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Tēnā koutou

### **Submission – Education and Training (Vocational Education and Training System) Amendment Bill**

1. Te Pūkenga welcomes the opportunity to comment on the Education and Training (Vocational Education and Training System) Amendment Bill (the Bill). This submission is provided by Te Pūkenga – New Zealand Institute of Skills and Technology (Te Pūkenga) Executive Management Team. Te Pūkenga Council has been provided a copy but is not a signatory to this submission.
2. This submission aims to support the Education and Workforce Committee (the Committee) consider and improve the drafting of the Bill. We provide suggested wording amendments in the Appendix, as well as some matters for consideration related to the implications of the Bill and related policy design. These will provide useful context to the Committee when considering the Bill.
3. We wish to be heard by the Committee on this submission.

### **Introduction**

4. We support the purpose of the Bill to promote economic productivity in the regions and nationally, and to ensure the vocational education and training system remains responsive to existing, new and emerging industry developments. We consider that this will better involve

regional communities, iwi and industry into decision-making by moving it closer to those end-users of the Vocational Education and Training (VET) system.

5. While Te Pūkenga has a programme of work to improve the financial position of individual business divisions, once established, individual entities will need to review and fundamentally change their operating models and approaches for the future. Given the uncertainty we have experienced over the last 18 months and the timeframes for implementation before 1 January 2026, it has been very difficult for Te Pūkenga divisions to plan for their future.
6. Ultimately, an organisation's short-term viability relies on its ability to manage costs and improve its revenue generation. However, its long-term sustainability relies on its ability to plan for the future and adjust its model to account for external influences. This includes economic and industry factors, changes in demographics, application of technology, how learning is changing and Government direction and policy. Ongoing Government changes in VET policy direction have made planning and building long-term sustainability difficult for the VET sector.
7. Simply reverting to previous structures with our current capabilities will not be enough to address future challenges. Future entities will need to refocus their purpose, core activities, business processes and relationships within and beyond their communities and industry. This is imperative not just to support the creation of a viable system, but for one that can think about and plan for the challenges of the future, and how best to confront them.
8. The VET system has been through significant and ongoing structural change in the last five years. Our goal at Te Pūkenga has been and continues to be minimising the impact on our kaimahi (staff) and ākonga (learners). One of the key goals of moving to the new VET structure must be ensuring the transition is as quick and seamless as practicable.
9. Given the relatively short timeframe to transition to the new system, the Bill's transition provisions need to ensure that there is minimal confusion and maximum clarity for the new entities established, ākonga, kaimahi and industry.
10. Our suggested amendments and the content of this briefing aim to improve clarity of the Bill and the process for implementation of the provisions in the Bill.

### Commencement date impacts on the timeframes for implementation

11. We have concerns about the timeframes for implementing the transition and establishment of entities, based on the transition process outlined in the legislation. Practically, this process will need to be designed, developed and implemented *before* 1 January 2026 (the current commencement date in the Bill). The Tertiary Education Commission (TEC) will be required to approve transition plans prior to the Bill's enactment and commencement date of the Act.
12. At the time of writing this submission, the Government had not yet decided which entities to establish from 1 January 2026, the number and scope of Industry Skills Boards and which Institutes of Technology and Polytechnic (ITP) divisions of Te Pūkenga will be federated ITPs.

### Recommendation

13. We recommend that the Commencement date in the Bill is amended to 1 October 2025, from 1 January 2026 to ensure key activities can occur legally within the timeframes required for a 1 January 2026 establishment.

### There is a need to maintain focus on ākonga (learners)

14. The current Te Pūkenga Charter (Schedule 13 of the Education and Training Act 2020) puts strong obligations on Te Pūkenga to support underserved learners, including, but not limited to, Māori, Pacific and Disabled learners.
15. We consider these current obligations have been significantly tempered in the Bill as it is currently drafted. The tempering of these obligations along with reductions in targeted funding for these learner groups from 2026 will maintain, or worsen, the current educational disparities that exist in the tertiary education system. The reduction of such targeted funding reduces the incentives for future entities to enrol underserved learners and entities' ability to support them appropriately once enrolled.
16. Maintaining obligations on ITP councils for improving the educational outcomes of underserved learners ensures that Government and its agencies can hold ITP council members directly responsible for not improving the outcomes of underserved learners. Given New Zealand's changing demographics, the need to close the learner disparity gap will only become more important in the future.

