

Tertiary Education Report: Next steps regarding Unitec Institute of Technology

Date:	21 June 2018	TEC priority:	High
Security level:	In Confidence	Report no:	B/18/00376
		Minister's office No:	

ACTION SOUGHT		
	Action sought	Deadline
Hon Chris Hipkins Minister of Education	Note and agree the advice and recommendations in this paper on financial support and further intervention necessary at Unitec Institute of Technology	At your earliest convenience
Enclosure: No	Round Robin: No	

CONTACT FOR TELEPHONE DISCUSSION (IF REQUIRED)				
Name	Position	Telephone		1st contact
Tim Fowler	Chief Executive	Section 9(2)(a)	██████████	✓
Section 9(2)(a)	Section 9(2)(a)	██████████	██████████	

THE FOLLOWING DEPARTMENTS/AGENCIES HAVE SEEN THIS REPORT

- DPMC
 MPI
 ENZ
 ERO
 MBIE
 MoE
 MFAT
 MPP
 MSD
 NZQA
 NZTE
 TEC
 TPK
 Treasury

- Minister's Office to Complete:**
 Approved
 Declined
 Noted
 Needs change
 Seen
 Overtaken by Events
 See Minister's Notes
 Withdrawn

Comments:

Recommendations

Hon Chris Hipkins, Minister of Education

It is recommended that you:

1. **note** that the TEC has received a report from the Independent Financial Advisor (IFA) appointed to Unitec Institute of Technology (Unitec), which confirms the institution has serious short-term financial issues and will require financial support; and
2. **note** that we have considered the range of options available to provide short term financial support to Unitec and that officials recommend a no interest concessionary loan arrangement up to \$50 million as the best option to enable Unitec to meet commitments for 2018 and 2019, while right-sizing and transitioning to a more efficient organisation takes place;
3. **agree** that the TEC, with Treasury, prepare a paper for you to take to Cabinet seeking approval to establish a concessionary loan for Unitec; and

AGREED / NOT AGREED

4. **note** that, in line with section 159D of the Education Act 1989, I consider that Unitec is at-risk, given that there is a serious risk to the operation or long-term viability of the institution, and that statutory intervention is required, as other methods of reducing the risk either have failed or are likely to fail; and
5. **note** that I have considered the intervention options available to me, as Chief Executive of the TEC, and you, as Minister of Education, under the Education Act and recommend you seek to dissolve the council of Unitec and appoint a Commissioner; and
6. **note** that this first requires consultation with the Council and other stakeholders, and, should you choose to proceed, a further notice to the Council affording them the opportunity to respond to your preliminary decision; and
7. **agree** to delegate to me, as Chief Executive of the TEC, responsibility for undertaking the initial consultation process on your behalf, after which I will report back to you with a summary of feedback and recommendations on a preliminary decision; and

AGREED / NOT AGREED

8. **note** that I will seek your approval of a consultation approach and communications plan, prior to commencing consultation on the proposed intervention; and
9. **agree** to provide an oral update to Cabinet regarding your intention to proceed with processes to establish a no interest loan, dissolve the council, and appoint a Commissioner to Unitec; and
10. **note** that if you agree to recommendation (3), above, the Cabinet paper seeking approval for the concessionary loan will also advise your colleagues of your intention to dissolve the Council and appoint a Commissioner to ensure appropriate oversight of the Crown's support and Unitec's recovery; and

11. **agree** to defer a decision on the proactive release of this briefing until after commercial negotiations with Unitec have been completed regarding any financial support, and final decisions have been made on possible further interventions at Unitec.



Tim Fowler

Chief Executive
Tertiary Education Commission

21 June 2018

Chris Hipkins

Minister of Education

___ / ___ / ___

Purpose

1. The purpose of this briefing is to provide you with more detailed information about the financial issues, as well as governance and management capability, at Unitec Institute of Technology (Unitec), following receipt of a formal report from the Independent Financial Advisor (IFA).
2. Based on this information, this briefing then sets out information in support of my recommendations that you should:
 - seek Cabinet's agreement to a no interest concessionary loan arrangement up to \$50 million as the best option to enable Unitec to meet commitments for 2018 and 2019, while right-sizing and transitioning to a more efficient organisation takes place; and
 - initiate a process, under section 195D of the Education Act 1989 (the Act), towards dissolving the council of Unitec and appoint a Commissioner, based on my view that the institution is at-risk; and
 - provide an oral update to Cabinet at your earliest convenience (and before any necessary consultations) about your intention to proceed with these actions, with a Cabinet paper to follow to establish the concessionary loan.

