

Note this briefing was not considered due to COVID-19 and was superseded by B-20-00410.

## Tertiary Education Report: NZIST funding agreement and 1 April 2020 funding letter

<b>Date:</b>	23 March 2020	<b>TEC priority:</b>	High
<b>Security level:</b>	In Confidence	<b>Report no:</b>	B-20-00173
		<b>Minister's office No:</b>	

ACTION SOUGHT		
	Action sought	Deadline
<b>Hon Chris Hipkins</b> Minister of Education	<p><b>note</b> that, subject to Cabinet's approval, a total of \$31 million in funding will be paid to the New Zealand Institute of Skills and Technology on, or shortly after, 1 April 2020 on the terms set out in the attached letter;</p> <p><b>sign and send</b> the attached letter to the Chair-designate of the Institute to discuss with Council members-designate, and request he sign and return it, and have his decision to do so ratified by the Council on 1 April 2020, so that payment can be made;</p> <p><b>forward</b> this briefing to the Minister of Finance for his information.</p>	30 March 2020
<b>Enclosure:</b> Yes	<b>Round Robin:</b> No	

CONTACT FOR TELEPHONE DISCUSSION (IF REQUIRED)				
Name	Position	Telephone		1st contact
s9(2)(a)	Principal Advisor	s9(2)(a)	s9(2)(a)	✓
Gillian Dudgeon	Deputy Chief Executive, Delivery	s9(2)(a)	s9(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 See Minister's Notes  Withdrawn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

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**Hon Chris Hipkins**, Minister of Education

*It is recommended that you:*

1. **note** that on 23 March 2020, the Cabinet Business Committee will consider a paper proposing an investment strategy to manage the fiscal implications of the next phase of the Reform of Vocational Education (RoVE) with a total of \$120 million sought to support the New Zealand Institute of Skills and Technology's (the Institute's) establishment, risk management, and transformation planning activities;
2. **note** that the paper seeks Cabinet's authorisation for the Minister of Finance and the Minister of Education to jointly approve a funding agreement between the Institute and the Crown which specifies the terms and conditions of Crown support for the Institute to ensure accountability for funding;
3. **note** that, subject to Cabinet's approval on 30 March 2020, the following funding will be paid to the Institute on, or shortly after, 1 April 2020 on the terms set out in the attached letter:
  - a. \$12 million for core capability and enabling projects;
  - b. \$10 million for the initial capitalisation of the Institute; and
  - c. \$9 million for transformation planning projects.
4. **note** that a funding agreement between the Crown and the Institute must be negotiated and signed before any further funding is provided, and we will aim to have this completed by no later than 30 June 2020;
5. **sign and send** the attached letter to the Chair-designate of the Institute to discuss with Council members-designate, and request he sign and return it, and have the letter ratified by the Council on 1 April 2020, so that payment can be made;
6. once the Chair returns the signed letter and the Council ratifies the letter, **sign and send** the attached letter to the Secretary for Education requesting the \$31 million payment be made;
7. **forward** this briefing to the Minister of Finance for his information;
8. **agree** that the Tertiary Education Commission proactively release this briefing with some redactions made to protect the commercial position of the Institute.

**Minister of Education**

**AGREE / DISAGREE**



**Gillian Dudgeon**

Deputy Chief Executive, Delivery  
Tertiary Education Commission

23 March 2020

**Hon Chris Hipkins**

Minister of Education

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## Purpose

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1. This briefing outlines the process for development of a funding agreement between the Crown and the New Zealand Institute of Skills and Technology (the Institute) for the funding package being considered by Cabinet on 23 March 2020. It also outlines what funding will be provided to the Institute on, or shortly after, 1 April 2020 for establishment activities, risk management and transformation planning.
2. This paper is being provided before Cabinet decisions are made given the tight timeframes and to ensure the letter can be sent to the Chair-designate of the Institute as soon as possible after decisions on 30 March 2020.

