

Tertiary Education Report: University of Auckland – amendment to council constitution

Date:	8 January 2019	TEC priority:	Medium
Security level:	In Confidence	Report no:	B-19-00007
		Minister's office No:	

ACTION SOUGHT

	Action sought	Deadline
Hon Chris Hipkins Minister of Education	<p>note to amend the council constitution of a tertiary education institution that you, as Minister of Education, must agree the change;</p> <p>note the council of the University of Auckland has submitted a revised constitution, which will be brought into effect by you publishing a notice in the <i>New Zealand Gazette</i>;</p> <p>sign the enclosed notice for the <i>New Zealand Gazette</i>;</p> <p>sign and send the enclosed letter to the Chancellor of the University of Auckland informing him of publication; and</p> <p>note the amendment ensures the constitution complies with recent legislative changes.</p>	As soon as practicable
Enclosure: Yes, Appendices A–B A. Notice for the <i>New Zealand Gazette</i> B. Letter to the Chancellor of the University of Auckland	Round Robin: No	

CONTACT FOR TELEPHONE DISCUSSION (IF REQUIRED)

Name	Position	Telephone		1st contact
Gillian Dudgeon	Deputy Chief Executive Delivery	s9(2)(a)	s9(2)(a)	
s9(2)(a)	Principal Advisor, Monitoring and Crown Ownership	s9(2)(a)	s9(2)(a)	✓

THE FOLLOWING DEPARTMENTS/AGENCIES HAVE SEEN THIS REPORT

- | | | | | | | |
|-------------------------------|-------------------------------|-------------------------------|-------------------------------|-----------------------------------------|-----------------------------------------|-----------------------------------|
| <input type="checkbox"/> CERA | <input type="checkbox"/> DPMC | <input type="checkbox"/> ENZ | <input type="checkbox"/> ERO | <input type="checkbox"/> MBIE | <input checked="" type="checkbox"/> MoE | <input type="checkbox"/> MFAT |
| <input type="checkbox"/> MPiA | <input type="checkbox"/> MSD | <input type="checkbox"/> NZQA | <input type="checkbox"/> NZTE | <input checked="" type="checkbox"/> TEC | <input type="checkbox"/> TPK | <input type="checkbox"/> 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 See Minister's Notes Withdrawn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** to amend the council constitution of a tertiary education institution that you, as Minister of Education, must agree the change;
2. **note** the council of the University of Auckland has submitted a revised constitution, which will be brought into effect by you publishing a notice in the *New Zealand Gazette*;
3. **sign** the enclosed notice for the *New Zealand Gazette*;

AGREE / DISAGREE

4. **sign** and send the enclosed letter to the Chancellor of the University of Auckland informing him of publication;

AGREE / DISAGREE

5. **note** the Chancellor requested the amendment to ensure the constitution complies with recent legislative changes; and
6. **agree** that this briefing is publicly released, without the Appendices, once the amended constitution has been published in the *New Zealand Gazette*.



Gillian Dudgeon

Deputy Chief Executive, Delivery
Tertiary Education Commission

10 January 2019

Hon Chris Hipkins

Minister of Education

___ / ___ / ___

Purpose

1. This report asks you to:
 - **sign** a draft notice for the *New Zealand Gazette* (Appendix A) to bring into effect an amendment to the council constitution of the University of Auckland; and
 - **sign** the letter to the Chancellor of the University of Auckland (Appendix B) confirming that you have done so.

Background

2. Under section 170 of the Education Act 1989 (the Act), if a tertiary education institution council recommends that its constitution be amended, you effect this change by publishing a notice in the *New Zealand Gazette*. As Minister, you do not have discretion to decline the proposed changes to the constitution provided that the amendments comply with the legislation.
3. University and wānanga constitutions have just four essential elements: name of the council, date the constitution comes into effect, number of council members, and maximum number of terms that can be served. No restriction exists on including additional information, and the University of Auckland council has done so.

A student council member must be an enrolled student and elected by their peers

4. The new section of the Act (section 171B (2A)(b)) requires the council to ensure that at least one member of the council is a student who is enrolled in the institution and whom the students of the institution have elected to represent them.
5. The constitution of the University of Auckland council published in 2015 specified that the student member as: “one person being the person elected by the student body to be President of the Auckland University Students’ Association Inc or its successor association”.

Amending the constitution allows for direct election of the student council member

6. The proposed wording of “one person being an enrolled student of the University the person elected by the students of the University”, provides for the student member to be elected directly and complies with the new requirements.
7. The TEC confirms that the draft constitution of the University of Auckland is fully compliant with the legislation.

Proposed appointment of a new Ministerial appointees is a separate issue

8. The terms of office of Ministerial appointee Peter Kiely expired on 31 December 2018 and you have agreed to appoint Rachael Newsome in his place. We will provide a draft Cabinet paper relating to this appointment and your decision to reappoint Ben Vanderkolk to the Massey University council once the Appointments and Honours Committee begins its 2019 meetings.
9. The change to the constitution can progress independently of your consideration of appointments.

We need your authority to publish the new constitution

10. The amended constitution will be brought into effect by your publishing a notice in the *New Zealand Gazette*.
11. We recommend that you publish the constitution in the *New Zealand Gazette* as soon as practicable. The student council member for 2019 is already in place with a term of office to 31 December 2019, so the amendment to the University's constitution will be effective from 1 January 2020.

Next steps

12. If you agree, please sign–
 - a. Appendix A, which is the notification to be published in the *New Zealand Gazette* and
 - b. Appendix B, the letter to Mr Scott St John, Chancellor of the University of Auckland, informing him the notice will be published in the *New Zealand Gazette*.