Background

3. As advised in an initial briefing to you (B/18/00240 refers) on 4 May, Unitec is projecting a cash shortfall for 2018. Its financial difficulties are primarily due to a rapid decline in EFTS, from 9,669 in 2015 to a forecast 6,935 in 2018, and significant transformation and restructuring costs since 2016.
4. With agreement from Unitec, I appointed an IFA to provide an independent view of Unitec's financial position, and to provide support to the Unitec council and senior management. The IFA's initial investigation has been completed and a report has been provided to the TEC.

Summary of financial issues

The IFA's report confirms that Unitec has serious short-term financial issues

5. Significant decline in domestic and international enrolments since 2015 has negatively affected the profitability of Unitec's core teaching and research business. This, coupled with transformation and restructuring costs incurred since 2016 has resulted in Unitec posting high deficits in 2016 (-\$24.4m) and 2017 (-\$30.7m). Unitec is also forecasting a deficit of \$21.2m in 2018. During these years bank borrowings have also steadily increased to \$108.1m (\$39.5m in 2016), initially to fund capital costs and lately to support its core operations.
6. As the decline in enrolments continues through 2018, a negative teaching EBITDAR¹ of \$6.6m is forecast for 2018. Once depreciation, interest and restructuring costs are included this figure becomes negative \$21.2m. Unitec's operations including its teaching business therefore remain unprofitable.
7. The IFA's financial review forecasts that Unitec will have a cash shortfall of around \$19.0m for 2018. With cash expected to run out in September, urgent and drastic action is required. Options for how any financial support could be structured is discussed below.

¹ EBITDAR – Earnings before Interest, Depreciation, amortisation and Restructuring costs

8. The IFA's forecast assumes that Unitec will make repayments for 2017 under-delivery and be subject to 2018 in-year Plan amendments (a reduction of approximately \$5.6m in funding), as well as a clawback of fees-free (\$2.4m) and other funding (\$0.5m).

Cost-savings and cost containment alone will not address the shortfall for 2018...

9. The forecast shortfall of around \$19.0m assumes anticipated cost savings are made and capital expenditure is reduced to the minimum possible levels. These cost savings identified for 2018 are in the region of Section 9(2)(j) of other costs. Savings relating to the disestablishment of the Project Management Office (PMO), and the subsidiary Wairaka Land Company (WLC) for 2018 have been calculated at \$6.5m (full year cost is \$13.1m).

10. Of these, only savings relating to the WLC and PMO disestablishment have been actioned.

Section 9(2)(b)(ii) and 9(2)(j)

Section 9(2)(b)(ii) and 9(2)(j)

Capital spending has already been reduced to the barest minimum possible. All other operating expenditure such as bonuses, travel, marketing, facilities management etc. have also been cancelled or reduced to the minimum.

...and it is more than likely that there will be ongoing cash flow issues in 2019

11. The IFA's financial review forecasts that Unitec will have a cash shortfall of around \$27.1m for 2019, necessitating continuing financial support. By the end of 2019 it is planned for all cost savings and revenue improving initiatives to be fully implemented including staff changes. The next tranche of planned property sales to the Crown should also be completed by then, with further disposal of building assets on its Waitakere campus well advanced.

However, that in the medium-term Unitec should be able to right-size its business in the medium-term in order to ensure ongoing viability

12. Unitec is currently modelling 2019 onward operations Section 9(2)(b)(ii) and 9(2)(j) on a 6,000 EFTS model, a reduction of 1,000 EFTS from their anticipated 2018 size. All future Unitec spending will be framed within this envelope, which will be closely monitored. Once Unitec can settle on an operating budget at this scale and right-size its operations accordingly, it can better plan for future sector changes.

13. The TEC considers this reduction to be appropriate, given organisation and sector trends. Unitec is forecasting 6,935 EFTS in 2018, and 6,000 EFTS represents the lowest scenario forecast by the IFA for 2019.

14. A degree of uncertainty remains as this total EFTS figure includes international students. While we cannot accurately predict the impact on Unitec's international revenue of planned immigration changes and NZQA's English language rule changes, most ITPs are predicting a significant decline². Unitec and the IFA are aware of these potential changes, and the continued need for Unitec to attract and secure more EFTS, both domestic and international.

