must be no earlier than the date on which the notice is received, and the reasons for the revocation.

The Minister may revoke the appointment of a member with as little formality and technicality, and as much expedition, as is permitted by:

- the principles of natural justice and tikanga Māori;
- a proper consideration of the matter; and
- the Council’s policy, if any, on the removal of members.

A member of the Council is not entitled to any compensation or other payment or benefit relating to the member ceasing, for any reason, to hold office as a member.

The term ‘just cause’ includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the Council or the individual duties of members (depending on the seriousness of the breach).

### Individual duties of members

- A member of the Council may not contravene, or cause the contravention of, or agree to the Council contravening the Education and Training Act 2020.
- A member of the Council must, when acting as a member, act with honesty and integrity.
- A member of the Council must, when acting as a member, act in good faith and not pursue the member’s own interests at the expense of the Council’s interests.
- A member of the Council must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation):
  - the nature of the Council;
  - the nature of the action; and
  - the position of the member and the nature of the responsibilities undertaken by the member.

- A member of the Council who has information in the member’s capacity as a member that would not otherwise be available to the member, may not disclose that information to any person, or make use of, or act on, that information, except:
A member must comply with a code of conduct for members issued by the Council.

Members must:

- act in the interests of the Council as a whole; and
- act in a manner that promotes the performance of the functions and the duties of the Council.

**Accountability for performance of duties**

- The duties of the members in the Council are owed to the Council.
- A member is not liable for a breach of an individual duty except as provided below:
  - if a member does not comply with their individual duties, that member may be removed from office;
  - the Council may bring an action against a member for breach of any individual duty.
- This provision does not affect any other ground for removing a member from office.
- Accountability for performance of duties under this provision does not affect anything else for which the member may be liable under any Act or rule of law arising from the act or omission that constitutes the breach.

**Personal liability of members**

- A member of the Council is not personally liable for any act done or omitted to be done by the Council or any loss to the Council arising out of any act done or omitted to be done by the member if the act or omission was (so far as the member's involvement is concerned):
  - in good faith; and
  - in performance or intended performance of the functions of the Council.

**Continuation in office**

- Each member of the Council continues in office (unless the member ceases to hold office) until a successor is appointed.
Primary Industries Order in Council – Summary of Submissions

- A member may resign from office by written notice to the Minister signed by the member.
- The resignation is effective on receipt by the Minister of the notice, or at any later time specified in the notice.
- A member of the Council ceases to hold office if the member:
  - resigns; or
  - is removed from office; or
  - becomes disqualified from being a member; or
  - otherwise ceases to hold office in accordance with any enactment.

**Ordinary vacancies**

- The Minister must fill any ordinary vacancies as soon as practicable, using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.

**Extraordinary vacancies**

- An extraordinary vacancy occurs when a member dies or ceases to hold office.
- If an extraordinary vacancy occurs within 6 months of the expiry of the vacating member’s term, the Minister may appoint a replacement or leave the vacancy open.
- If an extraordinary vacancy occurs more than 6 months before the expiry of the vacating member’s term, the Minister must appoint a replacement using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.
- A person appointed or elected to fill an extraordinary vacancy holds office only for the remainder of the vacating member’s term.

**Administrative provisions**

- The powers of the Council are not affected by any vacancy in its members.
- The Council may appoint committees to advise it on any matters relating to the Council’s functions and powers.

**Conflicts of interest**

- A member who has an interest in a matter relating to the Council must disclose to the Council details of the interest as soon as practicable after the member becomes aware that the member is interested.
The details that must be disclosed are:

- the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
- the nature and extent of the interest (if the monetary value cannot be quantified).

A member who has an interest in a matter:

- may not vote or take part in any discussion or decision of the Council or any of its committees relating to the matter, or otherwise participate in any activity of the Council that relates to the matter; and
- may not sign any document relating to the entry into a transaction or the initiation of the matter.

A person has an interest in a matter if the person:

- may derive a financial benefit from the matter; or
- is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
- may have a financial interest in a person to whom the matter relates; or
- is a partner, director, officer, board or Council or committee member of a person who may have a financial interest in a person to whom the matter relates; or
- is otherwise directly or indirectly has an interest in the matter.

The term 'matter' means the Council’s performance of its functions, or exercise of its powers or an arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Council.

Delegation

- The Council can delegate any of the functions or powers of the Council (other than the power to appoint a general manager) to a member or members of the Council, the general manager, a committee appointed by the Council, any other person approved by the Council, or a subsidiary of the Council.

Delegations are made by resolution and written notice to the delegate.

- The power to delegate cannot be further delegated.

- The person to whom functions or powers are delegated, can exercise those functions or powers with the same effect as if the delegate were the Council.
Primary Industries Order in Council – Summary of Submissions

- A person who purports to act under delegation, is presumed to be acting in accordance with a delegation unless proven otherwise.
- The Council can still exercise a power or function that has been delegated and remains liable for all acts that are performed under delegation.
- A delegation can be revoked by the Council by notice in writing, or by any other method specified in the delegation.

**Appointment of general manager and other employees**

- The Council:
  - must appoint a person who is not a member of the Council to be its general manager; and
  - may appoint any other employees it thinks necessary for the efficient performance of its functions.
- The general manager is:
  - responsible for the efficient and effective management of the Council; and
  - must give effect to the policies and directions of the Council in relation to the performance of its functions.
- The general manager may be referred to by any other title that the Council determines.

**Rules**

- The Council may make rules providing for the nomination and selection of candidates for the appointment of members to the Council.
- The Council may make rules for any purpose relating to the performance of its functions.
- When preparing rules (and any amendments to them), the Council must take all reasonable steps to consult those affected by the rules.
- The Council must take all reasonable steps to ensure that those affected by the rules are aware of their existence and are able to obtain copies of them.

**Summary of Submissions**

76. Dairy NZ comments that:
   a) They are concerned at the currently proposed tenure of up to 6 years and a lack of any accountability mechanisms for the Council members. Both management and governance of the WDC should be held accountable if the organisation is not performing.
Primary Industries Order in Council – Summary of Submissions

b) The Rules section does allow for a WDC to make rules that govern some of the issues raised previously, however, this is positioned as an option for the WDC — it is not compelled to take this step. They recommend the WDC is compelled to address these issues.

77. One submitter voiced their support for the conflicts of interest section.

Responses and Recommendations

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<tr>
<td>Primary iEB has considered feedback.</td>
<td>Tenure has been commented upon in the above section. (top page 26)</td>
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| Ministry of Education Response | Ministry of Education Recommendation |

Mechanisms for industry engagement

Summary of Clause

- The Council must engage with industry peak bodies to understand and contribute to strategies developed by industry peak bodies.
- The Council must engage with unions regarding the performance or exercise of its functions, duties or powers.
- The Council may establish industry stakeholder groups to enable persons or bodies having an interest in [vocational education and industry training within] the specified industries, such as, industry peak bodies, unions, learners, Māori and Pacific, as determined by the Council, to engage with the Council in relation to the performance or exercise of its functions, duties or powers for the following purposes:
  - to gain deeper understanding of the breadth of the specified industries;
  - to gain deeper understanding of the current, emerging and future skill requirements of employees working in those industries;
  - to identify and maximise the opportunities of particular groups of learners, including Māori, Pacific peoples, women and people with disabilities, whether specific to the coverage of the Council or as part of a wider group of learners coming within the coverage of other workforce development Councils; and
  - to enable industry to raise issues and concerns about the governance, management and operation of the Council.
Summary of Submissions

78. The TEU recommends that, in order to ensure consistency in approach across the WDCs, a single set of mechanisms and principles which can apply to each of the six WDCs.

The engagement model must:

a) describe the arrangements or opportunities for regular interaction between the specified industries and the Council, including at least one annual meeting with representatives of the specified industries;

b) establish a process for co-ordinating its activities with other WDCs in relation to complementary industries;

c) establish a process for engagement with unions regarding the performance or exercise of its functions, duties, and powers;

d) establish a process for engagement with industry peak bodies to understand and contribute to strategies developed by industry peak bodies;

e) ensure the Council reports regularly to the specified industries and national advisory groups on the performance of its functions, including, specifically, on its engagement with small and medium enterprises;

f) ensure the Council makes arrangements (for example, by establishing industry stakeholder groups) for ensuring that employers and Māori employers, industry bodies, employees, independent earners, iwi/hapū partners, learners, unions, Te Pūkenga, Centres for Vocational Excellence, Regional Skills Leadership Groups, and other parties with an interest in the specified industries, as determined by the Council, have an adequate opportunity to provide input to the Council in support of the performance of its functions including, without limitation, to:

i. gain deeper understanding of the breadth of the specified industries;

ii. provide information and views on current, emerging, and future skills and knowledge requirements of employees working in the specified industries;

iii. identify and maximise the opportunities of particular groups of learners, including Māori, Pacific peoples, women, and people living with disabilities, whether specific to the coverage of the Council or as part of a wider group of learners coming within the coverage of other WDCs;

iv. provide information and views that will assist the Council in formulating its advice to the Tertiary Education Commission on investment in vocational education and workforce planning for the specified industries;

v. provide information and views on reviews of industry qualifications;

vi. provide information and views on career pathways into and within the specified industries;
vii. provide information and views that will assist the Council to undertake strategic workforce leadership research, advice, and support to all specified industries;
viii. enable industry and providers to raise issues and concerns about the governance, management, and operation of the Council.

79. The Employers & Manufacturers Association (EMA) recommends that the role of the Industry Stakeholder Groups gets more defined and that there is an obligation for the Council to take their feedback into consideration and/or act upon their feedback.

80. The Tertiary Education Union (TEU), Council of Trade Unions (CTU), Dairy Workers Union and First Union recommend that the mechanisms for industry engagement in each Order require inclusion of unions. The New Zealand Dairy Workers Union supports this recommendation, and specifies that this inclusion concerns both unions involved in the specified WDC coverage area, as well as the CTU/Te Rūnanga. They also state that all six OIC proposals should also include an obligation that relevant trade unions and the CTU/Te Rūnanga should be directly involved in, and members of, any industry stakeholder groups established by a WDC (this was also voiced by First Union).

81. Māori and Pasifika trades training Auckland believes that existing associations should have a collective voice.

82. Te Kāhui Ahumahi believes that the partnership must be evident in the secondary legislation to ensure that the intent of the Act is met, and they recommend that the Orders in Council should mention iwi or Māori industry under the mechanisms for industry engagement.

83. One submitter believes that the mechanisms should include:
   a) Regular engagement with RSLGs.
   b) Recognition of the opportunity to build understanding of, and help address, the barriers to and opportunities for increasing labour market participation of some population groups (as per the Primary Industries WDC Order in Council).

84. The Primary iEB wishes to ensure that the WDC is industry led and is not considered as a proxy for industry by the government which would risk diminishing the need of the vocational educational system to engage with primary industries bodies, employers, unions and employees.

85. Several submitters, organisations and individuals, commented on the engagements with the broad range of industries within the coverage of the WDC:
   a) One submitter highlighted that the WDC cannot speak for every industry, and therefore there needs to be a clear structure to ensure consultancy with the right industry people.
   b) Some comment on the risk that the voices of smaller, less ‘visible’ industries within the coverage of the WDC will not be heard. One submitter would like to see in these proposals when and how smaller industries will engage at a local level with a national WDC.
   c) Another submitter stated that there are many individual industries within this sector, and each needs an individual voice.
86. The New Zealand Apples & Pears and Horticulture New Zealand comments that there is an absolute need for industry peak bodies (which they defined as (1) a body that is levy funded under the Commodities Levies Act OR (2) a body accepted by the Council as a peak body e.g. Federated Farmers) to ensure that all sectors have contact with the WDC to ensure that mechanisms such as advisory groups are available to fill short or long-term knowledge and perspective gaps in the actual council.

87. DairyNZ believes that industry involvement should be described more widely through the OIC as core to the purpose and operation of the WDC. They recommend the same definition of an industry peak body as suggested by the New Zealand Apples & Pears Incorporated and Horticulture New Zealand.

88. Two submitters recommend that more indication of regularity of engagement could be provided.

89. NZ Forest Owners, Forest Industry Contractors Association, and NZ Forestry and Wood Processing Workforce Council state that the WDC has a commitment to reporting to food & fibre groups, but they believe this is remiss in the proposal. They point to the MEL proposal where it is suggested that the "Council must report regularly to the specified industries and national advisory groups on the performance of its functions."

90. One submitter argues that the third bullet point (i.e. the Council may establish industry stakeholder groups) should be a requirement not a "may" as it leaves it too open to no action.

91. Primary ITO points to the lack of responsiveness in the current system and believes that industries should have a direct formalised mechanism into the operation of the WDC as it relates to their needs, stating that "Without fully engaged industries the WDC ceases to have a purpose", believing that this is a significant issue that should be resolved before the WDC is formed otherwise there is a clear risk of industries disengaging and the WDC becoming ineffective.

Responses and Recommendations

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<thead>
<tr>
<th>Interim Establishment Board Response</th>
<th>Interim Establishment Board Recommendations</th>
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</thead>
<tbody>
<tr>
<td>Primary iEB have considered this feedback and note that:</td>
<td>Agree to include the following statement in the main stem of the clause that the Council must engage with iwi, Māori and legislated and statutory national Māori bodies connected to the specific industries, to assist in giving effect to te Tiriti o Waitangi.</td>
</tr>
<tr>
<td>• Purposeful engagement with iwi and Māori is essential for the success of the WDC and future workforce development.</td>
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<tr>
<td>• We acknowledge the inter-connectedness with, and the need to collaborate with, other WDCs.</td>
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<tr>
<th>Ministry of Education Response</th>
<th>Ministry of Education Recommendation</th>
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<tbody>
<tr>
<td>The Ministry accepts the iEB’s rationale for proposing this change.</td>
<td>Note that the Ministry agrees with the iEB’s recommendation.</td>
</tr>
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</table>
Additional functions of the Workforce Development Council

Summary of Clause

The additional functions of the Council are:

- to promote opportunities for all people to reach their full potential and capabilities by supporting quality vocational educational outcomes; and
- to address the needs and aspirations of priority learners including Pacific learners and people with disabilities.

Summary of Submissions

92. Several submitters agree with the proposed additional function, with one calling them “admirable”.

93. DairyNZ believes that the functions identified are restatements of requirements for the WDC as set out in the Act and can be deleted.

94. Several submitters, organisations and individuals, recommended the inclusion of additional functions:

a) DairyNZ, Seafood NZ, the New Zealand Apples & Pears, and Horticulture New Zealand recommend that:
   i. The WDC will consider how the entire skills ecosystem must be mobilised to build the capability we require in our future workforce. In addition to the vocational education sector, the WDC will provide advice to compulsory education, higher education, industry extension and professional development providers.
   ii. The WDC may undertake commercial work on behalf of industry where it is aligned to the overall objectives and functions of WDCs.

b) Seafood NZ believes WDCs are to consider how industry skills can be met across the education ecosystem, in order to build the workforce capability industry requires.

c) NZ Forest Owners, Forest Industry Contractors Association, and NZ Forestry and Wood Processing Workforce Council state that there would be an expectation for the WDC to recognise the importance of career pathway promotion and engaging with secondary school to higher learning and how that fits into its objectives.

d) One submitter suggests that this could refer to assisting RSLGs to plan for and address regional workforce needs.

95. Te Kāhui Ahumahi submitted that performance of functions must include engagement with the Tiriti Partner. They expect this will lead to joint decision making frameworks, mana Tiriti frameworks and outcomes that meet the goals of the Act.
96. One submitter stated that they think WDCs will be invested with too much power.

**Responses and Recommendations**

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<tr>
<th>Interim Establishment Board Response</th>
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<tbody>
<tr>
<td>Primary iEB has considered these comments.</td>
<td>Agree to the following additional function: the WDC will consider how the entire skills ecosystem must be mobilised to build the capability we require in our future workforce. In addition to the vocational education sector, the WDC will provide advice to compulsory education, higher education, industry extension and professional development providers.</td>
</tr>
<tr>
<td>iEB agree on the intent of these two statements. OIC is not saying it has to be done in the first year. The OIC is hopefully more enduring than implied by this commentary. This is about what can be done not has to be done – an enabler.</td>
<td>Agree to the following additional function: the WDC may undertake commercial work on behalf of industry where it is aligned to the overall objectives and functions of WDC.</td>
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<tr>
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<tr>
<td>The proposed new function a) has two statements.</td>
<td>Note the Ministry has advised that it is appropriate for WDCs to focus on their core functions in the first few years of operation, and that there will be opportunities further down the line for a mature WDC to seek to include additional functions [METIS1244452 refers].</td>
</tr>
<tr>
<td>• The first of these is not worded to be a function (it is a useful preface to the proposed function of providing advice but would not be drafted into law in the form it is in).</td>
<td>Agree to not include any further additional functions.</td>
</tr>
<tr>
<td>• The second statement (regarding the provision of advice) is worded as a function. As a matter of policy, we accept that the WDC has a role in providing this advice, especially should the proposed purpose statement with the effect of directing the WDC to take accountability for skills leadership across all aspects of the education system be agreed to. As a function, however, it is unnecessary, because it clearly is enabled by the primary function “to provide skills and workforce leadership for the specified industries”. This must include leadership to ensure the future pipeline of skills (e.g. school aged students), and leadership regarding to highly skilled or technical work that would require engaging with higher level study.</td>
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Proposed function b) could add value to a WDC’s operations in the longer term. However, there is a risk that it distracts from or interferes with the WDC as it is developing its performance of its primary functions as set out in legislation. In addition, a preliminary assessment is that the function may not be enabled by the scope of the enabling legislation. Should the Minister want to pursue including this proposed function, we would need to undertake a more detailed legal analysis. The proposed function can be added at a later time once the WDC is operating fully if there is a strong case for it, but this may require amending the primary legislation first.

The WDC might propose amending the OIC once it is a highly performing WDC and where there is a strong case for adding proposed function b).

The Ministry would need to do further work to determine whether the scope of the Education and Training Act 2020 allowed for the inclusion of the proposed function b).

### Coverage of the Workforce Development Council

**Summary of Clause**

The coverage of the Council comprises the workforce development activities in relation to employers, providers, and employees or people seeking to be employed in work related to people, food or fibre in any of the industries listed in the list below (‘the specified industries’).

[An exhaustive list of ANZSIC codes was included in the Consultation proposal document]

**Summary of Submissions**

97. While expressing support for the proposed coverage, DairyNZ states that there is a need to ensure industries have a consistent and seamless experience across WDCs.

98. One submitter commented that they struggle to see a valid justification for urban pest control in the Health, Community and Social Services WDC, and argues that a more logical home would be to be linked to Primary sector where they believe there would be a much stronger alignment of skills
and knowledge. This same submitter also would like to see a reference to the growing agriculture technology industry. They believe that reliance on L4 ANZSIC codes can be problematic in this regard as these emerging ‘industries’ are difficult to place within this structure.

99. The NZ Trainers Association and IPG equine industry both agreed and stated that they were pleased to see the Equine and Racing ANZSIC L4 codes included. This was supported by the NZ Thoroughbred Racing.

100. The Employers & Manufacturers Association comments that the coverage areas should not be limited to what is noted at the time of the Order in Council. They state that skills and the labour market are dynamic, and the coverage areas in the OiC should reflect that.

101. Business NZ and the Employers & Manufacturers Association (EMA) raised concern about the use of ANZSIC codes as a source of industry coverage areas. They believe that ANZSIC codes are outdated, and too prescriptive for an agile education system that must adapt quickly to deliver the education and skills needs of businesses. Both recommend using ‘skill clusters’, which they believe would support greater discussion in both education and industry on greater skill transferability.

Responses and Recommendations

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<tr>
<td>Primary iEB considered this feedback and noted:</td>
<td>Agree that space is made in the OIC for the development of the ANZSIC codes or of a new code set that takes into account the uniqueness of industry in Aotearoa.</td>
</tr>
<tr>
<td>• Difficulty in developing a new set of codes in the timeframe.</td>
<td></td>
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<tr>
<td>• Understand that the ANZSIC codes are being reviewed.</td>
<td></td>
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<tr>
<td>• New industries are being developed e.g. water, new farming practices etc. which are not covered by ANZSIC codes.</td>
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<tr>
<td>• Mātauranga Māori industries are emerging and not covered in the ANZSIC codes.</td>
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<tr>
<td>The Ministry concurs with the iEB’s notes.</td>
<td>Note that we will discuss with PCO how to draft this clause in such a way as to ensure emerging industries such as Mātauranga Māori industries that are not covered by the codes can be included in the coverage where they are part of the primary industries.</td>
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</table>
102. The Primary iEB commented that:

a) As a collective of appointed interim board members, the iEB came together to find a way forward to represent the many sectors and help develop draft settings to be included in the Order in Council. They note that the document submitted for consultation had some key differences that we wish to follow up, when feedback from all submissions has been taken into account.

b) The aspirations for the current and future workforce means creating conditions where all New Zealanders have the opportunity to be successful and grow great careers; and that employees will be most successful if they gain skills that are relevant to their workplace, their whānau, and their future employability.

c) Our iEB has used the words ‘a skills-based, connected board’ to articulate the desired makeup of the establishment and subsequent Muka Tangata board. A connected board gives voice and takes into account sectors that may not ‘be at the table.’

d) In the process of developing the OiC, we feel that our voice for industry has been somewhat diluted. We note that submissions received from across the sector will reflect priorities from their perspective. We respectfully ask that this submission be taken into consideration in and of itself and not as a reflection of the organisations or sectors we affiliate to as individuals.

e) We acknowledge the effort of all concerned in the development of this OiC and that it is an evolving process to ensure that this Workforce Development Council will meet the needs of its many stakeholders.

103. One submitter would prefer to see them renamed as Workforce Advisory Councils

1. One submitter points to the applied research ongoing in the ITP sector and would like to see a mechanism to capture this work in the proposal. They also note that the quality of advice given by the WDCs will be very dependent on finding people who are at the forefront of their industries, actively engaged in consultation at all levels with stakeholders (and researchers), and not just concerned with the present situation. “It is important that the value system of NZIST of placing the learner at the centre, is not ignored by industry and employers. The true “end-users” are our students undertaking our programmes and it is important that they get an equitable, holistic and well-rounded educational experience.”
Te Rūnanga o Ngāi Tahu makes the following submissions on the establishment of Workforce Development Councils:

a) That Te Tiriti o Waitangi be honoured and therefore a cornerstone of the education system in Aotearoa. Any tertiary education institutions sector, including the WDCs, should positively reflect the bicultural foundations and have a firm commitment to Te Tiriti frameworks.

b) As a Treaty Partner to the Crown, Te Rūnanga expects commitment to ensuring the rights of Ngāi Tahu whānui to access an equitable and successful journey in our education system. There needs to be deliberate investment for success in those most impacted by the systems failure to date. It is important that measures of success are co-designed with Māori.

c) Ngāi Tahu and all Māori should have the opportunity to achieve success in the tertiary sector and subsequent employment pathways. However, this should not come at the expense of their identity as Ngāi Tahu. The system should recognise and privilege mātauranga Māori, helping to empower their identity as Ngāi Tahu rather than detract from it.

d) The governance and ensuing structures involved in designing, developing and implementing RoVE, should privilege Ngāi Tahu aspirations and values within our takiwā. The governance structures of this review process, including Te Taumata Aronui should have access to high quality Māori strategy and policy advice at all levels as this review proceeds. Māori capacity and capability is required in these structures to internally analyse and develop responses that meet Crown obligations as a Te Tiriti partner, to ultimately ensure success for Ngāi Tahu whānui and all Māori.

e) The WDCs should have a firm commitment to be driven by Te Tiriti frameworks. This will provide a foundation to ensure equity is achieved for Ngāi Tahu and all Māori in the tertiary education sector and in turn contribute to equity in employment, particularly in high skilled and future focused industries.

f) In instances where Ngāi Tahu identify training and education of specific interest to Ngāi Tahu whānui, we would expect the opportunity to engage as a Treaty Partner.

g) Ultimately, the expectation is that the tertiary sector and WDCs should have the following outcomes at the heart of their functions, ensuring a contribution to strong and vibrant Ngāi Tahu and Māori community:

i. Ngāi Tahu and all Māori students and learners achieving success in the tertiary education sector,

ii. Ngāi Tahu and all Māori governors, staff and teachers engaged in the tertiary education sector achieving success,

iii. Ngāi Tahu and all Māori achieving success upon entering the workforce from the tertiary sector, as a result of successful engagement in this space.
105. Waikato-Tainui observes a noticeable absence of engagement provisions with hapu and iwi in these proposals. As a Te Tiriti partner to the Crown, they assert that this oversight must be addressed if WDC’s are to give genuine and authentic expression to their obligations under Te Tiriti o Waitangi.

106. The TEU recommends there should be greater consistency across the six Orders in Council, and that there is opportunity to take the best aspects of the proposals and apply them to each of the six WDCs.

107. Te Kāhui Ahumahi submitted that:

a) The formulaic composition of the OiCs suggests that the same tools are going to be used and therefore the aspiration of ‘transformation’ will not be achieved.

b) The purpose and performance functions outlined in the OiC are not asking the WDCs to do anything substantively different apart from applying a lens of industry.

c) Honouring Te Tiriti means that no one-size-fits-all solution is acceptable, however, we see six OiCs that are substantially uniform and use government language that marginalises the Tiriti relationship.

d) Nowhere in the performance functions or statement of strategic direction sections in the six OiCs are we told what transformation will be delivered, by when and for whom.

e) If these things are not in the legislation, they become optional. This has not served Māori aspirations in the past.

f) To have a set of OiCs that do not mention iwi and how the transformation of the vocational education system will honour Te Tiriti is remiss. Honouring Te Tiriti is a partnership.

g) Mention of the principles of Te Tiriti o Waitangi in the criteria for the appointment of members is a big red flag to Māori. Principles, or the three Ps as they are commonly known, is a redefinition and a colonial interpretation of the three articles of Te Tiriti. Therefore we ask that any inclusion of Tiriti principles be replaced with the Articles of Te Tiriti

h) There is no mention of the role that Mātauranga Māori, Māori and iwi will play in any of the six OiCs despite the Act. There will always be compromise unless there is an independent, autonomous and Māori appointed and centred entity that secures this taonga for our future generations.

i) Mātauranga Māori is alluded to in the criteria for appointment but is not supported anywhere else in the document. The appointment process will test this notion. As it stands, the appointment process will be led by TEC and the Ministry of Education; they will appoint members to the appointment panels. In one case, TEC will select nominees to be appointed by the Minister. To put government in control of this process means that industry, Māori and Iwi are not in the role the Act envisages. How do the OiCs assure Māori and Iwi that their voices are going to be heard?
108. The Employers & Manufacturers Association:
   a) Welcomes required industry representation from both small and large enterprises on the Council Board for some WDCs. However, small business representatives will likely be under resourced. Defining ‘small’ business will signpost to businesses of that size that they are welcome on the WDC’s. Specifying the obligations of Committee membership will also help ensure small business can be at the table.
   b) Applauds the inclusion of governance development associates to upskill individuals on the WDCs. The role and the criteria for appointment should be defined to avoid the risk of unstructured or ad hoc developmental support for these people.

109. BusinessNZ comment that further emphasis needs to be put on working with industry associations and employer groups to utilise significant work that has already been undertaken on workforce planning, and ensure retention of the many excellent work based training programmes in the existing system, particularly given that workforce planning and skills development are also being undertaken through other government work programmes like MBIE’s Industry Transformation Plans, or MPI’s Food and Fibre Skills Action Plan.

110. Taituarā - Local Government Professionals Aotearoa stated that there is an opportunity for central and local government to work together to jointly develop the public sector workforce.

111. Tāne Mahuta NZ Limited commented that all OIC’s across the 6 WDC’s are mainstream, with limited attention to honouring the 3 Treaty (not Te Tiriti) principles of Partnership, Protection and Participation. This is perhaps due to no Māori member on the Services iEB and limited Māori membership in governance. Primary is the only OIC reflecting partnership at 50/50 membership. Consistent calls by Māori for Māori membership and representation in “services” were not attended to or ignored. Te Tiriti values and principles, on the other hand, sits outside the honourable duties reflected in the OIC’s or attempts to include.

112. One submitter strongly recommends that the WDCs will need to employ staff resources, who have significant understanding of industry skill needs and how they can be defined and applied coherently along with the qualifications that support them. If this is done correctly, then qualifications definition, assessment and updating will be much simplified by the use of stable constructs, where only minor knowledge updating will be required year on year. This will provide longer term validity of qualifications and the resulting benefits to their holders in rapidly evolving contexts.

113. One submitter commented that they do not believe the once-in-a-lifetime opportunities (with the concurrent establishment of WDCs and RSLGs) for stronger connections between WDCs and other parts of the labour market system powerfully enough. They believe that a systemic approach to workforce development and supply by the WDCs and their members needs to be made explicit.

Responses and Recommendations

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<tr>
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<tr>
<td>Primary iEB considered this feedback and noted:</td>
<td>Recommend that these submitters are thanked and the WDC continue to build relationships with them.</td>
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</table>
- Much of this feedback needs to be taken into account through the operationalisation of the WDC.
- Many of the submitters are a part of the industries covered by the WDC and will be important relationships for the WDC going forward.

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<tr>
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Proactively Released
Consultation on WDC Order in Council

Service Industries Order in Council – Summary of Submissions
Service Industries Order in Council – Summary of Submissions

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Name of the Workforce Development Council

Summary of Clause
The Services Workforce Development Council is established on the date the Order in Council is made.

Summary of Submissions

1. Some submitters who (strongly) agreed with the proposed name found that:
   a) The name is simple and appropriate.
   b) The name reflects the purpose of the entity.
   c) The name covers the range of industries that make up this WDC.
   d) A (legal) name should be generic.
   e) The name is probably the best description of a very broad and varied group of sectors.

2. Some submitters who (strongly) disagreed with the proposed name found that:
   a) The name is racial biased.
   b) It's flat and limited (stating that 'business' is hiding in services).
   c) The proposed name does not reflect the many forms of services, including professional and community services to Māori (submitted by Tāne Mahuta NZ).
   d) All WDCs should consider having "people" in their name, as all WDCs should be focused on the importance of people.

3. Te Wānanga o Aotearoa commented across all WDCs that they believe all Orders in Council should have a Te Reo Māori descriptor in their title/name for WDCs. They state that respect for and inclusion of Te Reo Māori as an official language of Aotearoa New Zealand, must be a requirement for government entities from the outset, than that Kupu Māori, in this context is not a “nice to have” or a work in progress, it is fundamental.
Responses and Recommendations

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<tr>
<th>Interim Establishment Board – Response</th>
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<tr>
<td>This feedback was noted and considered by the board.</td>
<td>No changes to the OIC are proposed.</td>
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<tr>
<td>The iEB felt that the points listed in 1a-f of the feedback reflect their position.</td>
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<tr>
<td>The Board also noted its strong recommendation that the WDC should develop a Te Reo name and a possible new trading name (in consultation with Māori and the sector) as one of its early activities once established.</td>
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# Purpose of the Workforce Development Council and Accountability Arrangements

## Summary of Clause

### Purpose

The purposes of the Services Workforce Development Council are to:

- ensure as far as practicable that the people in the Services sector workforce have every opportunity to reach their full potential and capabilities within their chosen occupation, and to extend those opportunities to people who have been underserved by the education system;
- contribute towards the creation of a Services sector workforce that meets industry needs and is fit for work in a sustainable, globally engaged and adaptive Aotearoa New Zealand; and
- contribute to an education system which honours Te Tiriti o Waitangi to help ensure fair and equitable outcomes for all.

### Accountability arrangements

#### Performance of functions

- The Council in the performance of its functions must give effect to:
  - the purposes of the Council; and
  - the Tertiary Education Strategy issued under section 7 of the Act.

- The Council must consult with persons or bodies who the Council considers on reasonable grounds represent Māori in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of Māori in the performance of its functions.

- The Council must consult with persons or bodies who the Council considers on reasonable grounds represent specific population groups in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of those population groups in the performance of its functions.

#### Statement of strategic direction

- At least every 3 years the Council must publish on an Internet site maintained by or on behalf of the Council a statement setting out its strategic direction for the next 5 years, setting out how the Council intends to give effect to:
  - the purposes of the Council; and
8

Service Industries Order in Council – Summary of Submissions

• relevant parts in the Tertiary Education Strategy.

The Council must consult with the specified industries, the Minister, vocational education providers, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

Annual report

• The Council must present to the specified industries and to the Minister an annual report on the performance of its functions, including (without limitation):
  o an outline of the progress made towards achieving the goals and objectives set out in the statement of strategic direction; and
  o the audited financial statements of the Council.

Summary of Submissions

Purpose

4. The Tertiary Education Union (TEU) drafted an alternative purpose statement, which they believe could be applied across all WDCs. Their alternative statement is based on a synthesis of the various purpose statements across the Orders in Councils, but with a number of minor additions. Their suggested additions focus on inclusivity and diversity (bi-culturalism).

5. The Employers and Manufacturers Association (EMA), Māori and Pasifika trades training Auckland, and Business NZ would like to see the Orders in Council for all six WDCs be more explicit and contain stronger language regarding the role of the WDCs. They believe that ‘contribution to the education system’ is weak in relation to the importance and the ‘leading’ role of the WDCs.

6. Business NZ, the Māori and Pasifika trades training Auckland, and one other individual submitter recommend that the purpose statement should refer to the WDCs’ responsibility to deliver on skills for industry, its accountability to industry, and its role in ensuring a well-functioning workforce and labour market system.

7. Māori and Pasifika trades training Auckland comments that the purpose of each WDC needs to be
   a) specific to their industry, their workforce, and the outcomes of the work the industry does.
   b) specific about the role of the WDC in making sure the education system meets the needs of the industry (and workforce).
   c) brief and to the point
   d) stronger intentional statement than “proposed”.
8. Te Wānanga o Aotearoa (TWoA):
   a) Suggest that the purpose and engagement approach should be consistent across all WDCs to ensure good outcomes for Māori, and to ensure that wānanga are able to engage across all of the WDCs in a consistent, clear manner.
   b) Recommend that the purpose should be amended to acknowledge (collaboration with) wānanga. They also believe that the OiCs should explicitly include the requirement to authentically consult with “persons or bodies” in relation to “s369(2)(b)” and Section 367 (s367) of the Act (which makes provision for the responsibilities which WDCs have for wānanga in particular), to ensure that the wānanga have confidence that their provision will be properly recognised and acknowledged.
   c) Expressed concern that the majority of the OiCs suggests that the purpose of honouring Te Tiriti for WDCs is to “help ensure fair and equitable outcomes for all”, rather than, the more appropriately described position from Ka Hikitia, that is “to give practical effect to Tiriti o Waitangi in the [vocational training] system”.

9. One submitter commented that:
   a) Overall, the purpose is very narrow and does not reflect any detail on a broader and cross-WDC workforce planning strategy.
   b) Explicit objectives and WDC deliverables are absent.
   c) The proposal is lacking significant details on how the WDC will lead and deliver Workforce planning strategy initiatives on behalf of its stakeholders.

Accountability Arrangements

10. The Tertiary Education Union (TEU) recommends that:
   a) The following sub-bullet points (taken from the Primary OiC) are included under the ‘Accountability Arrangements - Performance of functions’ for each of the six WDC Orders in Council:
      • The Council in the performance of its functions must give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies that relate to vocational education and training. This recommendation was supported by Te Wānanga o Aotearoa (TWoA).
   ii. The Council in the performance of its functions must:
      • act in a manner which is consistent with the goals and objectives of the vocational education system as a whole;
      • work collaboratively with providers, including work-based trainers and employers, to ensure that qualifications, standards, and learning packages, enable successful outcomes for all learners; and
• advocate for, and contribute to, policies that meet the needs of industries covered by the Council, particularly as they relate to vocational education, career promotion and planning, and the funding of education and training.

b) The ‘Accountability Arrangements – Statement of strategic direction’ section states that:

i. The statement of strategic intent should include how the Council intends to give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies.

ii. The Council must consult with the specified industries, the Minister, vocational education providers, Te Pūkenga, relevant Centre(s) of Vocational Excellence, Regional Skills Leadership Groups, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

11. The Employers and Manufacturers Association recommends that there must be some measure of how well WDCs are performing, both in engaging with industry and in providing the necessary skills for business.

12. One submitter recommended that the accountability arrangements should require WDCs to consult with RSLGs.

13. Business NZ recommends that:

a) The accountability arrangements are significantly strengthened to explicitly include mechanisms to ensure that skill standards are relevant and aligned to the professionalization and regulatory requirements for industry.

b) Given the broad scope of industry coverage, strengthened accountability to industry and articulation of how it will manage the broad coverage scopes should be built into the accountability mechanisms.

c) The Annual Report in the accountability arrangements should require the setting of key performance indicators and commitment of service levels to industry for WDC’s to report against.

14. Tane Mahuta NZ expressed that some elements of the purpose statement can be broadened and use of inclusive language can cover this, including Te Tiriti and Māori services.

15. The Ministry of Social Development expects that some consistent measures of success and outcomes for workforce development, industries and learners (particularly identified groups within the workforce e.g. Māori/Pacifica/Youth) would be in place. These might be consistently measured across all WDCs and provide evaluation of real outcomes, not just working to delivery of a 3 year plan, but focused on what the plan achieved in real terms for NZ and its workforce and employers.

16. One submitter commented that the accountabilities are vague, soft and largely bureaucratic.
Responses and Recommendations

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<tr>
<td>The iEB believes that the purpose needs to focus on key functions of the WDC whereas some submitters focused on specific delivery and operational functions, including education delivery, which will sit with other entities.</td>
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<tr>
<td>The iEB believes that the purpose statement in the OIC needs to be sufficiently broad to meet future needs on behalf of industry, and not limit or constrain the WDC. The WDC will be required to publish regular plans aligned to tertiary education strategy and industry needs. The iEB believes that the wording proposed achieves the appropriate balance within the new vocational education system.</td>
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Council membership provisions

Summary of Clause

- The Council comprises 9 members, constituted as follows:
  - at least 1 member is a person nominated by employers in the specified industries to represent them;
  - at least 1 member is a person nominated by employees in the specified industries to represent them;
  - at least 2 members identify as New Zealand Māori, with at least 1 of these members nominated by Māori employers in the specified industries to represent them; and
  - at least 1 member is from the Pacific community.

- When seeking nominations for an employee representative, the Minister and the Council:
  - must take all reasonable steps to notify employees in the specified industries about the process for nominating members; and
  - must ensure that the persons nominated for appointment have the support of a sufficient number of employees in the specified industries; and
  - must not specify who is eligible to be nominated for appointment as a member except as provided for in the Order, or in any rules.

