



Education Report: Approval to consult on Workforce Development Council Order in Council proposals

To:	Hon Chris Hipkins, Minister of Education		
Date:	4 December 2020	Priority:	High
Security Level:	In Confidence	METIS No:	1244452
		TEC Tracker:	B-20-00771
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose

This report provides the Workforce Development Council (WDC) Order in Council (OIC) consultation material for your approval ahead of the launch of the consultation on 16 December 2020.

Recommended Actions

The Ministry of Education recommends you:

- a. **approve** for consultation beginning on 16 December the attached material which includes:
 - six OIC consultation proposals;
 - a background document tailored for each OIC proposal (a sample is attached);
 - a comparison all the proposals in A3 format;

☒ **Approve**
☐ **Disapprove**
- b. **agree** that officials may make minor changes to the consultation material, consistent with the policy intent, up until the consultation date;

☒ **Agree**
☐ **Disagree**
- c. **note** that due to the risk of COVID-19 resurgence over the summer months, the consultation will only be online;

- e. **note** the we have shared the draft OICs with the interim Establishment Boards (iEBs) and Kāhui Ahumahi ahead of consultation and we will finalise the background documents in consultation with them;
- f. **agree** to proactively release this paper in accordance with the provisions of the Official Information Act 1982.

Agree Disagree



Katrina Sutich
Group Manager – Tertiary, Graduate
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Ministry of Education

4/12/2020



Gillian Dudgeon
Deputy Chief Executive – Delivery
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4/12/2020



Hon Chris Hipkins
Minister of Education

5 / 12 / 2020

Approving the consultation material

1. In late November 2020 you agreed to a seven-week consultation period from 16 December 2020 to 5 February 2021 [METIS 1245502]. We are now seeking your approval to the consultation material which will include:
 - six OIC consultation proposals [Appendix A];
 - a background document tailored for each OIC proposal (a sample is attached) [Appendix B]; and
 - a comparative summary of all the proposals in A3 format [Appendix C].
2. As previously mentioned, the interim Establishment Boards (iEB) have had a broad scope to engage with industry and develop OIC proposals suitable for the specific industry context of the relevant WDC. This has resulted in six unique OIC proposals.
3. Drafting six OICs and consultation material is complex and ongoing. Subject to your agreement, we will continue to refine and make minor changes to the consultation material up until the consultation start date. We will work with your office should any changes go beyond technical or editorial changes.
4. The purpose of the background document is to provide readers with detailed background information to understand how the iEBs developed their OIC proposals, and how they incorporated feedback that was received during their engagement with industry in August-October. The document will allow readers who previously participated in the engagement period to get a sense of how their feedback shaped the OICs, and aims at pre-empting questions from these participants.
5. The purpose of the comparative summary of all the proposals in A3 format is to provide readers with a cross view of the 6 OIC proposals to understand how they compare to each other.

Issues that may come up during consultation

Te Tiriti o Waitangi within the OICs

6. As previously discussed, [METIS 1245276] the six iEBs and Kāhui Ahumahi members have been strongly committed to ensuring through the OICs that WDCs act consistently with the reference to Te Tiriti in section 4(d) of the Education and Training Act 2020.
7. Some iEB and Kāhui Ahumahi members have expressed a desire to expand on the high-level purpose statement that connects to section 4(d) with the intention of explaining exactly how the WDC is to fulfil its treaty obligations in relation to each article of Te Tiriti.
8. 9(2)(g)(i) [REDACTED] For this reason, we consider that the OICs should only contain a high-level reference to section 4 in their purpose statement and that the WDCs may include more specific guidance on how to be Te Tiriti compliant in their internal documents. 9(2)(g)(i) [REDACTED]
[REDACTED]
9. The role of Te Titiri o Waitangi within the OICs may be raised during the consultation. Our conversations are ongoing with Te Arawhiti, the iEBs and Kāhui Ahumahi members and we will continue to work together over the consultation period and as part of the ongoing work education agencies have underway with respect to Te Tiriti and the education sector as a whole.