15. As well as aggressive re-sizing to manage costs, in the medium to longer term Unitec has additional land surplus to educational needs that can be used to raise future capital.

² Approximately 8% of Unitec's total enrolments are international students studying non-degree at Level 7 or below, and so could be impacted by immigration changes. This compares to approximately 16% of total enrolments being international students studying Level 7 degree programmes or higher, which would remain unaffected at this stage.

16. Section 9(2)(j)

Options for financial support

Immediate relief via TEC funding mechanisms could not fully address the cash shortfall and would lack transparency

17. There are two actions TEC could take to relieve cash flow pressure on Unitec at this point.
- a. Reduce TEC recoveries for under-delivery in 2017. Under-delivery is 90% recovered for the 2017 year, so the amount remaining is small and will not have a noticeable effect on the overall year-end cash-flow outlook. This is not a preferred course of action.
 - b. Halting proposed in-year plan amendment reductions (approx. \$5 million), which would reduce some operational cash pressure. In-year plan amendments are commonly used by the TEC to ensure organisations are right-sized in year; to reduce end of year recoveries; and to allow funding to be allocated to other providers experiencing higher demand. Halting in-year plan amendments for Unitec would present a false picture of its actual situation.
18. While these actions could assist with cash-flow, neither would fully address the cash shortfall nor change the overall outcome. Halting proposed in-year plan amendments would also increase recoveries for next year and interfere with TEC BAU processes, while neither is a transparent means of providing short-term financial support. As such, while this could be a small part of the solution, it is not a preferred course of action.
19. Treasury officials agree that delaying recoveries would affect the transparency required to address Unitec's cash flow problems.

There are a number of other options the government could take to support Unitec until it is able to right-size its business...

20. We have discussed with Treasury and MOE officials the range of options the Government could use to support Unitec until it is able to right-size its business. A full analysis of these options, including asset sales, capital injection, commercial borrowing and a longer-term government loan, is included in Appendix 1.

We recommend a no interest concessionary loan, with repayment within a 10 year window and conditions to incentivise repayment and a fast recovery arrangement

21. Should the Government agree to provide financial support to Unitec, the support will need to allow the organisation to meet commitments for 2018 and 2019, while right-sizing and transitioning to a more efficient organisation takes place.

22. As the loan is intended to support Unitec out of financial difficulty, we recommend a no interest approach. However, Unitec has assets that are surplus to requirements, and (as described above) should be viable in the medium-term. As such, we recommend a concessionary loan, which ultimately seeks full repayment. This is preferred to a suspensory loan³, since suspensory loans operate such that, if certain conditions are fulfilled the loan is converted to equity. There is no intention to do this for Unitec.
23. The full terms of the concessionary loan will need to be worked through with the IFA, Unitec, MOE and the Treasury, and any final agreement would cover repayment terms, land sales proceeds, repayment holidays, and Unitec's capital and restructuring needs. These details will be reflected in a Cabinet paper, since a Cabinet decision will be required to establish a new appropriation to cover the loan and funding to finance it. The TEC, with Treasury, will draft a Cabinet paper on your behalf, should you agree with this approach.
24. At this stage, we anticipate that repayments could be linked to the sale of surplus assets identified by Unitec, with the balance deferred for a certain period of time to enable Unitec's core operations to be right-sized and its reserves built up to acceptable levels (similar to WITT). A range of conditions or incentives could also be attached to the loan agreement. These would be used to incentivise Unitec to right-size, sell assets and make repayments in a timely fashion, and could include applying interest to the loan in out-years if certain targets are not met.
25. A detailed plan of when Unitec could draw down against the loan will be developed in collaboration with Treasury officials, and included in the Cabinet paper. However, we envisage that an initial drawdown of \$10 million would be made in August this year, with a further drawdown of approximately \$9 million in November. We would likely establish quarterly drawdowns throughout 2019, although the amounts of each payment may vary depending on forecast cash flow needs.

Unitec's current Council and Management structure has some challenges

A capable interim chief executive is in place...