Summary of Submissions

17. The Tertiary Education Union commented that the parameters pertaining to the size, make-up, and mandatory membership requirements of the Councils should be consistent for each of the six WDCs whilst allowing for flexibility within those parameters. They put forward an alternative council membership proposal in which:

a) The Council comprises 8, 9, or 10 members, as determined by the Council, made up as follows:

i. 1 member nominated by Māori employers in the specified industries, to represent them;

ii. 1 member nominated by Māori employees in the specified industries, to represent them;

iii. 1 member nominated by employees, the Council of Trade Unions, and unions representing employees in the specified industries, to represent them;
iv. 1 member nominated by the employers in the specified industries, to represent them;

v. 1 member from the Pacific community;

vi. 1 member from Te Pūkenga involved in the provision of education in the specified industries nominated by subsidiary employees, to represent them. (the TEU Unitec branch voiced their support for this specific recommendation)

vii. The remaining members appointed by the Council to bring the total membership of the Council up to 8, 9, or 10 members as determined by the Council

b) The Council as a whole must have approximately an even balance between members of the Council who are Māori and non-Māori

c) When seeking nominations for an employee representative, the Council or the appointments committee must:
   i. take all reasonable steps to notify employees in the specified industries about the process for nominating members;
   ii. ensure that the persons nominated for appointment have the support of a sufficient number of employees in the specified industries; and
   iii. not specify who is eligible to be nominated for appointment as a member except as provided for in the Order, or in any rules.

d) The Council may co-opt up to 2 persons for no more than 3 years to be a member if necessary or desirable:
   i. to ensure that the Council has an appropriate mix of skills, leadership, and experience, provided that the Council comprises in total no more than 10 members;
   ii. to provide opportunities for people of different age, ethnicity, ideas, and gender to develop the knowledge, skills, and experience in governance necessary to be appointed as a member of a professional governing body;
   iii. to increase opportunities for participation at a governance level by Māori, Pacific peoples, and people living with disabilities;
   iv. to draw on the experience, knowledge, and views of learners; and
   v. to ensure that over the long-term there is adequate representation of Māori, with the aim of contributing towards an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

Māori / Pasifika representation

18. Several submitters commented on the Māori representation, as included in the Order in Council:
a) Te Wānanga o Aotearoa commented that all OICs should include opportunities for Māori employee representation, to ensure that vocational education and training is responsive to Māori apprentices and trainees. They believe this is particularly critical in areas with high Māori participation (such as Primary Industries, Services, Creative, Logistics and Community).

b) Māori and Pasifika trades training Auckland recommends that the number of employer representatives needs to be increased to four, including Māori and Pasifika business leaders.

c) Tāne Mahuta NZ limited commented that:
   i. Only 2 from 9 members being Māori creates an imbalance for Crown and Te Tiriti partnership.
   ii. The 50/50 model is preferred and safer in the vocational education space.
   iii. Pacific and other culture are even less recognised.

d) One individual submitter noted that the Services WDC has a smaller proportion of planned Māori representation than other WDCs at present, and found this curious given the Service Industry sector is likely to be among the largest employers of Māori and other ethnic groups.

19. Several submitters, including the Employers & Manufacturers Association (EMA) and the Māori and Pasifika trades training Auckland highlighted the need for a clear definition of Māori / Pasifika business / employer. Māori and Pasifika trades training Auckland recommend the definition includes 50% ownership base with stated intentions to promote Māori and/or Pasifika economic position in the trades sector. This process would include clear consultation with business and community organisations that promote Māori and Pasifika participation in the trades including: AMOTAI, Pacific Business Trust, Iwi and Hapu Corporations.

20. Business NZ recommends that the Council membership provisions should be strengthened and consider Māori representation more broadly in terms of the industries which have high proportions of Māori and Pacific in their workforce, rather than just representation at the Board table.

**Industry representation**

21. The Employers & Manufacturers Association (EMA) and Business NZ recommend that each council should have at least 50% representatives from that industry coverage area, to ensure it is an ‘industry-led’ organisation.

a) Employers & Manufacturers Association suggest that:
   i. meeting the many criteria (e.g. setting up organisations, expertise in education and relevant industry, experience in financial and change management, and gender and ethnic balance) should not be at the exclusion of industry expertise.
   ii. that WDC Committee members from industry are not from one specific stream of that coverage area

b) Business NZ also note that it does not consider that Māori representation and industry representation are mutually exclusive.
22. Restaurant Association of NZ agreed stating that there needs to be a diverse range of representation in WDC memberships and that it be necessary that the sectors that make up Services WDC are equally represented in the Councils.

**Employee representation**

23. The Council of Trade Unions (CTU) recommends that:
   a) each WDC include at least two worker representatives, of which at least one be a representative of Māori workers. (this recommendation was also voiced by First Union and Unite Union)
   b) the appointment of each worker representative on a WDC require endorsement from the CTU. (this recommendation was also voiced by Unite Union)
   c) a consistent process be established for appointments to WDCs. In any case where an appointments panel is convened, this should include representatives from CTU, Business NZ and iwi/Māori.

24. Business NZ recommends that the Council membership provisions should include working with BusinessNZ and the CTU to utilise the tripartite approach to governance arrangements rather than building in special provisions for union representation and endorsement.

25. First Union recommends that an explicit statement mandating union representation be included.

26. First Union state they are comfortable with the suggestion that Te Rūnanga endorses Māori worker candidates.

27. The NZ Dairy Workers Union recommends that:
   a) All six WDC OIC proposals should stipulate that only nominations and/or endorsements from trade unions involved in the WDC coverage areas or from the CTU/Te Rūnanga should be accepted for WDC representatives tasked with the collective representation of employees, both Māori and non-Māori;
   b) All six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

28. E tū Incorporated believe it's important to have balanced qualified representation including workers representation to ensure the widest possible workers involvement, such representation should be from unions that cover service workers (E tū Incorporated and First Union being the largest).

**Other**

29. One submitter commented that, in the new system, WDCs need to have a strong voice from employers, and they believe that too many decisions are currently made by bureaucrats who don’t understand what happens in the real world.
30. One submitter recommends the inclusion of RSLG members (potentially co-opted) on the council.

31. The Financial Services Federation noted that the proposal outlines that there are 9 members of the Services WDC, covering 14 industries. They highlight that this means that some industries will not have a representative voice on the Council.

32. One submitter who agreed with the proposed council membership noted that it is good to have transitional structures.

33. Some submitters that (strongly) disagreed with the proposed council membership argue that:
   a) It is racial biased as the proportionality principle is not applied and breaches section 19 (1) of the New Zealand Bill of rights.
   b) It will be difficult to represent all the sectors that the WDC will cover.
   c) Multiple organisations participating at different levels and in different fora will over complicate and over extend the decision making process.
   d) Ideally learner representation should be included.

34. Master Cleaners Training Institution found that the current composition of the interim board members (despite demonstrating governance capabilities/competencies) lack clear operational experience necessary to understand or provide industry specific advice to government. They believe this exposes the WDC board members to an inability to meet the purpose of the Act.

Responses and Recommendations

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<tr>
<td>The iEB noted that a number of submitters wanted more representation from particular groups on the council. The iEB reiterated that the council is fundamentally skills based, and cannot be entirely representative of individual parts of such a large sector. The council should have people with wide sector knowledge who are able to engage and connect across sectors and other groups, and who must procure regular and ongoing industry engagement to fulfil the WDC’s duties.</td>
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<tr>
<td>The iEB noted that effective industry engagement is critical to the council, and a fundamental aim of the WDC, so there needs to be strong mechanisms as outlined in the industry engagement section of the OIC.</td>
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</table>
The iEB discussed comments relating to Māori representation on the council. It acknowledges that Māori representation is critical to the WDC among a wide range of possible membership - including at least one member who identifies as Pacific. They noted that the current proposal imposes no maximum number of Māori on the council and provides flexibility for council membership while still ensuring Māori representation.

There were also a number of suggestions about the desirability of having particular skills or expertise on the board. The iEB felt these did not belong in the OIC, but instead could inform selection of people on the council. This guidance would likely evolve as the WDC matures.
Criteria for the appointment of members

Summary of Clause

• The Minister and the Council must appoint a Council that reflects the contemporary and anticipated New Zealand workforce. All appointments will be based on skills and abilities and reflect the WDC’s coverage of sectors, relationships with iwi, and ability to meet the needs of all learners, including those under-served. As a whole, the Council must have:

  o experience in, or understanding of, the sectors covered by the Services Workforce Development Council;
  o experience as an employer in one of the sectors covered by the Services Workforce Development Council;
  o experience in addressing the needs of underserved learners;
  o commitment to upholding Te Tiriti o Waitangi principles;
  o experience in governance and public administration;
  o knowledge of the vocational education system; and
  o knowledge of Te Ao Māori and mātauranga Māori.

• When appointing the employee representative required by the membership provisions, the Council or the Minister must appoint a person who has a demonstrated ability to provide collective representation of employees and who:

  o has the support of a body recognised as representing employees in one or more of the specified industries, or
  o can otherwise demonstrate that their appointment represents employees collectively in one or more of the specified industries.

Summary of Submissions

35. The TEU recommend that, at a minimum, each of the Orders in Council should include the following criteria for the appointment of members to the Council:

As a whole, the Council must have:

  a) A deep understanding of, and commitment to, the principles of Te Tiriti o Waitangi.
b) Strong knowledge and networks within te ao Māori.

c) A sufficient number of members with skills in te ao Māori, including te reo Māori and mātauranga Māori, to ensure that the Council is able to give proper consideration to Māori perspectives in undertaking its duties functions.

d) Experience in Māori business within specified industries.

e) Strong experience in, or engagement with, the vocational education and training system, including pedagogical expertise in teaching, learning (including adult teaching and learning), and pastoral care.

f) an understanding of, and commitment to, inclusion, eliminating inequality, and understanding the needs of underserved learners, including but not limited to Māori, Pacific peoples, and people living with disabilities.

g) Diversity of age, ethnic background, ideas, and gender, with particular regard to representation of Māori, Pacific peoples, and people living with disabilities.

h) A commitment to act with impartiality, honesty, integrity, and manaakitanga.

i) Representatives from both large and small and medium enterprises within the specified industries.

j) The support of, in the case of the employee representatives, the Council of Trade Unions or unions representing employees in the industry.

k) Sufficient knowledge of community organisations.

l) Leadership experience in at least one of the specified industries covered by the Council.

m) Knowledge, skills, and experience relevant to the strategic direction of the Council.

n) Experience in governance and public administration.

o) Experience in financial analysis and management.

36. Business NZ recommends that:

a) the criteria for the appointment of members should include experience, relationships or knowledge of industry associations and the relevant regulatory and professional standard bodies

b) The Council membership provisions should be strengthened to ensure members are able to provide leadership and broad industry connections and insights, including on the strategic and regulatory outlook for different industries. This recommendation was also made by the Employers & Manufacturers Association (EMA).
37. BCITO recommends that all Orders in Council include a requirement that, for the first two years, the Council has members with experience in establishing new organisations and leading change.

38. One submitter that disagreed with the proposed member criteria found it is focused on administrative "Accountability" and governance capability, rather than "front line" and fresh thinking individuals with practical expertise in workforce planning.

**Responses and Recommendations**

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<td>The iEB agreed that the BCITO suggestion of having someone with establishment experience on the initial council could be useful, but this should sit within guidance for selecting the initial council, rather than in the OIC.</td>
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Appointment of the first Council

Summary of Clause

- The first members of the Council must be appointed in accordance with the membership provisions and membership criteria of the Order.
- The first Council will be appointed in two phases:
  - a chairperson and three Council members will be appointed by the Minister after seeking nominations from industry bodies and parties, including unions and the collective interests of employers, with an interest in the sectors covered by the Council;
  - five additional members will be appointed by the Council itself as soon as practicable (preferably within eight weeks) after the first four appointments have been made.

Process for appointment of first members of Council

- The Tertiary Education Commission will receive all nominations and present a short list and make recommendations to the Minister for the initial chairperson and 3 members. Those 4 members will then make appointments for the next 5 members from the nominations received.

Term of appointment of first members of Council

- The chairperson will be appointed for 2 years.
- Each other member will be appointed for an initial term of either 1 year, 2 years or 3 years to establish a basis for stable succession.

Membership of Council reduced until all appointments made

- The number of Council members is proportionately reduced until the date on which each member referred to in the membership provisions is appointed to the Council.
- No action of the Council is invalid merely because any member has not been appointed to the Council on the commencement date of the Order.

Summary of Submissions

39. The Employers and Manufacturers Association (EMA) believes that Ministerial appointment does not reflect an industry led organisation, as a Minister may have limited access and knowledge of the nuances and specific skills required in that sector.

40. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.
41. The NZ Dairy Workers Union recommends that all six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

42. One submitter that disagreed with the proposed appointment of first council argued that an interim arrangement is a reasonable start, as long as changes can be made to adjust to the realities, and real deliverables can be identified and actioned in a coordinated rapid and pragmatic fashion.

Responses and Recommendations

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<td>The iEB discussed the feedback relating to the Ministerial appointments not reflecting an industry led organisation. They noted that the Minister is selecting four of the nine council members with the council selecting the other five which allows for a balance between the desire for industry led appointments and for the relative independence that Ministerial appointments allow.</td>
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<tr>
<td>The Minister will be required to appoint members who reflect industry voices and needs, as will the WDC itself.</td>
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<tr>
<td>As noted above, the iEB recommends developing guidance about what is desirable in council appointments at particular points in time which could also take into account industry specific nuances that the Minister may not be aware of.</td>
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Appointment of the permanent (or ongoing) Council

Summary of Clause

Process for appointment of members

- The members of the Council are appointed as follows:
  
  o The responsible Minister will appoint 4 members of the Council and will designate 1 of those members to be the Chairperson. Ministerial appointments will continue as vacancies arise.
  
  o The Council will appoint 5 members of the Council. Council appointments will continue as vacancies arise.
  
  o When appointing members to the Council, the Minister and the Council must ensure that the minimum composition requirements set out above are maintained.
  
  o All appointments will be made following nominations from the sector. Nominations will be sought from industry bodies, employers, employees and iwi partners represented by the Council.
  
  o The Council will receive all nominations. In the case of Council appointments, the Council will make appointments from the nominations received. In the case of Ministerial appointments, the Council will send the nominations to the Tertiary Education Commission, which will present a short list and recommendations to the Minister.

Term of appointment

- An appointment will be for 3 years. A member can be reappointed for a second term of 3 years. No member can serve more than 2 terms.

Summary of Submissions

43. The Employers and Manufacturers Association (EMA) believes that Ministerial appointment does not reflect an industry led organisation, as a Minister may have limited access and knowledge of the nuances and specific skills required in that sector.

44. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

45. The NZ Dairy Workers Union recommends that all six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.
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Detailed governance arrangements that are unique to each Workforce Development Council

Summary of Clause

Appointment of chairperson, co-chairpersons, deputy chairperson (as applicable)

Appointment of chairperson

- The Minister must appoint 1 member of the Council to be its chairperson by notice in writing stating the date on which the appointment takes effect.
- The chairperson holds that office until:
  - the chairperson resigns from that office; or
  - the chairperson is removed from it by the Council; or
  - the chairperson ceases to hold office as a member; or
  - the term of office specified on appointment expires.

- A person may be reappointed as chairperson for a further term.
- The chairperson may, without resigning as a member, resign from that office by written notice to the Council. The notice of resignation must state the date on which the resignation takes effect.
- The Council may, after consultation with the person concerned, remove a chairperson of the Council from that office by written notice to the person. The notice of removal must state the date on which the removal takes effect.

Appointment of deputy chairperson

- The Council may appoint 1 of the members of the Council to be its deputy chairperson by notice in writing stating the date on which the appointment takes effect.
- If the chairperson is absent, the deputy chairperson may exercise the powers of the chairperson.
- The deputy chairperson holds that office until—
  - the deputy chairperson resigns from that office; or
  - the deputy chairperson is removed from it by the Minister; or
Service Industries Order in Council – Summary of Submissions

• the deputy chairperson ceases to hold office as a member; or
• the term of office specified on appointment expires.

• A person may be reappointed as deputy chairperson for a further term.
• The deputy chairperson may, without resigning as a member, resign from that office by written notice to the Council. The notice of resignation must state the date on which the resignation takes effect.
• The Council may, after consultation with the person concerned, remove a deputy chairperson of the Council from that office by written notice to the person. The notice of removal must state the date on which the removal takes effect.

Meetings

• The chairperson may convene meetings to be held at the time and place that the chairperson determines and must give at least seven days’ notice in writing of those meetings to members.
• Meetings can be held by means of electronic communication.
• The quorum for a meeting to proceed is 5 of the members then holding office.
• The Council should strive to achieve consensus in its decision-making. Any matter arising at a meeting can be decided by a majority vote of those members present with the chairperson having a casting vote or, if the chairperson is absent, with the deputy chairperson having a casting vote.
• A resolution in writing signed by a majority of members is as valid as if it had been passed at a meeting of those members.
• An irregularity in a notice of a meeting is waived if all members entitled to receive the notice either:
  o attend the meeting without objection to the irregularity; or
  o do not attend the meeting but agree before the meeting is held to waive the irregularity.
• Except as set out above or by law, the Council may determine its own procedures for regulating meetings and conducting its affairs.

Collective duties of the Council

• The Council must act in a manner consistent with its functions, duties and powers.
• The Council must perform or exercise its functions, duties, and powers efficiently and effectively.
The Council must operate in a financially responsible manner and, for this purpose, must prudently manage its assets and liabilities.

Summary of Submissions

46. Te Kāhui Ahumahi (made up of all Māori interim Establishment Board members) request that their collective is formalised in each OiC so as not to leave the establishment/continuation of a Kāhui Ahumahi to chance. This suggestion was supported by another submitter who asked to consider a Māori Workforce Development Council and that we consider all Māori members across all of the workforce development councils being able to form a Kahui Korowai (Māori governance with direct position / role that connects to the CEO).

WDC collaboration

47. Several submitters – including Business NZ, BCITO, New Zealand Certified Builders Association, Engineering NZ, NZ Marine Industry Association, and Ministry of Social Development – highlighted the importance of WDC collaboration to an effective VET system, and would like to see this formalised in the Orders in Council. They refer to the Construction & Infrastructure WDC Order in Council, which already has a provision to this effect.

   a) BCITO also recommends that the provision from the Construction & Infrastructure WDC Order in Council is broadened to include collaboration with skills bodies (e.g. regulators or professional organisations)

   b) Business NZ and NZ Marine Industry Association highlights the opportunity for WDCs to work collaboratively to share best practice and recognize opportunities to better serve business by sharing relevant resources and materials to deliver skill solutions

   c) Several submissions point out that this collaboration is particularly of interest for sectors that are covered by or regularly have to engage with several WDCs.

Chair / Co-Chairs / Deputy Chair

48. Business NZ believes that the Chair or Co-Chair should be from industry.

Responses and Recommendations
This feedback was noted and considered by the board.

The iEB discussed the benefits of collaboration between the WDCs as raised by many submitters. The iEB felt that this collaboration will be critical for the WDC both in general, and on specific matters such as mātauranga Māori. They felt that a requirement to collaborate should be built into the OIC where possible and also be operationalised as the WDCs are established.

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<th>Ministry of Education – Response</th>
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<tr>
<td><strong>Agree</strong> that a clause be added to create a requirement to collaborate with other WDCs along the following lines: the WDC must</td>
<td><strong>Note</strong> the iEB recommends adding the clause used in a number of other OICs for consistency.</td>
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<td>• identify the specified industries where close collaboration with another WDC is required to ensure that the industry training needs of those industries are met; and</td>
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<td>• establish appropriate engagement models with those other WDCs and specified industries to ensure that the industry training needs of those industries are met.</td>
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**Note** that MoE supports the iEBs recommendation.
Detailed governance arrangements that are the same across all Workforce Development Councils

Summary of Clause

Eligibility for appointment

- The following persons are disqualified from being members of the Council:
  - a person who is an undischarged bankrupt;
  - a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any enactment;
  - a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988;
  - a person in respect of whom a personal order has been made under that Act that reflects adversely on the person’s:
    - competence to manage their own affairs in relation to their property; or
    - capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare.
  - a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless the person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person;
  - a member of Parliament;
  - a person who is disqualified under any Act.

Revocation of appointment of members

- The Minister may revoke the appointment of a member, who was appointed by the Minister, at any time by written notice to that member, with an explanation for that action provided to the Council.
- The Council may revoke the appointment of an appointed member of the Council for just cause.
- The revocation must be made by written notice to the member, stating the date on which the revocation takes effect, which must be no earlier than the date on which the notice is received, and the reasons for the revocation.
- The Council may revoke the appointment of a member with as little formality and technicality, and as much expedition, as is permitted by:
the principles of natural justice;
- a proper consideration of the matter; and
- the Council’s policy, if any, on revocation of appointment of members.

- A member of the Council is not entitled to any compensation or other payment or benefit relating to the member ceasing, for any reason, to hold office as a member.
- The term 'just cause' includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the Council or the individual duties of members (depending on the seriousness of the breach).

**Individual duties of members**

- A member of the Council may not contravene, or cause the contravention of, or agree to the Council contravening the Act.
- A member of the Council must, when acting as a member, act with honesty and integrity.
- A member of the Council must, when acting as a member, act in good faith and not pursue the member’s own interests at the expense of the Council’s interests.
- A member of the Council must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation):
  - the nature of the Council;
  - the nature of the action; and
  - the position of the member and the nature of the responsibilities undertaken by the member.
- A member must comply with a code of conduct for members issued by the Council.
- A member of the Council who has information in the member’s capacity as a member that would not otherwise be available to the member, may not disclose that information to any person, or make use of, or act on, that information, except:
  - in the performance of the Council’s functions; or
  - as required or permitted by law; or
  - when the member is first authorised to do so by the Council and the disclosure, use, or act in question does not, or is unlikely to, prejudice the Council.
Members must:
- act in the interests of the Council as a whole; and
- act in a manner that promotes the performance of the functions and the duties of the Council.

Accountability for performance of duties
- The duties of the members of the Council are owed to the Council.
- A member is not liable for a breach of an individual duty under this Order except as provided below:
  - if a member does not comply with their individual duties, the appointment of that member may be revoked;
  - the Council may bring an action against a member for breach of any individual duty.
- This provision does not affect any other ground for revoking the appointment a member.
- Accountability for performance of duties under this provision does not affect anything else for which the member may be liable under any Act or rule of law arising from the act or omission that constitutes the breach.

Personal liability of members
- A member of the Council is not personally liable for any act done or omitted to be done by the Council or any loss to the Council arising out of any act done or omitted to be done by the member if the act or omission was (so far as the member's involvement is concerned):
  - in good faith; and
  - in performance or intended performance of the functions of the Council.

Continuation in office
- Each member of the Council continues in office (unless the member ceases to hold office) until a successor is appointed.
- A member may resign from office by written notice to the Council signed by the member.
- The resignation is effective on receipt by the Council of the notice, or at any later time specified in the notice.
- A member of the Council ceases to hold office if the member:
  - resigns; or
  - has their appointment revoked; or
becomes disqualified from being a member; or
otherwise ceases to hold office in accordance with any enactment.

**Ordinary vacancies**

- The Council must fill any ordinary vacancies as soon as practicable using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.

**Extraordinary vacancies**

- An extraordinary vacancy occurs when a member dies or ceases to hold office.
- If an extraordinary vacancy occurs within 6 months of the expiry of the vacating member’s term the Council may appoint a replacement or leave the vacancy open.
- If an extraordinary vacancy occurs more than 6 months before the expiry of the vacating member’s term, the Council must appoint a replacement using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.
- A person appointed or elected to fill an extraordinary vacancy holds office only for the remainder of the vacating member’s term.

**Administrative provisions**

- The powers of the Council are not affected by any vacancy in its membership.
- The Council may appoint committees to advise it on any matters relating to the Council’s functions and powers.

**Conflicts of interest**

- A member who has an interest in a matter relating to the Council must disclose to the Council details of the interest as soon as practicable after the member becomes aware that the member is interested.
- The details that must be disclosed are:
  - the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
  - the nature and extent of the interest (if the monetary value cannot be quantified).
- A member who has an interest in a matter:
o may not vote or take part in any discussion or decision of the Council or any of its committees relating to the matter, or otherwise participate in any activity of the Council that relates to the matter; and
o may not sign any document relating to the entry into a transaction or the initiation of the matter.

• A person has an interest in a matter if the person:
  o may derive a financial benefit from the matter; or
  o is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
  o may have a financial interest in a person to whom the matter relates; or
  o is a partner, director, officer, board or Council or committee member of a person who may have a financial interest in a person to whom the matter relates; or
  o is otherwise directly or indirectly has an interest in the matter.

• The term ‘matter’ means the Council’s performance of its functions or exercise of its powers or an arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Council.

Delegation

• The Council can delegate any of the functions or powers of the Council (other than the power to appoint a general manager) to a member or members of the Council, the general manager, a committee appointed by the Council, any other person or entity approved by the Council, or a subsidiary of the Council.
• Delegations are made by resolution and written notice to the delegate.
• The power to delegate cannot be further delegated.
• The person to whom functions or powers are delegated can exercise those functions or powers with the same effect as if the delegate were the Council.
• A person who purports to act under delegation is presumed to be acting in accordance with a delegation unless proven otherwise.
• The Council can still exercise a power or function that has been delegated and remains liable for all acts that are performed under delegation.
• A delegation can be revoked by the Council by notice in writing, or by any other method specified in the delegation.

Appointment of general manager and other employees
Service Industries Order in Council – Summary of Submissions

• The Council:
  o must appoint a person who is not a member of the Council to be its general manager; and
  o may appoint any other employees it thinks necessary for the efficient performance of its functions.

• The general manager is:
  o responsible for the efficient and effective management of the Council; and
  o must give effect to the policies and directions of the Council in relation to the performance of its functions.

• The general manager may be referred to by any other title that the Council determines.

Rules

• The Council may make rules providing for the nomination and selection of candidates for appointment of members to the Council.
• The Council may make rules for any purpose relating to the performance of its functions.
• When preparing rules (and any amendments to them), the Council must take all reasonable steps to consult those affected by the rules.
• The Council must take all reasonable steps to ensure that those affected by the rules are aware of their existence and are able to obtain copies of them.

Summary of Submissions

No relevant comments.

Responses and Recommendations

| Interim Establishment Board – Response | Interim Establishment Board – Recommendations |

Proactively Released
No changes to the OIC are proposed.

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Mechanisms for industry engagement

Summary of Clause

- The Council must make arrangements (for example, by establishing industry stakeholder groups) for ensuring that the specified industries have an adequate opportunity to provide input to the Council in support of the performance of its functions including, without limitation, to:
  
  o provide information and views that will assist the Council in formulating its advice to the Tertiary Education Commission on the investment in vocational education and workforce planning for the specified industries;
  
  o provide information and views on the current and future skills and knowledge requirements in the specified industries;
  
  o provide information and views on reviews of industry qualifications;
  
  o provide information and views on career pathways into and within the specified industries;
  
  o provide information and views that will assist the Council to undertake strategic workforce leadership research, advice and support to all specified industries; and
  
  o enable industry to raise issues and concerns about the governance, management and operation of the Council.

Summary of Submissions

49. The TEU recommends that, in order to ensure consistency in approach across the WDCs, a single set of mechanisms and principles which can apply to each of the six WDCs.

   The engagement model must:

   a) describe the arrangements or opportunities for regular interaction between the specified industries and the Council, including at least one annual meeting with representatives of the specified industries;

   b) establish a process for co-ordinating its activities with other WDCs in relation to complementary industries;

   c) establish a process for engagement with unions regarding the performance or exercise of its functions, duties, and powers;

   d) establish a process for engagement with industry peak bodies to understand and contribute to strategies developed by industry peak bodies;
Service Industries Order in Council – Summary of Submissions

e) ensure the Council reports regularly to the specified industries and national advisory groups on the performance of its functions, including, specifically, on its engagement with small and medium enterprises;

f) ensure the Council makes arrangements (for example, by establishing industry stakeholder groups) for ensuring that employers and Māori employers, industry bodies, employees, independent earners, iwi/hapū partners, learners, unions, Te Pūkenga, Centres for Vocational Excellence, Regional Skills Leadership Groups, and other parties with an interest in the specified industries, as determined by the Council, have an adequate opportunity to provide input to the Council in support of the performance of its functions including, without limitation, to:

i. gain deeper understanding of the breadth of the specified industries;

ii. provide information and views on current, emerging, and future skills and knowledge requirements of employees working in the specified industries;

iii. identify and maximise the opportunities of particular groups of learners, including Māori, Pacific peoples, women, and people living with disabilities, whether specific to the coverage of the Council or as part of a wider group of learners coming within the coverage of other WDCs;

iv. provide information and views that will assist the Council in formulating its advice to the Tertiary Education Commission on investment in vocational education and workforce planning for the specified industries;

v. provide information and views on reviews of industry qualifications;

vi. provide information and views on career pathways into and within the specified industries;

vii. provide information and views that will assist the Council to undertake strategic workforce leadership research, advice, and support to all specified industries;

viii. enable industry and providers to raise issues and concerns about the governance, management, and operation of the Council.

50. The Employers & Manufacturers Association (EMA) recommends that the role of the Industry Stakeholder Groups gets more defined and that there is an obligation for the Council to take their feedback into consideration and/or act upon their feedback. The Master Cleaners Training Institute added that there must be clear communications around the establishment of industry stakeholder groups.

51. The Tertiary Education Union (TEU), Council of Trade Unions (CTU), and First Union recommend that the mechanisms for industry engagement in each Order require inclusion of unions. The New Zealand Dairy Workers Union supports this recommendation, and specifies that this inclusion concerns both unions involved in the specified WDC coverage area, as well as the CTU/Te Rūnanga. They also state that all six OIC proposals should also include an obligation that relevant trade unions and the CTU/Te Rūnanga should be directly involved in, and members of, any industry stakeholder groups established by a WDC (this was also voiced by First Union).

52. Māori and Pasifika trades training Auckland believes that existing associations should have a collective voice.
53. Te Kāhui Ahumahi believes that the partnership must be evident in the secondary legislation to ensure that the intent of the Act is met, and they recommend that the Orders in Council should mention iwi or Māori industry under the mechanisms for industry engagement.

54. One submitter believes that the mechanisms should include:
   a) Regular engagement with RSLGs.
   b) Recognition of the opportunity to build understanding of, and help address, the barriers to and opportunities for increasing labour market participation of some population groups (as per the Primary Industries WDC Order in Council).

55. Several submitters, organisations and individuals, highlighted that the WDC is likely to experience challenges when engaging with the broad range of industries within the coverage of the WDC. Many comment on the risk that the voices of smaller, less ‘visible’ industries within the coverage of the WDC will not be heard.

56. Hospitality NZ proposes a mechanism for industry engagement with a similar structure to Service IQ’s industry advisory groups; delegates are voted onto these groups by industry and this is a key element of engaging with industry.

57. Ministry of Social Development submits that it will be important to enable consultation, recommendations, decisions and outcomes occur in a timely manner and be responsive to workforce development needs.

58. Restaurant Association of NZ stated that it is imperative that industry engagement is a priority for the WDC, as in the past there has not been significant consultation by a variety of industry groups in regards to qualification development and what's fit for purpose for industry

Responses and Recommendations

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<td>This feedback was noted and considered by the board.</td>
<td>No changes to the OIC are proposed.</td>
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The iEB recognises that strong mechanisms for industry engagement are critical to the WDC. However, they believe that the detailed mechanisms sit outside the governance functions which are outlined in the OIC. Instead, they believe the OIC needs to be sufficiently broad and flexible to both require engagement and enable the WDC to develop mechanisms that are meaningful, relevant and can adapt to meet the changing needs of the sector over time.
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Additional functions of the Workforce Development Council

Summary of Clause
There are no additional functions.

Summary of Submissions

59. One submitter suggests that this could refer to assisting RSLGs to plan for and address regional workforce needs.

60. The TEU recommends that ‘additional functions’ included in the Primary Services OiC pertaining to [1] the promotion of opportunities that are conducive to learners reaching their full potential and [2] addressing the needs and aspirations of priority learners including Pacific learners and people living with disabilities, should be included in all six OICs. [Note: Some feedback was received regarding the ‘Additional functions’ within the Primary Services WDC Order in Council, please refer to the Primary Industries WDC Summary of Submissions]

61. Te Kāhui Ahumahi submitted that performance of functions must include engagement with the Tiriti Partner. They expect this will lead to joint decision making frameworks, mana Tiriti frameworks and outcomes that meet the goals of the Act.

Responses and Recommendations

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<td>No changes to the OIC are proposed.</td>
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<tr>
<td>In particular, the iEB discussed the feedback from Te Kāhui Ahumahi relating to an additional function being engaging with the Tiriti Partner. The iEB believes that the WDC needs to ensure that it is engaging with and responsive to Māori, rather than having responsibility as a Tiriti Partner. They see commitment to Māori being a core function of governance which is enshrined throughout the OIC, rather than being an additional function.</td>
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Coverage of the Workforce Development Council

Summary of Clause

The coverage of the Council comprises the workforce development activities in relation to employers, providers, and employees, or people seeking to be employed, in work related to advisory services, aviation, cleaning services, business services, contact centres, financial services, hospitality, local government, real estate, retail, security services, state sector, tourism and travel (including, but not limited to, any of the industries listed below):

[An exhaustive list of ANZSIC codes was included in the Consultation proposal document]

Summary of Submissions

62. Several submitters expressed concern about the breadth of the coverage in the Services WDC, for similar reasons that were raised under ‘Mechanisms for Industry Engagement’, i.e. risk of losing the voice of smaller industries.

63. The Employers & Manufacturers Association comments that the coverage areas should not be limited to what is noted at the time of the Order in Council. They state that skills and the labour market are dynamic, and the coverage areas in the OIC should reflect that.

64. Business NZ and the Employers & Manufacturers Association (EMA) raised concern about the use of ANZSIC codes as a source of industry coverage areas. They believe that ANZSIC codes are outdated, and too prescriptive for an agile education system that must adapt quickly to deliver the education and skills needs of businesses. Both recommend using ‘skill clusters’, which they believe would support greater discussion in both education and industry on greater skill transferability.

65. The Financial Services Federation highlighted the need to ensure that financial services sector is better represented by its vocational training provider than it has been in the past. They are concerned that there is no category for responsible credit provision, finance leases, fire insurance or credit-related insurance and believes that these omissions are significant and should be included in the coverage of the WDC even to the expense of some of those categories that are currently included.

66. Submitters that agreed with the proposed coverage found that it is well defined and reasonably comprehensive, reflective of the complexity and diverse nature of the sector.

67. Submitters that disagreed with the proposed coverage generally thought it was too broad and diverse.

68. One submitters believes Business doesn't belong in the Service Industries WDC. They argue that it is an enabler for each of the WDCs, so it should be either represented in each WDC or have its own WDC.


Responses and Recommendations

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<td>No changes to the OIC are proposed.</td>
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<tr>
<td>The iEB noted a number of concerns raised about the broad and diverse coverage of the Services WDC. They understand these concerns and believe that they can be mitigated through strong mechanisms for engaging across the range of industries covered by the WDC and also through collaboration with other WDCs where there are areas of intersection.</td>
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Other feedback

Summary of Clause

N/A

Summary of Submissions

Other feedback from WDC-specific submissions

69. One submitted suggested under the Purpose and Accountability section that:

a) Create a national workforce strategy (and could be expanded on in scoping framework), which details WDC guiding principles, priorities, measurable targets and pragmatic mechanisms.

b) Key functions of the WDCs must go well beyond governance and managing (“balancing”) relationships and interests with multiple stakeholders and interest groups. Under the oversight, guidance and steer of the WDC, performing the function of workforce planning requires significant effort and expertise in many technical aspects.

c) Indicate how terms of reference are to be developed and deliberations managed

d) Indicate foundation structures and meeting / workshop protocols for working / advisory / reference groups.

e) Indicate guiding principles for WDC decisions.

Other feedback from submissions that comment across WDCs (this section will be identical across all Summaries of Submissions)

70. Te Rūnanga o Ngāi Tahu makes the following submissions on the establishment of Workforce Development Councils:

a) That Te Tiriti o Waitangi be honoured and therefore a cornerstone of the education system in Aotearoa. Any tertiary education institutions sector, including the WDCs, should positively reflect the bicultural foundations and have a firm commitment to Te Tiriti frameworks.

b) As a Treaty Partner to the Crown, Te Rūnanga expects commitment to ensuring the rights of Ngāi Tahu whānui to access an equitable and successful journey in our education system. There needs to be deliberate investment for success in those most impacted by the systems failure to date. It is important that measures of success are co-designed with Māori.
c) Ngāi Tahu and all Māori should have the opportunity to achieve success in the tertiary sector and subsequent employment pathways. However, this should not come at the expense of their identity as Ngāi Tahu. The system should recognise and privilege mātauranga Māori, helping to empower their identity as Ngāi Tahu rather than detract from it.

d) The governance and ensuing structures involved in designing, developing and implementing RoVE, should privilege Ngāi Tahu aspirations and values within our takiwā. The governance structures of this review process, including Te Taumata Aronui should have access to high quality Māori strategy and policy advice at all levels as this review proceeds. Māori capacity and capability is required in these structures to internally analyse and develop responses that meet Crown obligations as a Te Tiriti partner, to ultimately ensure success for Ngāi Tahu whānui and all Māori.

e) The WDCs should have a firm commitment to be driven by Te Tiriti frameworks. This will provide a foundation to ensure equity is achieved for Ngāi Tahu and all Māori in the tertiary education sector and in turn contribute to equity in employment, particularly in high skilled and future focused industries.

f) In instances where Ngāi Tahu identify training and education of specific interest to Ngāi Tahu whānui, we would expect the opportunity to engage as a Treaty Partner.

g) Ultimately, the expectation is that the tertiary sector and WDCs should have the following outcomes at the heart of their functions, ensuring a contribution to strong and vibrant Ngāi Tahu and Māori community:

i. Ngāi Tahu and all Māori students and learners achieving success in the tertiary education sector,

ii. Ngāi Tahu and all Māori governors, staff and teachers engaged in the tertiary education sector achieving success,

iii. Ngāi Tahu and all Māori achieving success upon entering the workforce from the tertiary sector, as a result of successful engagement in this space.

71. Waikato-Tainui observes a noticeable absence of engagement provisions with hapu and iwi in these proposals. As a Te Tiriti partner to the Crown, they assert that this oversight must be addressed if WDC’s are to give genuine and authentic expression to their obligations under Te Tiriti o Waitangi.

72. The TEU recommends there should be greater consistency across the six Orders in Council, and that there is opportunity to take the best aspects of the proposals and apply them to each of the six WDCs.

73. Te Kāhui Ahumahi submitted that:

a) The formulaic composition of the OICs suggests that the same tools are going to be used and therefore the aspiration of ‘transformation’ will not be achieved.
b) The purpose and performance functions outlined in the OiC are not asking the WDCs to do anything substantively different apart from applying a lens of industry.

c) Honouring Te Tiriti means that no one-size-fits-all solution is acceptable, however, we see six OiCs that are substantially uniform and use government language that marginalises the Tiriti relationship.

d) Nowhere in the performance functions or statement of strategic direction sections in the six OiCs are we told what transformation will be delivered, by when and for whom.

e) If these things are not in the legislation, they become optional. This has not served Māori aspirations in the past.

f) To have a set of OiCs that do not mention iwi and how the transformation of the vocational education system will honour Te Tiriti is remiss. Honouring Te Tiriti is a partnership.

g) Mention of the principles of Te Tiriti o Waitangi in the criteria for the appointment of members is a big red flag to Māori. Principles, or the three Ps as they are commonly known, is a redefinition and a colonial interpretation of the three articles of Te Tiriti. Therefore we ask that any inclusion of Tiriti principles be replaced with the Articles of Te Tiriti.

h) There is no mention of the role that Mātauranga Māori, Māori and iwi will play in any of the six OiCs despite the Act. There will always be compromise unless there is an independent, autonomous and Māori appointed and centred entity that secures this taonga for our future generations.

i) Mātauranga Māori is alluded to in the criteria for appointment but is not supported anywhere else in the document. The appointment process will test this notion. As it stands, the appointment process will be led by TEC and the Ministry of Education; they will appoint members to the appointment panels. In one case, TEC will select nominees to be appointed by the Minister. To put government in control of this process means that industry, Māori and iwi are not in the role the Act envisages. How do the OiCs assure Māori and Iwi that their voices are going to be heard?

