

Tertiary Education Report: Appointment of an advisory committee to support the Commissioner of Whitireia and WelTec

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|------------------------|-----------------|------------------------------|---------------|
| Date: | 30 January 2019 | TEC priority: | High Priority |
| Security level: | In Confidence | Report no: | B-19-00055 |
| | | Minister's office No: | |

| ACTION SOUGHT | | |
|---|---|------------------------|
| | Action sought | Deadline |
| Hon Chris Hipkins Minister of Education | <p>note that section 195F of the Education Act 1989 requires you to appoint an advisory committee of up to five members for the purpose of advising and supporting the Commissioner of Whitireia and WelTec in the exercise of his functions, duties and powers.</p> <p>agree to appoint the five individuals proposed by the Commissioner of Whitireia and WelTec to the advisory committee to support the Commissioner in the exercise of his functions, duties and powers.</p> <p>sign and send the draft letters to the proposed members of the advisory committee announcing their appointment, if you agree with their appointments.</p> | As soon as practicable |
| Enclosure: Yes | Round Robin: No | |

| CONTACT FOR TELEPHONE DISCUSSION (IF REQUIRED) | | | |
|--|-----------------------------------|---|-------------|
| Name | Position | Telephone | 1st contact |
| s9(2)(a) | Principal Advisor | s9(2)(a) [redacted] | ✓ |
| Gillian Dudgeon | Deputy Chief Executive – Delivery | s9(2)(a) [redacted] s9(2)(a) [redacted] | |

| 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 type="checkbox"/> MoE | <input type="checkbox"/> MFAT | |
| <input type="checkbox"/> MPP | <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Withdrawn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** that section 195F of the Education Act 1989 requires you to appoint an advisory committee of up to five members for the purpose of advising and supporting the Commissioner of Whireia Community Polytechnic (Whireia) and Wellington Institute of Technology (WelTec) in the exercise of his functions, duties and powers;
2. **note** that the Commissioner of Whireia and WelTec has recommended five individuals to you to comprise an advisory committee that is representative of the communities served by the two institutions;
3. **agree** to appoint the following individuals to the advisory committee to support the Commissioner of Whireia and WelTec in the exercise of his functions, duties and powers:
 - a. Wayne Mulligan **AGREED / NOT AGREED**
 - b. Helmut Modlik **AGREED / NOT AGREED**
 - c. Sharn Riggs **AGREED / NOT AGREED**
 - d. James Ranstead **AGREED / NOT AGREED**
 - e. Vaughan Renner **AGREED / NOT AGREED**
4. **discuss** with officials if you do not agree with any of the proposed members of the advisory committee;
5. **sign and send** the attached letters to the proposed members of the advisory committee advising of their appointment, if you agree with their appointments;
6. **agree** that the Tertiary Education Commission releases this paper proactively but withholds personal information, including any information about unsuccessful nominees, and the attached letters.

AGREED / NOT AGREED

Gillian Dudgeon

Deputy Chief Executive, Delivery
Tertiary Education Commission

30 January 2019

Hon Chris Hipkins

Minister of Education

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Purpose

1. This briefing seeks your decision on the appointment of five members to an advisory committee, whose purpose is to advise and support the Commissioner of Whitireia Community Polytechnic (Whitireia) and Wellington Institute of Technology (WelTec) in the exercise of his functions, duties and powers.

Requirement for an advisory committee

2. On 10 October 2018, Hon Tracey Martin announced as Acting Minister of Education that the combined Council of Whitireia and WelTec had been dissolved and Dr Neil Barns was being appointed as Commissioner of both institutions under section 195D of the Education Act 1989 (the Act).
3. Section 195F of the Act states that, if you appoint a Commissioner, you must also appoint an advisory committee for the purpose of advising and supporting the Commissioner in the exercise of the Commissioner's functions, duties and powers. The Act states that you may appoint up to five persons to be members of an advisory committee. You are also required to ensure that the composition of the committee reasonably reflects the community of the institution as represented by its Council at the time of its dissolution.
4. The terms of the appointment and the Memorandum of Understanding (MoU) between the Tertiary Education Commission (TEC) and Dr Neil Barns required him to determine the skills he required to support him in the exercise of his functions, duties and powers as Commissioner. The Commissioner has recently written to the TEC to outline his recommendations.