26. The previous chief executive (CE) resigned in December 2017, at which time the Unitec Council seconded one of its members as interim CE from December until mid-June. It is clear from the IFA and the TEC's dealings with Unitec that the interim CE was highly capable, and had the respect of both Unitec staff and the Council. Unfortunately, the interim CE's term ended on 13 June and he has prior overseas commitments that prevented his term from being extended.
27. Council has made another internal interim appointment for the period of 14 June to the end of December 2018. This appointment also has the confidence of TEC, the IFA and Unitec staff.
28. The search for a new permanent CE has been deferred indefinitely while Unitec concentrates on resolving its current situation. This decision also acknowledges that finding a new CE at this stage would be difficult, with the Council unclear as to what kind of person is required to lead Unitec into the future or at least through its right-sizing phase. This should be considered when assessing options for statutory intervention.

³ Government has provided interest-free suspensory loans to TEIs in the past to cover a variety of situations such as capital injections, support for operational shortfalls, for specific educational initiatives and support mergers. Since 2009 the incidence of these have decreased as TEIs resorted to borrowing from commercial lenders to support some of the capital projects, educational initiatives and organisational changes.

...while the general staff leadership situation has improved

29. The current Senior Leadership Team is performing well as a team and has the trust of staff at Unitec. They have moved quickly to reduce costs in each business area and are working very effectively with the IFA.

30. Section 9(2)(a)

[REDACTED]

However, the effectiveness of the Council to address Unitec’s ongoing issues is questionable

31. The IFA has advised that the Council, in its current configuration, 9(2)(g)(i)

[REDACTED]

[REDACTED] The IFA has advised that the current Council “will not provide the foundation to deliver an effective turnaround of Unitec”.

32. Section 9(2)(g)(i)

[REDACTED] The Tertiary Education Union has also expressed a lack of confidence in the Chair in staff forums and media reports, and has written to the Chair to express its views.

33. We also note that managing the situation going forward is likely to involve considerably more time and effort than the current Council roles envisaged 9(2)(g)(i)

[REDACTED]

34. Notwithstanding the above points, it is my view, and the view of the IFA, that there are some strong Council members among those who are newer to Council. In particular, the first interim CE was seconded from Council, and has resumed as a Council member from 13 June. He has done an excellent job since stepping in as interim CE, and his experience in this role will be of benefit to the Council in asking the right questions of management.

35. The IFA has expressed some unease should these members be lost should further interventions be made that result in the dissolution of the Council. To address this, we note the legislation allows for an advisory committee to be set up to support the Commissioner. Council members who were keen and capable to support Unitec could be appointed to this committee.

Considering additional statutory intervention

There are an escalating range of interventions possible that I, as CE of TEC, and/or you as Minister could use to address the lack of clear, strong direction at Council level

36. The full range of interventions available in the ITP sector are set out in Appendix 2 and extend from asking for more information, through to the dissolution of Council and appointment of a Commissioner.

37. We have effectively already utilised one intervention – requiring the institution to request specialist help – via the appointment of the IFA.

I believe that if financial support is provided, and Unitec is to resolve its current issues, you must make a more significant statutory intervention

38. I am of the view that should financial support be provided, you should also make a more serious statutory intervention to ensure that the right expertise is in place to guide the institution through this difficult period; that targets set to improve its performance are being achieved; and conditions governing the financial support are met.
39. As Minister, you may resort to statutory intervention if there are reasonable grounds to believe that:
- a. an institution is at risk of being unable to pay its debts as they become due in the normal course of business;
 - b. there is a serious level of risk to the operation or long term viability of the institution; and
 - c. other methods of reducing risk either have failed or appear likely to fail.
40. In the case of Unitec:
- a. Unitec is forecast to run out of money by the end of September, which will put it in danger of being unable to pay wages to staff and meet day-to-day running costs.
 - b. Given the falling enrolments and the negative enrolment trends in the ITP sector we believe Unitec's core operations will continue to be unviable in the longer term unless it right-sizes its business to fit its current student volumes. This right-sizing takes time; in many cases some years.
 - c. When assessing Unitec's situation against the risk assessment criteria for TEIs, Unitec does not fulfil organisational (Section 9(2)(g)(i) [REDACTED]), financial (Section 9(2)(b)(ii) [REDACTED] high risk on in TEC Financial Monitoring Framework) and educational (downgraded to a Cat 2 EER rating) criteria.
 - d. TEC has also over the past two years put in place enhanced monitoring and recommended risk mitigation actions to Unitec (such as accelerated land disposals) to improve its financial situation, which have been only partially successful.
41. As such I believe, subject to the outcome of consultation as proposed below, this situation meets the criteria for you to dissolve the Council of Unitec and appoint a Commissioner under section 195D of the Education Act 1989.