Communications with industry

s 9(2)(g)(i)

Collective representation on council

13. Section 363(3) Education and Training Act requires collective representation of employers, employees and Māori employers on WDC council. s 9(2)(g)(i), s 9(2)(h)

14. When the provision identified by the iEBs met the minimum legal requirement then this was included as provided. When it did not, we amended the template to meet the collective representation requirements under the Act. These are included in the following ways:

- a. at least 1 member is a person nominated by employers/employees/Māori employers in the specified industries to represent;
- b. at least 1 member nominated by trade unions and endorsed by the Council of Trade Unions to represent employees in the specified industries; and
- c. at least 1 member nominated by the industry associations or bodies representing employers in the specified industries, to represent them.

The orders need to be clear that in selecting an employee rep there needs to be some democracy / collective process involved. CH

Additional Functions

15. Several iEBs proposed that the relevant WDCs should have functions additional from those already set out in the primary legislation. These additional functions fell into the following three categories:
- a. Matters that are not clearly functions but may be able to be included in the OICs as other things; for example, as part of the industry engagement framework, a condition on the performance of functions, or as part of the purpose statement. Officials have included them in the appropriate sections of the OICs when possible.
 - b. Matters that are not clearly functions and which could be left out of the OICs but included in other documentation; for example, any constitutional documentation adopted by the council of the WDC on establishment by resolution. For example, the proposed additional function "To give effect to Ka Hikitia or subsequent Māori Education Strategies" should be included in strategic documentation rather than embedding non-legislated strategies in legislation.

- c. Matters that are functions, but that overlap with the existing functions and therefore would not be acceptable for the OICs under current legislative conventions.
- 16. In addition, two iEBs proposed **a career promotion function** and one proposed a research and development function to support core and additional functions. Another iEB proposed functions of undertaking work, funded on a commercial basis, so long as this is aligned to its overall objectives and functions.

Risks with including the proposed additional functions

- 17. There is a risk that adding the additional functions as per paragraph 12 above will come with additional costs, if it leads the WDCs to undertake extensive research activities or provide a careers advisory service. The latter could also overlap with agency and provider activities.
- 18. We also consider 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.

Officials recommend that additional functions should be limited

- 19. Officials recommend not to include any additional functions in the proposals except for the following two functions proposed for the People, Food and Fibre WDC, which are largely aspirational, as follows:
 - a. to promote opportunities for all people to reach their full potential and capabilities by supporting quality vocational educational outcomes; and
 - b. to address the needs and aspirations of priority learners including Pacific learners and people with disabilities.
- 20. It is possible that the issue of including additional functions will come up as part of the consultation. We intend to mitigate this in our communications during the consultation period.

Using ANZSIC Codes in the coverage of WDCs

- 21. The Tertiary Education Commission (TEC) and the Reform of Vocation Education (RoVE) Programme considered several options for how WDC coverage could be described in the OICs. In December 2019, after engagement with industry, a coverage framework based on industries was developed and agreed by the Minister of Education. This included the decision to use the ANZSIC 2006 Level 4 classification system as it offers a definitive starting point for the RoVE Programme to develop WDC Coverage. ANZSIC codes are agreed with the Australian Government as a common classification intended for statistical purposes.
- 22. However, several iEBs have struggled to use the codes to describe their coverage. One iEB, Creative, Cultural, Recreation and Technology, has said that the codes do not sufficiently describe the nature of the industries within its coverage, it also does not provide for New Zealand specific examples such as Toi Mai.
- 23. To resolve this, we have indicated that all the iEBs must use the ANZSIC codes where possible but that the wording of the OICs will provide some flexibility for iEBs to go beyond what is provided by the codes.