74. The Employers & Manufacturers Association:

a) Welcomes required industry representation from both small and large enterprises on the Council Board for some WDCs. However, small business representatives will likely be under resourced. Defining ‘small’ business will signal to businesses of that size that they are welcome on the WDC’s. Specifying the obligations of Committee membership will also help ensure small business can be at the table.

b) Applauds the inclusion of governance development associates to upskill individuals on the WDCs. The role and the criteria for appointment should be defined to avoid the risk of unstructured or ad hoc developmental support for these people.

75. BusinessNZ comment that further emphasis needs to be put on working with industry associations and employer groups to utilise significant work that has already been undertaken on workforce planning, and ensure retention of the many excellent work based training programmes in the
existing system, particularly given that workforce planning and skills development are also being undertaken through other government work programmes like MBIE’s Industry Transformation Plans, or MPI’s Food and Fibre Skills Action Plan.

76. Taituarā - Local Government Professionals Aotearoa stated that there is an opportunity for central and local government to work together to jointly develop the public sector workforce.

77. Tāne Mahuta NZ Limited commented that all OIC’s across the 6 WDC’s are mainstream, with limited attention to honouring the 3 Treaty (not Te Tiriti) principles of Partnership, Protection and Participation. This is perhaps due to no Māori member on the Services iEB and limited Māori membership in governance. Primary is the only OIC reflecting partnership at 50/50 membership. Consistent calls by Māori for Māori membership and representation in "services' were not attended to or ignored. Te Tiriti values and principles, on the other hand, sits outside the honourable duties reflected in the OIC's or attempts to include.

78. One submitter strongly recommends that the WDCs will need to employ staff resources, who have significant understanding of industry skill needs and how they can be defined and applied coherently along with the qualifications that support them. If this is done correctly, then qualifications definition, assessment and updating will be much simplified by the use of stable constructs, where only minor knowledge updating will be required year on year. This will provide longer term validity of qualifications and the resulting benefits to their holders in rapidly evolving contexts.

79. One submitter commented that they do not believe the OIC take advantage of the once-in-a-lifetime opportunities (with the concurrent establishment of WDCs and RSLGs) for stronger connections between WDCs and other parts of the labour market system. They believe that a systemic approach to workforce development and supply by the WDCs and their members needs to be made explicit.

Responses and Recommendations

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<td>No changes to the OIC are proposed.</td>
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Consultation on WDC Order in Council

Creative, Cultural, Recreation and Technology Order in Council – Summary of Submissions
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Name of the Workforce Development Council

Summary of Submissions

1. Some submitters who (strongly) agreed with the proposed name found that:
   a) The Māori name was relevant and appropriate.
   b) The name was simple and short compared to "Creative, Cultural, Recreation and Technology".
   c) It would be difficult to argue for strong Māori partnerships without incorporation of reo in the title.

2. Some submitters who (strongly) disagreed with the proposed name did so because they disagree with the coverage of the WDC. They argue that:
   a) There is no logical connection between the four elements of CCRT; they are too different to fit together.
   b) Recreation (exercise, sport) fits better with the Health, Community and Social Services WDC.

3. Skills Active Aotearoa suggested that a tagline should be included, referring to the key industry groupings, so that CCRT organisations and individuals can understand the coverage structure and ‘find’ their industries.

4. The New Zealand Outdoor Instructors Association stated that they like the use of a Māori name rather than having an English name with a Māori by-line.

5. While several submitters agree with the proposed Māori name and find it appropriate, some have voiced their reservations:
   a) The Digital Technology Industry and Profession (with IT Professionals New Zealand, NZTech, NZRise, and Aotearoa Tech Union, with support from TUANZ and CITRENZ) would be interested in understanding the process undertaken in determining the name Toi Mai, and who was involved in this process, to ensure the cultural appropriateness of its use.
   b) HITO believes that the name should be more inclusive of the key industry groupings, so that CCRT organisations and individuals can understand the coverage structure and ‘find’ their industries.
c) Some submitters are concerned that the name is too general and that the two words each have many meanings, stating it would be more useful to have a name specific to the industries covered. They acknowledge the difficulty in coming up with a name that covers the full industry coverage due to the coverage being so broad.

d) One submitter commented that Māori should decide and agree on a Māori name first before industry can have a say.

e) One submitter suggested that they would like Tanga Te Whenua to decide if it is appropriate.

6. One submitter recommends that all WDCs should consider having “people” in their name, not just the “Muka Tangata People, Food and Fibre WDC”. They argue that all WDCs are focused on the importance of people.

7. Te Wānanga o Aotearoa commented across all WDCs that they believe all Orders in Council should have a Te Reo Māori descriptor in their title/name for WDCs. They state that respect for and inclusion of Te Reo Māori as an official language of Aotearoa New Zealand, must be a requirement for government entities from the outset, than that Kupu Māori, in this context is not a “nice to have” or a work in progress, it is fundamental.

8. NZ broadcasting school believes it is impossible to come up with a name that adequately describes the sectors this WDC represents and it would be better to come up with a brand name that is representative rather than descriptive.

**Responses and Recommendations**

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<tr>
<td>This feedback was noted and considered by the board. A more detailed description of the meaning behind the name has been developed This description does not fit within the OiC but could be used as part of further developing the identity of the WDC once it is legally established.</td>
<td>No changes to the OiC are proposed.</td>
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| Ministry of Education – Response | Ministry of Education – Recommendations |
### Purpose of the Workforce Development Council and Accountability Arrangements

#### Summary of Clause

**Purpose**

In addition to the requirements of the Act, the purposes of Toi Mai are to:

- use its industry voice to contribute to the creation of a sustainable, globally engaged and adaptive Aotearoa New Zealand (includes Aotearoa me Te Waipounamu and all territories);
- contribute to an education system that provides opportunities for all people to reach their full potential and capabilities, including those who have been traditionally underserved by the education system;
- to contribute to an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships;
- to plan, implement and support the responses to Aotearoa New Zealand’s current and future workforce needs, taking into account:
  - the transition to a low-emissions and climate resilient Aotearoa New Zealand;
  - new global challenges;
  - emerging technologies;
  - global sustainability goals;
  - the changing nature of work, and
  - the skills, knowledge and qualifications learners need in future to achieve success for themselves and their communities.

#### Accountability arrangements

**Performance of functions**

- The Council in the performance of its functions must give effect to:
  - the purposes of the Council; and
  - the Tertiary Education Strategy issued under section 7 of the Act.
The Council must consult with persons or bodies who, the Council considers on reasonable grounds, represent Māori in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of Māori in the performance of its functions.

The Council must consult with persons or bodies who, the Council considers on reasonable grounds, represent specific population groups in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of those population groups in the performance of its functions.

**Statement of strategic direction**

- At least every 3 years the Council must publish on an Internet site maintained by or on behalf of the Council a statement setting out its strategic direction for the next 5 years, and how the Council intends to give effect to:
  - the purposes of the Council; and
  - relevant parts in the Tertiary Education Strategy.

- The Council must consult with the specified industries, the Minister, vocational education providers, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

**Annual report**

- The Council must present to the specified industries and the Minister an annual report on the performance of its functions, including (without limitation):
  - an outline of the progress made towards achieving the goals and objectives set out in the statement of strategic direction; and
  - the audited financial statements of the Council.

**Summary of Submissions**

9. Submitters who (strongly) agreed with the proposed purpose & accountability arrangements found that:

   a) The proposals were well thought out given the complexity of the task (acknowledging that they might need refining).

   b) The purpose and accountability arrangements should lay the foundations for a strong industry voice. Those who agreed to the current proposal generally thought that the proposals achieved this.

   c) It creates the context for strong industry voice and collaboration between industry and training providers.
d) It is great to see the mandate for consultation with the local sector as well as articulating strategy on a regular basis.

e) It ensures transparency.

10. One submitter argued that the proposals do not provide sufficient detail.

**Purpose**

11. The Tertiary Education Union (TEU) drafted an alternative purpose statement, which they believe could be applied across all WDCs. Their alternative statement is based on a synthesis of the various purpose statements across the Orders in Councils, but with a number of minor additions. Their suggested additions focus on inclusivity and diversity (bi-culturalism).

12. The Employers and Manufacturers Association (EMA), Māori and Pasifika trades training Auckland, and Business NZ would like to see the Orders in Council for all six WDCs be more explicit and contain stronger language regarding the role of the WDCs. They believe that ‘contribution to the education system’ is weak in relation to the importance and the ‘leading’ role of the WDCs.

13. Business NZ, the Māori and Pasifika trades training Auckland, and one other individual submitter recommend that the purpose statement should refer to the WDCs’ responsibility to deliver on skills for industry, its accountability to industry, and its role in ensuring a well-functioning workforce and labour market system.

14. Māori and Pasifika trades training Auckland comments that the purpose of each WDC needs to be
   a) specific to their industry, their workforce, and the outcomes of the work the industry does.
   b) specific about the role of the WDC in making sure the education system meets the needs of the industry (and workforce).
   c) brief and to the point
   d) stronger intentional statement than “proposed”.

15. Te Wānanga o Aotearoa (TWoA):
   a) Suggest that the purpose and engagement approach should be consistent across all WDCs to ensure good outcomes for Māori, and to ensure that wānanga are able to engage across all of the WDCs in a consistent, clear manner.
   b) Recommend that the purpose should be amended to acknowledge (collaboration with) wānanga. They also believe that the OiCs should explicitly include the requirement to authentically consult with “persons or bodies” in relation to “s369(2)(b)” and Section 367 (s367) of the Act (which makes provision for the responsibilities which WDCs have for wānanga in particular), to ensure that the wānanga have confidence that their provision will be properly recognised and acknowledged.
c) Expressed concern that the majority of the OiCs suggests that the purpose of honouring Te Tiriti for WDCs is to “help ensure fair and equitable outcomes for all”, rather than, the more appropriately described position from Ka Hikitia, that is “to give practical effect to Tiriti o Waitangi in the [vocational training] system”.

16. HITO agrees in general to the purpose and accountability arrangements but note that the purpose and responsibilities are complex. They are concerned that the proposed structure will not be sufficient to achieve effective standard setting, and question the ambiguity about what is meant by “Providing employers with brokerage and advisory services”, and state that it is not clear whether capstone assessments are part of the responsibility of the WDC.

**Accountability Arrangements**

17. The Tertiary Education Union (TEU) recommends that:

   a) The following sub-bullet points (taken from the Primary OiC) are included under the ‘Accountability Arrangements - Performance of functions’ for each of the six WDC Orders in Council:

   - The Council in the performance of its functions must give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies that relate to vocational education and training. This recommendation was supported by Te Wānanga o Aotearoa (TWoA).

   ii. The Council in the performance of its functions must:

   - act in a manner which is consistent with the goals and objectives of the vocational education system as a whole;
   - work collaboratively with providers, including work-based trainers and employers, to ensure that qualifications, standards, and learning packages, enable successful outcomes for all learners; and
   - advocate for, and contribute to, policies that meet the needs of industries covered by the Council, particularly as they relate to vocational education, career promotion and planning, and the funding of education and training.

   b) The ‘Accountability Arrangements – Statement of strategic direction’ section states that:

   i. The statement of strategic intent should include how the Council intends to give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies

   ii. The Council must consult with the specified industries, the Minister, vocational education providers, Te Pūkenga, relevant Centre(s) of Vocational Excellence, Regional Skills Leadership Groups, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.
18. The Employers and Manufacturers Association recommends that there must be some measure of how well WDCs are performing, both in engaging with industry and in providing the necessary skills for business.

19. One submitter recommended that the accountability arrangements should require WDCs to consult with RSLGs.

20. Business NZ recommends that:
   a) The accountability arrangements are significantly strengthened to explicitly include mechanisms to ensure that skill standards are relevant and aligned to the professionalization and regulatory requirements for industry.
   b) Given the broad scope of industry coverage, strengthened accountability to industry and articulation of how it will manage the broad coverage scopes should be built into the accountability mechanisms.
   c) The Annual Report in the accountability arrangements should require the setting of key performance indicators and commitment of service levels to industry for WDC’s to report against.

21. Skills Active Aotearoa suggests that the purpose could be further strengthened by capturing the ability of individuals to not only contribute to economic and personal outcomes, but also to social and community outcomes.

22. WeCreate supports the purpose but notes that the obligations under ‘Performance of Functions’ in relation to Te Tiriti are considerably weaker than those outlined in the ‘Purpose’ statement.

23. Waikato-Tainui highlight the importance of the statement ‘to contribute to an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships’, and expect this WDC to be accountable for giving effect to it.

Responses and Recommendations

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<thead>
<tr>
<th>Interim Establishment Board Response</th>
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<tbody>
<tr>
<td>This feedback was noted and considered by the board.</td>
<td>Agree that a clear articulation around Te Tiriti and Mātauranga Māori/Māori education that focuses on commitment, accountability and strategic alignment be included in the accountability arrangements.</td>
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<tr>
<td>The iEB noted that a number of organisations wanted clearer articulation of the level of accountability for Māori education and better linkages between Māori education across the education sector.</td>
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Ministry of Education Response | Ministry of Education Recommendation |
MoE considers that the current Treaty statement in the purpose statement clearly links to the accountability arrangements. | **Note** that MoE does not support the iEBs recommendations, we consider the Treaty statement in the purpose statement clearly links to the accountability arrangements.  
**Agree** to not make the changes the iEB recommends to the Treaty statement and accountability arrangements.
Council membership provisions

Summary of Clause

- The Council is to comprise 7 to 9 members, but ideally 9 members for breadth of competencies and connections, including:
  - at least 1 member who is able to provide collective representation of employees from one or more sectors covered by Toi Mai, drawn from candidates nominated by:
    - one or more of the unions active in the sectors covered by Toi Mai; or
    - the NZ Council of Trade Unions/CTU Rūnanga; or
    - nominations from individuals or collected employees involved in the sectors covered by Toi Mai (collected employees must not be from groups that also have employers as members, unless they are able to act as an independent sub-group from the parent entity).
  - at least 1 member who is able to provide collective representation of employers from one or more sectors covered by Toi Mai;
  - at least 1 member who is able to provide representation of Māori employers; and
  - at least 3 members who are Māori, with consideration of their coverage across Toi Mai coverage areas.

- In addition to the 7 to 9 members specified above, up to 2 people can be co-opted by the Council for specific reasons for no more than 3 years in any one case. This means that the Council could comprise up to 11 members if 2 additional members are co-opted at the same time.

Summary of Submissions

24. The Tertiary Education Union commented that the parameters pertaining to the size, make-up, and mandatory membership requirements of the Councils should be consistent for each of the six WDCs whilst allowing for flexibility within those parameters. They put forward an alternative council membership proposal in which:

   a) The Council comprises 8, 9, or 10 members, as determined by the Council, made up as follows:
      i. 1 member nominated by Māori employers in the specified industries, to represent them;
      ii. 1 member nominated by Māori employees in the specified industries, to represent them;
 iii. 1 member nominated by employees, the Council of Trade Unions, and unions representing employees in the specified industries, to represent them;

 iv. 1 member nominated by the employers in the specified industries, to represent them;

 v. 1 member from the Pacific community;

 vi. 1 member from Te Pūkenga involved in the provision of education in the specified industries nominated by subsidiary employees, to represent them. (the TEU Unitec branch voiced their support for this specific recommendation)

 vii. The remaining members appointed by the Council to bring the total membership of the Council up to 8, 9, or 10 members as determined by the Council

 b) The Council as a whole must have approximately an even balance between members of the Council who are Māori and non-Māori

 c) When seeking nominations for an employee representative, the Council or the appointments committee must:

  i. take all reasonable steps to notify employees in the specified industries about the process for nominating members;

  ii. ensure that the persons nominated for appointment have the support of a sufficient number of employees in the specified industries; and

  iii. not specify who is eligible to be nominated for appointment as a member except as provided for in the Order, or in any rules.

 d) The Council may co-opt up to 2 persons for no more than 3 years to be a member if necessary or desirable:

  i. to ensure that the Council has an appropriate mix of skills, leadership, and experience, provided that the Council comprises in total no more than 10 members;

  ii. to provide opportunities for people of different age, ethnicity, ideas, and gender to develop the knowledge, skills, and experience in governance necessary to be appointed as a member of a professional governing body;

  iii. to increase opportunities for participation at a governance level by Māori, Pacific peoples, and people living with disabilities;

  iv. to draw on the experience, knowledge, and views of learners; and

  v. to ensure that over the long-term there is adequate representation of Māori, with the aim of contributing towards an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

 25. Submitters who (strongly) agreed with the proposed council membership arrangements found that:

  a) The proposals make sense.
b) The proposals will ensure reasonably well spread representation.

26. Submitters who (strongly) disagreed with the proposed council membership arrangements argued that:
   a) There was no specific provision for representation for their respective industry in the proposal (e.g. recreation, outdoor, sports)
   b) The coverage of the WDC is too broad/diverse, leading to delusion in industry needs and representation.

Māori / Pasifika representation

27. Several submitters commented on the Māori representation, as included in the Order in Council:
   a) Te Wānanga o Aotearoa commented that all OiCs should include opportunities for Māori employee representation, to ensure that vocational education and training is responsive to Māori apprentices and trainees. They believe this is particularly critical in areas with high Māori participation (such as Primary Industries, Services, Creative, Logistics and Community).
   b) Māori and Pasifika trades training Auckland recommends that the number of employer representatives needs to be increased to four, including Māori and Pasifika business leaders.
   c) The Ministry of Health's Health Workforce Directorate suggests the inclusion of specific reference in the Governance section to having an iwi focus within the WDC, which would give practical effect to the principles of Te Tiriti o Waitangi.
   d) Te Rau Ora recommends more Māori representatives on this council, including those Māori with health, community, social service sector experience and clear history of Māori Health, Community and Social Service workforce development experience.
   e) One submitter commented that there are too many employers for the Council to have just one Māori representative.
   f) One submitter argued that:
      i. There must be ‘a minimum of 50% Māori representation’ on the council.
      ii. The quorum should also state that Māori representation is required for a quorum to be met.

28. Several submitters, including the Employers & Manufacturers Association (EMA) and the Māori and Pasifika trades training Auckland highlighted the need for a clear definition of Māori / Pasifika business / employer. Māori and Pasifika trades training Auckland recommend the definition includes 50% ownership base with stated intentions to promote Māori and/or Pasifika economic position in the trades sector. This process would include clear consultation with business and community organisations that promote Māori and Pasifika participation in the trades including: AMOTAI, Pacific Business Trust, Iwi and Hapu Corporations.

29. Business NZ recommends that the Council membership provisions should be strengthened and consider Māori representation more broadly in terms of the industries which have high proportions of Māori and Pacific in their workforce, rather than just representation at the Board table.
30. One individual sees tangata whenua representation as meaningful in terms of Te Tiriti expectations but expects that consideration be given to diversity of members and not just industry connections.

**Industry representation**

31. Several organisations, including the Employers & Manufacturers Association (EMA), Business NZ, and Digital Technology Industry and Profession, would like to see increased industry / employer representation in the proposal:

   a) Employers & Manufacturers Association (EMA) and Business NZ recommend that each council should have at least 50% representatives from that industry coverage area, to ensure it is an ‘industry-led’ organisation.

   b) The Digital Technology Industry and Profession (with IT Professionals New Zealand, NZTech, NZRise, and Aotearoa Tech Union, with support from TUANZ and CITRENZ) believes that at least half of the Council’s members should from the industries covered by the WDC.

32. Business NZ notes that it does not consider that Māori representation and industry representation are mutually exclusive.

33. The YMCANZ believes that some industries are not represented at all and that there is a bias toward agencies and sectors that have members on the council currently.

**Employee representation**

34. The Council of Trade Unions (CTU) recommends that:

   a) each WDC include at least two worker representatives, of which at least one be a representative of Māori workers. (this recommendation was also voiced by First Union)

   b) the appointment of each worker representative on a WDC require endorsement from the CTU.

   c) a consistent process be established for appointments to WDCs. In any case where an appointments panel is convened, this should include representatives from CTU, Business NZ and iwi/Māori.

35. Business NZ recommends that the Council membership provisions should include working with BusinessNZ and the CTU to utilise the tripartite approach to governance arrangements rather than building in special provisions for union representation and endorsement.

36. First Union recommends that an explicit statement mandating union representation be included.

37. First Union state they are comfortable with the suggestion that Te Rūnanga endorses Māori worker candidates.

38. The NZ Dairy Workers Union recommends that:
a) All six WDC OIC proposals should stipulate that only nominations and/or endorsements from trade unions involved in the WDC coverage areas or from the CTU/Te Rūnanga should be accepted for WDC representatives tasked with the collective representation of employees, both Māori and non-Māori;

b) All six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

39. Several submitters argued that, the requirement for union / collective representation seems unnecessary/unfair, given that there is little or no union on CTU membership within the Creative and Technology sectors.

a) Skills Active Aotearoa stated that they were unsure how the requirement for union / collective representation will best serve the diversity of the industries covered by this WDC, which includes high numbers of volunteers and self-employed people, which do not neatly reflect in the definitions of employer/employee.

b) The Digital Technology Industry and Profession states that they believe there is no established union with wide tech sector coverage.

c) HITO is concerned for the representation of any particular industry and believes that there is an over representation on union representation. They believe that "Effective governance requires members to have a sound knowledge of the area they are governing"

d) WeCreate believe that it will be difficult for the Council to secure the appointment of an 'employee representative member' who can demonstrate that they 'represent employees collectively in one of more of the specified industries', without bias towards one particular industry or sub-sector, in a sector that is largely not collectively represented.

Skills-based council
40. WeCreate agrees that appointments should be primarily competency based but due to the complexity of the WDC and the lack of prior connections to the VET system, the council should include members who are able to represent particular workforce needs.

Other
41. Yoobee Colleges expressed concern that there is no requirement for a Pasifika member, or for Pasifika representation, which is a tertiary education priority group.

42. One person stated that they found there were too many stipulations as to who can be a member of the Council

43. One submitter recommends the inclusion of RSLG members (potentially co-opted) on the council.

44. Depot Artspace commented that the WDC should also include members who have been working on the ground with creatives and within the sector, ascertaining need, developing and delivering programmes that successfully meet identified need of creatives across all disciplines and in all forms of work.
Responses and Recommendations

<table>
<thead>
<tr>
<th>Interim Establishment Board Response</th>
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</thead>
<tbody>
<tr>
<td>This feedback was noted and considered by the board.</td>
<td>Agree that the wording in the OiC be amended so that it is clear that the council must have at least 3 members who are Māori, but that this may include the representatives outlined earlier in the clause.</td>
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</table>

Some particular items that the iEB responded to were:

- **Council make-up** – there were suggestions about a number of groups (including Pasifika, independent earners and volunteers) needing to have a dedicated representation on the council. The iEB reiterated that the council is skills based rather than representative, other than those required by the Primary Legislation. The skills, competencies and experiences that the council must have (as outlined in the proposed criteria section) include understanding of and commitment to each of the main groups identified during consultation.

- **Industry voice** – there were a number of suggestions about particular sectors needing to be represented on the council. Again, the council is skills based rather than being representative. However, the iEB agrees that industries need to have a strong voice and that the council needs to develop strong mechanisms for industry engagement. This will give sectors a way of being heard by the council without each being on the council.

- **Education voice** – similarly, there were a number of suggestions about other parts of the education sector needing to be represented on the council. The iEB believes that these organisations do not need to be represented on the council but that the council should develop mechanisms for education sector engagement.

- **Number of Māori members** – there was a concern raised that the wording in the draft OiC could be read as the council having at least 3 members who are Māori in addition to the people listed above that clause rather than having at least 3 members who are Māori inclusive of
the people listed above. The iEB felt that this was a language issue in
the drafting and should be clarified in the final version.

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<tr>
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<td></td>
<td>Note that the Ministry supports the iEBs recommendation that the drafting is clear.</td>
</tr>
</tbody>
</table>
Criteria for the appointment of members

Summary of Clause

- All appointments will be primarily competencies-based appointments, taking into account the skills, competencies and experiences (identified below) that are required across the Council.
- As a whole, the Council must have:
  - strong knowledge and networks within Te Ao Māori;
  - understanding of, and commitment to, upholding Te Tiriti o Waitangi, and te reo me mātauranga Māori;
  - understanding of, and commitment to, eliminating inequality and the needs of underserved learners, including but not limited to, Māori, Pacific and disabled people;
  - industry leadership, knowledge, connections, experience with the industries covered by the WDC – including early stage (particularly important in the IT industries), SMEs, large organisations and the self-employed or independent earners;
  - vocational education and/or training experience;
  - Government engagement abilities;
  - governance skills and personal attributes/behaviours (financial understanding, diligence, strategic thinkers, problem solvers, creative thinkers, values aligned to the WDC’s work);
  - diversity of thought and experience; and
  - gender balance.

- When appointing the employee representative required by the membership provisions, the Council or the Minister must appoint a person who has a demonstrated ability to provide collective representation of employees and who:
  - has the support of a body recognised as representing employees in one or more of the specified industries, or
  - can otherwise demonstrate that their appointment represents employees collectively in one or more of the specified industries.
45. The TEU recommend that, at a minimum, each of the Orders in Council should include the following criteria for the appointment of members to the Council:

As a whole, the Council must have:

a) A deep understanding of, and commitment to, the principles of Te Tiriti o Waitangi.

b) Strong knowledge and networks within te ao Māori.

c) A sufficient number of members with skills in te ao Māori, including te reo Māori and mātauranga Māori, to ensure that the Council is able to give proper consideration to Māori perspectives in undertaking its duties functions.

d) Experience in Māori business within specified industries.

e) Strong experience in, or engagement with, the vocational education and training system, including pedagogical expertise in teaching, learning (including adult teaching and learning), and pastoral care.

f) An understanding of, and commitment to, inclusion, eliminating inequality, and understanding the needs of underserved learners, including but not limited to Māori, Pacific peoples, and people living with disabilities.

g) Diversity of age, ethnic background, ideas, and gender, with particular regard to representation of Māori, Pacific peoples, and people living with disabilities.

h) A commitment to act with impartiality, honesty, integrity, and manaakitanga.

i) Representatives from both large and small and medium enterprises within the specified industries.

j) The support of, in the case of the employee representatives, the Council of Trade Unions or unions representing employees in the industry.

k) Sufficient knowledge of community organisations.

l) Leadership experience in at least one of the specified industries covered by the Council.

m) Knowledge, skills, and experience relevant to the strategic direction of the Council.

n) Experience in governance and public administration.

o) Experience in financial analysis and management.
46. Several submitters, organisations and groups, recommended that additional criteria are added:
   a) Business NZ recommends that:
      i. the criteria for the appointment of members should include experience, relationships or knowledge of industry associations and the relevant regulatory and professional standard bodies
      ii. The Council membership provisions should be strengthened to ensure members are able to provide leadership and broad industry connections and insights, including on the strategic and regulatory outlook for different industries. This recommendation was also made by the Employers & Manufacturers Association (EMA).
   b) BCITO recommends that all OICs include a requirement that, for the first two years, the Council has members with experience in establishing new organisations and leading change.
   c) Skills Active Aotearoa highlighted that there seems to be low expectation of governance understanding within the appointment criteria
   d) WeCreate strongly recommends that council membership should include expertise in the self-employment and volunteer workers segment of the workforce.

47. Skills Active recommends that skills requirements are set for each individual member, (including governance and vocational education and training understanding and/or experience) and for the collective skillset of the Council in total.

48. Submitters who (strongly) agreed with the proposed member criteria found that:
   a) Having the relevant education and experience is important for credibility.
   b) The proposals seemed fair and appropriate.
   c) It was reasonable to have industry support.
   d) The criteria for iwi and hapū support was good.

49. One submitter found that the construction is too ‘government/bureaucratic’ and ‘woke’, and argued that the optics appear more important than the substance. They suggested that the criteria should be shortened to:
   a) Understanding of, and commitment to, upholding Te Tiriti o Waitangi, and te reo me mātauranga Māori.
   b) Industry leadership, knowledge, connections, experience with the industries covered by the WDC, etc.
   c) Governance skills and personal attributes/behaviours etc.
Responses and Recommendations

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<tbody>
<tr>
<td>This feedback was noted and considered by the board.</td>
<td>No changes to the OiC are proposed.</td>
</tr>
<tr>
<td>The iEB felt that the criteria for skills, competencies and experiences was broad enough to capture the diversity required on the council. In addition, they noted that people on the council needed to be thinking about the wider industry rather than focusing on particular parts or sectors. They think this should be indicated in guidance to the nominations panel, rather than directly in the OiC.</td>
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<tr>
<td>The iEB agreed that the BCITO suggestion of having someone with establishment experience on the initial council would be useful, but this should sit within the guidance to the nominations panel, rather than in the OiC.</td>
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Appointment of the first Council

Summary of Clause

Process for appointment of first members of Council

- The first members of the Council must be appointed in accordance with the membership provisions and membership criteria of the Order.
- Half the members of the Council must be appointed for a term of 18 months and the other members for a term of 3 years.
- All the first members of the Council are to be appointed by the Minister following a nomination process.
- For the purpose of making appointments to the first Council, the Chief Executive of the Tertiary Education Commission must establish a Nominations Committee comprising 5 representatives from the specified industries.
- The Nominations Committee must:
  - seek expressions of interest in, or nominations for, appointment as a member of the Council; and
  - submit to the Minister a list of candidates who it considers are suitable for appointment as members of the Council.

Membership of Council reduced until all appointments made

- The number of Council members required by the Order is proportionately reduced until the date on which each member referred to in the membership provisions is appointed to the Council.
- No action of the Council is invalid merely because any member has not been appointed to the Council on the commencement date of the Order.

Summary of Submissions

50. The Employers and Manufacturers Association (EMA) believes that Ministerial appointment does not reflect an industry led organisation, as a Minister may have limited access and knowledge of the nuances and specific skills required in that sector.

51. Skills Active noted that a nominations committee of only five industry representatives would not give a truly representative voice for the wide breadth of industries covered by this WDC.

52. Yoobee Colleges believes that, as tertiary staff members are unlikely to be included in the WDC membership, they should be included as part of the nominations committee.
53. One submitter notes that the construction is too government bureaucratic.

54. WeCreate is concerned that as the creative sector has not historically been well connected to the Tertiary Education system in an organised manner and there has not previously been an ITO for the creative industries. This could mean a shortage of Council candidates who have expertise in vocational education that’s relevant for the sector's needs. A more proactive, well-promoted, approach may therefore be needed for the EOI process.

55. The NZ Dairy Workers Union recommends that all six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

56. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

**Continuity of experience and knowledge from interim Establishment Boards**

57. HITO believes that having some member from the iEB on the first Council will provide consistency.

**Membership of Council reduced until all appointments made**

58. Yoobee Colleges comments that the section of “Membership of Council reduced until all appointments made” is unclear and currently looks like the council is able to proceed with its duties while further members are still needing to be appointment. They expect a minimum membership provision numbers before the WDC is operational.

**Responses and Recommendations**

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<tr>
<td>This feedback was noted and considered by the board.</td>
<td>No other changes to the OiC are proposed.</td>
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<tr>
<td>The iEB agreed with the proposed change that TEC would run an EoI to establish a nominations committee. This is picked up in the Ministry’s recommendations</td>
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<tr>
<td>Ministry of Education – Response</td>
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27
Appointment of the permanent (or ongoing) Council

Summary of Clause

Appointments panel

- The Council must establish an Appointments Panel for the purpose of seeking nominations and making recommendations to the Council regarding appointments to the Council.
- The Panel will consist of 6 members, at least two members who are Māori.
- One representative appointed by each of the WDCs (including Toi Mai) selected from their Council members.
- If fewer than 6 Panel members are appointed by WDCs, the Council will appoint additional Panel members to bring the total to 6 members.
- Individuals who wish to be on the Council may self-nominate or be nominated by anyone associated with the WDC, including the sectors that make up the WDC.
- The nominee must:
  - be able to identify organisations, individuals or others from the WDC specified industries that support the nomination;
  - demonstrate that they meet the skills, competencies and experience requirements; and
  - indicate whether they seek to represent “collective employees”, “collective employers” or “Māori employers”, or be one of the members who are Māori (and why, including the ability to advocate for those groups).
- The Panel will conduct due diligence, including cultural due diligence if necessary, on nominees or a short list of nominees prior to appointment in order to satisfy themselves that they are fit and proper people to be on the Council, that their nomination is supported as claimed, and anything else that the Panel deems necessary.
- This will include discussions with industry representatives and/or obtaining independent Māori advice, as required.
- The Panel must take into account the following when making recommendations to the Council:
  - current make-up of the Council, and the ongoing make-up of the Council in future (taking into account the members who are continuing on the Council, and who is departing either immediately or within the term of the new appointments), including skills, competencies, experience and industry connections of existing members and nominees (looking at the Council as a whole);
the requirement for a minimum of 3 members who are Māori including consideration of their spread across the WDC coverage areas, and 1 representative from each of "collective employees", "collective employers" and "Māori employers".

**Process for appointment of the permanent Council**

All appointments to the Council will be made by the Council following recommendations made by the Appointments Panel.

**Summary of Submissions**

59. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

60. The NZ Dairy Workers Union recommends that all six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

61. In their submission, Skills Active Aotearoa commented that they found the appointment panel process confusing, and unclear who is involved and/or making decisions. They suggest that the section should be reworked and aspects need to be clarified before the OIC is finalised.

62. Skills Active and WeCreate disagree with the proposed use of representatives from other WDCs on an appointment panel.
   a) Skills Active states that there is a risk that the need for an understanding of the CCRT industries would be overlooked in the appointment process, and they recommend that the appointment process from the HCSS WDC could be adopted.
   b) WeCreate recommend that the appointment panel includes one or more representatives from each of the sectors and key sub-sectors of the coverage.

**Term**

63. Submitters pointed out that there is no mention of term of office for council members, and recommend that a maximum term for all Council members be set, e.g. maximum of two terms (as per the original engagement document)

64. One submitter was somewhat unsure about the timings of these permanent roles and when they are appointed.

**Responses and Recommendations**

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29
This feedback was noted and considered by the board.

The iEB discussed concerns raised about the appointments panel being made up of people from other WDCs rather than from representatives of CCRT industries. The iEB noted the concerns but felt there was value in having people with broad, cross-sector experience and exposure and that concerns around particular industries not being represented could be mitigated through guidance that the first council can develop for the appointments panel. The iEB noted that the council will make appointments based on recommendations from the appointments panel, so ultimately has the final decision and can ensure the council is industry led.

The iEB discussed a maximum number of terms for members. A maximum had been included in earlier drafts of the OiC and the iEB believes that this was accidentally omitted in the final draft. The iEB would like this added back in to the OiC.

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<td>Note that the Ministry agrees with the iEB’s recommendation</td>
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The iEB recommends that a clause be added to limit the maximum number of terms for any member to two terms.

No other changes to the OiC are proposed.
Detailed governance arrangements that are unique to each Workforce Development Council

**Summary of Clause**

Appointment of chairperson, co-chairpersons, deputy chairperson (as applicable)

Appointment of co-chairpersons

- The Council will have two co-chairpersons, one of whom will be Māori.
- Each co-chairperson’s term will be for 2 years, plus up to 2 additional years (in 1-year terms).
- No co-chairperson may serve as co-chairperson for more than 4 years.
- When considering the appointment of the co-chairpersons, the Council will take into account matters such as gender, ethnicity, experience and sector connections.
- The co-chairpersons will be appointed directly by the members of the Council by consensus or, if that is not conclusive, by way of secret ballot.
- A co-chairperson holds that office until:
  - the co-chairperson resigns from that office; or
  - the co-chairperson is removed from it by the Council; or
  - the co-chairperson ceases to hold office as a member; or
  - the term of office specified on appointment expires.
- A co-chairperson may, without resigning as a member of the Council, resign from that office by written notice to the Council. The notice of resignation must state the date on which the resignation takes effect.
- The Council may, after consultation with the person concerned, remove a co-chairperson from that office by written notice to the person. The notice of removal must state the date on which the removal takes effect.
- The Council must determine a policy relating to the functions and responsibilities of the co-chairpersons including the process for determining:
  - which co-chairperson will chair each meeting;
  - the allocation of the duties and responsibilities between the co-chairpersons; and
Meetings

- The co-chairpersons may convene meetings to be held at the time and place that the co-chairpersons determine and must give at least seven days’ notice in writing of those meetings to members.
- Meetings can be held by means of electronic communication.
- No business may be transacted at a meeting unless a majority of the members then holding office are present.
- The Council should strive to achieve consensus in its decision-making. All matters arising at a meeting can be decided by a majority vote of those members present with the chairperson of the meeting having a casting vote.
- A unanimous resolution in writing signed by all Council members is as valid as if it had been passed at a meeting of those members.
- An irregularity in a notice of a meeting is waived if all members entitled to receive the notice either:
  - attend the meeting without objection to the irregularity; or
  - do not attend the meeting but agree before the meeting is held to the waiver of the irregularity.
- Except as set out above or by law, the Council may determine its own procedures for regulating meetings and conducting its affairs.

Collective duties of the Council

- The Council must act in a manner consistent with its functions, duties and powers.
- The Council must perform or exercise its functions, duties, and powers efficiently and effectively.
- The Council must operate in a financially responsible manner and, for this purpose, must prudently manage its assets and liabilities.

Summary of Submissions

65. Te Kāhui Ahumahi (made up of all Māori interim Establishment Board members) request that their collective is formalised in each OIC so as not to leave the establishment/continuation of a Kāhui Ahumahi to chance. This suggestion was supported by another submitter who asked to consider a Māori Workforce Development Council and that we consider all Maori members across all of the workforce development councils being able to form a Kahui Korowai (Maori governance with direct position / role that connects to the CEO).
WDC collaboration

66. Several submitters – including Business NZ, BCITO, New Zealand Certified Builders Association, Engineering NZ, NZ Marine Industry Association, and Taituarā – highlighted the importance of WDC collaboration to an effective VET system, and would like to see this formalised in the Orders in Council. They refer to the Construction & Infrastructure WDC Order in Council, which already has a provision to this effect.

   a) BCITO also recommends that the provision from the Construction & Infrastructure WDC Order in Council is broadened to include collaboration with skills bodies (e.g. regulators or professional organisations)

   b) Business NZ and NZ Marine Industry Association highlights the opportunity for WDCs to work collaboratively to share best practice and recognize opportunities to better serve business by sharing relevant resources and materials to deliver skill solutions

   c) Several submissions point out that this collaboration is particularly of interest for sectors that are covered by or regularly have to engage with several WDCs.

Chair / Co-Chairs / Deputy Chair

67. Many submitters voiced their opinion about the proposed co-chair arrangement:

   a) The EMA recommends that at least one of the two co-chairs is an industry representative.

   b) Skills Active recommends that the fourth bullet point be clarified to take into account ‘governance experience’.

   c) HITO does not support the co-chair arrangement, as they believe that having co-chair of a board of 7-9 may cause issues. They also believe that a co-chair will require a specific skillset.

   d) One organisation does not believe there is a need for co-chairs to represent Māori interests, and they believe this will be dysfunctional and be bias toward Māori.

   e) One organisation commented that the appointment of a co-chair will obfuscate the reason for the WDC. They argue that it is about industry training, not Māori needs.