I have considered the full range of available options for formal statutory intervention, and recommend dissolving council and appointing a Commissioner

42. Appendix 2 sets out the full range of interventions available where a polytechnic is deemed to be at risk, and analysis of the effectiveness of each option. I consider that dissolving the Council and appointing a Commissioner is the only option that fully addresses the challenges Unitec is facing.
43. Requiring performance improvement plans may be helpful, but these would not be enough on their own to provide the necessary level of assurance that Unitec is making the required progress. Similarly, a Crown Observer could provide the existing council with additional support and expertise, but would not have any mandate above and beyond the current management and Council, which will be needed.

44. The Minister also has powers under the Education Act to dismiss the chairperson (or deputy chair) of a polytechnic council at any time by written notice, following consultation with the affected party on the proposed dismissal. However, the individuals would remain members of the Council, having been dismissed only from the office of Chair or Deputy Chair. This option is not appropriate 9(2)(g)(i)
- For the same reasons, full dismissal from Council of the Chair is also not a viable option.
45. Similarly, appointing a Crown Manager does not go far enough. A Crown Manager could assume all or most of the powers of the Council, but the Council would remain in place and retain any functions not given to the Crown Manager. 9(2)(g)(i)
46. Dissolving the Council and appointing a Commissioner is the most serious intervention available to you, but is the only option that I consider adequate in this situation. It will result in the appointment of an independent person with the agility and ability to make difficult decisions necessary for the future of the institution, 9(2)(g)(i)
- Further, some existing council members could be retained on an advisory committee to support the Commissioner.
47. Appointing a Commissioner (and other serious interventions) requires that other methods of reducing the risk have either failed or are likely to fail. This is often a difficult test to meet, especially in the circumstances that other interventions have not been tried. However, our analysis suggests that other interventions will not be effective, and lower levels of interventions have not been or would not be effective enough.
48. Appointing a Commissioner would also give the Crown increased control of the situation and responses, as well as increased transparency to you, the TEC, and all levels of the organisation. It would also signal that you are taking serious action in response to serious financial issues, and the appointed person could also work with the ITP and the TEC through the ITP 2020 Project.

Next steps

49. This paper recommends both financial support, in the form of a no interest concessionary loan, and the dissolution of council and appointment of a Commissioner.

The first step is to update your colleagues

50. Should you agree with my recommendations, I recommend that you provide an oral update of your intentions to Cabinet in the first instance. As described below, statutory intervention requires consultation, and it is important to brief your colleagues on your intentions before any information is made public. The TEC will work with your office to provide talking points for an oral item at Cabinet.

A concessionary loan will need Cabinet approval because a new appropriation will need to be set up

51. Subject to your agreement, the TEC will work with Treasury and MOE to draft a Cabinet paper seeking approval of the concessionary loan option. This Cabinet paper will detail the full conditions of the loan agreement between the Crown and Unitec, as well as balance sheet information regarding when money will be available to be drawn down.

52. As Unitec will run out of cash in September, we recommend proceeding with establishing the concessionary loan immediately, while the statutory process for appointing a commissioner (outlined below) gets underway. **Section 9(2)(b)(ii)**

53. This Cabinet paper would also advise your colleagues of your intentions with regard to statutory interventions, as set out below, but additional Cabinet papers or oral updates may be needed depending on how you choose to progress with the statutory intervention process.

Statutory intervention requires formal consultation, which I can undertake on your behalf

54. If you agree that a Commissioner is needed, you would first be required to consult on the possible need to dissolve the Unitec Council and appoint a Commissioner. This is a statutory requirement, but I can undertake the bulk of this consultation on your behalf. This paper seeks your agreement to delegate responsibility for undertaking this initial consultation to me, as Chief Executive of TEC.

55. If you agree, I will work with your office on a consultation and communications plan before commencing consultation. This consultation would not occur until you have updated your colleagues, as outlined above.

56. Given the serious nature of issues at Unitec, I would progress this as quickly as possible. **Section 9(2)(h)**

I envisage engaging with the Council, staff and student representatives, the TEU, and iwi. I would plan to complete consultation over a five working day period, **Section 9(2)(h)**

57. If no additional time is required, I could provide you with a summary of consultation feedback, and a recommended preliminary decision, within approximately two weeks of you advising Cabinet of your intentions.