Timelines for consultation

- 24. Te Kāhui Ahumahi have expressed their concern about the engagement and consultation timelines. They are concerned that we are moving too quickly for them to get their Māori stakeholders across the proposals. This is likely to come up during the consultation period. We will continue to work with our Māori stakeholders over the consultation period.

Consultation in January 2021

25. Officials had initially intended for several face-to-face events to take place over the consultation period. However due to the risk of COVID-19 resurgence over the summer months, and the uncertainty associated with it, officials are planning for online consultation only. There are currently no plans for face-to-face consultation activities, and officials will instead carry out several online webinars and direct participants to an online consultation platform and email to provide feedback. A summary of the consultation Plan is attached [Appendix D].
26. Individual iEBs have indicated that they will also have face-to-face and information sharing meetings. The intention is to encourage their industries to provide feedback on the consultation through the TEC consultation platform.

Next steps

27. Should you agree to the proposed consultation material, officials will work with your office to finalise any details ahead of the launch on 16 December.

Further information on Workforce Developments Councils is available on TEC's website here: <https://www.tec.govt.nz/rove/workforce-development-councils/formation-of-wdcs/>



Reform of Vocational Education (RoVE)

WDC Order in Council Consultation plan

Summary

About the consultation

The Tertiary Education Commission (TEC) RoVE programme will lead the consultation on the OiC proposals on behalf of the Minister of Education.

The development of the OiC proposals has been industry-led by the interim Establishment Boards (iEBs), with industry engagement, with including Māori and Iwi. This engagement follows, and continues, the extensive engagement that was undertaken at the start of the RoVE programme with all interested stakeholders and partners.

Timeframe

Consultation will open on 16 December 2020 and close on 5 February 2021.

Purpose of consultation

The purpose of the formal consultation on the OiC proposals is two-fold:

- First, the Minister of Education has a statutory requirement to consult with industry on the content of the OiCs. The Education and Training Act 2020 requires that: The Minister must not recommend making an OiC unless representatives of one or more industries covered by a WDC have been consulted, through a statutory consultation, and their views taken into account.
- Second, the WDCs will play a central role in the future vocational education and training (VET) system. The TEC is committed to continue building strong relationships with industry, and wants to take this consultation opportunity to hear from industry on how the WDCs can be established as credible, industry-led organisations.

Consultation principles

Clear communication – We will use clear language and make sure that our messages are understandable and accessible for our stakeholders.

Māori participation – We will provide opportunities for Māori to be involved, in a way that respects tikanga Māori.

Transparency – We will be open and transparent about our consultation process, what we are consulting on, and what changes are made to the OiC proposals as a result of the consultation.

Accessibility – We will ensure the right stakeholders are given the right information, at the right time, to help them provide informed feedback through the OiC proposals engagement and consultation period.

Consultation mandate

Section 363 of the Education and Training Act 2020 requires the Education Minister to make recommendations to the Governor-General about the content of the OiCs. The Minister must not recommend making an OiC

unless the Minister has consulted the representatives of one or more of the industries covered by a WDC, and taken into account any views expressed by those representatives.

Statutory consultation requires the provision of genuine opportunities for consulted parties to have a say on proposals that the Minister is considering. This is key to the decision maker keeping an 'open mind'.

A key requirement is that those consulted must be given a reasonable opportunity to state their views.

Consultation channels

We are planning to promote and support the consultation via a range of established channels and also by cascading information about the consultation via our partners and their networks and channels. We will use a range of channels to share information and / or gather feedback from partners and stakeholders.