68. One submitter expressed their concern about having a second term though for Co-Chairs, as this may stymie innovation.

69. Yoobee Colleges notes that the co-chair can be removed ‘after consultation with the person’. This suggest agreement with the decision from the person. They recommend that perhaps this needs an additional statement that if the co-chairperson disagrees with the removal, the Council has the power to removal upon support from the Council (majority rules).
## Responses and Recommendations

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<td>This feedback was noted and considered by the board.</td>
<td>Agree to amend the OiC to refer to “co-chair” (rather than “co-chairperson”) throughout.</td>
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<tr>
<td>The iEB discussed the benefits of collaboration between the WDCs and working collaboratively on Māori education across WDCs. The iEB felt that these were both important for the WDC. They felt that this should be built into the OiC where possible and also be operationalised as the WDCs are established.</td>
<td>Agree that a clause be added to create a requirement to collaborate with other WDCs along the following lines: The WDC must:  - identify the specified industries where close collaboration with another workforce development council is required to ensure that the industry training needs of those industries are met; and  - establish appropriate engagement models with those other workforce development councils and specified industries to ensure that the industry training needs of those industries are met.</td>
</tr>
<tr>
<td>The iEB noted that the terms “co-chair” and “co-chairperson” are both used in the OiC proposal. They would like the same term to be used throughout and “co-chair” is their preferred option.</td>
<td>They recommend adding the clause used in a number of other OICs for consistency.</td>
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<td>Note that the Ministry supports the iEBs recommendations.</td>
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### Detailed governance arrangements that are the same across all Workforce Development Councils

#### Summary of Clause

**Eligibility for appointment**

- The following persons are disqualified from being members of the Council:
  - a person who is an undischarged bankrupt;
  - a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any enactment;
  - a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988;
  - a person in respect of whom a personal order has been made under that Act that reflects adversely on the person’s:
    - competence to manage their own affairs in relation to their property; or
    - capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare.
  - a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless the person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person;
  - a member of Parliament;
  - a person who is disqualified under any Act.

**Revocation of appointment of members**

- The Council may revoke the appointment of an appointed member of the Council for just cause.
- The revocation must be made by written notice to the member, stating the date on which the removal takes effect, which must be no earlier than the date on which the notice is received, and the reasons for the removal.
- The Council may revoke the appointment of a member with as little formality and technicality, and as much expedition, as is permitted by:
  - the principles of natural justice;
  - a proper consideration of the matter; and
the Council’s policy, if any, on revocation of appointment of members.

- A member of the Council is not entitled to any compensation or other payment or benefit relating to the member ceasing, for any reason, to hold office as a member.
- The term “just cause” includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the Council or the individual duties of members (depending on the seriousness of the breach).

### Individual duties of members

- A member of the Council may not contravene, or cause the contravention of, or agree to the Council contravening the Education and Training Act 2020.
- A member of the Council must, when acting as a member, act with honesty and integrity.
- A member of the Council must, when acting as a member, act in good faith and not pursue the member's own interests at the expense of the Council's interests.
- A member of the Council must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation):
  - the nature of the Council;
  - the nature of the action; and
  - the position of the member and the nature of the responsibilities undertaken by the member.
- A member of the Council who has information in the member’s capacity as a member that would not otherwise be available to the member, may not disclose that information to any person, or make use of, or act on, that information, except:
  - in the performance of the Council’s functions; or
  - as required or permitted by law; or
  - when the member is authorised to do so by the Council and the disclosure, use, or act in question does not, or is unlikely to, prejudice the Council.
- A member must comply with a code of conduct for members issued by the Council.
- Members must:
o act in the interests of the Council as a whole; and
o act in a manner that promotes the performance of the functions and the duties of the Council.

**Accountability for performance of duties**
- The duties of the members of the Council are owed to the Council.
- A member is not liable for a breach of an individual duty under this Order except as provided below:
  - if a member does not comply with their individual duties, the appointment of that member may be revoked;
  - the Council may bring an action against a member for breach of any individual duty.
- This provision does not affect any other ground for removing a member from office.
- Accountability for performance of duties under this provision does not affect anything else for which the member may be liable under any Act or rule of law arising from the fact or omission that constitutes the breach.

**Personal liability of members**
- A member of the Council is not personally liable for any act done or omitted to be done by the Council, or for any loss to the Council arising out of any act done or omitted to be done by the member, if the act or omission was (so far as the member’s involvement is concerned):
  - in good faith; and
  - in performance or intended performance of the functions of the Council.

**Continuation in office**
- Each member of the Council continues in office (unless the member ceases to hold office) until a successor is appointed.
- A member may resign from office by written notice to a co-chairperson signed by the member.
- The resignation is effective on receipt by the Council of the notice, or at any later time specified in the notice.
- A member of the Council ceases to hold office if the member:
  - resigns; or
  - is removed from office; or
  - becomes disqualified from being a member; or
otherwise ceases to hold office in accordance with any enactment.

**Ordinary vacancies**

- The Council must fill any ordinary vacancies as soon as practicable using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.

**Extraordinary vacancies**

- An extraordinary vacancy occurs when a member dies or ceases to hold office.
- If an extraordinary vacancy occurs within 6 months of the expiry of the vacating member’s term, the Council may appoint a replacement or leave the vacancy open.
- If an extraordinary vacancy occurs more than 6 months before the expiry of the vacating member’s term, the Council must appoint a replacement using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.
- A person appointed or elected to fill an extraordinary vacancy holds office only for the remainder of the vacating member’s term.

**Administrative provisions**

- The powers of the Council are not affected by any vacancy in its members.
- The Council may appoint committees to advise it on any matters relating to the Council’s functions and powers.

**Conflicts of interest**

- A member who has an interest in a matter relating to the Council must disclose to the Council details of the interest as soon as practicable after the member becomes aware that the member is interested.
- The details that must be disclosed are:
  - the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
  - the nature and extent of the interest (if the monetary value cannot be quantified).
- A member who has an interest in a matter:
  - may not vote or take part in any discussion or decision of the Council or any of its committees relating to the matter, or otherwise participate in any activity of the Council that relates to the matter; and
A person has an interest in a matter if the person:

- may derive a financial benefit from the matter; or
- is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
- may have a financial interest in a person to whom the matter relates; or
- is a partner, director, officer, board or Council or committee member of a person who may have a financial interest in a person to whom the matter relates; or
- is otherwise directly or indirectly has an interest in the matter.

The term “matter” means the Council’s performance of its functions or exercise of its powers or an arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Council.

**Delegation**

- The Council can delegate any of the functions or powers of the Council (other than the power to appoint a general manager) to a member or members of the Council, the general manager, a committee appointed by the Council, any other person or entity approved by the Council, or a subsidiary of the Council.
- Delegations are made by resolution and written notice to the delegate.
- The power to delegate cannot be further delegated.
- The person to whom functions or powers are delegated can exercise those functions or powers with the same effect as if the delegate were the Council.
- A person who purports to act under delegation is presumed to be acting in accordance with a delegation unless proven otherwise.
- The Council can still exercise a power or function that has been delegated and remains liable for all acts that are performed under delegation.
- A delegation can be revoked by the Council by notice in writing, or by any other method specified in the delegation.

**Appointment of general manager and other employees**

- The Council:
  - must appoint a person who is not a member of the Council to be its general manager; and
may appoint any other employees it thinks necessary for the efficient performance of its functions.

- The general manager is:
  - responsible for the efficient and effective management of the Council; and
  - must give effect to the policies and directions of the Council in relation to the performance of its functions.

- The general manager may be referred to by any other title that the Council determines.

**Rules**

- The Council may make rules providing for the nomination and selection of candidates for appointment of members to the Council.
- The Council may make rules for any purpose relating to the performance of its functions.
- When preparing rules (and any amendments to them), the Council must take all reasonable steps to consult those affected by the rules.
- The Council must take all reasonable steps to ensure that those affected by the rules are aware of their existence and are able to obtain copies of them.

**Summary of Submissions**

70. Skills Active supports the detailed governance arrangements for all Councils, but note some opportunities where they could be further strengthened:

   a) Should there be a specified consequence for failure to disclose conflicts of interest? Is there an expectation that Conflicts of Interest are recorded?

   b) Regarding Rules: It is unclear how the first bullet point on the appointment of members relates to the earlier section on the appointments process.

   c) Regarding mechanisms for industry engagement: They suggest that this sub-point be amended to read, “Provide information and views on development and reviews of industry qualifications and standards”.

71. One submitter indicated that these arrangements could have been strengthened with the code of conduct if it has been drafted. It would be useful to see further reference to Te Tiriti o Waitangi at this level.
Responses and Recommendations

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Mechanisms for industry engagement

Summary of Clause

- The Council must make arrangements (for example, by establishing industry stakeholder groups) for ensuring that employers and Māori employers, industry bodies, employees, independent earners, iwi/hapu partners, learners and other parties with an interest in the specified industries, as determined by the Council, have an adequate opportunity to provide input to the Council in support of the performance of its functions including, without limitation, to:
  
  o provide information and views that will assist the Council in formulating its advice to the Tertiary Education Commission on investment in vocational education and workforce planning for the specified industries;
  
  o provide information and views on current and future skills and knowledge requirements in the specified industries;
  
  o provide information and views on reviews of industry qualifications;
  
  o provide information and views on career pathways into and within the specified industries;
  
  o provide information and views that will assist the Council to undertake strategic workforce leadership research, advice, and support to all specified industries;
  
  o enable industry to raise issues and concerns about the governance, management and operation of the Council.

Summary of Submissions

72. The TEU recommends that, in order to ensure consistency in approach across the WDCs, a single set of mechanisms and principles which can apply to each of the six WDCs.

The engagement model must:

a) describe the arrangements or opportunities for regular interaction between the specified industries and the Council, including at least one annual meeting with representatives of the specified industries;

b) establish a process for co-ordinating its activities with other WDCs in relation to complementary industries;

c) establish a process for engagement with unions regarding the performance or exercise of its functions, duties, and powers;

d) establish a process for engagement with industry peak bodies to understand and contribute to strategies developed by industry peak bodies;
e) ensure the Council reports regularly to the specified industries and national advisory groups on the performance of its functions, including, specifically, on its engagement with small and medium enterprises;

f) ensure the Council makes arrangements (for example, by establishing industry stakeholder groups) for ensuring that employers and Māori employers, industry bodies, employees, independent earners, iwi/hapū partners, learners, unions, Te Pūkenga, Centres for Vocational Excellence, Regional Skills Leadership Groups, and other parties with an interest in the specified industries, as determined by the Council, have an adequate opportunity to provide input to the Council in support of the performance of its functions including, without limitation, to:

i. gain deeper understanding of the breadth of the specified industries;

ii. provide information and views on current, emerging, and future skills and knowledge requirements of employees working in the specified industries;

iii. identify and maximise the opportunities of particular groups of learners, including Māori, Pacific peoples, women, and people living with disabilities, whether specific to the coverage of the Council or as part of a wider group of learners coming within the coverage of other WDCs;

iv. provide information and views that will assist the Council in formulating its advice to the Tertiary Education Commission on investment in vocational education and workforce planning for the specified industries;

v. provide information and views on reviews of industry qualifications;

vi. provide information and views on career pathways into and within the specified industries;

vii. provide information and views that will assist the Council to undertake strategic workforce leadership research, advice, and support to all specified industries;

viii. enable industry and providers to raise issues and concerns about the governance, management, and operation of the Council.

73. The Tertiary Education Union (TEU), Council of Trade Unions (CTU), New Zealand Nurses Organisation (NZNO), and First Union recommend that the mechanisms for industry engagement in each Order require inclusion of unions. The New Zealand Dairy Workers Union supports this recommendation, and specifies that this inclusion concerns both unions involved in the specified WDC coverage area, as well as the CTU/Te Rūnanga. They also state that all six OIC proposals should also include an obligation that relevant trade unions and the CTU/Te Rūnanga should be directly involved in, and members of, any industry stakeholder groups established by a WDC (this was also voiced by First Union).

74. Māori and Pasifika trades training Auckland believes that existing associations should have a collective voice.

75. Te Kāhui Ahumahi believes that the partnership must be evident in the secondary legislation to ensure that the intent of the Act is met, and they recommend that the Orders in Council should mention iwi or Māori industry under the mechanisms for industry engagement.

76. One submitter believes that the mechanisms should include:
a) Regular engagement with RSLGs.

b) Recognition of the opportunity to build understanding of, and help address, the barriers to and opportunities for increasing labour market participation of some population groups (as per the Primary Industries WDC Order in Council).

77. Several submitters, organisations and individuals, highlighted that the WDC is likely to experience challenges when engaging with the broad range of industries within the coverage of the WDC. Many comment on the risk that the voices of smaller, less ‘visible’ industries within the coverage of the WDC will not be heard.

78. The Employers & Manufacturers Association (EMA) recommends that the role of the Industry Stakeholder Groups gets more defined and that there is an obligation for the Council to take their feedback into consideration and/or act upon their feedback.

79. ‘Some submitters who (strongly) agreed with the proposed mechanisms for industry engagement commented that:

   a) The proposals were adequate.
   b) The proposals would create a context for a strong industry voice and collaboration between industry and training providers.
   c) The manner in which the WDC will engage with industry is what will make or break the CCRT WDC.
   d) Committee members experience will be vital.
   e) Mechanisms for industry engagement should recognise current best practice.

80. Skills Active suggests that the third sub-point be amended to read “provide information and views on development and reviews of industry qualifications and standards”.

81. HITO recommends annual hui with all industries (one for all stakeholders and one for Māori stakeholders) could be useful for sharing of ideas across industries, but will not be a good mechanism for getting specific feedback about hairdressing qualifications and the specific needs of the hairdressing industry. They would want to be sure that they would get specific opportunities to provide input to hairdressing qualifications and to provide information about the needs of small hairdressers throughout the country.

82. Several submitters, including Yoobee Colleges and the Digital Technology Industry and Profession, believe that the provider voice needs to be represented.

83. Several submitter, including the Digital Technology Industry and Profession, believe that the WDC should make use of established industry stakeholder groups with strong industry and profession engagement and consultation mechanism in place.

84. Several submitters believe the proposed mechanisms are vague and broad, and that they should be wider reaching than currently targeted.

85. One submitter thinks that special attention needs to be paid to the part of the sector that is made up of self-employed people.
86. The Digital Technology Industry and Profession (with IT Professionals New Zealand, NZTech, NZRise, and Aotearoa Tech Union, with support from TUANZ and CITRENZ) believe that the proposed mechanisms for industry engagement are insufficient to enable genuine engagement.

   a) They note that the Order in Council does not provide any weight at all to the information and views gathered (e.g. via the industry stakeholder groups), and believe this will result in a situation where those without an understanding of our industry making significant decisions about the future skill and qualification needs of our industry.

   b) They comment that there is nothing in this section that guarantees any form of genuine, meaningful industry engagement. As an example, there’s nothing to suggest that industry stakeholder groups being established can make recommendations and that these recommendations should be actioned unless there is evidence to the contrary.

87. Yoobee Colleges argues that:

   c) The mechanisms lack details of the relationships of the various stakeholders (e.g. WDC, NZQA, TEC, industry, TEOs and other stakeholders). In particular they point out that there is little to no information around the process of signing-off documents, council meeting frequencies, turn-around times, and how the tertiary education sector is to engage with the WDC in an ongoing manner.

   d) It is not clear what power an WDC ‘endorsement’ will have on processes such as qualification development, programme approval or programme review, and it is unclear what processes would need to be in place in case of disagreement between the WDC and a provider. At the moment one of the functions mentioned in this section is to “…raise issues and concerns about the governance, management and operation of the Council”. However, this needs to be expanded further by providing a mechanism to be able to raise concerns to a body outside of the Council.”

88. Outdoor recreation council of Aotearoa believes that some industries will be short changed as the sector is bias

Responses and Recommendations

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The iEB recognise that strong mechanisms for industry engagement are critical to the WDC. However, they believe that the details of how the WDC might engage with the industries and sectors it is responsible for and sits outside the governance functions which are outlined in the OiC. The iEB believes that the WDC should create opportunities to design frameworks
and solutions for industry engagement as one of the first priorities after the WDC is established.

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<td>The Ministry concurs with the iEB that the WDC needs to be given the flexibility to get the engagement right, and that having too much of the process in the OiC risks unhelpfully tying a future council’s hands. The current proposal is sufficient for the WDC to be held accountable for industry engagement.</td>
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## Additional functions of the Workforce Development Council

### Summary of Clause

There are no additional functions.

### Summary of Submissions

89. One submitter suggests that this could refer to assisting RSLGs to plan for and address regional workforce needs.

90. The TEU recommends that ‘additional functions’ included in the Primary Services OiC pertaining to [1] the promotion of opportunities that are conducive to learners reaching their full potential and [2] addressing the needs and aspirations of priority learners including Pacific learners and people living with disabilities, should be included in all six OiCs. [Note: Some feedback was received regarding the ‘Additional functions’ within the Primary Services WDC Order in Council, please refer to the Primary Industries WDC Summary of Submissions]

91. Te Kāhui Ahumahi submitted that performance of functions must include engagement with the Tiriti Partner. They expect this will lead to joint decision making frameworks, mana Tiriti frameworks and outcomes that meet the goals of the Act.

92. The New Zealand Outdoor Instructors Association suggested that the WDC have the ability to recognise, adopt and/or endorse existing industry qualification that are meeting the very industry needs that were otherwise not addressed by the ITO system.

### Responses and Recommendations

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Coverage of the Workforce Development Council

Summary of Clause

The coverage of the Council comprises the workforce development activities in relation to employers, providers, and employees, or people seeking to be employed, in work related to:

- Toi Hangarau / Technology
- Toi Auaha / Creative and Culture
- Toi Tāngata / Recreation
- Nga Toi Māori (Creative)/ Māori creativity

[An exhaustive list of ANZSIC codes was included in the Consultation proposal document]

Summary of Submissions

93. The Employers & Manufacturers Association comments that the coverage areas should not be limited to what is noted at the time of the Order in Council. They state that skills and the labour market are dynamic, and the coverage areas in the OiC should reflect that.

94. Business NZ, the Employers & Manufacturers Association (EMA), Skills Active, and Digital Technology Industry and Profession raised concern about the use of ANZSIC codes as a source of industry coverage areas. They believe that ANZSIC codes are outdated, and too prescriptive for an agile education system that must adapt quickly to deliver the education and skills needs of businesses. Both recommend using ‘skill clusters’, which they believe would support greater discussion in both education and industry on greater skill transferability.

95. Several submitters, including HITO, disagree with the proposed coverage, due to the diversity of industries. They argue that having too many different industries covered by the CCRT WDC would lead to industries getting lost (not having their voices heard) and not getting adequate support. One submitter added that there would be bias, because industries that have someone on the council who represents them would benefit. Another submitter believes that putting all of these industries together undermines the importance of the people working and studying across these very different sectors.

96. A large number of submitters believe that Recreation should sit under the HCSS WDC, rather than CCRT WDC. The main rationale put forward is that sport, exercise, outdoor adventure, etc. are all components of physical health/activity, and are closely tied to mental health/wellbeing.
97. The Beauty Therapy industry is advocating (via a number of standard template responses) that the industry title of “Beauty Therapy” be renamed “Skin Therapy” as the nature of treatments is to improve skin health and wellbeing. Renaming avoids the pejorative implication that without such therapy a person is not considered aesthetically pleasing.

98. The Digital Technology Industry and Profession (with IT Professionals New Zealand, NZTech, NZRise, and Aotearoa Tech Union, with support from TUANZ and CITRENZ) request that Technology (Digital Technologies), Creative Arts, and Business / Business Administration form their own WDC. They believe that the proposed groupings within the CCRT WDC are arbitrary and not in the interests of these industries or ours.

99. Depot Artspace submits that they believe that the Creative Sector should be represented by its own WDC, due to the significant and ever-widening gap between Government recognition and acknowledgement of the issues and needs relating to the Creative Sector and provision of structured support. This would ensure that the identified needs are focussed on and addressed with structures and services, and that progress is monitored, reported on and signed off. They also argue that an independent WDC is warranted due to the size of their sector.

100. The Jewellery Industry Registration Board of New Zealand requests that Manufacturing Jewellery and Watch and Clockmaking [Jewellery and Silverware Manufacturing] be placed under the MEL WDC, rather than the CCRT WDC.

101. Multiple submitters, including the NZ Association of Registered Beauty Professionals, are concerned by the split of coverage for the beauty industry into two separate WDCs, i.e. Hairdressing and Beauty Services (excluding skin therapies and nail technology) with CCRT and hairdressing and Beauty Services (skin therapies and nail technology only) with HCSS. They argue that hair and beauty is often part of the same small business, and they feel strongly that they need representation to ensure qualifications remain and develop as a collective, thereby keeping the beauty qualifications under one WDC.

102. Several submitters comment that:
   a) While there are difficulties to make clear connections across such a disparate sector, it is understandable given the constraints of only having 6 WDCs.
   b) They were interested in seeing how CCRT might work with different WDC (for example Services WDC for developing strong relationships between tourism and Toi Māori) to recognise pathways between them.

103. In their submission, Skills Active raises a number of points:
   a) They comment that the coverage seems heavily weighted to those industries within CCRT with no current engagement in vocational education, which they believe minimises the work and relationships of industries and TITOs that are already engaging in on-job training and qualifications.
   b) They believe that the coverage is silent on Mātauranga Māori, and the sectors that support Ngā Mahi a Te Rēhia. It also misses the Māori cultural arts, including whakairo, rāranga and tā moko.
c) They propose the inclusion of a coverage statement that gives key industries groupings that they ‘can see themselves within’, and of a statement covering the transition of coverage from existing TITOs. This would give greater clarity to the general public. They strongly recommend a statement such as the following (although exact coverage transition needs checking):

The Workforce Development Council will assume responsibility for the coverage of the following transitional industry training organisations:

- i. Skills Active Aotearoa (all industries)
- ii. HITO (all industries)
- iii. Competenz (Journalism)
- iv. The Skills Organisation (Conservation)
- v. Service IQ (Museums and Gambling)
- vi. Primary ITO (Parks and Gardens)
- vii. NZQA (Creative Arts, Information Technology and Computing)

### Responses and Recommendations

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| This feedback was noted and considered by the board. | Agree to amend coverage relating to ANZSIC code 2591 to include:
| The iEB noted that MoE is going to address comments around big coverage issues such as how many WDCs there are and the broad industry groupings. The iEB would like noted that many of the concerns raised can be partially mitigated by WDCs working together collaboratively. | Coverage of 2591 Jewellery and Silverware Manufacturing (limited to the creative design and making of jewellery, as all other aspects are covered by Manufacturing, Engineering and Logistics). |
| The iEB discussed two particular coverage issues: | |
| • Jewellery – the Jewellery Industry Registration Board of New Zealand suggested moving the Manufacturing Jewellery sector to |
the MEL WDC. The iEB supported this in theory but did want to ensure this suggestion was broadly supported by the sector. They also wanted to ensure there were no unintended consequences of splitting the jewellery sector. Victoria will speak to the chairs of the MEL iEB and reach an agreement.

- Beauty/Skin/Hairdressing – there were some concerns from submitters about splitting beauty therapies across CCRT and CHESS. The iEB felt that the split had been given due consideration during the engagement phase and that the way it was split was the most effective for the differing needs of each part of the sector. They therefore recommended no changes relating to the coverage of Hairdressing and Beauty Therapies.

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Other feedback

Summary of Submissions

Summary of Clause

N/A

Summary of Submissions

Other feedback from WDC-specific submissions

104. The Digital Technology Industry and Profession (with IT Professionals New Zealand, NZTech, NZRise, and Aotearoa Tech Union, with support from TUANZ and CITRENZ) comments that by and large, the tech industry’s views were excluded from consideration during the development process and the WDC Order in Council development was undertaken in an overall structure and manner that resulted in a clear and distinct lack of opportunity for the industry to lead the development process.

105. YMCANZ and Outdoor Recreation council of Aotearoa both state that there has not been any consultation with the community and outdoor recreation, and consultation with these sectors is required.

106. Yoobee Colleges expressed their disappointment in the lack of coverage, engagement and consultation with the PTE sector. More important details have already been decided with no consultation with the PTE sector. They note that the ‘7-week consultation period’ is being held over the Christmas break, so in reality is much shorter and they now have the opportunity to comment on the ‘proposal of the Order in Council’ which is a very small part in a much wider discussion area. Lack of PTE coverage also shows in other documentation, for instance the “WDCC - Overview of Orders in Council information session”, where in the work in progress diagram, PTEs are not featured. They state that they take their opportunity to provide feedback seriously, but it feels like the PTE sector are only invited to the table for some decisions, however the sector is similarly affected with the WDC set-up and other RoVE aspects.”

107. Depot Artspace submit that the Creative Sector WDC iEB should subsequently analyse all existing research into creative sector and practitioner needs to determine a robust path ahead. They believe that an Action Plan should be developed on the basis of the analyses with targets and milestones documented.

108. HITO believes that the interpretation of WDC’s role and more specifically the implementation has traveled a long way from what was the Minister’s first vision. The suggested coverage and appointment process will mean the required depth of industry voice required to provide an industry-led standard setting role will be watered down.
Te Rūnanga o Ngāi Tahu makes the following submissions on the establishment of Workforce Development Councils:

a) That Te Tiriti o Waitangi be honoured and therefore a cornerstone of the education system in Aotearoa. Any tertiary education institutions sector, including the WDCs, should positively reflect the bicultural foundations and have a firm commitment to Te Tiriti frameworks.

b) As a Treaty Partner to the Crown, Te Rūnanga expects commitment to ensuring the rights of Ngāi Tahu whānui to access an equitable and successful journey in our education system. There needs to be deliberate investment for success in those most impacted by the systems failure to date. It is important that measures of success are co-designed with Māori.

c) Ngāi Tahu and all Māori should have the opportunity to achieve success in the tertiary sector and subsequent employment pathways. However, this should not come at the expense of their identity as Ngāi Tahu. The system should recognise and privilege mātauranga Māori, helping to empower their identity as Ngāi Tahu rather than detract from it.

d) The governance and ensuing structures involved in designing, developing and implementing RoVE, should privilege Ngāi Tahu aspirations and values within our takiwā. The governance structures of this review process, including Te Taumata Aronui should have access to high quality Māori strategy and policy advice at all levels as this review proceeds. Māori capacity and capability is required in these structures to internally analyse and develop responses that meet Crown obligations as a Te Tiriti partner, to ultimately ensure success for Ngāi Tahu whānui and all Māori.

e) The WDCs should have a firm commitment to be driven by Te Tiriti frameworks. This will provide a foundation to ensure equity is achieved for Ngāi Tahu and all Māori in the tertiary education sector and in turn contribute to equity in employment, particularly in high skilled and future focused industries.

f) In instances where Ngāi Tahu identify training and education of specific interest to Ngāi Tahu whānui, we would expect the opportunity to engage as a Treaty Partner.

g) Ultimately, the expectation is that the tertiary sector and WDCs should have the following outcomes at the heart of their functions, ensuring a contribution to strong and vibrant Ngāi Tahu and Māori community:

i. Ngāi Tahu and all Māori students and learners achieving success in the tertiary education sector,

ii. Ngāi Tahu and all Māori governors, staff and teachers engaged in the tertiary education sector achieving success,

iii. Ngāi Tahu and all Māori achieving success upon entering the workforce from the tertiary sector, as a result of successful engagement in this space.
110. Waikato-Tainui observes a noticeable absence of engagement provisions with hapu and iwi in these proposals. As a Te Tiriti partner to the Crown, they assert that this oversight must be addressed if WDC’s are to give genuine and authentic expression to their obligations under Te Tiriti o Waitangi.

111. The TEU recommends there should be greater consistency across the six Orders in Council, and that there is opportunity to take the best aspects the proposals and apply them to each of the six WDCs.

112. Te Kāhui Ahumahi submitted that:
   a) The formulaic composition of the OICs suggests that the same tools are going to be used and therefore the aspiration of ‘transformation’ will not be achieved.
   b) The purpose and performance functions outlined in the OIC are not asking the WDCs to do anything substantively different apart from applying a lens of industry.
   c) Honouring Te Tiriti means that no one-size-fits-all solution is acceptable, however, we see six OICs that are substantially uniform and use government language that marginalises the Tiriti relationship.
   d) Nowhere in the performance functions or statement of strategic direction sections in the six OICs are we told what transformation will be delivered, by when and for whom.
   e) If these things are not in the legislation, they become optional. This has not served Māori aspirations in the past.
   f) To have a set of OICs that do not mention iwi and how the transformation of the vocational education system will honour Te Tiriti is remiss. Honouring Te Tiriti is a partnership.
   g) Mention of the principles of Te Tiriti o Waitangi in the criteria for the appointment of members is a big red flag to Māori. Principles, or the three Ps as they are commonly known, is a redefinition and a colonial interpretation of the three articles of Te Tiriti. Therefore we ask that any inclusion of Tiriti principles be replaced with the Articles of Te Tiriti
   h) There is no mention of the role that Mātauranga Māori, Māori and iwi will play in any of the six OICs despite the Act. There will always be compromise unless there is an independent, autonomous and Māori appointed and centred entity that secures this taonga for our future generations.
   i) Mātauranga Māori is alluded to in the criteria for appointment but is not supported anywhere else in the document. The appointment process will test this notion. As it stands, the appointment process will be led by TEC and the Ministry of Education; they will appoint members to the appointment panels. In one case, TEC will select nominees to be appointed by the Minister. To put government in control of this process means that industry, Māori and iwi are not in the role the Act envisages. How do the OICs assure Māori and Iwi that their voices are going to be heard?
113. The Employers & Manufacturers Association:
   a) Welcomes required industry representation from both small and large enterprises on the Council Board for some WDCs. However, small business representatives will likely be under resourced. Defining 'small' business will signpost to businesses of that size that they are welcome on the WDC’s. Specifying the obligations of Committee membership will also help ensure small business can be at the table.
   b) Applauds the inclusion of governance development associates to upskill individuals on the WDCs. The role and the criteria for appointment should be defined to avoid the risk of unstructured or ad hoc developmental support for these people.

114. BusinessNZ comment that further emphasis needs to be put on working with industry associations and employer groups to utilise significant work that has already been undertaken on workforce planning, and ensure retention of the many excellent work based training programmes in the existing system, particularly given that workforce planning and skills development are also being undertaken through other government work programmes like MBIE’s Industry Transformation Plans, or MPI’s Food and Fibre Skills Action Plan.

115. Taituarā - Local Government Professionals Aotearoa stated that there is an opportunity for central and local government to work together to jointly develop the public sector workforce.

116. Tāne Mahuta NZ Limited commented that all OIC’s across the 6 WDC’s are mainstream, with limited attention to honouring the 3 Treaty (not Te Tiriti) principles of Partnership, Protection and Participation. This is perhaps due to no Māori member on the Services iEB and limited Māori membership in governance. Primary is the only OIC reflecting partnership at 50/50 membership. Consistent calls by Māori for Māori membership and representation in "services' were not attended to or ignored. Te Tiriti values and principles, on the other hand, sits outside the honourable duties reflected in the OIC’s or attempts to include.

117. One submitter strongly recommends that the WDCs will need to employ staff resources, who have significant understanding of industry skill needs and how they can be defined and applied coherently along with the qualifications that support them. If this is done correctly, then qualifications definition, assessment and updating will be much simplified by the use of stable constructs, where only minor knowledge updating will be required year on year. This will provide longer term validity of qualifications and the resulting benefits to their holders in rapidly evolving contexts.

118. One submitter commented that they do not believe the once-in-a-lifetime opportunities (with the concurrent establishment of WDCs and RSLGs) for stronger connections between WDCs and other parts of the labour market system powerfully enough. They believe that a systemic approach to workforce development and supply by the WDCs and their members needs to be made explicit.

Responses and Recommendations

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<th>Interim Establishment Board – Recommendations</th>
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<tbody>
<tr>
<td>Proactively Released</td>
<td>Proactively Released</td>
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This feedback was noted and considered by the board.

The iEB would like MoE to find a way to respond to the discussion around the meaning of the three articles of Te Tiriti and ensure that the direction is clear.

<table>
<thead>
<tr>
<th>Ministry of Education – Response</th>
<th>Ministry of Education – Recommendations</th>
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<tbody>
<tr>
<td>No changes to the OiC are proposed.</td>
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</table>

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Consultation on WDC Order in Council

Health, Community and Social Services Order in Council – Summary of Submissions
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<td>Detailed governance arrangements that are the same across all Workforce Development Council</td>
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Name of the Workforce Development Council

Summary of Clause

The Community, Health, Education and Social Services Workforce Development Council is established on the date the Order in Council is made.

Summary of Submissions

1. Submitters who (strongly) agreed with the proposed name found that:
   a) It covers the range of industries and breadth of the sector well.
   b) The acronym CHESS is easy to use and to remember.
   c) The name is broad enough to cover the sectors that have been included.
   d) The focus of this WDC is clear.
   e) Including education in the name is essential to the wholeness, in supporting and reaching peoples potential.
   f) The name provides good coverage of a logical coherent area.

2. Several submitters, including the Nursing Council of New Zealand, ComVoices, and BCITO, indicated that they would welcome the use of Te Reo Māori name.
   a) BCITO comment that they do not have a particular view on an appropriate Te Reo name for the WDC, other than to note that the defining connection between the WDC’s industries is their focus on the wellbeing and development of people and their communities. They suggest that the inclusion of terms such as hauora and/or whakawhanake might reflect this.
   b) ComVoices expressed its disappointment that Hauora has been dropped from the proposed WDC title and would recommend and support the development of a Te Reo Māori name as soon as the WDC is set up to better reflect the concept of Wellbeing.
   c) Te Wānanga o Aotearoa commented across all WDCs that they believe all Orders in Council should have a Te Reo Māori descriptor in their title/name for WDCs. They state that respect for and inclusion of Te Reo Māori as an official language of Aotearoa New Zealand, must be a requirement for government entities from the outset, than that Kupu Māori, in this context is not a “nice to have” or a work in progress, it is fundamental.
3. ‘Submitters who (strongly) disagreed with the proposed name argued that:
   a) It is too long.
   b) Many people / industries may not identify with the category ‘Community’.
   c) While the name implies that the WDC covers ‘Health’, the coverage of the WDC omits exercise, recreation and sport, which have been proven to improve physical and mental health outcomes.

4. One submitter proposed to shorten the name to Community and Welfare Workforce Development Council.

5. The Christian Theological Education Ministries Society suggests that the name of the WDC should include the well-being or spirituality aspect of society.

6. One submitter, who recommends that sport and recreation should sit in this WDC, recommends that “wellness” could be added to the name if sport and recreation moves over.

7. One submitter recommends that all WDCs should consider having “people” in their name, not just the “Muka Tangata People, Food and Fibre WDC”. They argue that all WDCs are focused on the importance of people.

8. St John comments that the name covers the broad range of sectors included in the WDC, offering flexibility. They note that some smaller sectors such as funeral directors etc. may struggle to see their place in the proposed name and may feel marginalised.

9. Taituarā agrees with the general approach of incorporating the wider elements that make up the wellbeing sector into the legal name of the WDC. However, they caution any approach that restricts representation and voice to those dominant industry bodies that are perceived to represent the core sectors described in the name. They believe the focus must remain on whether an entity provides a service to citizens of Aotearoa that is aligned with the skills the WDC seeks to support, as opposed to an arbitrary assignment of an industry to a narrow occupational grouping.

Responses and Recommendations

<table>
<thead>
<tr>
<th>Interim Establishment Board – Response</th>
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<tr>
<td>The iEB noted that feedback suggested a Te Reo name. The iEB’s intention was always to have a Te Reo name. A Te Reo name was initially developed (Hauora), however feedback indicated this name was not encompassing of all industries and was too health focussed.</td>
<td>Note that a Te Reo name will be developed for adoption by the WDC to be included as part of the WDC’s identity and branding, which encompasses wellness, knowledge, safety and people.</td>
</tr>
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</table>
The iEB subsequently chose a more encompassing English-language name with the intention of developing a Te Reo name. The iEB initiated work to have this name developed however were unable to finalise a Te Reo name within the timeframe provided.

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Purpose of the Workforce Development Council and Accountability Arrangements

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<td><strong>Purpose</strong></td>
<td><strong>Accountability arrangements</strong></td>
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<tr>
<td>The purposes of the Community, Health, Education and Social Services Workforce Development Council are:</td>
<td>The Council in the performance of its functions must give effect to:</td>
</tr>
<tr>
<td>• to contribute to an education system which honours Te Tiriti o Waitangi to help ensure fair and equitable outcomes for all;</td>
<td>o the purposes of the Council; and</td>
</tr>
<tr>
<td>• to use its industry voice to contribute to the creation of a sustainable, globally engaged and adaptive Aotearoa New Zealand;</td>
<td></td>
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<tr>
<td>• to contribute to an education system which provides opportunities for all people to reach their full potential and capabilities, including those who have been traditionally underserved by the education system;</td>
<td></td>
</tr>
<tr>
<td>• to work with learners, industry (including, without limitation, employers, employees, self-employed people, volunteers, industry associations and unions), tāngata whenua, stakeholders and the other Workforce Development Councils to give effect to the Council’s strategic direction;</td>
<td></td>
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<tr>
<td>• to plan, implement and support the responses to Aotearoa New Zealand’s current and future workforce needs, taking into account:</td>
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<tr>
<td>o the transition to a low-emissions and climate resilient Aotearoa New Zealand;</td>
<td></td>
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<td>o new global challenges;</td>
<td></td>
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<td>o emerging technologies;</td>
<td></td>
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<td>o global sustainability goals;</td>
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<td>o the changing nature of work, and</td>
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<tr>
<td>o the skills, knowledge and qualifications learners need in future to achieve success for themselves and their communities.</td>
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Health, Community and Social Services Order in Council – Summary of Submissions

- the Tertiary Education Strategy issued under section 7 of the Act.

- The Council must consult with persons or bodies who, the Council considers on reasonable grounds, represent Māori in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of Māori in the performance of its functions.

- The Council must consult with persons or bodies who, the Council considers on reasonable grounds, represent specific population groups in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of those population groups in the performance of its functions.

**Statement of strategic direction**

- At least every 3 years the Council must publish on an Internet site maintained by or on behalf of the Council a statement setting out its strategic direction for the next 5 years, including how the Council intends to give effect:
  - to the purposes of the Council; and
  - to relevant parts in the Tertiary Education Strategy.

- The Council must consult with the specified industries, the Minister, vocational education providers, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

**Annual report**

- The Council must present to the specified industries and to the Minister an annual report on the performance of its functions, including (without limitation):
  - an outline of the progress made towards achieving the goals and objectives set out in the statement of strategic direction; and
  - the audited financial statements of the Council.

**Summary of Submissions**

10. Some submitters who (strongly) agreed with the proposed purpose & accountability arrangements found that:

   a) They were detailed, clear and well thought out.
   b) They clearly stated the outcomes and expectations.
   c) It was a positive step forwards.
Health, Community and Social Services Order in Council – Summary of Submissions

d) They agree with the future workforce focus of the WDC and the ability to be readying the workforce for changes ahead.

e) There needs to be stronger emphasis on ensuring the education system / NZ better responding to; discharge and implementing its Te Tiriti obligations. And supporting the vision of Māori control of Māori education.

f) High level statements that allow broad scope for further details to be specified in procedures and allows for flexibility which is important given new entities.