Recommendations for an advisory committee

The Commissioner has proposed five individuals to assist him in his role

5. The Commissioner has noted that the combined Council at the time of its dissolution appeared to be primarily a skills-based Council rather than a representative one, albeit made-up of members who were resident in the broader Wellington region. In an attempt to create a committee that is reasonably representative of the communities served by the two institutions, the Commissioner suggests that the advisory committee be made up of the following five persons:
 - **Wayne Mulligan** – recommended by Te Atiawa.
 - **Helmut Modlik** – recommended by Ngati Toa Rangatira.
 - **Sharn Riggs** (National Secretary, Tertiary Education Union (TEU) National Secretary) – to represent the views and interests of staff of both institutions.
 - **James Ranstead** (National President, New Zealand Union of Students' Association (NZUSA)) – to provide a voice for students of both institutions.
 - **Vaughan Renner** (Board Chair of the Wellington Chamber of Commerce and former Deputy Chair of the combined Council of WelTec and Whitireia) – to provide a voice for industry and employers in the Wellington region.
6. Brief biographies on each of the five proposed members are provided in Appendix 1.

Analysis of proposed advisory committee

The Commissioner has recommended that the advisory committee includes one previous Council member

7. The Commissioner recommends that the advisory committee includes someone who represents the region's interests, including industry and employers. Feedback on your consultation on the dissolution of the combined Council, including from Hutt City Council and Export NZ, noted good relationships with the institutions and recommended achieving some continuity by appointing some existing Council members to support the Commissioner.
8. Vaughan Renner, former Deputy Chair of the combined Council is also Chair of Business Central (formed by the merger of the Wellington Regional Chamber of Commerce and Employers' and Manufacturers' Association Central), Chair of Business New Zealand and Chair of Westlake Governance. Vaughan would contribute both governance experience and a voice for industry and employers in the Wellington region. Vaughan also has strong knowledge of tertiary education, as Deputy Chair of both the Open Polytechnic Council and the combined Council of WelTec and Whitireia prior to its dissolution.
9. s9(2)(a) and s9(2)(g)(i)
[Redacted]
10. s9(2)(a) and s9(2)(g)(i)
[Redacted]
11. s9(2)(a) and s9(2)(g)(i)
[Redacted]

The inclusion of two iwi representatives also reflects consultation feedback

12. During your consultation on the dissolution of the combined Council and appointment of a Commissioner, TEC officials met with the Chairs of Ngāti Toa, Te Atiawa and Taranaki Whānui ki te Upoko o te Ika (the wider collective of iwi who are now mana whenua in Wellington). Iwi noted they had had difficulty getting a voice on the former combined Council. They believe they need to be a more active participant in driving the future strategy and direction of each institution – particularly given the importance of the institutions in serving Māori as both learners and, increasingly, major employers.
13. The Commissioner has been working closely with iwi and is keen to ensure they are appropriately represented as Treaty of Waitangi partners in the region. Ngāti Toa and Te Atiawa have each nominated one representative.
14. Wayne Mulligan, nominated by Te Atiawa, is an outstanding business leader with strong governance and management experience. Wayne is a specialist in change management, experience that will be valuable in supporting the Commissioner as the Reforms of Vocational Education progress and – depending on your decision on the business case – through a potential merger of Whitireia and WelTec (B-19-00061 refers).
15. Helmut Modlik was nominated by Ngāti Toa and is an experienced chief executive, director, businessman and consultant. He is Chief Executive of Patients First Limited and its subsidiary Conporto Health Limited. Patients First works across the health sector to facilitate the development and implementation of information technology solutions and frameworks to support

the delivery of health services to the public. Between 2013 and 2016, as Chief Executive of the ITO Connexis, Helmut was responsible for implementing the successful merger of InfraTrain and ESITO.