## **Recommendation**

17. We recommend that the obligations that currently exist in the Act to support and meet the needs of underserved learners are maintained within the Bill by including reference to Pacific and Disabled learners in clause 314 along with Māori learners. This will ensure the Government, and its agencies have a legal basis from which to drive improved performance for underserved learners.

## **The funding system drives behaviour**

18. While Te Pūkenga provides the scale needed to offset losses in one part of its education delivery with the profits in another part, changes under the Reform of Vocational Education did not address the issues in the funding and investment system. The system remains a simplistic, inefficient, volumetric system with no ability to adjust price based on scale. We expect that these issues will persist under the structural changes enabled under the Bill. We also expect that the Government will be relied upon for further ad hoc financial support for ITPs in future. We consider that the TEC will need to build capacity and capability around its financial performance monitoring and management given potential financial risks in establishing additional entities.
19. Relying on a funding model based on learner volume and market share is not enough to support key activities in the VET system and individual entities. This approach encourages unhealthy growth and poor investment choices by entities. Te Pūkenga is all too aware of the many historical poor investment decisions made by ITPs prior to Te Pūkenga. We have had to navigate the process and costs of exiting onerous leases and make difficult decisions to exit poorly maintained infrastructure in the ITP sector.
20. The current funding system does not accurately match the real costs of delivering education and does not adequately account for changes in the economy or the unique challenges in different regions. It also does not account for how learning is changing and the role of technology, such as micro-credentials, online and blended modalities and Artificial Intelligence. This approach leaves the sector exposed to even small drops in student enrolments. A major rethink is needed to create a better funding model and improve how services are shared across the system.

21. Looking ahead, funding should focus on helping learners succeed. It should give education providers enough resources and flexibility to deal with challenges like remote locations, poor infrastructure, weak earlier education, and social or economic disadvantages. The ITP network would also benefit from funding that encourages collaboration across the future ITP network.
22. We support the Government's contribution through Budget 2025 of \$20 million for 2026 and 2027, to support strategically important VET provision during the transition to the new structure. We have concerns that this level of funding is insufficient and not enduring. While this will be subject to the type of provision classified as strategically important, often provision that needs additional funding support needs it on an ongoing basis. It is not clear how this funding will be allocated and will likely require significant compliance similar to most of the current funding processes.

### ***Recommendation***

23. Ultimately it is the funding and investment system which creates incentives that drive the behaviours of entities. While the funding system is mainly designed through policy and operational policy, we encourage the Committee to consider and scrutinise the funding settings when they are reviewing this Bill.

### **Collaboration, federation and shared services**

24. We are encouraged to see under clause 321 of the Bill – *Additional duties of council of polytechnic* – there are obligations on the ITP councils to '...consider the need to collaborate with other polytechnics to use resources effectively, to avoid duplicating effort and to identify opportunities for sharing services...'. Previous collaborative activities were often reliant on individual relationships or contractual arrangements and therefore limited across the VET system.
25. We consider the above aspects of the Bill provide positive steps to maintain collaboration and shared services in the system. However, we do not consider they will realise the benefits and efficiencies of scale that Te Pūkenga has achieved across its network. Due to the funding system's 'bums on seats' model, we also anticipate that competitive tension between ITPs will limit the scope and scale of collaboration and in some cases could see unhealthy "race to the bottom" behaviours of the past. Collaboration across the network and within the federation

will also be highly contingent on the individuals at the governance and executive management levels. We consider this to be an inefficient and ineffective process to encourage collaboration.