Purpose

11. The Tertiary Education Union (TEU) drafted an alternative purpose statement, which they believe could be applied across all WDCs. Their alternative statement is based on a synthesis of the various purpose statements across the Orders in Councils, but with a number of minor additions. Their suggested additions focus on inclusivity and diversity (bi-culturalism).

12. The Employers and Manufacturers Association (EMA), Māori and Pasifika trades training Auckland, and Business NZ would like to see the Orders in Council for all six WDCs be more explicit and contain stronger language regarding the role of the WDCs. They believe that ‘contribution to the education system’ is weak in relation to the importance and the ‘leading’ role of the WDCs.

13. Business NZ, the Māori and Pasifika trades training Auckland, and one other individual submitter recommend that the purpose statement should refer to the WDCs’ responsibility to deliver on skills for industry, its accountability to industry, and its role in ensuring a well-functioning workforce and labour market system.

14. Māori and Pasifika trades training Auckland comments that the purpose of each WDC needs to be

   a) specific to their industry, their workforce, and the outcomes of the work the industry does.
   
   b) specific about the role of the WDC in making sure the education system meets the needs of the industry (and workforce).
   
   c) brief and to the point
   
   d) stronger intentional statement than “proposed”.

15. Te Wānanga o Aotearoa (TWoA):

   a) Suggest that the purpose and engagement approach should be consistent across all WDCs to ensure good outcomes for Māori, and to ensure that wānanga are able to engage across all of the WDCs in a consistent, clear manner.

   b) Recommend that the purpose should be amended to acknowledge (collaboration with) wānanga. They also believe that the OiCs should explicitly include the requirement to authentically consult with “persons or bodies” in relation to “s369(2)(b)” and Section 367 (s367) of the Act (which makes provision for the responsibilities which WDCs have for wānanga in particular), to ensure that the wānanga have confidence that their provision will be properly recognised and acknowledged.
c) Expressed concern that the majority of the OiCs suggests that the purpose of honouring Te Tiriti for WDCs is to “help ensure fair and equitable outcomes for all”, rather than, the more appropriately described position from Ka Hikitia, that is “to give practical effect to Tiriti o Waitangi in the [vocational training] system”.

16. Te Ao Maramatanga: New Zealand College of Mental Health Nurses Inc. support that the WDC will contribute to an education system which honours te Tiriti o Waitangi to help ensure equitable outcomes, and the three pillars of the WDC – gaining knowledge, community safety and community health.

17. Oranga Tamariki stated that the Councils must have a focus on addressing the inequities experienced by Māori as proposed in the purpose statements. Should have a focus on the country’s COVID-19 response e.g. immunisation, local workforce.

18. One submitter argued that the overall proposal seeks to impose, through the Workforce Development Council, the cultural will, practices and desires of minority Māori over and above those representing the majority, by far, of New Zealand.

19. One submitter suggested the following amendments to the purpose:
   a) Bullet 1: add “and validate appropriate practices”
   b) Bullet 4: add “educating providers” to the list
   c) Bullet 5: add a sub bullet point “retraining as job specifications and technology changes”
   d) Add another bullet “values unique education settings with outcomes appropriated to the specific groups (i.e. Māori, disability etc.)”

**Accountability Arrangements**

20. The Tertiary Education Union (TEU) recommends that:
   a) The following sub-bullet points (taken from the Primary OiC) are included under the ‘Accountability Arrangements - Performance of functions’ for each of the six WDC Orders in Council:
      • The Council in the performance of its functions must give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies that relate to vocational education and training. This recommendation was supported by Te Wānanga o Aotearoa (TWoA).
   ii. The Council in the performance of its functions must:
      • act in a manner which is consistent with the goals and objectives of the vocational education system as a whole;
      • work collaboratively with providers, including work-based trainers and employers, to ensure that qualifications, standards, and learning packages, enable successful outcomes for all learners; and
• advocate for, and contribute to, policies that meet the needs of industries covered by the Council, particularly as they relate to vocational education, career promotion and planning, and the funding of education and training.

b) The ‘Accountability Arrangements – Statement of strategic direction’ section states that:
   i. The statement of strategic intent should include how the Council intends to give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies
   ii. The Council must consult with the specified industries, the Minister, vocational education providers, Te Pūkenga, relevant Centre(s) of Vocational Excellence, Regional Skills Leadership Groups, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

21. The Employers and Manufacturers Association recommends that there must be some measure of how well WDCs are performing, both in engaging with industry and in providing the necessary skills for business.

22. One submitter recommended that the accountability arrangements should require WDCs to consult with RSLGs.

23. Business NZ recommends that:
   a) The accountability arrangements are significantly strengthened to explicitly include mechanisms to ensure that skill standards are relevant and aligned to the professionalization and regulatory requirements for industry.
   b) Given the broad scope of industry coverage, strengthened accountability to industry and articulation of how it will manage the broad coverage scopes should be built into the accountability mechanisms.
   c) The Annual Report in the accountability arrangements should require the setting of key performance indicators and commitment of service levels to industry for WDC’s to report against.

24. One submitter celebrated in particular the inclusion of the statement “including those who have been traditionally underserved by the education system”.

25. While agreeing to the proposal, the Health and Safety Association NZ would like to see strong performance metrics, and stronger mechanisms to obtain the voice of the key sectors.

26. ComVoices believes that the Order in Council should address approval from industry for programmes and qualifications. They believe that the Order needs to detail the approval process and how the WDC will be accountable to the industries in its coverage, and that the Order should specify a mechanism to prove that accountability.

27. The Ministry of Health's Health Workforce Directorate suggests that, outside of annual reporting alone, other mechanisms to measure the WDC’s performance and address performance concerns are considered.
28. Wellpark College of Education stated that accountability arrangements are important but it will be difficult to hold WDCs accountable due to the different collection of professions and industries covered while ensuring that professional standards are given equal weighting.

29. One submitter highlighted the need for all stakeholders to be made aware of the accountability arrangements.

30. While agreeing to the proposal, the Health and Safety Association NZ would like to see strong performance metrics, and stronger mechanisms to obtain the voice of the key sectors.

Other

31. One submitter would like to see greater emphasis given to the partnerships needed with key stakeholders that are required in order to achieve coordinated progress.

Responses and Recommendations

<table>
<thead>
<tr>
<th>Interim Establishment Board Response</th>
<th>Interim Establishment Board Recommendations</th>
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<tbody>
<tr>
<td>The iEB supports the inclusion of Mātauranga Māori, to strengthen the commitment to Te Tiriti o Waitangi. Te Kahui Ahumahi made this recommendation in their submission, and the iEB would like to include this.</td>
<td>Agree that the OiC include the intention to give effect to Te Tiriti o Waitangi through Mātauranga Māori and through Ka Hikitia – Ka Hāpaitia or subsequent Māori education and other government strategies that relate to vocational education and training.</td>
</tr>
<tr>
<td>The iEB supports the inclusion of iwi in consultation on reforming the vocational education system, as per Te Kāhui Ahumai’s recommendation.</td>
<td>Agree to include the following in the purpose statement</td>
</tr>
<tr>
<td></td>
<td>• To contribute to an education system which honours Te Tiriti o Waitangi and recognises the role of Mātauranga Māori in ensuring fair and equitable outcomes for all;</td>
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<td>Agree to amend the text, under the section titled proposed purpose and accountability arrangements for the Workforce Development Council, to the following text:</td>
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<td></td>
<td>• The Council must consult with persons, iwi, hapu, or other bodies who, the Council considers on reasonable grounds, represent Māori in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of Māori in the performance of its functions and reforming the vocational education system.</td>
</tr>
<tr>
<td><strong>Ministry of Education Response</strong></td>
<td><strong>Ministry of Education Recommendation</strong></td>
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<tr>
<td>The Ministry does not support the iEB’s recommendations to update the accountability arrangements. We consider that the recommendation to include iwi and hapu would put an unreasonable burden on the WDC to consult with every iwi and hapu necessary whenever a council decision impinges in some way upon Maori in any of the specified industries. Such consultation would be more appropriately limited to Maori employers, who do have a direct and tangible interest in the Council’s decisions.</td>
<td>Note that the Ministry does not support the iEB’s recommendations above regarding the Treaty statement or the accountability arrangements.</td>
</tr>
<tr>
<td>We do not consider that reference to reforming the vocational education system is appropriate to be included in this provision as it is unclear what the intention or the effect would be.</td>
<td>Agree that the OiC does not include an intention to give effect to Te Tiriti o Waitangi through mātauranga Māori and through Ka Hikitia – Ka Hāpaitia or subsequent Māori education and other government strategies that relate to vocational education and training.</td>
</tr>
<tr>
<td>Note that the Ministry considers that recognising the role of Mātauranga Māori could be included elsewhere in the purpose statement.</td>
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</tr>
<tr>
<td>Agree not to include the following in the purpose statement:</td>
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</tr>
<tr>
<td>• To contribute to an education system which honours Te Tiriti o Waitangi and recognises the role of mātauranga Māori in ensuring fair and equitable outcomes for all.</td>
<td>• To contribute to an education system which honours Te Tiriti o Waitangi and recognises the role of mātauranga Māori in ensuring fair and equitable outcomes for all.</td>
</tr>
<tr>
<td>Agree to include in the purpose statement both a reference to mātauranga Māori and fair and equitable outcomes.</td>
<td>Agree to include in the purpose statement both a reference to mātauranga Māori and fair and equitable outcomes.</td>
</tr>
<tr>
<td>Agree not to amend the text, under the section titled proposed purpose and accountability arrangements for the Workforce Development Council, to include reference to iwi and hapu.</td>
<td>Agree not to amend the text, under the section titled proposed purpose and accountability arrangements for the Workforce Development Council, to include reference to iwi and hapu.</td>
</tr>
</tbody>
</table>
Council membership provisions

Summary of Clause

- The Council comprises 8, 9 or 10 members, as determined by the Council, made up as follows:
  - 1 member nominated by Māori employers in the specified industries, to represent them;
  - 1 member nominated by employees in the specified industries, to represent them; and
  - 1 member nominated by the employers in the specified industries, to represent them.
  - The remaining members appointed by the Council to bring the total membership of the Council up to 8, 9 or 10 members as determined by the Council.

- When seeking nominations for an employee representative, the Council or the appointments committee:
  - must take all reasonable steps to notify employees in the specified industries about the process for nominating members;
  - must ensure that the persons nominated for appointment have the support of a sufficient number of employees in the specified industries; and
  - must not specify who is eligible to be nominated for appointment as a member except as provided for in the Order, or in any rules.

- The Council may co-opt 1 or 2 persons to be a member if necessary or desirable:
  - to ensure that the Council has an appropriate mix of skills, leadership and experience, provided that the Council comprises in total no more than 10 members; and
  - to provide opportunities for people of different age, ethnicity, ideas and gender to develop the knowledge, skills and experience in governance necessary to be appointed as a member of a professional governing body; and
  - to increase opportunities for participation at a governance level by Māori, Pacific peoples and disabled people; and
  - to draw on the experience, knowledge and views of learners; and
  - to ensure that over the long-term there is adequate representation of Māori with the aim of contributing towards an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.
Summary of Submissions

32. The Tertiary Education Union commented that the parameters pertaining to the size, make-up, and mandatory membership requirements of the Councils should be consistent for each of the six WDCs whilst allowing for flexibility within those parameters. They put forward an alternative council membership proposal in which:

a) The Council comprises 8, 9, or 10 members, as determined by the Council, made up as follows:
   i. 1 member nominated by Māori employers in the specified industries, to represent them;
   ii. 1 member nominated by Māori employees in the specified industries, to represent them;
   iii. 1 member nominated by employees, the Council of Trade Unions, and unions representing employees in the specified industries, to represent them;
   iv. 1 member nominated by the employers in the specified industries, to represent them;
   v. 1 member from the Pacific community;
   vi. 1 member from Te Pūkenga involved in the provision of education in the specified industries nominated by subsidiary employees, to represent them. (the TEU Unitec branch voiced their support for this specific recommendation)
   vii. The remaining members appointed by the Council to bring the total membership of the Council up to 8, 9, or 10 members as determined by the Council

b) The Council as a whole must have approximately an even balance between members of the Council who are Māori and non-Māori

c) When seeking nominations for an employee representative, the Council or the appointments committee must:
   i. take all reasonable steps to notify employees in the specified industries about the process for nominating members;
   ii. ensure that the persons nominated for appointment have the support of a sufficient number of employees in the specified industries; and
   iii. not specify who is eligible to be nominated for appointment as a member except as provided for in the Order, or in any rules.

d) The Council may co-opt up to 2 persons for no more than 3 years to be a member if necessary or desirable:
   i. to ensure that the Council has an appropriate mix of skills, leadership, and experience, provided that the Council comprises in total no more than 10 members;
Health, Community and Social Services Order in Council – Summary of Submissions

ii. to provide opportunities for people of different age, ethnicity, ideas, and gender to develop the knowledge, skills, and experience in governance necessary to be appointed as a member of a professional governing body;

iii. to increase opportunities for participation at a governance level by Māori, Pacific peoples, and people living with disabilities;

iv. to draw on the experience, knowledge, and views of learners; and

v. to ensure that over the long-term there is adequate representation of Māori, with the aim of contributing towards an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

33. Some submitters who agreed with the proposed council membership arrangements found that

a) It provides a good balance between elected, appointed and industry members.

b) It provides a pragmatic approach.

34. One submitter stated that they found it “ridiculous” to have just one employer, one nomination from Māori employers (not necessarily Māori), and one employee representative. They believe that this is not representative of all the professions and industries included in this WDC.

Māori / Pasifika representation

35. Several submitters commented on the Māori representation, as included in the Order in Council:

a) Te Wānanga o Aotearoa commented that all OiCs should include opportunities for Māori employee representation, to ensure that vocational education and training is responsive to Māori apprentices and trainees. They believe this is particularly critical in areas with high Māori participation (such as Primary Industries, Services, Creative, Logistics and Community).

b) Māori and Pasifika trades training Auckland recommends that the number of employer representatives needs to be increased to four, including Māori and Pasifika business leaders.

c) The Ministry of Health’s Health Workforce Directorate suggests the inclusion of specific reference in the Governance section to having an iwi focus within the WDC, which would give practical effect to the principles of Te Tiriti o Waitangi.

d) Te Rau Ora recommends more Māori representatives on this council, including those Māori with health, community, social service sector experience and clear history of Māori Health, Community and Social Service workforce development experience.

e) One submitter commented that there are too many employers for the Council to have just one Māori representative.

f) One submitter argued that:

i. There must be ‘a minimum of 50% Māori representation’ on the council.
ii. The quorum should also state that Māori representation is required for a quorum to be met.

36. Several submitters, including the Employers & Manufacturers Association (EMA) and the Māori and Pasifika trades training Auckland highlighted the need for a clear definition of Māori / Pasifika business / employer. Māori and Pasifika trades training Auckland recommend the definition includes 50% ownership base with stated intentions to promote Māori and/or Pasifika economic position in the trades sector. This process would include clear consultation with business and community organisations that promote Māori and Pasifika participation in the trades including: AMOTAI, Pacific Business Trust, Iwi and Hapu Corporations.

37. Business NZ recommends that the Council membership provisions should be strengthened and consider Māori representation more broadly in terms of the industries which have high proportions of Māori and Pacific in their workforce, rather than just representation at the Board table.

Industry representation

38. Several organisations, including the Employers & Manufacturers Association (EMA), Business NZ, and ComVoices, would like to see increased industry / employer representation in the proposal:

a) Employers & Manufacturers Association (EMA) and Business NZ recommend that each council should have at least 50% representatives from that industry coverage area, to ensure it is an ‘industry-led’ organisation.

39. Business NZ notes that it does not consider that Māori representation and industry representation are mutually exclusive.

40. Several submitters, including the NZ Association of Registered Beauty Professionals Inc, expressed concern about having sufficient representation from industry, considering the large coverage of the HCSS WDC. One submitter stated that there is a risk that those with the loudest voices and the most capacity will dominate the conversation.

41. One submitter stated that they would like to see councils appoint professionals from within different sectors of industry within associations and industry and educational bodies.

Employee representation

42. The Council of Trade Unions (CTU) recommends that:

a) each WDC include at least two worker representatives, of which at least one be a representative of Māori workers. (this recommendation was also voiced by First Union and NZEI Te Riu Roa)

b) the appointment of each worker representative on a WDC require endorsement from the CTU. (this recommendation is supported by NZEI Te Riu Roa)

c) a consistent process be established for appointments to WDCs. In any case where an appointments panel is convened, this should include representatives from CTU, Business NZ and iwi/Māori.
43. One submitter believes that including reference to the CTU ignores the fact that many employers/ees are members of professional bodies not affiliated to the CTU.

44. Business NZ recommends that the Council membership provisions should include working with BusinessNZ and the CTU to utilise the tripartite approach to governance arrangements rather than building in special provisions for union representation and endorsement.

45. First Union recommends that an explicit statement mandating union representation be included.

46. First Union state they are comfortable with the suggestion that Te Rūnanga endorses Māori worker candidates.

47. The NZ Diary Workers Union recommends that:
   a) All six WDC OIC proposals should stipulate that only nominations and/or endorsements from trade unions involved in the WDC coverage areas or from the CTU/Te Rūnanga should be accepted for WDC representatives tasked with the collective representation of employees, both Māori and non-Māori;
   b) All six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

48. The PSA believes that the current proposals have an insufficient amount of general worker representation and in particular Māori worker representation. They propose:
   a) Having at least 3 worker representatives (including 1 Māori representative), as the health sector is a highly unionised sector with a long history of developed bipartite relationships.
   b) Raising the amount to ‘2 members nominated by employees in the specific industry to represent them’ and add ‘1 member nominated by Māori employees in the specific industry to represent them’.

49. NZEI Te Riu Roa:
   a) Believes that the use of the term ‘industry’ minimises the professional nature of the Health, Community, Education and Social Services referred to, and believes a more suitable term would be ‘sector’.
   b) Comments that worker representation on WDCs must be sufficient to allow the voices and collective interests of workers to be heard alongside those of employers and to reflect the essential role of workers.

50. The New Zealand Nurses Organisation states they have little confidence in the process proposed for recruiting a single employee representative for the Health, Community and Social Services WDC.
Health, Community and Social Services Order in Council – Summary of Submissions

51. Te Ao Maramatanga: New Zealand College of Mental Health Nurses Inc support that the WDC is not meant to be representative but skills based.

52. Social Service Providers Aotearoa Inc. supports the skills-based governance approach proposed, and is pleased to see that the three required categories for representation (employers, employees, Māori) are clearly identified.

53. Employers & Manufacturers Association (EMA) suggest that:
   a) meeting the many criteria (e.g. setting up organisations, expertise in education and relevant industry, experience in financial and change management, and gender and ethnic balance) should not be at the exclusion of industry expertise.
   b) that WDC Committee members from industry are not from one specific stream of that coverage area

54. The NZ Association of Registered Beauty Professionals suggested that a skills based criteria is important.

55. ComVoices commented that skills and sector representation are not mutually exclusive.

Other

56. Several groups or individuals recommended that additional representation of other groups is recommended:
   a) The New Zealand College of Midwives believes there are some significant differences between the midwifery profession and other health professions which are educated within tertiary institutions, and because of this they recommend that midwifery representation on a workforce development council is necessary to ensure the needs of midwifery education and the profession are met.
   b) Te Ao Maramatanga: New Zealand College of Mental Health Nurses recommend the addition of representation by people with lived experience of mental health and addiction are included to support the role of the disability member who cannot fully represent the unique needs of the latter groups.
   c) One submitter suggested that there should be representation from learners on the Council.
   d) One submitter commented that consideration should be given to include representation from Pasifika peoples and other groups who are highly represented within this workforce.
   e) One submitter recommends the inclusion of RSLG members (potentially co-opted) on the council.

57. The Christian Theological Education Ministries Society believes that finding a governance board that will fully represent the sector is going to be extremely challenging.

58. St John stated that the broad nature of this sector in this WDC means that the makeup of the Council will be crucial with the 8, 9 or 10 limits in membership. They believe that the WDC will need to carefully consider the membership of the Council to ensure neither Māori representation nor industry experience is compromised.
**Responses and Recommendations**

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<thead>
<tr>
<th>Interim Establishment Board – Response</th>
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<tr>
<td>The iEB held discussions around whether they have selected the right balance of a skills based council/representation based. They decided that the right mix had been selected, and the two are not mutually exclusive. The iEB noted the comments made.</td>
<td>The iEB noted the suggestions above and does not recommend any changes to this section.</td>
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<tr>
<td>The iEB noted it was impossible to have every industry represented on the Board. The operational arm of the WDC will engage with industry going forward and it will be important to ensure the right structure is set up to allow for industry voice.</td>
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<td>In response to the suggestion that an education specialist representative be represented on the Council, the iEB felt it was unnecessary to have this as a prescribed role as this takes away from the Council being industry led.</td>
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<tr>
<td>Business New Zealand suggested that 50% of the Council have ties to industry. Given the appointment criteria recommended, the iEB expects that the majority of council members, if not all, will have ties to industry.</td>
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<tr>
<td>Some feedback suggested having more Māori representatives. The board considers that this is addressed through the equal partnership model (i.e 50/50 Māori and non- Māori).</td>
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Criteria for the appointment of members

Summary of Clause

- The Council or the appointments committee must appoint persons who have:
  - leadership experience in at least one of the specified industries;
  - a commitment to inclusion and addressing the needs of underserved learners;
  - the support of at least one industry sector covered by the Council (indicated by, but not limited to, support from an industry association or group of employers);
  - in the case of the employee representative, the support of the Council of Trade Unions or unions representing employees in the industry.

- When appointing a person to be a member of the Council, the Council (or the appointments committee) must, as far as is reasonably practicable, ensure that the Council as a whole has:
  - experience in vocational education;
  - governance and/or public administration experience and/or understanding;
  - skills in te ao Māori including te reo Māori and mātauranga Māori;
  - a deep understanding and commitment to the principles of Te Tiriti o Waitangi;
  - experience in financial analysis and management;
  - experience in establishing new organisations, enterprises or business;
  - experience in a leadership position in industry, change management or business transformation;
  - approximately an even balance between members of the Council who are Māori and non-Māori;
  - representatives from both large and small enterprises within the specified industries and industry associations;
  - diversity of age, ethnic background, ideas and gender, with particular regard to representation of Māori, Pacific peoples and disabled people; and
  - representation of Māori consistent with the partnership principles of Te Tiriti o Waitangi.
When appointing the employee representative required by the membership provisions, the appointments committee or the Council must appoint a person who has a demonstrated ability to provide collective representation of employees and who:

- has the support of a body recognised as representing employees in one or more of the specified industries, or
- can otherwise demonstrate that their appointment represents employees collectively in one or more of the specified industries.

Summary of Submissions

59. The TEU recommend that, at a minimum, each of the Orders in Council should include the following criteria for the appointment of members to the Council:

As a whole, the Council must have:

- A deep understanding of, and commitment to, the principles of Te Tiriti o Waitangi.
- Strong knowledge and networks within te ao Māori.
- A sufficient number of members with skills in te ao Māori, including te reo Māori and mātauranga Māori, to ensure that the Council is able to give proper consideration to Māori perspectives in undertaking its duties functions.
- Experience in Māori business within specified industries.
- Strong experience in, or engagement with, the vocational education and training system, including pedagogical expertise in teaching, learning (including adult teaching and learning), and pastoral care.
- An understanding of, and commitment to, inclusion, eliminating inequality, and understanding the needs of underserved learners, including but not limited to Māori, Pacific peoples, and people living with disabilities.
- Diversity of age, ethnic background, ideas, and gender, with particular regard to representation of Māori, Pacific peoples, and people living with disabilities.
- A commitment to act with impartiality, honesty, integrity, and manaakitanga.
- Representatives from both large and small and medium enterprises within the specified industries.
- The support of, in the case of the employee representatives, the Council of Trade Unions or unions representing employees in the industry.
- Sufficient knowledge of community organisations.
I) Leadership experience in at least one of the specified industries covered by the Council.

m) Knowledge, skills, and experience relevant to the strategic direction of the Council.

n) Experience in governance and public administration.

o) Experience in financial analysis and management.

60. Several submitters, organisations and groups, recommended that additional criteria are added:

a) Business NZ recommends that:
   i. the criteria for the appointment of members should include experience, relationships or knowledge of industry associations and the relevant regulatory and professional standard bodies
   ii. The Council membership provisions should be strengthened to ensure members are able to provide leadership and broad industry connections and insights, including on the strategic and regulatory outlook for different industries. This recommendation was also made by the Employers & Manufacturers Association (EMA).

b) BCITO recommends that all Orders in Council include a requirement that, for the first two years, the Council has members with experience in establishing new organisations and leading change.

c) One submitter believes experience in the provision of education should be included.

d) One submitter would like to see diversity in lived experience (consumer) and whanau experience.

e) Taituarā - Local Government Professionals Aotearoa requests that a regulatory perspective is included as a part of the wider council skill set (as a distinct skill additional to the public administration requirement).

f) The Career development Association of New Zealand proposed criteria for the makeup of the whole council include ‘Knowledge of vocational/job pathways and workforce planning’.

61. Several submitters thought it was good to see the requirements for the Council as a whole to have “approximately an even balance” of Māori and non-Māori.

62. Oranga Tamariki states that they were in strong agreement, particularly with the provisions to ensure a te ao Māori view is considered.

63. Wellpark College of Education agrees with the general values put forward, however strongly disagrees with the reason for adequate representation presented. They state that Te Tiriti o Waitangi is not a Māori issue, Tribal Nations Māori had Tino Rangatiratanga and kaitiakitanga of Aotearoa well before Te Tiriti and Whanaungatanga and Manaakitanga are ways of life that are larger than the Treaty of Waitangi. Honouring Te Tiriti o Waitangi should be to ensure that the Crown and non-Māori take their responsibility and accountability to support Māori aims and aspirations and self-
determination. Māori should be on in appropriate numbers because of rights as Tangata Whenua that were held before the TOW. TOW brings the other party to the table and should be the responsibility of those non-Māori members to ensure they demonstrate their commitment to honouring TOW and to ensure that over the long-term there is adequate representation of Māori with the aim of contributing towards an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

64. The PSA agrees that all employee representatives (including the Māori representative) should have the support of the Council of Trade Unions (CTU) as the most representative workers body in New Zealand and the person appointed has demonstrated ability to provide collective representation. They believe that ideally the term ‘union representative’ should be used instead of ‘employee representative’ throughout the document, rather than having the union specific requirement just sitting in the criteria.

65. The New Zealand Nurses Organisation raised concern about the available pool of appropriately qualified people who meet the specified Council criteria. They comment that the implementation of RoVE is occurring at the same time as the biggest change in a generation of how health and disability services will be delivered, and that the same people that WDCs will seek to recruit, will also possess the kinds of skills that are needed on, for example, the Māori Health Authority. This will shrink the pool of individuals available who are qualified and have capacity for the roles proposed.

Responses and Recommendations

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## Appointment of the first Council

### Summary of Clause

- The first members of the Council must be appointed in accordance with the membership provisions and membership criteria of the Order.
- Members may be appointed for a period of between 1 and 3 years.
- For the purpose of making appointments to the first Council, the Chief Executive of the Tertiary Education Commission must establish an Appointments Committee:
  - comprising of 5 representatives from the specified industries; and
  - that as far as reasonably practicable, has the same number of members who are Māori and non-Māori.

- The appointments committee must:
  - determine the constitution of the Council in accordance with the membership provisions, including the number of members on the Council (8, 9 or 10 members) and the manner in which the directly appointed members are to be selected and appointed;
  - seek expressions of interest in, or nominations for, appointment as a member of the Council;
  - identify the persons who it considers are suitable for appointment as member of the Council; and
  - appoint the first members of the Council.

### Membership of Council reduced until all appointments made

- The number of Council members is proportionately reduced until the date on which each member referred to in the membership provisions is appointed to the Council.
- No action of the Council is invalid merely because any member has not been appointed to the Council on the commencement date of the Order.

### Summary of Submissions

66. Some submitters that agreed with the appointment of the first council stated that:

   a) A pragmatic approach should be used.
b) It is a fair process and a good starting point.

c) Seems a sensible way to proceed.

67. ComVoices believes that there is too much discretionary power with the Chief Executive of the Tertiary Education Commission around the appointment process for the first Council.

68. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

69. St John stated that it believes this will be difficult to achieve given the competing skill mix requirements. Special consideration will need to occur to ensure there is both adequate Māori and industry representation.

70. Oranga Tamariki stated that it agrees, particularly with the provisions to ensure Māori representation on the selection committee.

71. One submitter believes that the proposed process will be difficult to implement.

72. The NZ Association of Registered Beauty Professionals wondered how sufficient representation will be determined regarding coverage of industries.

73. Wellpark College of Education stated that it is difficult to see how a small PTE and a profession mostly of self-employed sole traders will be authentically represented by the first council.

Continuity of experience and knowledge from interim Establishment Boards

74. The Ministry of Health's Health Workforce Directorate points out that the proposed Order in Council does not direct how the first WDC will work with the Interim WDC to ensure a smooth transition process. They suggest that, if this is not addressed elsewhere, the TEC may wish to consider including some direction on this setting out roles and responsibilities.

75. The New Zealand Nurses Organisation commented that they understand that Interim Establishment Board (iEB) members can make themselves available for appointment to the permanent Councils and support this approach so that the implementation of RoVE can benefit from the collective networks and skills that will have been developed by these individuals in their roles on iEBs.

Responses and Recommendations

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27
The iEB noted that a suggestion to use an independent selection body was made. This is the iEB’s intention, and therefore TEC will run this process.

A comment was made around ensuring adequate Māori and industry representation. The iEB considers this will be achieved through the current arrangements (through the 50/50 partnership and through the current proposed criteria).

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A comment was made around ensuring adequate Māori and industry representation. The iEB considers this will be achieved through the current arrangements (through the 50/50 partnership and through the current proposed criteria).
Appointment of the permanent (or ongoing) Council

Summary of Clause

Process for appointment of members

- The Council must establish a selection committee comprising of representatives in the specified industries and that, as far as reasonably practicable, has approximately an even balance between members who are Māori and non-Māori.
- Members of the Council cannot be appointed as members of the selection committee.
- The selection committee must:
  - seek nominations for appointment as a member; and
  - recommend to the Council persons who it considers are best suited for appointment as a member.
- The Council must consider the recommendations made by the selection committee and appoint as members of the Council those persons who, in the opinion of the Council, are best suited for appointment as a member, having regard to the requirements for the membership provisions and membership criteria of the Order.

Term of appointment

- When making appointments, the Council must specify a term of appointment having regard to the need to maintain enough continuity in membership of the Council and must ensure that no fewer than half the appointed members remain in office throughout a given calendar year.
- Members may be appointed by the Council for a period of between 1 and 3 years.
- Members may be reappointed to the Council provided the total of any consecutive or non-consecutive terms does not exceed 9 years.

Summary of Submissions

76. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

77. The NZ Dairy Workers Union recommends that all six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.
78. Social Service Providers Aotearoa Inc. pointed out that establishing the selection committee may prove challenging.
79. Oranga Tamariki stated that it agrees, particularly with provisions to ensure Māori representation on the selection committee.

**Term**

80. Adult and Community Education (ACE) Aotearoa suggested that the total length for appointment should be maximum 6 years rather than 9 years.
81. Several submitters commented that the term for appointment is too long, and that terms of 2-3 years are more appropriate. St John suggested that employer and employee appointments need to be kept short and rotated to ensure maximum sector coverage and engagement.

**Quorum**

82. One submitter recommended that quorum should include mandatory representation of Māori.

**Responses and Recommendations**

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<td>The iEB considered the comments, and discussed the term of appointment. They decided that 9 years is not uncommon, with 6-9 generally being standard. They also noted that the term also depended on the length of the strategic plan. The iEB considered the proposed length was not too long, as it allows for succession planning and continuity. The iEB noted that a suggestion to use an independent selection body was made. This is the iEB’s intention, and therefore TEC will run this process.</td>
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Detailed governance arrangements that are unique to each Workforce Development Council

**Summary of Clause**

Appointment of chairperson, co-chairpersons, deputy chairperson (as applicable)

**Appointment of chairperson**

- The Council must appoint one member to be chairperson by notice in writing stating the date on which the appointment takes effect.
- The chairperson holds that office until:
  - the chairperson resigns from that office; or
  - the chairperson is removed from it by the Council; or
  - the chairperson ceases to hold office as a member; or
  - the term of office specified on appointment expires.
- A person may be reappointed as chairperson for a further term.
- The chairperson may, without resigning as a member, resign from that office by written notice to the Council. The notice of resignation must state the date on which the resignation takes effect.
- The Council may, after consultation with the person concerned, remove a chairperson of the Council from that office by written notice to the person (with a copy to the Council). The notice of removal must state the date on which the removal takes effect.

**Appointment of deputy chairperson**

- The Council may appoint one of the members as deputy chairperson by notice in writing stating the date on which the appointment takes effect.
- If the chairperson is absent, the deputy chairperson may exercise the powers of the chairperson.
- The deputy chairperson holds that office until:
  - the deputy chairperson resigns from that office; or
  - the deputy chairperson is removed from it by the Council; or
  - the deputy chairperson ceases to hold office as a member; or
the term of office specified on appointment expires.

- A person may be reappointed as deputy chairperson for a further term.
- The deputy chairperson may, without resigning as a member, resign from that office by written notice to the Council. The notice of resignation must state the date on which the resignation takes effect.
- The Council may, after consultation with the person concerned, remove a deputy chairperson of the Council from that office by written notice to the person. The notice of removal must state the date on which the removal takes effect.

Meetings

- The chairperson may convene meetings to be held at the time and place that the chairperson determines and must give at least seven days’ notice in writing of those meetings to members.
- Meetings can be held by means of electronic communication.
- The quorum for the meetings is 5 of the members then holding office.
- All questions arising at any meeting must be decided by a majority of those members present with the chairperson chairing the meeting having a casting vote or, if the chairperson is absent, with the deputy chairperson having a casting vote.
- However, if a matter that is likely to have a significant effect on the operation, management or coverage of the Council will be considered at the meeting, then any questions arising in connection with that matter will require a three-quarters (75%) majority of the members present at the meeting.
- The Council must determine the criteria for assessing whether a matter has a significant effect.
- A resolution in writing signed by a majority of members is as valid as if it had been passed at a meeting of those members.
- An irregularity in a notice of a meeting is waived if all members entitled to receive the notice either:
  - attend the meeting without objection to the irregularity; or
  - do not attend the meeting but agree before the meeting is held to the waiver of the irregularity.

Except as set out above or by law, the Council may determine its own procedures for regulating meetings and conducting its affairs.

Collective duties of the Council

- The Council must act in a manner consistent with its functions, duties, and powers.
The Council must perform or exercise its functions, duties, and powers efficiently and effectively.

The Council must ensure that it operates in a financially responsible manner and, for this purpose, that it prudently manages its assets and liabilities.

Summary of Submissions

83. Te Kāhui Ahumahi (made up of all Māori interim Establishment Board members) request that their collective is formalised in each OiC so as not to leave the establishment/continuation of a Kāhui Ahumahi to chance. This suggestion was supported by another submitter who asked to consider a Māori Workforce Development Council and that we consider all Māori members across all of the workforce development councils being able to form a Kahui Korowai (Māori governance with direct position / role that connects to the CEO).

WDC collaboration

84. Several submitters – including Business NZ, BCITO, New Zealand Certified Builders Association, Engineering NZ, NZ Marine Industry Association, and Taituarā – highlighted the importance of WDC collaboration to an effective VET system, and would like to see this formalised in the Orders in Council. They refer to the Construction & Infrastructure WDC Order in Council, which already has a provision to this effect.

a) BCITO also recommends that the provision from the Construction & Infrastructure WDC Order in Council is broadened to include collaboration with skills bodies (e.g. regulators or professional organisations)

b) Business NZ and NZ Marine Industry Association highlights the opportunity for WDCs to work collaboratively to share best practice and recognize opportunities to better serve business by sharing relevant resources and materials to deliver skill solutions

c) Several submissions point out that this collaboration is particularly of interest for sectors that are covered by or regularly have to engage with several WDCs.

Chair / Co-Chairs / Deputy Chair

85. Oranga Tamariki recommends adding that the Council will have two co-chairpersons, one of whom will be Māori

86. One submitter commented that the total length of time that the co-chairperson(s) can be in that role should be clearly stated.

Responses and Recommendations

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The iEB considered the feedback and does not want to preclude the WDC having the option of appointing a co-chair.

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<tr>
<th>ministry of education response</th>
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<tbody>
<tr>
<td>The Ministry supports the iEB’s recommendation to allow for a co-chair.</td>
<td>Note that the Ministry supports the iEB’s recommendations.</td>
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<td></td>
<td>Note that drafting of this proposal will include additional technical matters mirroring other Orders which propose the option of co-chairs</td>
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Agree to an additional statement to allow the option of appointing co-chairs, for example the following (from Primary’s OIC):

*The council may appoint two members to be co-chairpersons*
Detailed governance arrangements that are the same across all Workforce Development Councils

Summary of Clause

Eligibility for appointment

- The following persons are disqualified from being members of the Council:
  - a person who is an undischarged bankrupt;
  - a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any enactment;
  - a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988;
  - a person in respect of whom a personal order has been made under that Act that reflects adversely on the person’s competence to manage their own affairs in relation to their property; or
  - capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare.
  - a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless the person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person;
  - a member of Parliament;
  - a person who is disqualified under any Act.

Revocation of appointment of members

- The Council may revoke the appointment of an appointed member of the Council for just cause.
- The revocation must be made by written notice to the member, stating the date on which the revocation takes effect, which must be no earlier than the date on which the notice is received, and the reasons for the revocation.
- The Council may revoke the appointment of a member with as little formality and technicality, and as much expedition, as is permitted by:
  - the principles of natural justice;
  - a proper consideration of the matter; and
the Council’s policy, if any, on revocation of appointment of members.

- A member of the Council is not entitled to any compensation or other payment or benefit relating to the member ceasing, for any reason, to hold office as a member.
- The term ‘just cause’ includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the Council or the individual duties of members (depending on the seriousness of the breach).

**Individual duties of members**

- A member of the Council may not contravene, or cause the contravention of, or agree to the Council contravening the Education and Training Act 2020.
- A member of the Council must, when acting as a member, act with honesty and integrity.
- A member of the Council must, when acting as a member, act in good faith and not pursue the member’s own interests at the expense of the Council’s interests.
- A member of the Council must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation):
  - the nature of the Council;
  - the nature of the action; and
  - the position of the member and the nature of the responsibilities undertaken by the member.
- A member must comply with a code of conduct for members issued by the Council.
- A member of the Council who has information in the member’s capacity as a member that would not otherwise be available to the member, may not disclose that information to any person, or make use of, or act on, that information, except:
  - in the performance of the Council’s functions; or
  - as required or permitted by law; or
  - when the member is first authorised to do so by the Council and the disclosure, use, or act in question does not, or is unlikely to, prejudice the Council.

- Members must:
Health, Community and Social Services Order in Council – Summary of Submissions

- act in the interests of the Council as a whole; and
- act in a manner that promotes the performance of the functions and the duties of the Council.

**Accountability for performance of duties**
- The duties of the members of the Council are owed to the Council.
- A member is not liable for a breach of an individual duty under this Act except as provided below.
  - if a member does not comply with their individual duties, the Council may revoke the appointment of that member;
  - the Council may bring an action against a member for breach of any individual duty.
- This provision does not affect any other ground for removing a member from office.
- Accountability for performance of duties under this provision does not affect anything else for which the member may be liable under any Act or rule of law arising from the act or omission that constitutes the breach.