A TEU and NZUSA representative are recommended to ensure the best possible coverage of staff and students interests across both institutions

16. The Commissioner recommends the appointment of the TEU National President, Sharn Riggs, to represent the interests of staff at both institutions. As the advisory committee is limited to five members, the Commissioner is not able to include a separate representative for staff at each institution. Sharn has a very strong understanding of issues across the tertiary sector, and is also Wellington based. Although some WelTec and Whitireia staff are non-union members or members of the Tertiary Institutes Allied Staff Association (TIASA), a TEU representative offers the broadest possible coverage of staff interests across both institutions.
17. Similarly, the President of the NZUSA, James Ranstead, is recommended to represent the interests of students at both WelTec and Whitireia. In contrast to Unitec, neither WelTec nor Whitireia has a strong or representative student association or student voice and James has already been retained by WelTec and Whitireia to provide advocacy for the students.

The Commissioner will be supported by financial experts

18. In addition to the advisory committee, the Commissioner has retained John Fisk, PwC, (who the TEC originally appointed as an independent financial advisor to Whitireia in July 2018) to provide independent financial advice. His expertise will be available to the Commissioner and the advisory committee.

The TEC endorses the recommendations provided by the Commissioner

19. The TEC usually assesses candidates for Ministerial appointment to tertiary education institution (TEI) Councils against the framework for selection approved by the TEC Board of Commissioners. This framework is based on the legislative requirements and the responsibilities of Councils and Council members as set out in the Act.
20. Appointing an advisory committee to a Commissioner is a different and unique situation. We have examined the proposed appointees against a requirement for the committee to have governance and financial skills as well as strong stakeholder representation.
21. Overall, we are comfortable with the Commissioner's suggested appointees to the advisory committee, and are confident that, together, they have the skills and expertise required to advise and support the Commissioner in the exercise of his functions, duties and powers. The proposed membership is a balance between governance skills and experience, and representation of the staff, students and communities served by the institutions.
22. We are satisfied that the proposed members meet the requirement of the Act, in that they reasonably reflect the community of the institution as represented by its Council at the time of its dissolution.

Fees and term of advisory committee members

23. Section 195F(3) of the Education Act 1989 states that members of an advisory committee may be paid fees at the same rates as were paid to members of the Council at the time of its dissolution. As per the determination by the Minister under the Cabinet Office Fees Framework, this will be \$20,000 per annum.
24. The Commissioner has all the powers, functions and duties of the Council that he was appointed to replace. The Commissioner has stated that he will not delegate authority for any decision-making to the advisory committee. However, section 195F of the Act states that he must have

regard to any advice given by the advisory committee. The specific roles and responsibilities of the advisory committee will be determined by the Commissioner in conjunction with the advisory committee.

25. The tenure of the advisory committee is dependent on the term of the Commissioner, which is indefinite and will cease once the matters at Whitireia and WelTec have been addressed to your satisfaction. Section 195D(6) of the Act requires that you review the Commissioner's appointment at least once every 12 months. If the risk that gave rise to the appointment of a Commissioner has reduced to such an extent that it is appropriate that the institution be administered by a Council, you must appoint a new Council. At that time, the advisory committee would also cease to exist.
26. The Commissioner may recommend changing the composition of the advisory committee at any time for your consideration. This could be because the skills required to support the Commissioner may change over time – for example, as the outcomes of vocational education and training reforms become apparent. The Commissioner has indicated that he will review membership of the advisory committee at the same time as his appointment is reviewed by you in October 2019.

Next steps

27. The Commissioner has informed each of the five recommended individuals that they are being considered.
28. The Act does not outline any specific process for the appointment of members to an advisory committee. You are not required to consult on the appointments. However, you may wish to consult with your colleagues on the proposed individuals. You may also wish to take it to the Cabinet Appointments and Honours Committee (APH), which is the process undertaken for Ministerial appointees to TEI Councils. However, when an advisory committee was appointed to support the Unitec Commissioner in late 2018, you did not consult nor take the recommendations to APH.
29. If you agree to the five recommendations, we have provided a draft letter to be sent to each individual. These letters cover their appointment, their fee, and requires them to return a signed copy of the letter to the TEC to show acceptance.
30. Once the appointments have been made, you may wish to announce the appointments. However, in the case of Unitec, you decided not to make an announcement yourself, and the appointment of the advisory committee was instead announced by the Commissioner. For consistency we would recommend a similar approach. We will support your office or the Commissioner, as necessary, in making any announcements.