58. After considering consultation feedback, should you decide to proceed with dissolving council and appointing a Commissioner, under legislation you would need to give the Council formal notice of your preliminary decision, and 21 days to respond. The TEC will provide a draft notice at the appropriate time, should you decide to proceed having considered the consultation feedback.

59. Any final decision, subject to consultation and any response from the Council, is made by formal notice in the *Gazette*, and presented to the House. In the event that it is required, the TEC would also prepare a Cabinet paper and gazette notice for you.

This work is occurring in the context of the ITP Roadmap 2020 project

60. Finally, it is important to note that alongside all of the above, the TEC is continuing to work with Unitec and the rest of the sector on the options for change in the ITP sector. As you are aware, we will be reporting back to you in September with options for change.

61. Unitec is a clear example that significant change is needed in the sector. While the financial support recommended in this paper is crucial to ensure continuity of provision for Unitec's learners, the concessionary loan and transformation to be led by a Commissioner are also important to ensure Unitec remains a going concern and able to engage in a sector wide transformation project. While it is too early to say what these changes will look like, it is clear that Unitec in its current form is not in a position to contribute to a strong ITP system that can deliver for New Zealand learners and employers.

Appendix One: Options available to support Unitec

1. The options available to support Unitec until it is able to relieve financial pressure and right-size its business are set out and analysed below.

Asset Sales - Unitec still has a number of property related assets that they could dispose of to raise funds

2. Unitec has identified further property lots and other building assets that it could dispose of within the next 18 months to meet its short-term financial commitments. However it is unlikely that this disposal can be executed quickly enough (likely to take one to three years) to be able to secure a bank loan against sale of these assets. Unitec also requires the Secretary of Education's approval to dispose of this land.
3. Section 9(2)(j) and 9(2)(b)(ii) [REDACTED]
4. Section 9(2)(j) and 9(2)(b)(ii) [REDACTED]
[REDACTED]
[REDACTED]
5. It is also doubtful if Unitec's bankers would be willing to lend against these assets with a firm sale agreement in place.
6. The TEC is also not in favour of addressing the cash shortfall through sale of assets, as it does not solve the problem of Unitec being an unviable operation. Asset sales could deflect from the work being done and to be implemented to right-size its operations.
7. If any asset disposals are executed the proceeds of these sales would be best used towards capital expenditure that is identified as urgent and necessary, such as preparing Unitec to vacate the precincts already sold to the Government as specified in the sale and purchase agreement

The uncertainty of disposal timings precludes this as a viable option.

Bank borrowing

8. Unitec has an existing borrowing consent approved by the Secretary for Education. 9(2)(b)(ii) [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

The uncertainty of guaranteed long-term lending and possibly onerous bank conditions precludes this as a viable option

Delaying in-year Plan amendments and/or EFTS related funding recoveries

14. Cash is temporarily provided, without Ministerial approval being required.
15. The total amounts relating to this will not cover even half of the cash required for 2018 (\$8.5m vs \$19.0m).
16. On its own this option is inadequate to solve Unitec's problems, and requires other options to support it, making it complex to manage and report on.
17. Using these actions to provide short-term financial support also risks confusing investment decisions with financial support decisions as it could look like supporting poor performance.
18. These actions would interfere with the BAU process applied across the sector and set a bad precedent, with SAC funding is not being used as intended. They would also not provide transparency of Unitec's real financial situation, and transfer the financial risk on to the TEC.
19. Section 9(2)(f)(iv)

The inadequacy as a complete solution and disadvantages that far outweigh any perceived advantage make this non-viable option

Crown support in form of capital/equity injections or loans

20. Capital and/or equity injections have in the past been provided using the suspensory loans. Suspensory loans are, however, associated with the objective of providing loans that will be converted to equity on the fulfilling of certain conditions.
21. Almost all suspensory loans previously provided have been converted to equity. Only one loan (relating to WITT established in 2011) has been partially converted to a non-interest bearing loan that is to be repaid from 2020. Section 9(2)(g)(i)

Our intention is to ensure repayment once Unitec is operationally viable. Hence a suspensory loan may not be the best option

22. Treasury has suggested a concessionary loan, which falls under the terms of concessionary lending, where a loan is provided with low or no interest. This loan can be released in full up front or in tranches subject to Unitec fulfilling certain conditions.
23. Repayment of these loans is expected, but concessions can be made to tie the replacements to certain events (e.g. receiving land sale proceeds or achieving a certain level of EBITDA or build up its reserves) and/or provide a repayment holiday for a certain number of years.
24. These loans are usually structured over a maximum of 10 years, which sets a long-term goal for both Unitec and the TEC to work toward and to retain focus.
25. Both suspensory and concessionary loans are on the Crown's balance sheet and can be established by the Treasury.