**Personal liability of members**
- A member of the Council is not personally liable for any act done or omitted to be done by the Council or any loss to the Council arising out of any act done or omitted to be done by the member if the act or omission was (so far as the member’s involvement is concerned):
  - in good faith; and
  - in performance or intended performance of the functions of the Council.

**Continuation in office**
- Each member of the Council continues in office (unless the member ceases to hold office) until a successor is appointed.
- A member may resign from office by written notice to the Council signed by the member.
- The resignation is effective on receipt by the Council of the notice, or at any later time specified in the notice.
- A member of the Council ceases to hold office if the member:
  - resigns; or
  - is removed from office; or
  - becomes disqualified from being a member; or
otherwise ceases to hold office in accordance with any enactment.

### Ordinary vacancies
- The Council must fill any ordinary vacancies as soon as practicable using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.

### Extraordinary vacancies
- An extraordinary vacancy occurs when a member dies or ceases to hold office.
- If an extraordinary vacancy occurs within 6 months of the expiry of the vacating member’s term the Council may appoint a replacement or leave the vacancy open.
- If an extraordinary vacancy occurs more than 6 months before the expiry of the vacating member’s term, the Council must appoint a replacement using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.
- A person appointed or elected to fill an extraordinary vacancy holds office only for the remainder of the vacating member’s term.

### Administrative provisions
- The powers of the Council are not affected by any vacancy in its membership.
- The Council may appoint committees to advise it on any matters relating to the Council’s functions and powers.

### Conflicts of interest
- A member who has an interest in a matter relating to the Council must disclose to the Council details of the interest as soon as practicable after the member becomes aware that the member is interested.
- The details that must be disclosed are:
  - the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
  - the nature and extent of the interest (if the monetary value cannot be quantified).
- A member who has an interest in a matter:
  - may not vote or take part in any discussion or decision of the Council or any of its committees relating to the matter, or otherwise participate in any activity of the Council that relates to the matter; and
A person has an interest in a matter if the person:

- may derive a financial benefit from the matter; or
- is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
- may have a financial interest in a person to whom the matter relates; or
- is a partner, director, officer, board or Council or committee member of a person who may have a financial interest in a person to whom the matter relates; or
- otherwise directly or indirectly has an interest in the matter.

The term ‘matter’ means the Council’s performance of its functions or exercise of its powers or an arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Council.

Delegation

- The Council can delegate any of the functions or powers of the Council (other than the power to appoint a general manager) to a member or members of the Council, the general manager, a committee appointed by the Council, any other person approved by the Council, or a subsidiary of the Council.
- Delegations are made by resolution and written notice to the delegate;
- The power to delegate cannot be further delegated.
- The person to whom functions or powers are delegated can exercise those functions or powers with the same effect as if the delegate were the Council.
- A person who purports to act under delegation is presumed to be acting in accordance with a delegation unless proven otherwise.
- The Council can still exercise a power or function that has been delegated and remains liable for all acts that are performed under delegation.
- A delegation can be revoked by the Council by notice in writing, or by any other method specified in the delegation.

Appointment of general manager and other employees

- The Council:
  - must appoint a person who is not a member of the Council to be its general manager; and
o may appoint any other employees it thinks necessary for the efficient performance of its functions.

• The general manager is:
  o responsible for the efficient and effective management of the Council; and
  o must give effect to the policies and directions of the Council in relation to the performance of its functions.

• The general manager may be referred to by any other title that the Council determines.

Rules

• The Council may make rules providing for the nomination and selection of candidates for appointment of members to the Council.
• The Council may make rules for any purpose relating to the performance of its functions.
• When preparing rules (and any amendments to them), the Council must take all reasonable steps to consult those affected by the rules.
• The Council must take all reasonable steps to ensure that those affected by the rules are aware of their existence and are able to obtain copies of them.

Summary of Submissions

87. Submitters who disagreed with the proposed governance arrangements that are the same for each WDC argued that they do not recognise the unique areas (needs) for particular groups.

Responses and Recommendations

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| Ministry of Education – Response       | Ministry of Education – Recommendations       |
Mechanisms for industry engagement

Summary of Clause

- The Council must make arrangements (for example by establishing industry stakeholder groups) for ensuring that the specified industries have an adequate opportunity to provide input to the Council in support of the performance of its functions including, without limitation:
  - to provide information and views that will assist the Council in formulating its advice to the Tertiary Education Commission on the investment in vocational education and workforce planning for the specified industries;
  - to provide information and views on the current and future skills and knowledge requirements in the specified industries;
  - to provide information and views on reviews of industry qualifications;
  - to provide information and views on career pathways into and within the specified industries;
  - to provide information and views that will assist the Council to undertake strategic workforce leadership research, advice and support to all specified industries.
  - to enable industry to raise issues and concerns about the governance, management and operation of the Council.

Summary of Submissions

88. The TEU recommends that, in order to ensure consistency in approach across the WDCs, a single set of mechanisms and principles which can apply to each of the six WDCs.

The engagement model must:

a) describe the arrangements or opportunities for regular interaction between the specified industries and the Council, including at least one annual meeting with representatives of the specified industries;

b) establish a process for co-ordinating its activities with other WDCs in relation to complementary industries;

c) establish a process for engagement with unions regarding the performance or exercise of its functions, duties, and powers;

d) establish a process for engagement with industry peak bodies to understand and contribute to strategies developed by industry peak bodies;
e) ensure the Council reports regularly to the specified industries and national advisory groups on the performance of its functions, including, specifically, on its engagement with small and medium enterprises;

f) ensure the Council makes arrangements (for example, by establishing industry stakeholder groups) for ensuring that employers and Māori employers, industry bodies, employees, independent earners, iwi/hapū partners, learners, unions, Te Pūkenga, Centres for Vocational Excellence, Regional Skills Leadership Groups, and other parties with an interest in the specified industries, as determined by the Council, have an adequate opportunity to provide input to the Council in support of the performance of its functions including, without limitation, to:

i. gain deeper understanding of the breadth of the specified industries;

ii. provide information and views on current, emerging, and future skills and knowledge requirements of employees working in the specified industries;

iii. identify and maximise the opportunities of particular groups of learners, including Māori, Pacific peoples, women, and people living with disabilities, whether specific to the coverage of the Council or as part of a wider group of learners coming within the coverage of other WDCs;

iv. provide information and views that will assist the Council in formulating its advice to the Tertiary Education Commission on investment in vocational education and workforce planning for the specified industries;

v. provide information and views on reviews of industry qualifications;

vi. provide information and views on career pathways into and within the specified industries;

vii. provide information and views that will assist the Council to undertake strategic workforce leadership research, advice, and support to all specified industries;

viii. enable industry and providers to raise issues and concerns about the governance, management, and operation of the Council.

89. The Tertiary Education Union (TEU), Council of Trade Unions (CTU), New Zealand Nurses Organisation (NZNO), and First Union recommend that the mechanisms for industry engagement in each Order require inclusion of unions. The New Zealand Dairy Workers Union supports this recommendation, and specifies that this inclusion concerns both unions involved in the specified WDC coverage area, as well as the CTU/Te Rūnanga. They also state that all six OIC proposals should also include an obligation that relevant trade unions and the CTU/Te Rūnanga should be directly involved in, and members of, any industry stakeholder groups established by a WDC (this was also voiced by First Union).

90. Māori and Pasifika trades training Auckland believes that existing associations should have a collective voice.

91. Te Kāhui Ahumahi believes that the partnership must be evident in the secondary legislation to ensure that the intent of the Act is met, and they recommend that the Orders in Council should mention iwi or Māori industry under the mechanisms for industry engagement.

92. One submitter believes that the mechanisms should include:
Health, Community and Social Services Order in Council – Summary of Submissions

a) Regular engagement with RSLGs.

b) Recognition of the opportunity to build understanding of, and help address, the barriers to and opportunities for increasing labour market participation of some population groups (as per the Primary Industries WDC Order in Council).

93. Te Ao Maramatanga: New Zealand College of Mental Health Nurses highlight that previous initiatives and good practice shouldn’t be lost during the creation of the WDC.

94. Several submitters, organisations and individuals, highlighted that the WDC is likely to experience challenges when engaging with the broad range of industries within the coverage of the WDC. Many comment on the risk that the voices of smaller, less ‘visible’ industries within the coverage of the WDC will not be heard. ComVoices stated that both large and small voices need to be protected to ensure that all parts of the sector have the intended input.

95. Some submitters, including the Christian Theological Education Ministries Society, believe this section is vague and does not provide enough detail on how industry engagement will actually occur.

96. ComVoices submits that the term “adequate opportunity” (pg22) is subjective and details a one-way service provision for engagement. Another submitter made a similar argument, and recommends that there should be an emphasis on ‘partnership’, rather than just providing the opportunity for input.

97. Oranga Tamariki recommend that the text relating to Mechanisms for industry engagement that is currently proposed for the Creative, Cultural, Recreation and Technology WDC is also included in the Order for this WDC i.e. that “The Council must make arrangements for ensuring that employers and Māori employers, industry bodies, employees, independent earners, iwi/hapu partners, learners and other parties with an interest in the specified industries, as determined by the Council, have an adequate opportunity to provide input to the Council in support of the performance of its functions.”

98. One submitter recommends that there should be a thorough process to involve the iwi, Māori organisations and the sector itself in the development of the ongoing mechanisms for engaging Industry Stakeholder Groups

99. The NZ Board of Professional Skin Therapies, supported by a large number of organisations and individuals active in this industry, believe that the current wording of the Order in Council (related to Industry engagement) fails to adequately ensure that the Council will involve stakeholder groups as required under 363(3) of the Act. They propose that more acceptable wording would be: “The Council must establish industry stakeholder consultation groups to ensure that the specified industries have an adequate opportunity to provide input to the Council. The membership of these groups should be proportionally reflective of the numbers of workers in each industry”

100. Several submitters (including St John, Career Development Association of NZ and The NZ Association of Registered Beauty Professionals) highlighted that the establishment of industry stakeholder groups is crucial.
101. The Employers & Manufacturers Association (EMA) recommends that the role of the Industry Stakeholder Groups gets more defined and that there is an obligation for the Council to take their feedback into consideration and/or act upon their feedback.

**Responses and Recommendations**

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Additional functions of the Workforce Development Council

Summary of Clause

There are no additional functions.

Summary of Submissions

102. One submitter suggests that this could refer to assisting RSLGs to plan for and address regional workforce needs.

103. The TEU recommends that ‘additional functions’ included in the Primary Services OiC pertaining to [1] the promotion of opportunities that are conducive to learners reaching their full potential and [2] addressing the needs and aspirations of priority learners including Pacific learners and people living with disabilities, should be included in all six OiCs. [Note: Some feedback was received regarding the ‘Additional functions’ within the Primary Services WDC Order in Council, please refer to the Primary Industries WDC Summary of Submissions]

104. Te Kāhui Ahumahi submitted that Performance of functions must include engagement with the Tiriti Partner. They expect this will lead to joint decision making frameworks, mana Tiriti frameworks and outcomes that meet the goals of the Act.

Responses and Recommendations

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Coverage of the Workforce Development Council

Summary of Clause

The coverage of the Council comprises the workforce development activities in relation to employers, providers, and employees or people seeking to be employed in work related to the following areas in any of the industries listed below:

- Public Order and Safety (e.g. Emergency Services, Corrections and security services)
- Regulatory Services
- Early Childhood Education
- School Education
- Tertiary Education
- Adult, Community and Other Education
- Educational Support Services
- Hospitals
- Medical Services
- Pathology and Diagnostic Imaging Services
- Allied Health Services
- Health Care Services (e.g. home and community, mental health and addiction)
- Beauty and Skin therapy services
- Residential Care Services (e.g. aged residential care)
- Child Care Services
- Social Services
- Disability Services
• Funeral, Crematorium and Cemetery Services
• Urban Pest Control

[An exhaustive list of ANZSIC codes was included in the Consultation proposal document]

Summary of Submissions

105. Several submitters expressed concern about the breadth of the coverage in the HCSS WDC, for similar reasons that were raised under 'Mechanisms for Industry Engagement', i.e. risk of losing the voice of (smaller) industries. Social Service Providers Aotearoa Inc believes it is hard to see what will be uniting factors across this set of industries.

106. The Employers & Manufacturers Association comments that the coverage areas should not be limited to what is noted at the time of the Order in Council. They state that skills and the labour market are dynamic, and the coverage areas in the OiC should reflect that.

107. A large number of submitters believe that Recreation should sit under the HCSS WDC, rather than CCRT WDC. The main rationale put forward is that sport, exercise, outdoor adventure, etc. are all components of physical health/activity, and are closely tied to mental health/wellbeing.

108. Multiple submitters, including the NZ Association of Registered Beauty Professionals, are concerned by the split of coverage for the beauty industry into two separate WDCs, i.e. Hairdressing and Beauty Services (excluding skin therapies and nail technology) with CCRT and hairdressing and Beauty Services (skin therapies and nail technology only) with HCSS. They argue that hair and beauty is often part of the same small business, and they feel strongly that they need representation to ensure qualifications remain and develop as a collective, thereby keeping the beauty qualifications under one WDC.

109. The Beauty Therapy industry is advocating (via a number of standard template responses) that the industry title of "Beauty Therapy" be renamed “Skin Therapy” as the nature of treatments is to improve skin health and wellbeing. Renaming avoids the pejorative implication that without such therapy a person is not considered aesthetically pleasing.

110. ComVoices is concerned that the ANZSIC code [Q87900] does not represent the size, breadth, and significance of the social and community services in Aotearoa, and believes there is a risk that the OiC may exclude parts of the sector. They recommend that the ANZSIC codes for Health Care and Social Assistance be deleted from the coverage list and replaced in its entirety with a list of industries covered by the WDC.

111. The Health and Safety Association of NZ would like to see “Health and Safety” specifically mentioned in the coverage area.

112. Te Ao Maramatanga: New Zealand College of Mental Health Nurses comments that mental health, addiction and disability nurses work across the whole sector of health, social services, primary care sector and government agencies such as Corrections etc. and that therefore the collective term of “psychiatric hospitals” no longer represents this aspect of the industry.
113. Taituarā - Local Government Professionals Aotearoa state that regulatory functions traverse all six of the proposed WDCs. They recommend that, where possible, vocational training for regulation should be kept in the same WDC as the industry that is being regulated for the reason that a WDC with expertise in a subject is best placed to advise on the matter.

114. One submitter comments that it would be appropriate to list 'Allied Health, Scientific and Technical' services as this is how this workforce community is known and gives acknowledgment to the full breadth of professions.

115. Oranga Tamariki stated that they would like to see the coverage for this WDC better reflect the importance and extent of Māori services within the Community, Health, Education and Social Services sectors.

116. One submitter believes that a more logical home for ‘Urban Pest Control’ could be the Primary Industries WDC, rather than the HCSS WDC.

117. The Christian Theological Education Ministries Society is concerned that the needs of the religious sector are not adequately represented in the current description of the WDC.

118. South Island Alliance Mental Health & Addiction Workforce Development group stated some other areas should be clearly specified in list i.e. Youth Services, Community Development (beyond health), Employment Support, Health Promotion and Public Health and Faith-based services.

119. Business NZ and the Employers & Manufacturers Association (EMA) raised concern about the use of ANZSIC codes as a source of industry coverage areas. They believe that ANZSIC codes are outdated, and too prescriptive for an agile education system that must adapt quickly to deliver the education and skills needs of businesses. Both recommend using ‘skill clusters’, which they believe would support greater discussion in both education and industry on greater skill transferability.

Responses and Recommendations

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<td>The iEB noted that feedback highlighted that ANZSIC codes are not well received by industry as the terms used are not common industry language and consequently some industries do not see themselves reflected through the codes. The iEB suggests that the incoming Council uses industry-friendly language in further communications.</td>
<td>Agree to the following amendment to the high-level descriptors:</td>
</tr>
<tr>
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<td>Beauty and skin therapy services to Skin and nail therapy services</td>
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<td>The appropriate term for the beauty therapy industry was discussed and it was agreed to recommend a change of terminology.</td>
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Other feedback

Summary of Submissions

Summary of Clause

N/A

Summary of Submissions

Other feedback from WDC-specific submissions

120. The Nursing Council questioned:

a) Where professional regulators sit within the WDC structure? There are both statutory regulators (e.g. Nursing Council of New Zealand and the Social Workers Registration Board) and non-statutory regulators (e.g. Drug and Alcohol Practitioners’ Association Aotearoa and New Zealand Association of Counsellors) who set standards for professions that will fall under the Health, Community and Social Service Workforce Development Council. Though several of these regulators will require degree level qualifications, others will offer pathways to registration that will fall in the scope of the WDC. For these pathways, the decisions made by the WDC will directly impact regulators, so an understanding of how the WDC see a regulator’s role within their structure is integral to our work.

b) How WDCs will interact with regional workforces. In particular, how will tensions be moderated between regional workforces and national standard setting? This is a prevalent issue within health sectors, and they want to ensure that decisions about regional workforces are aligned and remain consistent.

c) When developing skills and qualifications, where will micro credentialing fit in? Will the WDC only be setting qualifications at a diploma/certificate level, or will you also be micro credentialing? And if the WDC is planning on entering into micro credentialing, where will staircasing into regulated professions fit in?

121. The NZ Board of Professional Skin is dissatisfied with the following actions that have prevented the Skin Therapy Industry from being adequately informed of the RoVE initiative. These are:

a) Therapies engaged with TEC at the beginning of consultation, we lost contact as we went into COVID-19, Level 4 lockdown in March 2020.

b) It was not until October 2020, that by chance we learnt that meetings between WDC’s, iEB’s and industry stakeholders were at board level only and the NZARBP and HITO had not conveyed any information concerning the development of the WDC’s, the categorisation of the beauty industry and what that meant to practicing therapists to industry.
c) With short notification of cut off dates for objections it was difficult to notify the Skin Therapy Industry and raise objections. However, we were able to persuade iEB of the need to be categorised under Health, Community and Social Services WDC and not Creativity, Culture, Recreation and Technology WDC and we insist that we stay with Health WDC.

d) The major beauty industry magazine which could be used to inform stakeholders of the RoVE and TEC’s proposed changes to apprenticeships has had no contact from RoVE, and significant communications opportunity has been missed.

e) The difficulty for therapists and the public to understand the Education and Training Act and relate that to the OiC, was very confusing.

f) Many therapists have not understood the structure of the OiC and therefore have not engaged.

g) The rush to push the OiC through over the Christmas period when the Skin Therapy Industry was at its busiest time of the year and then on holiday until cut-off date, meant many in the Skin Therapy Industry have not engaged.

h) In question 3 of the “Have You’re your Say” submission form there was no option for the employed practicing therapists to be identified, which inferred you were not interested in what therapists had to say so they have not submitted.

They would like to noted that the Skin Therapy industry is very fragmented and there are vested interests on the part of established organisations who feel that the WDC proposals are a threat, there is consequently a good deal of misinformation being circulated and the RoVE initiative is failing to provide adequate easy access to definitive proposals that are meaningful to employers. (e.g., the submission form requires substantial background knowledge and understanding to be adequately responded to).

122. The governance function needs to be done by stakeholders and there should be clear divisions so we do not get to the same situation as we currently have with ITO’s using unit standards to deliver in some cases. Also watching how many ITO set up PTE to deliver their unit standards into the work place. This will be fine if they do not have representation on the WDC.

123. Several submitters commented specifically that Skin therapy industry want to be recognised as skin therapists. And that:

   a. They want accountability and consequences for poor training standards and a pathway to identify the transition from junior to senior advance trained therapists. Poor training and gaps in a system fails to produce a therapist not only fit for employment, but a safe one.

   b. The current beauty therapy apprenticeship scheme fails to produce well trained therapists and the deficiencies that contribute to this broken scheme.

   c. Skin therapy is an unregulated Industry, all training providers should be providing the highest possible standards and that there should be consequences for substandard training that produce Therapist unfit for Industry which is moving towards more invasive skin altering treatments. New technology is arriving into our country that can cut skin, burn skin, inject skin or infuse skin with topical agents that can enter the blood stream.

   d. In future should take into account that (60%) of skin therapists are sole traders or maybe employees whose views need to be considered.
124. Oranga Tamariki stated that it will be important that the work of the CHESS Workforce Development Council takes into account and connects with groups and work programmes

125. Te Ao Maramatanga: New Zealand College of Mental Health Nurses stated that consultation on the future education and training for the whole of the nursing profession continues with relevant professional nursing representatives such as the National Nurses Organization group

126. Several submitters connected to the skin therapy & beauty industry (including the NZ Board of Professional Skin Therapies and the NZ Laser Training Institute) expressed their concern that:

   a) as the Order in Council stands, the Council does not have any explicit responsibilities with respect to ensuring the effectiveness of programmes. They would therefore wish to see some form regulatory function stated explicitly along similar lines to that of NZ Council of Legal Education Sections 274 & 275 of the Lawyers and Conveyancers Act 2006, or Responsible Authorities empowered under S118(a), (e), (i), and (k) of the Health Practitioners Competence Assurance Act 2003. They believe that if this is not amended, then they will have the same under-performing regime that they have now.

   b) the Order in Council proposal, whilst focusing on the Council’s governance structure and administration provisions of Section 363 of the Education and Training Act 2020 (the Act), fails to make adequate provision for stakeholder representation (S363 (3)) and that development, standard setting and programme endorsement functions under Section 366 (b to h) are not sufficiently recognised.

Other feedback from submissions that comment across WDCs (this section will be identical across all Summaries of Submissions)

127. Te Rūnanga o Ngāi Tahu makes the following submissions on the establishment of Workforce Development Councils:

   a) That Te Tiriti o Waitangi be honoured and therefore a cornerstone of the education system in Aotearoa. Any tertiary education institutions sector, including the WDCs, should positively reflect the bicultural foundations and have a firm commitment to Te Tiriti frameworks.

   b) As a Treaty Partner to the Crown, Te Rūnanga expects commitment to ensuring the rights of Ngāi Tahu whānui to access an equitable and successful journey in our education system. There needs to be deliberate investment for success in those most impacted by the systems failure to date. It is important that measures of success are co-designed with Māori.

   c) Ngāi Tahu and all Māori should have the opportunity to achieve success in the tertiary sector and subsequent employment pathways. However, this should not come at the expense of their identity as Ngāi Tahu. The system should recognise and privilege mātauranga Māori, helping to empower their identity as Ngāi Tahu rather than detract from it.

   d) The governance and ensuing structures involved in designing, developing and implementing RoVE, should privilege Ngāi Tahu aspirations and values within our takiwā. The governance structures of this review process, including Te Taumata Aronui should have access to high quality Māori strategy and policy advice at all levels as this review proceeds. Māori capacity and capability is required in these structures to
internally analyse and develop responses that meet Crown obligations as a Te Tiriti partner, to ultimately ensure success for Ngāi Tahu whānui and all Māori.

e) The WDCs should have a firm commitment to be driven by Te Tiriti frameworks. This will provide a foundation to ensure equity is achieved for Ngāi Tahu and all Māori in the tertiary education sector and in turn contribute to equity in employment, particularly in high skilled and future focused industries.

f) In instances where Ngāi Tahu identify training and education of specific interest to Ngāi Tahu whānui, we would expect the opportunity to engage as a Treaty Partner.

g) Ultimately, the expectation is that the tertiary sector and WDCs should have the following outcomes at the heart of their functions, ensuring a contribution to strong and vibrant Ngāi Tahu and Māori community:

i. Ngāi Tahu and all Māori students and learners achieving success in the tertiary education sector,

ii. Ngāi Tahu and all Māori governors, staff and teachers engaged in the tertiary education sector achieving success,

iii. Ngāi Tahu and all Māori achieving success upon entering the workforce from the tertiary sector, as a result of successful engagement in this space.

128. Waikato-Tainui observes a noticeable absence of engagement provisions with hapu and iwi in these proposals. As a Te Tiriti partner to the Crown, they assert that this oversight must be addressed if WDC’s are to give genuine and authentic expression to their obligations under Te Tiriti o Waitangi.

129. The TEU recommends there should be greater consistency across the six Orders in Council, and that there is opportunity to take the best aspects the proposals and apply them to each of the six WDCs.

130. Te Kāhui Ahumahi submitted that:

a) The formulaic composition of the OiCs suggests that the same tools are going to be used and therefore the aspiration of ‘transformation’ will not be achieved.

b) The purpose and performance functions outlined in the OiC are not asking the WDCs to do anything substantively different apart from applying a lens of industry.

c) Honouring Te Tiriti means that no one-size-fits-all solution is acceptable, however, we see six OiCs that are substantially uniform and use government language that marginalises the Tiriti relationship.

d) Nowhere in the performance functions or statement of strategic direction sections in the six OiCs are we told what transformation will be delivered, by when and for whom.
e) If these things are not in the legislation, they become optional. This has not served Māori aspirations in the past.

f) To have a set of OICs that do not mention iwi and how the transformation of the vocational education system will honour Te Tiriti is remiss. Honouring Te Tiriti is a partnership.

g) Mention of the principles of Te Tiriti o Waitangi in the criteria for the appointment of members is a big red flag to Māori. Principles, or the three Ps as they are commonly known, is a redefinition and a colonial interpretation of the three articles of Te Tiriti. Therefore we ask that any inclusion of Tiriti principles be replaced with the Articles of Te Tiriti

h) There is no mention of the role that Mātauranga Māori, Māori and iwi will play in any of the six OICs despite the Act. There will always be compromise unless there is an independent, autonomous and Māori appointed and centred entity that secures this taonga for our future generations.

i) Mātauranga Māori is alluded to in the criteria for appointment but is not supported anywhere else in the document. The appointment process will test this notion. As it stands, the appointment process will be led by TEC and the Ministry of Education; they will appoint members to the appointment panels. In one case, TEC will select nominees to be appointed by the Minister. To put government in control of this process means that industry, Māori and Iwi are not in the role the Act envisages. How do the OICs assure Māori and Iwi that their voices are going to be heard?

131. The Employers & Manufacturers Association:

   a) Welcomes required industry representation from both small and large enterprises on the Council Board for some WDCs. However, small business representatives will likely be under resourced. Defining ‘small’ business will signpost to businesses of that size that they are welcome on the WDC’s. Specifying the obligations of Committee membership will also help ensure small business can be at the table.

   b) Applauds the inclusion of governance development associates to upskill individuals on the WDCs. The role and the criteria for appointment should be defined to avoid the risk of unstructured or ad hoc developmental support for these people.

132. BusinessNZ comment that further emphasis needs to be put on working with industry associations and employer groups to utilise significant work that has already been undertaken on workforce planning, and ensure retention of the many excellent work based training programmes in the existing system, particularly given that workforce planning and skills development are also being undertaken through other government work programmes like MBIE’s Industry Transformation Plans, or MPI’s Food and Fibre Skills Action Plan.

133. Taituarā - Local Government Professionals Aotearoa stated that there is an opportunity for central and local government to work together to jointly develop the public sector workforce.

134. Tāne Mahuta NZ Limited commented that all OIC’s across the 6 WDC’s are mainstream, with limited attention to honouring the 3 Treaty (not Te Tiriti) principles of Partnership, Protection and Participation. This is perhaps due to no Māori member on the Services iEB and limited Māori membership in governance. Primary is the only OIC reflecting partnership at 50/50 membership. Consistent calls by Māori for Māori membership
Health, Community and Social Services Order in Council – Summary of Submissions

and representation in "services' were not attended to or ignored. Te Tiriti values and principles, on the other hand, sit outside the honourable duties reflected in the OIC's or attempts to include.

135. One submitter strongly recommends that the WDCs will need to employ staff resources, who have significant understanding of industry skill needs and how they can be defined and applied coherently along with the qualifications that support them. If this is done correctly, then qualifications definition, assessment and updating will be much simplified by the use of stable constructs, where only minor knowledge updating will be required year on year. This will provide longer term validity of qualifications and the resulting benefits to their holders in rapidly evolving contexts.

136. One submitter commented that they do not believe the once-in-a-lifetime opportunities (with the concurrent establishment of WDCs and RSLGs) for stronger connections between WDCs and other parts of the labour market system powerfully enough. They believe that a systemic approach to workforce development and supply by the WDCs and their members needs to be made explicit.

Responses and Recommendations

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<thead>
<tr>
<th>Interim Establishment Board Response</th>
<th>Interim Establishment Board Recommendations</th>
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<tbody>
<tr>
<td>The iEB supports the Kāhui Ahumahi submission, and the importance of working with Te Kāhui through the next phase of establishment. The iEB welcomed Kāhui's suggestions as a way to strengthen the CHESS WDC's commitment to Te Tiriti.</td>
<td>Agree to the inclusion of iwi in consultation on reforming the vocational education system, as per Te Kāhui Ahumai’s recommendation.</td>
</tr>
<tr>
<td>The iEB strongly supports the continuation of a Kāhui group going forward, in whichever form it evolves to be.</td>
<td>Agree to refer to the articles, rather than the principles of Te Tiriti o Waitangi.</td>
</tr>
<tr>
<td>The iE. noted that there were some vagueness in particular areas such as the definition of Māori employer, and noted the importance of ensuring that Te Kāhui Ahumahi has a voice going forward so that they may aid in these areas.</td>
<td>Note that the iEB strongly supports continuation of a Kāhui group in whichever form it will take in the future.</td>
</tr>
<tr>
<td>Note that the Ministry does not support the iEB's recommendations. It is government policy to have a single treaty statement across all 6 WDCs that is consistent with section 4 of the Education and Training Act. We note that the framework of the OICs is enabling and flexible, and allows WDCs to establish committees and cross-WDC Māori caucuses.</td>
<td>Note that the Ministry does not support including the iEB’s recommendations in the Order.</td>
</tr>
<tr>
<td>Note that officials acknowledge the desire for the continuation of Kāhui Ahumahi, and the initiative and expert input provided by its members.</td>
<td></td>
</tr>
</tbody>
</table>
**Note** that WDCs will be enabled as part of their powers, and responsibility to collaborate and to agree to establish a cross-WDC caucus of Māori members.

**Agree** to *not* make changes as recommended by the iEB that refer to iwi.

**Agree** to *not* refer to the articles, rather than the principles of *Te Tiriti o Waitangi*. 

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Consultation on WDC Order in Council

Construction and Infrastructure Order in Council – Summary of Submissions
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Responses and Recommendations
Name of the Workforce Development Council

Summary of Clause

The Waihanga Ara Rau Construction and Infrastructure Workforce Development Council is established on the date the Order in Council is made.

Summary of Submissions

1. Several organisations and individuals commented on the proposed (Te Reo) name of the WDC:
   a) Connexis believes that Te Reo wording reflects the pathways within Construction and Infrastructure with the name encompassing all industries within vertical and horizontal construction.
   b) The New Zealand Certified Builders Association wonder if the Te Reo name is too generic and could be applied across all WDC’s being established.
   c) BCITO believe the Te Reo name incorporates reference to building and developing, pathways, and gathering together; all of these are appropriate to not just the coverage of the WDC, but both its purpose and the philosophy they believe should underpin the WDC’s work.
   d) One submitter suggested the alternative name “Te ara ki te angitu” as it could be more appropriate. “Pathway to success” instead of “create a path”.
   e) Te Whakakitenga o Waikato stated that there was no explanation of the Reo name.

2. Te Wānanga o Aotearoa commented across all WDCs that they believe all Orders in Council should have a Te Reo Māori descriptor in their title/name for WDCs. They state that respect for and inclusion of Te Reo Māori as an official language of Aotearoa New Zealand, must be a requirement for government entities from the outset, than that Kupu Māori, in this context is not a “nice to have” or a work in progress, it is fundamental.

3. One submitter recommends that all WDCs should consider having “people” in their name, not just the “Muka Tangata People, Food and Fibre WDC”. They argue that all WDCs are focused on the importance of people.

4. Some submitters who (strongly) agreed with the proposed name found that:
   a) It is appropriate to have a bilingual name.
   b) The name is straightforward and easily identifiable.
c) The name is appropriate and descriptive.

d) The name clearly communicates the industry coverage of the WDC, enabling firms and industries to see themselves in the organisation

5. One submitter commented that the abbreviation of the name conflicts with other existing government agencies.

### Responses and Recommendations

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<thead>
<tr>
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<tr>
<td>The Board was not persuaded that the proposed changes to the name of the WDC provided a compelling case.</td>
<td>The Board recommended that the name be adopted.</td>
</tr>
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</table>

| Ministry of Education – Response | Ministry of Education – Recommendations |
Purpose of the Workforce Development Council and Accountability Arrangements

Summary of Clause

Purpose

The purposes of the Waihanga Ara Rau Construction and Infrastructure Workforce Development Council are:

- to use its industry voice to contribute to the creation of a sustainable, globally engaged and adaptive Aotearoa New Zealand;
- to contribute to an education system which provides opportunities for all people to reach their full potential and capabilities, including those who have been traditionally underserved by the education system;
- to contribute to an education system that honours Te Tiriti o Waitangi to help ensure fair and equitable outcomes for all;
- to plan, implement and support the responses to Aotearoa New Zealand’s current and future workforce needs, taking into account:
  - the transition to a low-emissions and climate resilient Aotearoa New Zealand;
  - new global challenges;
  - emerging technologies;
  - global sustainability goals;
  - the changing nature of work, and
  - the skills, knowledge and qualifications learners need in future to achieve success for themselves and their communities.

Accountability arrangements

Performance of functions

- The Council in the performance of its functions must give effect to:
  - the purposes of the Council; and
  - the Tertiary Education Strategy issued under section 7 of the Act.

- The Council must consult with persons or bodies who, the Council considers on reasonable grounds, represent Māori in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of Māori in the performance of its functions.
The Council must consult with persons or bodies who, the Council considers on reasonable grounds, represent specific population groups in relation to the performance of the Council’s duty [in section 369(2)(b) of the Act] to have regard to the needs of those population groups in the performance of its functions.

**Statement of strategic direction**

- At least every 3 years the Council must publish on an Internet site maintained by, or on behalf of, the Council a statement setting out its strategic direction for the next 5 years, including how the Council intends to give effect:
  - to the purposes of the Council; and
  - to relevant parts in the Tertiary Education Strategy.

- The Council must consult with the specified industries, the Minister, vocational education providers, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

**Annual report**

- The Council must present to the specified industries and to the Minister an annual report on the performance of its functions, including (without limitation):
  - an outline of the progress made towards achieving the goals and objectives set out in the statement of strategic direction; and
  - the audited financial statements of the Council.

**Summary of Submissions**

6. One submitter stated that the purpose and accountability will help to roll back and reset the trade qualification system to produce better outcomes for Māori. This will have a major impact on Māori aspirations around job stability and wage growth.

**Purpose**

7. The Tertiary Education Union (TEU) drafted an alternative purpose statement, which they believe could be applied across all WDCs. Their alternative statement is based on a synthesis of the various purpose statements across the Orders in Councils, but with a number of minor additions. Their suggested additions focus on inclusivity and diversity (bi-culturalism).

8. Several organisations, including BCITO, Employers and Manufacturers Association (EMA), Māori and Pasifika trades training Auckland, New Zealand Institute of Building, Master Painters NZ, Concrete NZ, New Zealand Specialist Trade Contractors Federation, NZ Construction Industry Council, New Zealand Certified Builders Association, Civil Contractors New Zealand, and Business NZ would like to see the Orders in Council for all
six WDCs be more explicit and contain stronger language regarding the role of the WDCs. They believe that ‘contribution to the education system’ is weak in relation to the importance and the ‘leading’ role of the WDCs.

9. Business NZ, BCITO, the Māori and Pasifika trades training Auckland, and one other individual submitter recommend that the purpose statement should refer to the WDCs’ responsibility to deliver on skills for industry, its accountability to industry, and its role in ensuring a well-functioning workforce and labour market system. Concrete NZ recommend that the purpose of the WDC should reflect the need for visible career pathways and a sustainable workforce pipeline.

10. Māori and Pasifika trades training Auckland comments that the purpose of each WDC needs to be
   a) specific to their industry, their workforce, and the outcomes of the work the industry does.
   b) specific about the role of the WDC in making sure the education system meets the needs of the industry (and workforce).
   c) brief and to the point
   d) stronger intentional statement than “proposed”.

11. Te Wānanga o Aotearoa (TWoA):
   a) Suggest that the purpose and engagement approach should be consistent across all WDCs to ensure good outcomes for Māori, and to ensure that wānanga are able to engage across all of the WDCs in a consistent, clear manner.
   b) Recommend that the purpose should be amended to acknowledge (collaboration with) wānanga. They also believe that the OiCs should explicitly include the requirement to authentically consult with “persons or bodies” in relation to “s369(2)(b)” and Section 367 (s367) of the Act (which makes provision for the responsibilities which WDCs have for wānanga in particular), to ensure that the wānanga have confidence that their provision will be properly recognised and acknowledged.
   c) Expressed concern that the majority of the OiCs suggests that the purpose of honouring Te Tiriti for WDCs is to “help ensure fair and equitable outcomes for all”, rather than, the more appropriately described position from Ka Hikitia, that is “to give practical effect to Tiriti o Waitangi in the [vocational training] system”.

12. Several submitters, including Concrete NZ, New Zealand Specialist Trade Contractors Federation, NZ Construction Industry Council, Connexis, NZ Certified Builders Association, Master Electricians, New Zealand Institute of Building, Registered Master Builders Association, and Civil Contractors New Zealand, commented that the purpose should refer specifically to the Construction and Infrastructure industry, workforce and learners.

13. Several submitters, including the New Zealand Specialist Trade Contractors Federation and NZ Construction Industry Council, want to see the basic roles / functions of the WDCs (as set out in the Act) included in the Order in Council, with a focus on the leadership role that the WDC will be taking on.
a) The New Zealand Specialist Trade Contractors Federation, NZ Construction Industry Council, Registered Master Builders Association comment that the purpose needs to clearly set out the WDC’s leadership role in:
   i. Engaging with and determining the future workforce needs of the construction and infrastructure industry.
   ii. Determining how to best meet the construction and infrastructure industry’s people development needs
   iii. Ensuring that the vocational education system meets the people development needs of the construction and infrastructure industry.

14. The New Zealand Specialist Trade Contractors Federation, NZ Construction Industry Council, Civil Contractors New Zealand, and Registered Master Builders Association believe that the list of the issues the WDC should take account of should be deleted from the purpose, as these will change over time. They believe they should be captured in the Statement of Strategic Intent. Rather than deleting them from the purpose, the Roofing Association of New Zealand Inc. believes that there should be additions to this list of issues.

15. Civil Contractors New Zealand believe that there should be recognition of the C&I WDC’s role as key liaison between the construction and infrastructure industry and education system in the purpose statement.

16. Civil Contractors New Zealand and Roofing Association of New Zealand argue that the wording ‘use its industry voice’ in the purpose statement assumes the council is representative of industry. They believe this is not necessarily the case, as the Council does not start with an industry voice, it must ‘develop’ or ‘build’ one.