### ***Recommendation***

26. We recommend that ITPs provide for planned collaborative activities and initiatives within their Investment Plans and subsequently report against these activities within their annual reports; the specifics of which could be required for through the TEC's Investment Plan Guidance and Gazetted Investment Plan Criteria. We also recommend that the TEC incorporate monitoring of collaborative activities within its wider monitoring framework for ITPs.
27. There are clear areas where collaboration and shared services could be directed or encouraged by the Government. For example, back-office services such as Payroll, property (buildings and infrastructure) and procurement and negotiation of network-wide contracts, such as insurance and IT projects. This would support smaller ITPs that do not have the same level of capacity and capability as larger ITPs. Relying on individual entities to decide and pull this together will mean the advantages of scale will be lost and the time taken for entities to negotiate arrangements will reduce any efficiencies that could be realised.
28. We question the need of the federation model as provided for in the Bill. It is not clear what benefits it will provide that cannot be achieved via existing provisions in the Bill or through policy and funding settings. We consider it a complicated way to implement support structures for ITPs and create additional layers of governance and administration for the anchor polytechnic, federation polytechnics and Government.
29. While the federation is intended to provide some sharing of services and collaborative activities, we expect that the level of these will be subject to the ITPs within the federation, their capability, scale, services to be shared, and agreement of the federation committee and federated ITP councils.
30. Should the Government proceed with the federation model, Clause 315 – *Establishment of polytechnics* – does not enable the establishment of an ITP as a 'federation polytechnic' – meaning that any new ITPs must be financially viable to stand alone before being federated. We consider a mechanism to establish new ITPs as 'federation polytechnics' at the outset is a more prudent way to federate financially challenged business divisions. This will reduce

inefficiency in an already cumbersome process and could reduce additional financial support from the Government to establish financially challenged ITPs. However, it raises questions as to why a financially viable ITP needs to be part of a federation when it could source shared service support and undertake collaborative activities under other provisions within the Bill or via contractual relationships or merge with another ITP.

### **Employment provisions and impacts for kaimahi (staff)**

31. As outlined earlier, our goal has been, and continues to be, minimising the impact on kaimahi and providing certainty for a sector that has faced uncertainty for five years. We consider the employment provisions of the Bill do not support this goal.
32. The current wording of Clause 139 – *Employment of NZIST employees by successor organisation* – means that a successor organisation could not offer employment until after 1 January 2026 which would delay the transfer of staff and mean that successor organisations may be stood up on 1 January 2026 with no employees. Offers can also not be offered till after transition plans are approved. If these are delayed past 1 January 2026, there will be further delay on offers being made to employees.
33. The Bill could be amended to enable successor organisations to offer employment prior to the approval of a transition plan and 1 January 2026, provided such offers are conditional on the transition plan being approved by TEC and the appointment of a Chief Executive being made.
34. Schedule 1, clause 139 states that the successor organisation may offer ‘equivalent employment’ to NZIST employees on terms and conditions that are ‘no less favourable’. A significant proportion of Te Pūkenga employees are currently union members and are covered by a collective agreement. It is unclear with the current wording in the Bill whether ‘no less favourable’ means the successor organisation must agree to enter into a collective agreement.
35. Clause 139, 2(a) and 2(b) may appear contradictory or may look to omit other functions that would be required by the successor organisations.

### **Recommendation**

36. We recommend amendments as provided in the Appendix for clause 139 to improve clarity and ensure they enable a more streamlined transition process.

### Public assets transitioning to private ownership

37. Subject to amendments made to the Bill through Select Committee process and passage through the House, assets currently owned by Te Pūkenga will transition and be vested to newly established Crown Entities – ITPs and Industry Skills Boards (ISB). These assets will remain crown owned assets in this first transition. However, Work-Based Learning divisions of Te Pūkenga will be subject to a second transition out of an ISB. These could be to an ITP, a wānanga or a private training establishment (PTE).
38. Any eventual transition to a PTE would include the transfer of previously public assets into private ownership. We consider any such transfer needs to be recognised, accounted for, and the Government appropriately compensated.

Ngā mihi nui,

A handwritten signature in black ink, appearing to read 'Gus Gilmore', with a large, stylized loop at the end.

Gus Gilmore  
**Tumuaki** | Chief Executive