Online	The consultation platform (including feedback survey *) – will be the primary consultation channel (linked to from the TEC website and via promotion of the consultation: emails, social media, public newspaper ads). It will go live at 10am on 16 December.
	<p>Promotion of the consultation opening dates, and closing dates and how to provide feedback will be via the following digital channels:</p> <ul style="list-style-type: none"> • TEC website • TEC Social Media channels • RoVE and TEC newsletters (and partner newsletters dependant on publishing deadlines) • A series of webinars/online hui
Email	<p>Emails to RoVE and WDC project stakeholder groups and partners announcing the consultation and including support material (ie digital toolkit containing social media collateral, link to the consultation platform as appropriate). This includes emails from iEBs and TEC relationship team to their contacts.</p> <p>Emails and collateral for WDC Māori and iwi partners using appropriate formalities and some te reo (letter/email outlining the contents of the pack, highlighting opportunities to provide feedback including webinars/hui, the consultation platform, email, phone; links to videos and the social media collateral.)</p> <p>Cascade information about the consultation (with collateral including digital content promoting the consultation) via partner government agencies, and their industry partners, for use on their online channels and digital newsletters.</p> <p>Cascade information and collateral to iEBs to share with their stakeholders.</p> <p>Cascade information and collateral for WDC Māori and iwi stakeholders.</p> <p>Provide information to Pacific business networks via MPP and others partners.</p> <p>Part of consultation is to ensure accessibility requirements are considered and we will provide information to MSD for their industry disability sector stakeholders.</p>

Phone	The RoVE phone line will be available for the consultation/and questions.
Events	Webinars/online hui during the consultation phase are planned. An event brief has been developed outline how these events will be managed.
Notices	Public notices advising the consultation will be placed in the main weekend newspapers on 19 December and again on 16 January (requirement for consultation).
Media	Potential for a ministerial media release [TBC] and or media interest. Proactively place articles about WDCs and the consultation in partner stakeholder and government agency newsletters [deadline dependent alongside timeframe of consultation start and newsletter cycles].

Consultation approaches

An online consultation platform will be the central source of information about the Order in Council proposals, containing background information; two overview videos (one speaking to Māori and iwi audiences); the six consultation proposals; the online feedback form; high level frequently asked questions and answers; and details about attending one of the six Zoom events to be hosted during the consultation phase. There will also be details on other ways to provide feedback (email, phone, mail); and contact points.

The consultation platform will be linked to from the TEC website. Promotion of the consultation phase will be via direct emails (announcements, reminders and opportunities to sign up for a Zoom event) to our contacts and partners. The TEC newsletter(s) will contain details about the consultation. Emails and newsletter stories can be cascaded via our partner and government agency networks. There will be a social media campaign with tiles and posts and a short 35 second animated video drawing attention to the milestone and directing people to the consultation platform.

A digital toolkit and with these social media elements, including other supporting information, is being provided to government agency partners and interim Establishment Boards, so they can also promote the consultation using aligned collateral and messaging to their online communities.

Public notices will be placed twice in the main weekend newspapers once consultation has started.

The consultation is public and open to feedback from anyone. In particular feedback from industry, and anyone interested in vocational education and training from an employer or employee perspective is encouraged. Māori and iwi are important partners and we continue to actively engage and consult as part of the RoVE programme, including the establishment of the WDCs.

Media queries will be managed and coordinated by the TEC media team. The TEC media spokesperson, if required, will be Gillian Dudgeon [Check this]. If iEBs were asked for media comments, this will be coordinated via the TEC media team.

A series of Zoom events are planned to support the consultation phase, one for each Order in Council proposal. Registration will be available on the consultation website and we are planning for one before Christmas and more from mid to the end of January. These will offer an overview, and then detail of the proposals, and offer a chance for questions. Should there be a need or high interest, additional Zoom events can be scheduled. The Zoom events will be hosted by a mix of TEC senior managers, RoVE specialists, and iEB

representation. Feedback captured at the events will be fed into the consultation feedback. If required the events can be recorded.

During the consultation the iEBs will support the promotion of the consultation and opportunities to provide feedback, and attend/participate in the Zoom meetings. There are no public meetings scheduled due to the COVID-19 operating environment. Should iEBS meet with industry as part of the consultation, the advice is that feedback would be required to go through the formal feedback channels.