17. One submitter questions what the purpose is adding when compared to what is currently being done.

**Accountability Arrangements**

18. The Tertiary Education Union (TEU) recommends that:
   a) The following sub-bullet points (taken from the Primary OiC) are included under the ‘Accountability Arrangements - Performance of functions’ for each of the six WDC Orders in Council:
      • The Council in the performance of its functions must give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies that relate to vocational education and training. This recommendation was supported by Te Wānanga o Aotearoa (TWoA).
   ii. The Council in the performance of its functions must:
      • act in a manner which is consistent with the goals and objectives of the vocational education system as a whole;
      • work collaboratively with providers, including work-based trainers and employers, to ensure that qualifications, standards, and learning packages, enable successful outcomes for all learners; and
advocate for, and contribute to, policies that meet the needs of industries covered by the Council, particularly as they relate to vocational education, career promotion and planning, and the funding of education and training.

b) The ‘Accountability Arrangements – Statement of strategic direction’ section states that:

i. The statement of strategic intent should include how the Council intends to give effect to Ka Hikitia – Ka Hāpaitia or subsequent Māori education strategies

ii. The Council must consult with the specified industries, the Minister, vocational education providers, Te Pūkenga, relevant Centre(s) of Vocational Excellence, Regional Skills Leadership Groups, and with persons or bodies the Council considers on reasonable grounds represent Māori, before issuing a statement on its strategic direction.

19. The Employers and Manufacturers Association recommends that there must be some measure of how well WDCs are performing, both in engaging with industry and in providing the necessary skills for business.

20. One submitter recommended that the accountability arrangements should require WDCs to consult with RSLGs.

21. Business NZ recommends that:

a) The accountability arrangements are significantly strengthened to explicitly include mechanisms to ensure that skill standards are relevant and aligned to the professionalization and regulatory requirements for industry.

b) Given the broad scope of industry coverage, strengthened accountability to industry and articulation of how it will manage the broad coverage scopes should be built into the accountability mechanisms.

c) The Annual Report in the accountability arrangements should require the setting of key performance indicators and commitment of service levels to industry for WDC’s to report against.

22. The New Zealand Certified Builders Association recommends the following addition to ‘accountability arrangements”: “A set of key performance indicators that reflect the CIWDC performance of CIWDC aligned training providers, programmes and service levels provided to the industries under the OIWDO coverage”.

23. The Roofing Association of New Zealand Inc. believes that consultation with industry will be required in developing the accountability framework. They believe it will be an engagement process where transparency is required and contact must also be made with the recognised industry associations. The outcomes should be published annually in the Annual Report. The Master Electricians made a similar submission in which they state that:

a) There should be a methodology for industry to set the parameters of the strategic direction.
b) Accountability arrangements and/or mechanisms for industry engagement should specify a requirement to consult with industry representatives, from each of the stakeholder industries represented, to provide binding criteria for the strategic direction as well as key performance indicators.

24. One submitter stated that there must be accountability to students and workforce

Responses and Recommendations

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<td>The Board noted the submissions relating to the need to make construction and infrastructure industries more obvious and to highlight the importance of vocational education.</td>
<td>Note that the iEB recommends that the following provisions that “contribute” be replaced with “ensure” or “lead” as appropriate throughout the purpose statement.</td>
</tr>
<tr>
<td>The Board also noted concerns that the purpose statements may lack a degree of ambition and noted the commentary on the proposed list of specific priorities that they may be seen to be too narrow or prescriptive.</td>
<td>Agree that as part of its purpose statement the WDC will “lead the development of a more sustainable, globally engaged and adaptive construction and infrastructure workforce in Aotearoa New Zealand”.</td>
</tr>
<tr>
<td>The Board was sympathetic to submissions that supported the adoption of career promotion activity but noted its understanding that the WDC would necessarily be internally focused rather than undertaking active external marketing of relevant careers, and would tend to leverage other channels in doing so.</td>
<td>Agree that as part of its purpose statement the WDC will “ensure the construction and infrastructure vocational education system provides opportunities for all workers to reach their full potential”.</td>
</tr>
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<td>Agree that as part of its purpose statement the WDC will “ensure the construction and infrastructure vocational education system honours Te Tiriti o Waitangi to help ensure fair and equitable outcomes for all”</td>
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<td>Agree that as part of its purpose statement the WDC will “lead the response to Aotearoa New Zealand’s current and future construction and infrastructure workforce needs”.</td>
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<td>Agree in the purpose statement to include specific references to construction and infrastructure throughout the purpose statements to complement the term specified industries.</td>
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<td>Agree in the purpose statement to specify a purpose relating to encouraging visible career pathways and a sustainable workforce pipeline.</td>
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The Ministry does not support the recommendation to add the words ‘lead’ and ‘ensure’ as proposed by the iEB. The purpose statement is about how the council intends to approach its functions. Using the words ‘lead’ and ‘ensure’ effectively expand the functions of the WDC beyond their scope in the Education Act and makes the WDC responsible for achieving outcomes which are far beyond their intended scope and beyond what they will be funded for.

The accountability arrangements in this order provide that the council ‘in the performance of its functions must give effect to its purpose.’ In addition, including these statements will leave the WDC vulnerable to legal challenge should it not deliver on the purpose statements.

We consider that strategic or aspirational statements should be captured in the WDCs strategic or policy documents.

| Note | that the Ministry does not support the iEB’s recommendation to use ‘lead’ and ‘ensure’ or ‘visible career pathways and a sustainable workforce’ in the purpose statement. |
| Agree | to not include the iEB’s proposals to include the terms ‘lead’ and ‘ensure’ or ‘visible career pathways and a sustainable workforce’ in the purpose statement. |
| Note | that the Ministry supports the iEB’s recommendation to include further reference to construction and infrastructure in the purpose statement. |

### Council membership provisions

#### Summary of Clause

- The Council comprises 6, 7 or 8 members, as determined by the Council, made up as follows:
  - at least 1 member is a person nominated by employers in the specified industries to represent them;
  - at least 1 member nominated by trade unions and endorsed by the Council of Trade Unions to represent employees in the specified industries;
  - at least 1 member is a person nominated by Māori employers in the specified industries, to represent them; and
  - the remaining members are appointed by the Council to bring the total membership of the Council up to 6, 7 or 8 members.

- The Council may co-opt one person to be a member if necessary, to ensure that the Council has an appropriate mix of skills, leadership and experience, provided that the Council comprises in total no more than 8 members.

- When seeking nominations for an employee representative, the Council/selection committee:
Summary of Submissions

25. The Tertiary Education Union commented that the parameters pertaining to the size, make-up, and mandatory membership requirements of the Councils should be consistent for each of the six WDCs whilst allowing for flexibility within those parameters. They put forward an alternative council membership proposal in which:

a) The Council comprises 8, 9, or 10 members, as determined by the Council, made up as follows:
   i. 1 member nominated by Māori employers in the specified industries, to represent them;
   ii. 1 member nominated by Māori employees in the specified industries, to represent them;
   iii. 1 member nominated by employees, the Council of Trade Unions, and unions representing employees in the specified industries, to represent them;
   iv. 1 member nominated by the employers in the specified industries, to represent them;
   v. 1 member from the Pacific community;
   vi. 1 member from Te Pūkenga involved in the provision of education in the specified industries nominated by subsidiary employees, to represent them. (the TEU Unitec branch voiced their support for this specific recommendation)
   vii. The remaining members appointed by the Council to bring the total membership of the Council up to 8, 9, or 10 members as determined by the Council

b) The Council as a whole must have approximately an even balance between members of the Council who are Māori and non-Māori

c) When seeking nominations for an employee representative, the Council or the appointments committee must:
   i. take all reasonable steps to notify employees in the specified industries about the process for nominating members;
Construction and Infrastructure Order in Council – Summary of Submissions

ii. ensure that the persons nominated for appointment have the support of a sufficient number of employees in the specified industries; and

iii. not specify who is eligible to be nominated for appointment as a member except as provided for in the Order, or in any rules.

d) The Council may co-opt up to 2 persons for no more than 3 years to be a member if necessary or desirable:

i. to ensure that the Council has an appropriate mix of skills, leadership, and experience, provided that the Council comprises in total no more than 10 members;

ii. to provide opportunities for people of different age, ethnicity, ideas, and gender to develop the knowledge, skills, and experience in governance necessary to be appointed as a member of a professional governing body;

iii. to increase opportunities for participation at a governance level by Māori, Pacific peoples, and people living with disabilities;

iv. to draw on the experience, knowledge, and views of learners; and

v. to ensure that over the long-term there is adequate representation of Māori, with the aim of contributing towards an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

26. The Master Electricians believe the proposed representative make-up of the Workforce Development Councils ensures that Iwi and the trainees are adequately represented, however, the employers and the industry are not adequately accounted for.

Māori / Pasifika representation

27. Several submitters commented on the Māori representation, as included in the Order in Council:

a) Te Wānanga o Aotearoa commented that all OICs should include opportunities for Māori employee representation, to ensure that vocational education and training is responsive to Māori apprentices and trainees. They believe this is particularly critical in areas with high Māori participation (such as Primary Industries, Services, Creative, Logistics and Community).

b) Māori and Pasifika trades training Auckland recommends that the number of employer representatives needs to be increased to four, including Māori and Pasifika business leaders.

c) Waikato-Tainui supports that at least 3 of the members are Māori; they expect these Māori members can bring a strong Te Ao Māori perspective and can demonstrate effective relationships with mana whenua and Māori organisations.

d) Connexis recommends that the proportion Māori representation be changed from a number (3) to be fifty percent to ensure the proportion of representation remains the same no matter the total number of council members included.
e) The New Zealand Certified Builders Association recommends that the fixed minimum number of Māori members on the council should be reduced to a minimum of 1 or 2. They believe that the current proposal is a vast over representation as the sector has a significant proportion of other ethnic groups (for e.g. Chinese, Pacifica etc.).

f) BCITO comments that, after considering industry views and our own commitment to Te Tiriti, they believe that the minimum number of Māori members should not be changed.

28. BCITO suggests that “Members who are Māori” be replaced by “members who identify as Māori”.

29. Several submitters, including the Employers & Manufacturers Association (EMA), Specialist Trade Contractors Federation, New Zealand Construction Industry Council, Concrete NZ, Registered Master Builders Association, and the Māori and Pasifika trades training Auckland highlighted the need for a clear definition of Māori / Pasifika business / employer. Māori and Pasifika trades training Auckland recommend the definition includes 50% ownership base with stated intentions to promote Māori and/or Pasifika economic position in the trade sector. This process would include clear consultation with business and community organisations that promote Māori and Pasifika participation in the trades including: AMOTAI, Pacific Business Trust, Iwi and Hapu Corporations.

30. BCITO recommends that:
   a) The relevant language relating to Māori employer representation be amended to “at least 1 member nominated to represent Māori employers in the specified industries”. This would allow, for example, an iwi or similar representative to be nominated without requiring the formality of seeking out individual employers to endorse that nomination.
   b) The following wording is adopted: “When seeking nominations for a Māori employer representative, the Council/ selection committee must ensure that the persons nominated for appointment provide evidence that they are able to effectively represent the interests and needs of Māori employers in the specified industries.”

31. The Specialist Trade Contractors Federation and New Zealand Construction Industry Council stated that clarification is needed for the meaning of “an even balance” for “Māori / Non-Māori” composition. They wonder whether this means equal numbers, proportionate to population or has another meaning.

32. Business NZ recommends that the Council membership provisions should be strengthened and consider Māori representation more broadly in terms of the industries which have high proportions of Māori and Pacific in their workforce, rather than just representation at the Board table.

Industry representation

33. Several organisations, including the Employers & Manufacturers Association (EMA), Connexis, Concrete NZ, New Zealand Certified Builders Association, and Business NZ, would like to see increased industry / employer representation in the proposal:
   a) Employers & Manufacturers Association (EMA), Connexis, Registered Master Builders Association, and Business NZ recommend that each council should have at least 50% representatives from that industry coverage area, to ensure it is an ‘industry-led’ organisation.
b) Master Electricians believes that industry should have 50% representation on the council.

c) Concrete NZ and Master Plumbers, Gasfitters and Drainlayers NZ believe that the minimum number of employer representatives should be raised to four (including two nominated by Māori employers).

d) The Specialist Trade Contractors Federation, New Zealand Construction Industry Council, and NZIOB, recommend that the minimum number of employers should be increased to four (including two nominated by Māori employers).

34. Business NZ notes that it does not consider that Māori representation and industry representation are mutually exclusive.

35. The Specialist Trade Contractors Federation and New Zealand Construction Industry Council recommend that it should be made clear that manufacturing, engineering and logistics industry associations are able to nominate employer representatives (including Māori representatives). This is supported by Scaffolding, Access and Rigging New Zealand Incorporated.

36. One submitter commented that industry nominations must be derived from registered C&I organisations.

**Employee representation**

37. The Construction and Infrastructure interim Establishment Board recommend that the Order in council proposal be amended to say “at least one member nominated by trade unions or the Council of Trade Unions to represent employees in the specified industries”, rather than the text it currently contains that states “at least one member nominated by trade unions and endorsed by the Council of Trade Unions to represent employees in the specified industries”. The interim Establishment Board is aware that not all unions active in the construction and infrastructure industries are affiliated with the Council of Trade Unions.

38. The Council of Trade Unions (CTU) recommends that:

   a) each WDC include at least two worker representatives, of which at least one be a representative of Māori workers. (this recommendation was also voiced by First Union)

   b) the appointment of each worker representative on a WDC require endorsement from the CTU.

   c) a consistent process be established for appointments to WDCs. In any case where an appointments panel is convened, this should include representatives from CTU, Business NZ and iwi/Māori.

39. The NZIOB proposes that the requirement for a trade union nomination to be endorsed by the CTU be removed, so that nominations from unions that are not CTU members are not disadvantaged.

40. Business NZ recommends that the Council membership provisions should include working with BusinessNZ and the CTU to utilise the tripartite approach to governance arrangements rather than building in special provisions for union representation and endorsement.

41. First Union recommends that an explicit statement mandating union representation be included.
42. First Union state they are comfortable with the suggestion that Te Rūnanga endorses Māori worker candidates.

43. The NZ Dairy Workers Union recommends that:
   a) All six WDC OIC proposals should stipulate that only nominations and/or endorsements from trade unions involved in the WDC coverage areas or from the CTU/Te Rūnanga should be accepted for WDC representatives tasked with the collective representation of employees, both Māori and non-Māori;
   b) All six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

**Council size**

44. BCITO recommends that the membership range be increased by one, allowing for 7 to 9 members. They also want to see the ability to co-opt one additional member not being constrained by the upper size limit (i.e. it could result in a 10-member Council).

45. The Specialist Trade Contractors Federation, NZIOB, and New Zealand Construction Industry Council believe that the Council should have between six and eight members (with a preference for eight, given the size and diversity of the construction and infrastructure industry). They would also support the option for a ninth member to be co-opted by the Council if required.

46. The New Zealand Certified Builders Association recommends that the council should have 8-9 members (rather than 6-8) due to the broad scope of industries covered by the WDC, including many small specialist trades. They also believe that the Council should be able to co-opt an additional member even if it exceeds the maximum number of council members.

47. Several submitters believe that 6-8 councillors is too small a number to represent the diverse nature of the horizontal and vertical construction industries.

48. Master Painters NZ believe that the Council should have 11 members (as a minimum), of which at least 5 are from industry.

49. Master Plumbers, Gasfitters and Drainlayers NZ recommends that the council should be comprised of eight members rather than six or seven.

**Skills-based council**

50. There were mixed opinions on having a skills-based council:
   a) The Specialist Trade Contractors Federation and New Zealand Construction Industry Council agree that Council members should be appointed based on their knowledge, skills, and experience rather than being a purely representative Council
   b) Employers & Manufacturers Association (EMA) suggest that:
i. meeting the many criteria (e.g. setting up organisations, expertise in education and relevant industry, experience in financial and change management, and gender and ethnic balance) should not be at the exclusion of industry expertise.

ii. that WDC Committee members from industry are not from one specific stream of that coverage area

Other

51. BCITO suggests that the Order in Council should include a requirement that at least one member is a woman with experience in the specified industries.

52. Connexis recommend that at least 25% of members of the council are females.

53. One submitter recommends the inclusion of RSLG members (potentially co-opted) on the council.

Responses and Recommendations

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<tr>
<th>Interim Establishment Board Response</th>
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<tbody>
<tr>
<td>The Board welcomed the suggestions that the overall number of members and minimum number of prescribed industry, industry association and employee representation should increase to ensure appropriate employer and employee representation recognising the great diversity of economic activity in the industry.</td>
<td><strong>Agree</strong> that the Council comprises 8 or 9 members. Eight members are appointed by the appointment committee (for the first Council) or the selection committee (for the permanent Council). The Council itself may co-opt one further member.</td>
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<td>The Board noted that the Council membership needed to ensure appropriate stewardship of the wider industry and a mix of skills and experience that can contribute to the industry.</td>
<td><strong>Agree</strong> that the requirement that employee representatives be endorsed by the Council of Trade Unions should be replaced with a clarification that the organisation may be one of the entities that may nominate an employee representative.</td>
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<td>The Board was concerned to ensure that the Council had some flexibility in determining how best to fulfil the appointment criteria and was concerned to avoid an overly prescriptive model.</td>
<td><strong>Agree</strong> that at least 2 members are nominated by employers in the specified industries to represent them, one of which must be nominated by a Maori employer, and at least one of the members so appointed should be Māori.</td>
</tr>
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<td>The Board noted the concerns about the difficulty of ensuring sufficient diversity among the Council within the proposed range of 6 to 8 members. The Board considered that increasing the number of members appointed by the appointments or selection committee to a minimum of eight would provide more scope to accommodate those requirements.</td>
<td><strong>Agree</strong> that at least 2 members are nominated by trade unions and or the Council of Trade Unions to represent employees in the specified industries, at least one of whom should be Māori.</td>
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<td></td>
<td><strong>Agree</strong> that the Council may co-opt one person to be a member if necessary, to ensure that the Council has an appropriate mix of skills, leadership, and</td>
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The Board considered that lifting the number of people nominated by employers in the specified industries from one to two, and the number of people nominated by trade unions and or the Council of Trade Unions to represent employees in the specified industries would have the effect in light of the Board’s other recommendations of providing for a minimum of approximately half of all members being ‘from industry’.

The Board further noted the concerns about the lack of specificity in terms of the types of organisations and individuals that might constitute the ‘industry’ and of who may constitute a Māori employer and considered some definition may be desirable.

The Board was concerned to ensure that feedback it provided on the proposal to require endorsement by the CTU of employee representatives was amended to reflect the diversity of collective representation arrangements in the industry.

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| Note that the Ministry supports the iEB’s recommendations. | }
Criteria for the appointment of members

Summary of Clause

- When appointing members of the Council, the Council or the appointments committee must:
  - apply the principle that membership of the Council should, as far as reasonably practicable, reflect the diversity of ethnicity, cultural background and gender of the people within the specified industries and in New Zealand as a whole; and
  - ensure that at least 3 of the members are Māori (inclusive of the member who is appointed as Māori co-chairperson); and
  - ensure that the Council has sufficient knowledge, skills or experience in the following:
    - te ao Māori;
    - the specified industries;
    - the governance of organisations;
    - vocational education;
    - public administration; and
    - community organisations.
  - ensure that during the two years following the establishment of the Council, the Council has:
    - sufficient experience in establishing new organisations, enterprises or businesses; and
    - sufficient experience in leading industry, business transformation and change management.

Summary of Submissions

54. The TEU recommend that, at a minimum, each of the Orders in Council should include the following criteria for the appointment of members to the Council:

As a whole, the Council must have:

a) A deep understanding of, and commitment to, the principles of Te Tiriti o Waitangi.
b) Strong knowledge and networks within te ao Māori.

c) A sufficient number of members with skills in te ao Māori, including te reo Māori and mātauranga Māori, to ensure that the Council is able to give proper consideration to Māori perspectives in undertaking its duties functions.

d) Experience in Māori business within specified industries.

e) Strong experience in, or engagement with, the vocational education and training system, including pedagogical expertise in teaching, learning (including adult teaching and learning), and pastoral care.

f) an understanding of, and commitment to, inclusion, eliminating inequality, and understanding the needs of underserved learners, including but not limited to Māori, Pacific peoples, and people living with disabilities.

g) Diversity of age, ethnic background, ideas, and gender, with particular regard to representation of Māori, Pacific peoples, and people living with disabilities.

h) A commitment to act with impartiality, honesty, integrity, and manaakitanga.

i) Representatives from both large and small and medium enterprises within the specified industries.

j) The support of, in the case of the employee representatives, the Council of Trade Unions or unions representing employees in the industry.

k) Sufficient knowledge of community organisations.

l) Leadership experience in at least one of the specified industries covered by the Council.

m) Knowledge, skills, and experience relevant to the strategic direction of the Council.

n) Experience in governance and public administration.

o) Experience in financial analysis and management.

55. Several submitters, organisations and groups, recommended that additional criteria are added:

a) Business NZ recommends that:

i. the criteria for the appointment of members should include experience, relationships or knowledge of industry associations and the relevant regulatory and professional standard bodies

ii. The Council membership provisions should be strengthened to ensure members are able to provide leadership and broad industry connections and insights, including on the strategic and regulatory outlook for different industries. This recommendation was also made by the Employers & Manufacturers Association (EMA).
b) BCITO recommends that all Orders in Council include a requirement that, for the first two years, the Council has members with experience in establishing new organisations and leading change.

c) STCF recommends that the Council must include members skilled in financial analysis and management.

d) The Master Electricians believe that the criteria for the appointment of members should include industry associations and the relevant regulatory and professional standard bodies.

e) One submitter commented that it was important to ensure there is representation from those with commercial and practical experience.

f) One submitter highlighted that there should be a provision for someone with educational expertise on the councils to advise members of any educational considerations in the decisions they make.

56. The Roofing Association of New Zealand believes that it might be challenging to come up with candidates whom could meet a majority of the skills required.

57. The BCITO and New Zealand Certified Builders Association recommends that the OIC should clarify that "experience in vocational education" must cover both on-job (workplace-led) and off-job (campus-led) vocational education.

58. BCITO recommends that:

a) The first bullet point should read: "apply the principle that membership of the Council should, as far reasonably practical, demonstrate a commitment to diversity and increasing participation in the specified industries by currently under-represented groups, including ethnic, cultural, and gender communities."

b) The relevant text take a leaf from other OICs (such as those for HCSS and Primary) and explicitly states that these knowledge, skills and experience relate to what the Council as a whole – not each individual member – must possess.

c) "community organisations" is replaced with "not-for-profit and/or membership organisations"

Responses and Recommendations

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<tr>
<td>The Board noted the feedback in relation to the representation of women on the Council and was concerned to ensure that any arrangements provided some minimum level of representation of people who could reflect the perspectives of women, noted the desirability of efforts to work toward</td>
<td>Agree that the Council as a whole must have approximately an even balance between members of the Council who are Māori and non-Māori. Agree that the provision is updated to ensure at least two members identify as female.</td>
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gender balance and were in any case consistent with the growing gender
diversity in the construction and infrastructure industries.

The Board noted the feedback in relation to the minimum number of Māori
appointed to the Council. The Board also took into account the
recommendations outlined above in terms of the specified Māori members.
The Board was concerned to ensure that the proposed arrangements would
support the WDC to give effect to the Māori-Crown partnership and was
consistent with the desire to contribute through the WDC to transformational
change in vocational education.

### Ministry of Education Response

The Ministry considers that research needs to be done to establish whether
women are in need of affirmative action in these industries and whether
singling out women is justified given the other legally recognised genders
who may also consider themselves underrepresented in these areas.

We consider that existing provisions which apply the principle that
membership of the Council should, as far as reasonably practicable, reflect
the diversity of ethnicity, cultural background and gender of the people
within the specified industries and in New Zealand as a whole is sufficient.

### Ministry of Education Recommendation

- **Note** that the Ministry supports the iEB’s proposal to provide for an even
  balance between members who are Māori and non-Māori.

- **Note** that the Ministry does not support the proposal for two members to
  identify as female as existing provisions which apply the principle that
  ‘membership of the Council should, as far as reasonably practicable, reflect
  the diversity of ethnicity, cultural background and gender of the people
  within the specified industries and in New Zealand as a whole’ is sufficient.

- **Agree** not to include the iEB’s proposal to ensure two members identify as
  female.
**Appointment of the first Council**

**Summary of Clause**

- The first members of the Council must be appointed in accordance with the membership provisions and membership criteria of the Order.
- For the purpose of making appointments to the first Council, the Chief Executive of the Tertiary Education Commission must establish an appointments committee comprising 5 representatives from the specified industries.
- The appointments committee must:
  - determine the constitution of the Council in accordance with the membership provisions, including the number of members on the Council (6, 7 or 8 members) and the manner in which the directly appointed members are to be selected and appointed;
  - seek expressions of interest in, or nominations for, appointment as a member of the Council;
  - identify the persons who it considers are suitable for appointment as member of the Council; and
  - appoint the first members of the Council.
- Members of the first Council may be appointed for a period of between 2 and 5 years.

**Membership of Council reduced until all appointments made**

- The number of Council members is proportionately reduced until the date on which each member referred to in the membership provisions is appointed to the Council.
- No action of the Council is invalid merely because any member has not been appointed to the Council on the commencement date of the Order.

**Summary of Submissions**

59. Concrete NZ, BCITO, New Zealand Certified Builders Association, and Connexis believe that it should be reflected in the Order in Council that, in appointing members to the Appointments Committee, the Chief Executive of the TEC should consult with and seek nominations from representative bodies in the specified industries.

60. BCITO and Connexis recommends that the appointments committee must collectively include knowledge and experience in a range of the industries covered by the WDC, vocational education, and governance.
61. Master Painters NZ stated that they are seeing the same names and people being appointed in a manner that has been less than transparent. There is potential to stifle innovation which the Minister indicated he was looking for.

62. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

**Term**

63. BCITO recommends that members are appointed to the first council for a term of either 2 or 3 years, and that the OIC specify that the terms of the first Council are set separately for each member (as this allows for members to be appointed specifically to cover the Knowledge, Skills and Experience required during the initial two-year establishment phase, as set out in the OIC).

64. The New Zealand Certified Builders Association recommends that the terms of appointments to the first council should be capped at 2 years, as they believe 2-5 years is too long.

65. The NZIOB recommends a term for council members between two and three years, as they consider an upper limit of 5 years too long. They also acknowledge that it is wise to have varying length terms for the foundation Council to avoid the entire Council coming to the end of their respective terms at the same time.

**Membership of Council reduced until all appointments made**

66. Civil Contractors New Zealand believes that the sentence “The number of Council members is proportionally reduced until the date on which each member referred to in the membership provisions is appointed to council” is unclear. They suggest this should be re-worded to avoid confusion.

### Responses and Recommendations

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<tr>
<td>The Board considered the feedback in relation to the appointment committee and its role, and was concerned to ensure that industry was able to influence the composition of that committee in a transparent way.</td>
<td>Agree that members may be appointed by the Council for a period of between 2 and 4 years.</td>
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<tr>
<td>The Board noted the concerns raised in relation to the term of Council members and was satisfied that a shorter term would tend to encourage more regular refreshing of the Council membership.</td>
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Appointment of the permanent (or ongoing) Council

Summary of Clause

Process for appointment of members

- The Council must establish a selection committee comprising representatives of the specified industries and appoint an independent chairperson to oversee the appointment of members to the Council.
- The selection committee must:
  - seek expressions of interest in, or nominations for, appointment as a member of the Council; and
  - recommend to the Council the person who it considers is suitable for appointment as member of the Council.
- The Council must consider the recommendations made by the selection committee and appoint as members of the Council those persons who are best suited for appointment as a member, in accordance with the membership provisions and the membership criteria.

Term of appointment

- When making appointments the Council must specify a term of appointment having regard to the need to maintain enough continuity in membership of the Council in a given calendar year.
- Members may be appointed by the Council for a period of between 2 and 5 years.
- Members may be reappointed to the Council if the total of any consecutive or non-consecutive terms does not exceed 8 years.

Summary of Submissions

67. Māori and Pasifika trades training Auckland recommends that an independent selection body should facilitate the selection of boards.

68. The NZ Dairy Workers Union recommends that all six WDC OIC proposals should stipulate that any nominations committees or nominations processes that are established for the purposes of short-listing potential WDC representatives must also include representatives from either the CTU/Te Rūnanga or trade unions involved in the specified WDC coverage areas.

69. Some submitters, including New Zealand Certified Builders Association, Connexis, and NZIOB, disagree with the proposed appointment process, as they believe it sets out an inherent conflict of interest, where the Council appoints a Selection Committee, who in turn appoints the Council.
The New Zealand Certified Builders Association believes that the appointments committee should be comprised of industry representatives (with the Independent Chairperson) determined by nomination across the industry. The appointments committee should be large enough to include members with experience across a broad range of industries.

The NZIOB suggests an alternative process, potentially one that mirrors the process in which the first Council Selection Committee is selected.

Connexis recommend that the industry plays an active role in the appointment of the selection committee and that the selection committee is independent from the Council.

Some submitters argue that this process risks complete disengagement from those not represented at the council table.

Several submitters recommend that there should be a mechanism for industry to have direct involvement in appointing members to the selection committee.

Several submitters recommended that there should only be one Selection Committee member who is also a Council member, but highlight that that person cannot be the Chair of the Council Selection Committee. They state that this would satisfying the desirability that there is some connection between Council and the Selection Committee, though not too much connection.

Concrete NZ recommends that the OiC should reflect the following:

a) In appointing members to the committee the Council is required to actively consult with and seek nominations from its industry advisory groups and industry associations.

b) That the selection committee should include members with experience across a broad range of industries, including specialist areas and trades.

BCITO recommends that:

a) The following text is added ensuring the following:

i. That in appointing members to the committee the Council is required to actively consult with and seek nominations from its industry advisory groups and industry associations.

ii. That the selection committee should include active industry practitioners and members with experience in organisational governance.

iii. That the selection committee should be large enough to include members with experience across a broad range of industries, including specialist areas and trades.

CCNZ believes that the Council should be able to refer back to the selection committee for other recommendations if they are not happy with the nominations provided.
Construction and Infrastructure Order in Council – Summary of Submissions

**Term**

75. BCITO The term range for appointments be reduced to 2 to 4 years (so an 8-year limit for an individual), and that the OIC specify that this range applies at the level of individual members.

76. One submitter supports the 8 year maximum term, but has concerns around the variable term of 2 to 5 years and how it is applied.

**Responses and Recommendations**

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<tr>
<td>The Board noted feedback that Council members should not be involved in the selection committee, but were concerned about the practicalities thereof, and that some oversight over the process will in any case be provided by the independent Chair.</td>
<td>Agree that the Council must establish a selection committee to oversee the appointment of members to the Council with an independent chairperson, representatives of the specified industries and a subcommittee of Council members.</td>
</tr>
<tr>
<td>The Board noted feedback that the Council members should not exercise undue influence over the selection committee but was satisfied that appointment of the Council is an appropriate function of governance bodies and anticipated that the Council will operate in good faith.</td>
<td>Agree that members may be appointed by the Council for a period of between 2 and 4 years.</td>
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<tr>
<td>The Board was also concerned to ensure that the selection committee had a direct understanding of the competencies required for the Council in making appointments.</td>
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<tr>
<td>The Board was also concerned to ensure that the Council is not able to capture the appointments process, while ensuring that the committee has direct insight into the skill requirements of the Council.</td>
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Detailed governance arrangements that are unique to each Workforce Development Council

Summary of Clause

Appointment of chairperson, co-chairpersons, deputy chairperson (as applicable)

Appointment of co-chairpersons

- The Council must appoint two of the members to be co-chairpersons, one of whom must be Māori, by notice in writing stating the date on which the appointment takes effect.
- When appointing co-chairpersons, the Council must ensure that each co-chairperson has demonstrated a commitment to working with each other as active partners with a shared kaupapa/outlook aligned with the purposes and functions of the Council.
- Each co-chairperson holds that office until:
  - the co-chairperson resigns from that office; or
  - the co-chairperson is removed from it by the Council; or
  - the co-chairperson ceases to hold office as a member; or
  - the term of office specified on appointment expires.
- A person may be reappointed as co-chairperson for a further term.
- A co-chairperson may, without resigning as a member, resign from that office by written notice to the Council. The notice of resignation must state the date on which the resignation takes effect.
- The Council may, after consultation with the person concerned, remove a co-chairperson of the Council from that office by written notice to the person. The notice of removal must state the date on which the removal takes effect.
- The Council must determine a policy relating to the functions and responsibilities of the co-chairpersons including the process for determining:
  - which co-chairperson will chair each meeting;
  - the allocation of the duties and responsibilities between the co-chairpersons; and
  - which co-chairperson is for the time being responsible for the overseeing the performance of the general manager.

Meetings
• The co-chairperson may convene meetings to be held at the time and place that the co-chairpersons determine and must give at least seven days’ notice in writing of those meetings to members.
• Meetings can be held by means of electronic communication.
• The quorum for the meetings is 4 of the members then holding office.
• All questions arising at any meeting must be decided by a majority of those members present with the co-chairperson chairing the meeting having a casting vote.
• A resolution in writing signed by a majority of members is as valid as if it had been passed at a meeting of those members.
• An irregularity in a notice of a meeting is waived if all members entitled to receive the notice either:
  o attend the meeting without objection to the irregularity; or
  o do not attend the meeting but agree before the meeting is held to the waiver of the irregularity.
• Except as set out above or by law, the Council may determine its own procedures for regulating meetings and conducting its affairs.

Collective duties of the Council

• The Council must act in a manner consistent with its functions, duties, and powers.
• The Council must perform or exercise its functions, duties, and powers efficiently and effectively.
• The Council must ensure that it operates in a financially responsible manner and, for this purpose, that it prudently manages its assets and liabilities.

Collaboration with other Workforce Development Councils

• The general manager must:
  o identify the specified industries where close collaboration with another workforce development Council is required to ensure that the industry training needs of those industries are met; and
  o establish appropriate engagement models with those other workforce development Councils and specified industries to ensure that the industry training needs of those industries are met.
Construction and Infrastructure Order in Council – Summary of Submissions

Summary of Submissions

77. Te Kāhui Ahumahi (made up of all Māori interim Establishment Board members) request that their collective is formalised in each OiC so as not to leave the establishment/continuation of a Kāhui Ahumahi to chance. This suggestion was supported by another submitter who asked to consider a Māori Workforce Development Council and that we consider all Māori members across all of the workforce development councils being able to form a Kahui Korowai (Māori governance with direct position / role that connects to the CEO).

WDC collaboration

78. Several submitters – including Business NZ, BCITO, New Zealand Certified Builders Association, PrefabNZ, Engineering NZ, and NZ Marine Industry Association – highlighted the importance of WDC collaboration to an effective VET system, and would like to see this formalised in the Orders in Council. They refer to the Construction & Infrastructure WDC Order in Council, which already has a provision to this effect.

a) BCITO also recommends that the provision from the Construction & Infrastructure WDC Order in Council is broadened to include collaboration with skills bodies (e.g. regulators or professional organisations)

b) Business NZ and NZ Marine Industry Association highlights the opportunity for WDCs to work collaboratively to share best practice and recognize opportunities to better serve business by sharing relevant resources and materials to deliver skill solutions

c) PrefabNZ expressed concern that the C&I WDC and the MEL WDC will operate in silos and either duplicate areas of work and/or leave significant gaps in covering the needs of the offsite sector.

79. Waikato-Tainui stated that there should be a high level of consistency across all WDC with regards to their obligations to Te Tiriti o Waitangi and how each WDC gives expressions to these obligations.

Chair / Co-Chairs / Deputy Chair

80. BCITO recommends that an alternative model for chair, co-chairs and deputy chair is adopted (similar to the model set out in the Primary WDC Order in Council) where the Council will have a Chair and Deputy Chair, at least one of whom must identify as Māori. If the Council wishes it can replace this with a co-Chair model, but prior to doing so it must establish relevant policies and procedures. BCITO also recommend that the Council be required to consult with the industry before establishing a co-chair model.

81. The New Zealand Certified Builders Association raised concern about the proposed co-chair model, as they believe that it is not a practical structure toward the WDC being an entity that is seen to being acting efficiently and decisively, and that there are also a myriad of other organisational risks within this model. They recommend that an alternative solution could be that "The Council selects a Chair and Deputy Chair one of which must be a Māori".
Concrete NZ voiced reservations about the proposed chairing arrangement, and whilst they can see the merits of a co-chair model, particularly in recognising the obligations of WDCs under Te Tiriti, they are concerned that it will increase risk and complexity and hinder the governance of a high-functioning WDC to the detriment of industry, employers, workers and learners.

The EMA, Master Electricians, and Registered Master Builders Association, recommends that at least one of the two co-chairs is an industry representative.

CCNZ wonders
a) how Māori is defined for the co-chair who must be Māori? Does the person just need to identify as Māori? Or should this be defined by registration on the Māori electoral roll?

b) Whether the Selection Committee will play a role in appointing co-chairs, for instance by making a recommendation that is then decided upon by the Council?

**Quorum**

BCITO recommends that “The quorum for the meetings is a majority of the members then holding office.”

**Governance Associates**

One submitter commented that they would support the proposal from the MEL WDC to co-opt Governance Associates to the council.

**Other**

CCNZ commented on a number of the detailed governance arrangements (unique and common):

c) Notice is required to be ‘in writing’ in the meetings section. There should be provisions for notice to be given in writing by electronic means.

d) Point 2 of the ‘Administrative provisions’ subsection on page 19 should include working groups as well as committees, perhaps being reworded to ‘or working groups’.

e) Conflict of interest is defined in financial terms, but should also include other forms of conflicts, e.g. someone is related to a person being discussed or a family member owns the company being discussed. To reflect this, the wording around a person having interest in a matter could be amended to read ‘financial or other benefit’.
# Responses and Recommendations

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<tr>
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<tr>
<td>The Board noted the wide range of feedback about the proposal to adopt a co-chair model. The Board was satisfied that the proposed arrangements would support the WDC to give effect to the Māori-Crown partnership and was consistent with the desire to contribute through the WDC to transformational change in vocational education. The Board was concerned to note that the appointment committee would need to take care in ensuring that suitable people were appointed to the WDC.</td>
<td>No change is recommended.</td>
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<th>Ministry of Education – Response</th>
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Detailed governance arrangements that are the same across all Workforce Development Councils

Summary of Clause

Eligibility for appointment

- The following persons are disqualified from being members of the Council:
  - a person who is an undischarged bankrupt;
  - a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any enactment;
  - a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988;
  - a person in respect of whom a personal order has been made under that Act that reflects adversely on the person’s:
    - competence to manage their own affairs in relation to their property; or
    - capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare.
  - a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless the person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person;
  - a member of Parliament;
  - a person who is disqualified under any Act.

Revocation of appointment of members

- The Council may revoke the appointment of an appointed member of the Council for just cause.
- The revocation must be made by written notice to the member, stating the date on which the revocation takes effect, which must be no earlier than the date on which the notice is received, and the reasons for the revocation.
- The Council may revoke the appointment of a member with as little formality and technicality, and as much expedition, as is permitted by:
  - the principles of natural justice;
  - a proper consideration of the matter; and
the Council’s policy, if any, on revocation of appointment of members.

- A member of the Council is not entitled to any compensation or other payment or benefit relating to the member ceasing, for any reason, to hold office as a member.
- The term “just cause” includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the Council or the individual duties of members (depending on the seriousness of the breach).