Looking at all the options available the concessionary loan appears to be the best vehicle of financial support for Unitec.

Appendix Two: Interventions available

Type of action	Responsibility	Legal authority	Timeframe	Outcomes	Comment
Institutions to provide information if required	Chief Executive of the TEC	s195B Education Act 1989	Formal written notice must be given to the Council. Immediate	Polytechnic must supply the information requested.	Unitec Management and Council are working cooperatively with TEC. All information is being supplied without having to invoke this provision. Not required to meet current needs.
Requirement for the Polytechnic to seek specialist help	Chief Executive of the TEC	s222A	Formal notice must be provided. Polytech must act to obtain specialist help as soon as practicable.	Unitec has had additional support provided in the form of TEC funded PWC staff.	We have already brought in PwC in consultation and agreement with Unitec to help assess and address financial issues.
Performance Improvement Plan	Chief Executive of the TEC	s222B	Formal notice.	Relates to educational outcomes, which are also of concern in this case.	This may be required once the full review of PwC has been completed in conjunction with any other interventions.
Appointment of Crown Observer	Minister	s195C	Minister is required to formally consult with the Council, and consider their views before appointing an Observer.	Crown Observer attends Council meetings, provide advice to the Council, and report to the Minister on any matters raised or discussed at meeting.	Will boost Council resources and expertise. Can help the Council address the issues. Used at Lincoln University – by mutual agreement, rather than under this section of the Act. Won't effectively address issues

Dismissal of Chair and Deputy Chair	Minister	s222AG(2)	<p>Consultation with the person holding office on the proposed dismissal, followed by written notice to the council.</p> <p>This means that they will remain members of the Council – but won't be in the Chair/Deputy role.</p> <p>New Chair needs to be appointed</p>	<p>Opportunity to have a new Chair and/or Deputy from existing Council members.</p> <p>Willingness of others to step into the role given the current situation would have to be assessed.</p>	<p>May be useful. 9(2)(g)(i) [redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>Limited effectiveness</p>
Appointment of a Crown Manager	Minister	s222C	<p>Written notice to the Council – including, name, date of appointment, the functions of the Crown manager, and the matters on which the Crown Manager will provide advice to the Council.</p> <p>Council given time to respond, and the Minister must consider the response.</p> <p>Less time to go through the process than a Commissioner.</p>	<p>Effectively leaves the Council in place – but limits the functions they are responsible for. The remainder becoming the responsibility of the Crown Manager.</p> <p>Interim CE can remain in place to assist the Crown Manager.</p>	<p>Useful.</p> <p>But given there are both, immediate financial, and future delivery issues – most functions would effectively go to the Crown Manager.</p> <p>A more difficult job for the Crown Manager than a Commissioner role.</p> <p>Reaction of Council is untested.</p> <p>Could be a possible solution depending on the functions assigned to the Crown Manager.</p> <p>Limited effectiveness</p>
Dismissal of the Council and appointment of a Commissioner	Minister	s195D	<p>Two phase process.</p> <p>Minister is required to formally consult with the Council, and other interested parties.</p> <p>Then formal notice to the Council, with the Council having 21 days to respond.</p> <p>Minister must consider Council views before finally making a decision.</p> <p>Process could be speeded up with the assistance of the Council and management – although still needs to be thorough.</p>	<p>Commissioner takes over running of Unitec.</p> <p>Able to make quicker decisions on key matters – financial, education and the long term future of Unitec and its educational provision.</p> <p>An Advisory Committee would be appointed – could include some current Council members and other stakeholders /experts.</p>	<p>Useful.</p> <p>Can address all issues, including longer term focus.</p> <p>Longer process to appoint.</p> <p>Section 9(2)(g)(i) [redacted]</p> <p>Section 9(2)(g)(i) [redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>Section 9(2)(g)(i) [redacted]</p> <p>[redacted]</p> <p>Effective (recommended option)</p>