### Individual duties of members

- A member of the Council may not contravene, or cause the contravention of, or agree to the Council contravening the Education and Training Act 2020.
- A member of the Council must, when acting as a member, act with honesty and integrity.
- A member of the Council must, when acting as a member, act in good faith and not pursue the member’s own interests at the expense of the Council’s interests.
- A member of the Council must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation):
  - the nature of the Council;
  - the nature of the action; and
  - the position of the member and the nature of the responsibilities undertaken by the member.
- A member must comply with a code of conduct for members issued by the Council.
- A member of the Council who has information in the member’s capacity as a member that would not otherwise be available to the member, may not disclose that information to any person, or make use of, or act on, that information, except:
  - in the performance of the Council’s functions; or
  - as required or permitted by law; or
  - when the member is first authorised to do so by the Council and the disclosure, use, or act in question does not, or is unlikely to, prejudice the Council.
- Members must:
Construction and Infrastructure Order in Council – Summary of Submissions

- act in the interests of the Council as a whole; and
- act in a manner that promotes the performance of the functions and the duties of the Council.

**Accountability for performance of duties**

- The duties of the members of the Council are owed to the Council.
- A member is not liable for a breach of an individual duty except as provided below:
  - if a member does not comply with their individual duties, the Council may revoke the appointment of that member;
  - the Council may bring an action against a member for breach of any individual duty.

- This provision does not affect any other ground for removing a member from office.
- Accountability for performance of duties under this provision does not affect anything else for which the member may be liable under any Act or rule of law arising from the act or omission that constitutes the breach.

**Personal liability of members**

- A member of the Council is not personally liable for any act done or omitted to be done by the Council or any loss to the Council arising out of any act done or omitted to be done by the member if the act or omission was (so far as the member’s involvement is concerned):
  - in good faith; and
  - in performance or intended performance of the functions of the Council.

**Continuation in office**

- Each member of the Council continues in office (unless the member ceases to hold office) until a successor is appointed.
- A member may resign from office by written notice to the Council signed by the member.
- The resignation is effective on receipt by the Council of the notice, or at any later time specified in the notice.
- A member of the Council ceases to hold office if the member:
  - resigns; or
  - is removed from office; or
  - becomes disqualified from being a member; or
Ordinary vacancies

- The Council must fill any ordinary vacancies as soon as practicable using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.

Extraordinary vacancies

- An extraordinary vacancy occurs when a member dies or ceases to hold office.
- If an extraordinary vacancy occurs within 6 months of the expiry of the vacating member’s term the Council may appoint a replacement or leave the vacancy open.
- If an extraordinary vacancy occurs more than 6 months before the expiry of the vacating member’s term, the Council must appoint a replacement using the process by which the departing member was appointed, unless the process by which the person was appointed is no longer available or applicable to the position.
- A person appointed or elected to fill an extraordinary vacancy holds office only for the remainder of the vacating member’s term.

Administrative provisions

- The powers of the Council are not affected by any vacancy in its membership.
- The Council may appoint committees to advise it on any matters relating to the Council’s functions and powers.

Conflicts of interest

- A member who has an interest in a matter relating to the Council must disclose to the Council details of the interest as soon as practicable after the member becomes aware that the member is interested.
- The details that must be disclosed are:
  - the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
  - the nature and extent of the interest (if the monetary value cannot be quantified).
- A member who has an interest in a matter:
  - may not vote or take part in any discussion or decision of the Council or any of its committees relating to the matter, or otherwise participate in any activity of the Council that relates to the matter; and
A person has an interest in a matter if the person:

- may derive a financial benefit from the matter; or
- is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
- may have a financial interest in a person to whom the matter relates; or
- is a partner, director, officer, board or Council or committee member of a person who may have a financial interest in a person to whom the matter relates; or
- otherwise directly or indirectly has an interest in the matter.

The term ‘matter’ means the Council's performance of its functions or exercise of its powers or an arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Council.

Delegation

- The Council can delegate any of the functions or powers of the Council (other than the power to appoint a general manager) to a member or members of the Council, the general manager, a committee appointed by the Council, any other person approved by the Council, or a subsidiary of the Council.
- Delegations are made by resolution and written notice to the delegate.
- The power to delegate cannot be further delegated.
- The person to whom functions or powers are delegated can exercise those functions or powers with the same effect as if the delegate were the Council.
- A person who purports to act under delegation is presumed to be acting in accordance with a delegation unless proven otherwise.
- The Council can still exercise a power or function that has been delegated and remains liable for all acts that are performed under delegation.
- A delegation can be revoked by the Council by notice in writing, or by any other method specified in the delegation.

Appointment of general manager and other employees

- The Council:
  - must appoint a person who is not a member of the Council to be its general manager; and
• may appoint any other employees it thinks necessary for the efficient performance of its functions.

• The general manager is:
  o responsible for the efficient and effective management of the Council; and
  o must give effect to the policies and directions of the Council in relation to the performance of its functions.

• The general manager may be referred to by any other title that the Council determines.

Rules

• The Council may make rules providing for the nomination and selection of candidates for appointment of members to the Council.

• The Council may make rules for any purpose relating to the performance of its functions.

• When preparing rules (and any amendments to them), the Council must take all reasonable steps to consult those affected by the rules.

• The Council must take all reasonable steps to ensure that those affected by the rules are aware of their existence and are able to obtain copies of them.

Summary of Submissions

No relevant feedback

Responses and Recommendations

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Mechanisms for industry engagement

Summary of Clause

- The Workforce Development Council must establish enough national industry advisory groups to enable the specified industries to provide input that will assist the Council in the performance of its functions.
- The engagement model must:
  - take into account the needs of particular industries and specialist areas within the coverage of the Council and the specified industries as a whole;
  - specify the means by which a specified industry can raise any concerns arising from the Council’s performance of its functions; and
  - describe the arrangements or opportunities for regular interaction between the specified industries and the Council, including at least one annual meeting with representatives of the specified industries.

Summary of Submissions

88. The TEU recommends that, in order to ensure consistency in approach across the WDCs, a single set of mechanisms and principles which can apply to each of the six WDCs.

The engagement model must:

a) describe the arrangements or opportunities for regular interaction between the specified industries and the Council, including at least one annual meeting with representatives of the specified industries;

b) establish a process for co-ordinating its activities with other WDCs in relation to complementary industries;

c) establish a process for engagement with unions regarding the performance or exercise of its functions, duties, and powers;

d) establish a process for engagement with industry peak bodies to understand and contribute to strategies developed by industry peak bodies;

e) ensure the Council reports regularly to the specified industries and national advisory groups on the performance of its functions, including, specifically, on its engagement with small and medium enterprises;

f) ensure the Council makes arrangements (for example, by establishing industry stakeholder groups) for ensuring that employers and Māori employers, industry bodies, employees, independent earners, iwi/hapū partners, learners, unions, Te Pūkenga, Centres for Vocational
Excellence, Regional Skills Leadership Groups, and other parties with an interest in the specified industries, as determined by the Council, have an adequate opportunity to provide input to the Council in support of the performance of its functions including, without limitation, to:

i. gain deeper understanding of the breadth of the specified industries;

ii. provide information and views on current, emerging, and future skills and knowledge requirements of employees working in the specified industries;

iii. identify and maximise the opportunities of particular groups of learners, including Māori, Pacific peoples, women, and people living with disabilities, whether specific to the coverage of the Council or as part of a wider group of learners coming within the coverage of other WDCs;

iv. provide information and views that will assist the Council in formulating its advice to the Tertiary Education Commission on investment in vocational education and workforce planning for the specified industries;

v. provide information and views on reviews of industry qualifications;

vi. provide information and views on career pathways into and within the specified industries;

vii. provide information and views that will assist the Council to undertake strategic workforce leadership research, advice, and support to all specified industries;

viii. enable industry and providers to raise issues and concerns about the governance, management, and operation of the Council.

89. The Employers & Manufacturers Association (EMA) recommends that the role of the Industry Stakeholder Groups gets more defined and that there is an obligation for the Council to take their feedback into consideration and/or act upon their feedback.

90. The Tertiary Education Union (TEU), Council of Trade Unions (CTU), and First Union recommend that the mechanisms for industry engagement in each Order require inclusion of unions. The New Zealand Dairy Workers Union supports this recommendation, and specifies that this inclusion concerns both unions involved in the specified WDC coverage area, as well as the CTU/Te Rūnanga. They also state that all six OIC proposals should also include an obligation that relevant trade unions and the CTU/Te Rūnanga should be directly involved in, and members of, any industry stakeholder groups established by a WDC (this was also voiced by First Union).

91. Māori and Pasifika trades training Auckland believes that existing associations should have a collective voice.

92. Te Kāhui Ahumahi believes that the partnership must be evident in the secondary legislation to ensure that the intent of the Act is met, and they recommend that the Orders in Council should mention iwi or Māori industry under the mechanisms for industry engagement.

93. One submitter believes that the mechanisms should include:

a) Regular engagement with RSLGs.
b) Recognition of the opportunity to build understanding of, and help address, the barriers to and opportunities for increasing labour market participation of some population groups (as per the Primary Industries WDC Order in Council).

94. Several submitters, including the New Zealand Certified Builders Association, STCF and NZCIC highlight the need for a clear definition of ‘industry’. They believe that the definition of industry, in terms of who the WDC needs to engage, should include employers, employees, industry associations and unions.

a) Roofing Association of New Zealand believes that the WDC should also engage with the wider education sector, to facilitate pathways from the latter part of the secondary education sector and as these young people transition into the workforce.

b) CCNZ highlights employers, industry associations, employees and unions will need different engagement provisions.

95. Roofing Association of New Zealand commented that the requirement where industry must be contacted at least once a year, on the face of it appears token at best. They state that some industries require more contact than that and as such this needs to be accommodated. Given our WDC covers over 40 industries and some particularly large industries it will take some management to provide sufficient attention to all of the industries so that there is no disruption.

96. Roofing Association of New Zealand wonders how the mandate for each entity that represents an industry is established.

97. Master Electricians believes that it is important to set out the engagement pathway clearly from the outset. This will ensure that all industries served by their Workforce Development Council, will continue to be able to provide strong pathways to lifelong careers and continued learning.

98. CCNZ strongly supports increased industry and employer engagement in education. They believe one of the critical issues is the responsiveness of our vocational training system to changing needs of industry, something the CIWDC needs to play a major role in.

99. Several submitter commented that WDCs must make sure that every employer has an opportunity to contribute, no matter their size.

100. Master Plumbers, Gassfitters and Drainlayers NZ requested clarification on whether industry stakeholder groups have an influence on the decisions of the WDC.

101. Several submitters commented that some of the mechanisms currently in place have proven successful.

102. Master Painters NZ stated that without a strong partnership in this area, a WDC will fail.

103. FMANZ commented that the WDC must establish enough national industry advisory groups to enable the specified industries to provide input that will assist the Council in the performance of its functions.
Responses and Recommendations

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<tr>
<th>Interim Establishment Board – Response</th>
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<tbody>
<tr>
<td>The Board was not persuaded that introducing a higher degree of specificity into the mechanisms for industry engagement was conducive to the flexibility that the WDC would require to determine with industry the exact nature of those mechanisms.</td>
<td>No change is recommended.</td>
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<th>Ministry of Education – Response</th>
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Additional functions of the Workforce Development Council

Summary of Clause

There are no additional functions.

Summary of Submissions

104. One submitter suggests that this could refer to assisting RSLGs to plan for and address regional workforce needs.

105. The TEU recommends that ‘additional functions’ included in the Primary Services OiC pertaining to [1] the promotion of opportunities that are conducive to learners reaching their full potential and [2] addressing the needs and aspirations of priority learners including Pacific learners and people living with disabilities, should be included in all six OiCs. [Note: Some feedback was received regarding the ‘Additional functions’ within the Primary Services WDC Order in Council, please refer to the Primary Industries WDC Summary of Submissions]

106. Te Kāhui Ahumahi submitted that performance of functions must include engagement with the Tiriti Partner. They expect this will lead to joint decision making frameworks, mana Tiriti frameworks and outcomes that meet the goals of the Act.

107. Master Painters NZ stated the reference group [as part of the WDC design process] spent a great deal of time and effort in considering these matters before concluding what additional functions should be within the WDC’s charter.

108. Several submitters identified that an additional function of the WDC could be to actively promote career opportunities within the C&I sector

Responses and Recommendations

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<td>The Board was not persuaded that any of the proposed additional functions did not duplicate other obligations of the WDC provided for in the primary legislation or in other aspects of the OIC. The Board does wish to include two additional functions.</td>
<td><strong>Agree</strong> to include as a function to promote opportunities for all people to reach their full potential and capabilities by supporting quality vocational educational outcomes; and <strong>Agree</strong> to include as a function to address the needs and aspirations of priority learners including Pacific learners and people with disabilities.</td>
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<td>Note that the Ministry supports the iEB’s recommendations.</td>
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Coverage of the Workforce Development Council

Summary of Clause

The coverage of the Council comprises the workforce development activities in relation to employers, providers, and employees or people seeking to be employed in work related to construction and infrastructure in any of the industries listed below, with the following qualifications:

- Coverage of 1492 ‘Wooden Structural Fitting and Component Manufacturing’ limited to prefabricated timber wall frames and roof trusses, as all other aspects are covered by the Manufacturing, Engineering and Logistics WDC.
- Coverage of 3234 ‘Fire and Security Alarm Installation Services’ limited to closed circuit video surveillance system installation, repair of installed burglar security alarm systems and security system installation, as all other aspects are covered by the Manufacturing, Engineering and Logistics WDC.

[An exhaustive list of ANZSIC codes was included in the Consultation proposal document]

Summary of Submissions

109. New Zealand Institute of Quantity Surveyors Inc. (NZIQS), BCITO, NZCIC, CCNZ, and other submitters recommend that the ANZSIC code M692300 Engineering Design and Engineering Consulting should be allocated to the Construction and Manufacturing WDC, rather than the MEL WDC. They believe this is an anomaly that should be fixed, and they argue this would:
   a) enable the civil engineering consulting industry to be properly involved in the programmes that serve it;
   b) enable the civil engineering diploma and degree programmes to meet the requirements of the civil engineering industry;
   c) recognise the fact that the Construction and Infrastructure WDC is more relevant to most of the activities undertaken in the engineering consulting industry.

110. Engineering New Zealand, New Zealand Board of Engineering Diploma, and Bachelor of Engineering Technology Management Group request that the primary coverage of engineering-related industries (and ownership of the NZDE) reside with the Waihanga Ara Rau Construction and Infrastructure WDC as most graduates from the programme currently move into industry sectors covered by this WDC. With this move, they recommend the title of the ‘Manufacturing, Engineering and Logistics’ be amended, and the word ‘engineering’ removed from the title of that WDC.

111. Scaffolding, Access & Rigging NZ Inc. wants to ensure that rope access, scaffolding and rigging all sit under the Construction and Infrastructure WDC.
112. Facilities Management commented that they do not appear to be included in the Summary on pages 23-25, despite the IEB recognising the importance of the Facilities Management industry in the letter dated 20/08/2020.

113. The Employers & Manufacturers Association comments that the coverage areas should not be limited to what is noted at the time of the Order in Council. They state that skills and the labour market are dynamic, and the coverage areas in the OIC should reflect that.

114. Business NZ and the Employers & Manufacturers Association (EMA) raised concern about the use of ANZSIC codes as a source of industry coverage areas. They believe that ANZSIC codes are outdated, and too prescriptive for an agile education system that must adapt quickly to deliver the education and skills needs of businesses. Both recommend using ‘skill clusters’, which they believe would support greater discussion in both education and industry on greater skill transferability.

Responses and Recommendations

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<tr>
<td>The Board was satisfied that the submission from New Zealand Institute of Quantity Surveyors was consistent with the principle that industries should determine which WDC they were covered by.</td>
<td>Agree to the following coverage statement: Coverage of 6923 ‘Engineering Design and Engineering Consulting Services’ limited to Building consulting service, Building inspection service, Civil engineering consulting service, Construction consulting service, Electrical engineering consulting service, Geotechnical engineering consulting service, Pipeline engineering consulting service, Quantity surveying service, Sanitary engineering consulting service, Traffic engineering consulting service, as all other aspects are covered by the Manufacturing, Engineering and Logistics WDC.</td>
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<td>The Board noted the significant overlap between the Construction and Infrastructure and Manufacturing, Engineering and Logistics WDCs in relation to Engineering Design and Engineering Consulting Services warranted a high degree of specificity to ensure there was appropriate alignment between the other specified industries in each.</td>
<td>Agree that, where possible the coverage description above clarify to the extent that the primary activities proposed for the Manufacturing, Engineering and Logistics WDC involve activities associated with the other specified industries for the Construction and Infrastructure WDC that they are within the coverage of Construction and Infrastructure WDC.</td>
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<td>The Board affirmed its commitment to collaboration with other WDCs, and the Manufacturing, Engineering and Logistics WDCs in light of the complementary nature of their coverage, with, for example, considerable numbers of engineering-related industries in each.</td>
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<td>The Board also noted that ensuring a common obligation in relation to collaboration among WDCs was highly desirable given the prevalence of coverage complementarity.</td>
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Ministry of Education – Response

Ministry of Education – Recommendations
| Note that the Ministry supports the iEB’s recommendations. |

| Note that the Ministry supports the iEB’s recommendations. |
Other feedback

Summary of Submissions

Other feedback from WDC-specific submissions

115. Master Painters NZ stated that it is vital that industry senses that it remains as the Authority with the specific training requirements for their sectors for to remove this will see the likelihood of employers walking away from organised training. Need to be ensure that the organisation adds value and has a clearly defined purpose.

Other feedback from submissions that comment across WDCs (this section will be identical across all Summaries of Submissions)

116. Te Rūnanga o Ngāi Tahu makes the following submissions on the establishment of Workforce Development Councils:

a) That Te Tiriti o Waitangi be honoured and therefore a cornerstone of the education system in Aotearoa. Any tertiary education institutions sector, including the WDCs, should positively reflect the bicultural foundations and have a firm commitment to Te Tiriti frameworks.

b) As a Treaty Partner to the Crown, Te Rūnanga expects commitment to ensuring the rights of Ngāi Tahu whānui to access an equitable and successful journey in our education system. There needs to be deliberate investment for success in those most impacted by the systems failure to date. It is important that measures of success are co-designed with Māori.

c) Ngāi Tahu and all Māori should have the opportunity to achieve success in the tertiary sector and subsequent employment pathways. However, this should not come at the expense of their identity as Ngāi Tahu. The system should recognise and privilege mātauranga Māori, helping to empower their identity as Ngāi Tahu rather than detract from it.

d) The governance and ensuing structures involved in designing, developing and implementing RoVE, should privilege Ngāi Tahu aspirations and values within our takiwā. The governance structures of this review process, including Te Taumata Aronui should have access to high quality Māori strategy and policy advice at all levels as this review proceeds. Māori capacity and capability is required in these structures to internally analyse and develop responses that meet Crown obligations as a Te Tiriti partner, to ultimately ensure success for Ngāi Tahu whānui and all Māori.
e) The WDCs should have a firm commitment to be driven by Te Tiriti frameworks. This will provide a foundation to ensure equity is achieved for Ngāi Tahu and all Māori in the tertiary education sector and in turn contribute to equity in employment, particularly in high skilled and future focused industries.

f) In instances where Ngāi Tahu identify training and education of specific interest to Ngāi Tahu whānui, we would expect the opportunity to engage as a Treaty Partner.

g) Ultimately, the expectation is that the tertiary sector and WDCs should have the following outcomes at the heart of their functions, ensuring a contribution to strong and vibrant Ngāi Tahu and Māori community:

i. Ngāi Tahu and all Māori students and learners achieving success in the tertiary education sector,

ii. Ngāi Tahu and all Māori governors, staff and teachers engaged in the tertiary education sector achieving success,

iii. Ngāi Tahu and all Māori achieving success upon entering the workforce from the tertiary sector, as a result of successful engagement in this space.

117. Waikato-Tainui observes a noticeable absence of engagement provisions with hapu and iwi in these proposals. As a Te Tiriti partner to the Crown, they assert that this oversight must be addressed if WDC’s are to give genuine and authentic expression to their obligations under Te Tiriti o Waitangi.

118. The TEU recommends there should be greater consistency across the six Orders in Council, and that there is opportunity to take the best aspects the proposals and apply them to each of the six WDCs.

119. Te Kāhui Ahumahi submitted that:

a) The formulaic composition of the OICs suggests that the same tools are going to be used and therefore the aspiration of ‘transformation’ will not be achieved.

b) The purpose and performance functions outlined in the OIC are not asking the WDCs to do anything substantively different apart from applying a lens of industry.

c) Honouring Te Tiriti means that no one-size-fits-all solution is acceptable, however, we see six OICs that are substantially uniform and use government language that marginalises the Tiriti relationship.

d) Nowhere in the performance functions or statement of strategic direction sections in the six OICs are we told what transformation will be delivered, by when and for whom.

e) If these things are not in the legislation, they become optional. This has not served Māori aspirations in the past.
f) To have a set of OiCs that do not mention iwi and how the transformation of the vocational education system will honour Te Tiriti is remiss. Honouring Te Tiriti is a partnership.

g) Mention of the principles of Te Tiriti o Waitangi in the criteria for the appointment of members is a big red flag to Māori. Principles, or the three Ps as they are commonly known, is a redefinition and a colonial interpretation of the three articles of Te Tiriti. Therefore we ask that any inclusion of Tiriti principles be replaced with the Articles of Te Tiriti.

h) There is no mention of the role that Mātauranga Māori, Māori and iwi will play in any of the six OiCs despite the Act. There will always be compromise unless there is an independent, autonomous and Māori appointed and centred entity that secures this taonga for our future generations.

i) Mātauranga Māori is alluded to in the criteria for appointment but is not supported anywhere else in the document. The appointment process will test this notion. As it stands, the appointment process will be led by TEC and the Ministry of Education; they will appoint members to the appointment panels. In one case, TEC will select nominees to be appointed by the Minister. To put government in control of this process means that industry, Māori and iwi are not in the role the Act envisages. How do the OiCs assure Māori and iwi that their voices are going to be heard?

120. The Employers & Manufacturers Association:

a) Welcomes required industry representation from both small and large enterprises on the Council Board for some WDCs. However, small business representatives will likely be under resourced. Defining ‘small’ business will signpost to businesses of that size that they are welcome on the WDC’s. Specifying the obligations of Committee membership will also help ensure small business can be at the table.

b) Applauds the inclusion of governance development associates to upskill individuals on the WDCs. The role and the criteria for appointment should be defined to avoid the risk of unstructured or ad hoc developmental support for these people.

121. BusinessNZ comment that further emphasis needs to be put on working with industry associations and employer groups to utilise significant work that has already been undertaken on workforce planning, and ensure retention of the many excellent work based training programmes in the existing system, particularly given that workforce planning and skills development are also being undertaken through other government work programmes like MBIE’s Industry Transformation Plans, or MPI’s Food and Fibre Skills Action Plan.

122. Tāne Mahuta NZ Limited commented that all OIC’s across the 6 WDC’s are mainstream, with limited attention to honouring the 3 Treaty (not Te Tiriti) principles of Partnership, Protection and Participation. This is perhaps due to no Māori member on the Services iEB and limited Māori membership in governance. Primary is the only OIC reflecting partnership at 50/50 membership. Consistent calls by Māori for Māori membership and representation in “services” were not attended to or ignored. Te Tiriti values and principles, on the other hand, sits outside the honourable duties reflected in the OIC’s or attempts to include.
124. One submitter strongly recommends that the WDCs will need to employ staff resources, who have significant understanding of industry skill needs and how they can be defined and applied coherently along with the qualifications that support them. If this is done correctly, then qualifications definition, assessment and updating will be much simplified by the use of stable constructs, where only minor knowledge updating will be required year on year. This will provide longer term validity of qualifications and the resulting benefits to their holders in rapidly evolving contexts.

125. One submitter commented that they do not believe the once-in-a-lifetime opportunities (with the concurrent establishment of WDCs and RSLGs) for stronger connections between WDCs and other parts of the labour market system powerfully enough. They believe that a systemic approach to workforce development and supply by the WDCs and their members needs to be made explicit.

Responses and Recommendations

<table>
<thead>
<tr>
<th>Interim Establishment Board – Response</th>
<th>Interim Establishment Board – Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Board noted the feedback provided and considered that the concerns raised were addressed in the preceding commentary.</td>
<td>No additional actions were recommended.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Ministry of Education – Response</th>
<th>Ministry of Education – Recommendations</th>
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</table>
Appendix 10: Overview of submissions from organisations

<table>
<thead>
<tr>
<th>Construction &amp; Infrastructure WDC</th>
<th>BusinessNZ</th>
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<tbody>
<tr>
<td>On behalf of the C&amp;I Interim Establishment Board &amp; NZ Institute of Quantity Surveyors</td>
<td>BusinessNZ</td>
</tr>
<tr>
<td>On behalf of the C&amp;I Interim Establishment Board</td>
<td>Concrete NZ</td>
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<tr>
<td>Facilities Management Association of New Zealand</td>
<td>Specialist Trade Contractors Federation</td>
</tr>
<tr>
<td>Transpower New Zealand Ltd.</td>
<td>BCITO</td>
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<tr>
<td>Engineering New Zealand</td>
<td>New Zealand Construction Industry Council</td>
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<tr>
<td>NZ Institute of Quantity Surveyors</td>
<td>Council of Trade Unions</td>
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<tr>
<td>Civil Contractors New Zealand Inc</td>
<td>Ngāi Tahu</td>
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<td>Te Wānanga o Aotearoa (TWoA)</td>
<td>FIRST Union</td>
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<tr>
<td>Roofing Association of New Zealand (RANZ)</td>
<td>Unitect branch of the Tertiary Education Union</td>
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<td>Connexis</td>
<td>Kahui Ahumahi</td>
</tr>
<tr>
<td>Registered Master Builders Association</td>
<td>MandyWong</td>
</tr>
<tr>
<td>NZ Dairy Workers Union</td>
<td>Scaffolding, Access &amp; Rigging NZ Inc</td>
</tr>
<tr>
<td>NZ Certified Builders Association</td>
<td>Māori &amp; Pasifika Trades Training Auckland</td>
</tr>
<tr>
<td>New Zealand Institute of Building (NZIOB)</td>
<td>New Zealand Board of Engineering Diploma and The BEngTech Management group</td>
</tr>
<tr>
<td>Tertiary Education Union (TEU)</td>
<td>Master Painters New Zealand Association Inc</td>
</tr>
<tr>
<td>Employers &amp; Manufacturers Association (EMA)</td>
<td>Master Plumbers, Gasfitters &amp; Drainlayers NZ Inc</td>
</tr>
<tr>
<td>Master Electricians</td>
<td>PrefabNZ</td>
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<tr>
<td>Te Whakakitenga o Waikato Inc (Waikato-Tainui)</td>
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<tr>
<th>Creative, Cultural, Recreation and Technology WDC</th>
<th>Council of Trade Unions</th>
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<tbody>
<tr>
<td>The New Zealand Association of Registered Beauty Professionals Inc</td>
<td>Council of Trade Unions</td>
</tr>
<tr>
<td>Skills Active Aotearoa</td>
<td>Ngāi Tahu</td>
</tr>
<tr>
<td>Directors and Editors Guild of NZ (DEGNZ)</td>
<td>FIRST Union</td>
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<tr>
<td>WeCreate</td>
<td>Unitec branch of the Tertiary Education Union</td>
</tr>
<tr>
<td>Engineering New Zealand</td>
<td>Kahui Ahumahi</td>
</tr>
<tr>
<td>Depot Artspace</td>
<td>MandyWong</td>
</tr>
<tr>
<td>Te Wānanga o Aotearoa (TWoA)</td>
<td>IT Professionals New Zealand</td>
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<tr>
<td>NZ Dairy Workers Union</td>
<td>Māori &amp; Pasifika Trades Training Auckland</td>
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<tr>
<td>Tertiary Education Union (TEU)</td>
<td>Dive Training Council (expert group to its TITO - Skills Active)</td>
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<tr>
<td>Employers &amp; Manufacturers Association (EMA)</td>
<td>New Zealand Outdoor Instructors Association (NZOIA)</td>
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<tr>
<td>BusinessNZ</td>
<td>Outdoor Recreation Council of Aotearoa</td>
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<tr>
<td>Jewellery Industry Registration Board of New Zealand</td>
<td>YMCANZ</td>
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<tr>
<td>NZ Hair and Beauty Industry Training Organisation</td>
<td>Interim Establishment Board for this WDC, I am its Chair</td>
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<td>Te Whakakitenga o Waikato Inc (Waikato-Tainui)</td>
<td>Creative Waikato</td>
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<td>Sport, Recreation and Exercise Group of Te Pūkenga subsidiaries</td>
<td>New Zealand Broadcasting School, Ara Institute of Canterbury</td>
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<tr>
<td>Yoobee Colleges</td>
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<th>Health, Community and Social Services WDC</th>
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<tbody>
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<td>Health and Safety Association of NZ (HASANZ)</td>
<td>Unitec branch of the Tertiary Education Union</td>
</tr>
<tr>
<td>The New Zealand Association of Registered Beauty Professionals Inc</td>
<td>Kahui Ahumahi</td>
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<td>Nursing Council of New Zealand</td>
<td>MandyWong</td>
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<td>New Zealand Aged Care Association</td>
<td>Christian Theological Education Ministries Society</td>
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<td>Māori &amp; Pasifika Trades Training Auckland</td>
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<td>BCITO</td>
<td>Blueprint for Learning</td>
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<td>Platform Charitable Trust</td>
<td>C4 Group Ltd</td>
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<td>Engineering New Zealand</td>
<td>Social Service Providers Aotearoa Inc</td>
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<td>Te Runanga o Ngā Māta Waka Inc.</td>
<td>OCS Ltd</td>
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<td>New Zealand Resuscitation Council</td>
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<td>New Zealand Public Service Association</td>
<td>NZ Board of Professional Skin Therapies</td>
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<tr>
<td>New Zealand College of Midwives</td>
<td>Ministry of Social Development</td>
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<td>Te Rau Ora</td>
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<td>New Zealand Nurses Organisation</td>
<td>South Island Alliance Mental Health &amp; Addiction Workforce Development group</td>
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<td>SI John</td>
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<td>Employers &amp; Manufacturers Association (EMA)</td>
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<td>BusinessNZ</td>
<td>Career Development Association of New Zealand</td>
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<td>ComVoices</td>
<td>Oranga Tamaki - Partnering for Outcomes</td>
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## Manufacturing, Engineering and Logistics WDC

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<td>Council of Trade Unions</td>
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<td>Ngāi Tahu</td>
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<td>Wood Wise Ltd</td>
<td>FIRST Union</td>
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<td>On behalf of the MEL interim Establishment Board</td>
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<td>Mazda New Zealand</td>
<td>Kahui Ahumahi</td>
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<td>Road Transport Forum NZ</td>
<td>MandyWong</td>
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<td>AsureQuality Limited</td>
<td>Māori &amp; Pasifika Trades Training Auckland</td>
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<tr>
<td>Engineering New Zealand</td>
<td>Dairy Companies Association of New Zealand</td>
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<td>NZ Marine Industry Association</td>
<td>NZ Heavy Engineering Research Association</td>
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<td>Te Wānanga o Aotearoa (TWoA)</td>
<td>Engineering &amp; Education Consulting Limited</td>
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<tr>
<td>Meat Industry Association (MIA)</td>
<td>Alpha Training &amp; Development Centre</td>
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<tr>
<td>On behalf of the MEL interim Establishment Board</td>
<td>NZ Heavy Haulage Association</td>
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<td>Chartered Institute of Logistics and Transport</td>
<td>AA Driving School</td>
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<td>Steel Construction New Zealand</td>
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<td>Tertiary Education Union (TEU)</td>
<td>Southland and Otago Regional Engineering Collective (SOREC)</td>
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<td>New Zealand Construction Industry Council</td>
<td>OUTDOOR FABRIC PRODUCTS ASSOCIATION OF NEW ZEALAND (INC.)</td>
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<td>Zero Waste Network</td>
<td>Motor Trade Association Inc</td>
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## Primary Industries WDC

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<td>MandyWong</td>
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<tr>
<td>New Zealand Apples &amp; Pears Incorporated and Horticulture New Zealand Incorporated (with support from Boysenberries NZ, Citrus NZ, Horticulture Canterbury, NZ Asparagus Council, NZ Kiwifruit Growers, Potatoes NZ, Process Vegetables, Summerfruit NZ and Vegetables NZ)</td>
<td>On behalf of Primary Industries interim Establishment Board</td>
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<td>IPG equine industry</td>
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<td>NZ Forest Owners - Forest Industry Contractors Association - NZ Forestry and Wood Processig Workforce Council</td>
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## Service Industries WDC

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<td>Māori &amp; Pasifika Trades Training Auckland</td>
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<td>C4 Group Ltd</td>
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<td>Employers &amp; Manufacturers Association (EMA)</td>
<td>Ministry of Social Development</td>
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<td>Council of Trade Unions</td>
<td>E tū Incorporated</td>
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<td>Unite Union</td>
<td>Tane Mahuta NZ Limited</td>
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<td>Restaurant Association of NZ</td>
<td>Master Cleaners Training Institution</td>
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<tr>
<td>Construction and Infrastructure</td>
<td>Creative, Cultural, Recreation and Technology</td>
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<tr>
<td>MOE recommendation</td>
<td>MoE supports the proposals below.</td>
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<tr>
<td>IEB recommendations for employee representatives and Māori employers representatives</td>
<td>• 1 nominated by Māori employers in the specified industries to represent them.</td>
</tr>
<tr>
<td></td>
<td>• 1 nominated by employees to represent them.</td>
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<tr>
<td></td>
<td>• 1 nominated by Māori employers to represent them.</td>
</tr>
<tr>
<td></td>
<td>• at least 1 member who is able to provide collective representation of employees from 1 or more sectors covered by Toi Mai drawn from candidates nominated by:</td>
</tr>
<tr>
<td></td>
<td>• one or more of the unions active in the sectors covered by Toi Mai; or</td>
</tr>
<tr>
<td></td>
<td>• the NZ Council of Trade Unions/CTU Rūnanga; or</td>
</tr>
<tr>
<td></td>
<td>• nominations from individuals or collective employees involved in the sectors covered by Toi Mai</td>
</tr>
<tr>
<td></td>
<td>• 1 member who represents Māori employers.</td>
</tr>
<tr>
<td>Criterial for the appointment of members section of the proposals</td>
<td>When appointing the employee representative required by the membership provisions, the appointing body/person must appoint a person who has a demonstrated ability to provide collective representation of employees and who:</td>
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<td></td>
<td>• has the support of a body recognised as representing employees in one or more of the specified industries, or</td>
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<td></td>
<td>• can otherwise demonstrate that their appointment represents employees collectively in one or more of the specified industries</td>
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<td></td>
<td>When seeking nominations for an employee representative, the appointing body/person must take all reasonable steps to notify employees in the specified industries about the process for nominating members; and</td>
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<td>must ensure that the persons nominated for appointment have the support of a sufficient number of employees in the specified industries; and</td>
</tr>
<tr>
<td></td>
<td>must not specify who is eligible to be nominated for appointment as a member except as provided for in the Order, or in any rules.</td>
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</tbody>
</table>
Submission of the
New Zealand Council of Trade Unions
Te Kauae Kaimahi

to the
Tertiary Education Commission

on the
Orders in Council to Establish Workforce Development Councils

P O Box 6645
Wellington
5 February 2021
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2. Social Partnership for skills ......................................................................................... 4  
3. Representation of working people ............................................................................... 5  
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5. Conclusion .................................................................................................................... 6
Summary of recommendations

1. That each WDC include at least two worker representatives, of which at least one be a representative of Māori workers.

2. That the appointment of each worker representative on a WDC require endorsement from the CTU.

3. We recommend that a consistent process be established for appointments to WDCs. In any case where an appointments panel is convened, this should include representatives from CTU, Business NZ and iwi/Māori

4. That the mechanisms for industry engagement in each Order require inclusion of unions.
1. Introduction

1.1. This submission is made on behalf of the 28 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With over 300,000 members, the CTU is one of the largest democratic organisations in New Zealand.

1.2. The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga), the Māori arm of Te Kauae Kaimahi (CTU), which represents approximately 60,000 Māori workers. The CTU strongly supports the intent of the Reform of Vocational Education, including the establishment of WDCs as tripartite leadership groups for skills development in each industry.

1.3. Our specific recommendations would help to ensure consistent representation of working people in the governance and operation of WDCs.

2. Social Partnership for skills

2.1. Social partnership, based on the tripartite leadership of business, unions and government, is a hallmark of successful approaches to skills development internationally.¹ In the New Zealand context, tripartite leadership is underpinned by partnership with iwi and Māori, giving effect to Te Tiriti o Waitangi.

2.2. The Education Act 1989 (s479(3)(a)) requires the Minister to ensure that governance arrangements for WDCs provide for ‘the collective representation of employers and employees’. This suggests a role for Business NZ and the CTU, as the peak bodies for employers and employees, to coordinate and ensure collective representation in a tripartite process.

3. Representation of working people

3.1. Working people are at the heart of the purpose of WDCs and their voices and interests must be well represented. The approach to this representation varies across the Orders in Council, with some giving more adequate effect to it than others. Worker representation on WDCs must be sufficient to allow the voices and collective interests of workers to be heard equally with those of employers and to reflect the essential role of workers in industry and as learners.

3.2. As the organised voice of working people, unions represent the collective interests of workers and learners across their industries. Robust representation and involvement of unions is essential for the WDCs to meet their intended purpose and statutory functions.

3.3. To give effect to Te Tiriti o Waitangi, it is important that the collective interests of Māori workers have specific representation on WDCs. The collective interests of Māori workers are distinct and complementary to those of Māori business. The draft Order in Council for the Primary Industries WDCs provides a good model, requiring at least two representatives of the collective interests of workers, one of which collectively represents Māori workers. **We recommend that each WDC include at least two worker representatives, of which at least one be a representative of Māori workers.**

3.4. Provision for at least two worker representatives would also allow for better representation of the collective interests of workers across the multiple industries covered by each WDC. For example, the WDC for Health, Community and Social Services has a broad scope, covering multiple distinct workforces across the public and private sectors, each with specific needs for training and skill development.

3.5. A consistent approach to the appointment of worker representatives should be established across the WDCs. Recognising the need for tripartite leadership from the Councils, we support the model proposed for the Manufacturing, Engineering and Logistics WDC, requiring worker representatives to be endorsed by the CTU. As the peak body of unions, the CTU is uniquely placed to coordinate representation of the collective interests of working people. A requirement for CTU endorsement will ensure that worker representatives on the Councils have the support of working people and their unions in the industries they will be representing. **We recommend**
that the appointment of each worker representative on a WDC require endorsement from the CTU.

3.6. We note that the draft Orders contain different processes for appointments. Any appointments process should be guided by statutory requirements, including ensuring capacity to represent the collective interests of workers. **We recommend that a consistent process be established for appointments to WDCs. In any case where an appointments panel is convened, this should include representatives from CTU, Business NZ and iwi/Māori.**

4. **Inclusion of unions in industry engagement**

4.1. Each WDC will need to establish robust processes to engage with workers and their unions across the industries they cover, including as part of any industry advisory groups. This should be explicitly identified as a requirement under “mechanisms of industry engagement” in each Order. Currently the language of this section varies between the draft Orders, with only the Primary Industries WDC required explicitly to engage with unions. **We recommend that the mechanisms for industry engagement in each Order require inclusion of unions.**

5. **Conclusion**

5.1. The CTU supports a vision of WDCs as a social partnership for skills, bringing together the leadership of government, unions, business and iwi to support the learning needs of working people. To give effect to genuine social partnership, it is essential that the role of unions as the organised voice of working people be recognised, including in the appointment of worker representatives to the WDCs and in the mechanisms for industry engagement.