## Background

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### **Cabinet is about to consider a funding package for the Institute...**

3. On 19 February 2020, the Establishment Board for the Institute submitted an 'Establishment and Transformation Funding Request' to the Minister of Education seeking Crown funding of \$260 million to:
  - manage risks presented by the financial position of some of the ITP subsidiaries;
  - for core capability for the establishment and transition phase of the Institute; and
  - to undertake planning and design of its transformation.
4. On 23 March 2020, the Cabinet Business Committee will consider a paper proposing an investment strategy to manage the fiscal implications of the next phase of the Reform of Vocational Education (RoVE). Cabinet's approval is sought to provide, in principle, a total of up to \$120 million to support the Institute's establishment and transformation planning activities from 1 April 2020 to 31 December 2022. This is comprised of:
  - up to \$74 million for the establishment and operation of the Council and head office of the Institute;
  - \$2 million for engagement and marketing activities necessary to launch the Institute's brand and begin engagement with and attract employers and students;
  - up to \$23 million for the establishment and operation of key systems to support financial operations and data analysis;
  - \$10 million for the initial capitalisation of the Institute (i.e. working capital) and to assist in the management of risks of the subsidiaries of the Institute; and
  - \$11 million to fund the initial design and planning that will scope and shape the future transformation of the Institute.
5. Approval is also being sought to establish a new contingency of \$50 million to cover any forecast cash shortfalls in the Institute's subsidiaries that cannot be met through any other means.

### **...with a Crown funding agreement to be established to provide accountability for funding**

6. The Cabinet paper seeks agreement that a funding agreement between the Crown and the Institute is drafted that specifies the terms and conditions for the release of funding to the Institute, including specific milestones and reporting to help ensure delivery of the Government's objectives, and accountability for the funding received.

7. Delegated authority is sought from Cabinet for the Minister of Finance and the Minister of Education to negotiate and sign the funding agreement on behalf of the Crown and to aim for this to occur no later than 30 June 2020.

## **Funding agreement overview and process**

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### **The funding agreement will be based on the framework used in similar agreements...**

8. The Education Act 1989 does not include any mechanisms through which the Tertiary Education Commission (TEC) can ensure accountability for this funding provided to the Institute. As a result, a funding agreement is required between the Crown and the Institute to ensure accountability for Crown funding and to ensure the sought outcomes of the investment are delivered.
9. We have negotiated a number of Crown funding agreements in recent years – in particular, with the University of Canterbury for the Crown’s \$260 million investment in its rebuild and transformation programme after the 2010/11 earthquakes and with Lincoln University for the Crown’s \$80 million investment in the rebuild of its science facilities.
10. The funding agreement with the Institute will follow a similar model and take a similar approach. It will:
  - set out the timing, amounts, terms and conditions for the payment and use of the Crown funding consistent with the Cabinet decision;
  - detail the further business cases and project plans that must be developed in accordance with the Treasury’s Better Business Case (BBC) process and guidance – both to access funding already appropriated and for future transformation projects not yet funded;
  - set out the future Independent Quality Assurance (IQA) programme required to ensure that the programme of work is being well-managed and governed as strongly as possible;
  - signal the Crown’s expectations of the outcomes that will be achieved as a result of the Crown’s investment as well as providing clarity on the roles and responsibilities of all parties;
  - set out the process and conditions for applying to joint Ministers to draw-down funding from the \$50 million contingency to manage any forecast cash shortfalls in the Institute’s subsidiaries;
  - set out the monitoring and any governance arrangements that will be put in place; and
  - set out the targets and milestones that the Institute is required to meet and a process for establishing and amending other targets, as well as reporting requirements.

### **...and will require engagement with the Institute**

11. The funding agreement will set out the key terms and conditions under which the Crown funding will be provided, reflecting the Cabinet decision where relevant. However, much of the detail will need to be discussed with the Institute, and will require a number of engagements with the Institute’s Council and senior management.
12. We will consult with the Treasury and the Ministry of Education on the development of the funding agreement.
13. After discussions have progressed with the Institute, we will provide a draft funding agreement to Ministers for consideration and input. The Cabinet decision noted that we would aim to have a funding agreement negotiated and signed no later than 30 June 2020. While we will work hard to meet this timeline, if there are significant issues that need to be resolved with the

Institute it may be difficult to meet. Nevertheless, the Institute will have an incentive to finalise the funding agreement given no further funding will be provided until it is signed.

## Initial funding to be provided to the institute

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### Interim arrangements are required to allow funding to be provided on 1 April 2020...

14. Given the timing of the Cabinet decision, interim arrangements will be needed to ensure funding can be provided on, or shortly after, 1 April 2020 when the Institute is formally established.
15. We recommend that a letter is sent from the Minister of Education to the Chair-designate of the Institute as soon as possible after the Cabinet decision on 30 March 2020 that outlines Cabinet's decisions including what funding will be provided on 1 April 2020, the purpose for which the funding must be used, and the process for establishing a funding agreement. The Chair will be able to discuss the letter with Council Members-designate informally, and can sign the letter before 1 April 2020, for the Council to ratify at its first meeting on 1 April 2020. Payment will be able to be made once the Council has ratified the decision of the Chair-designate to sign the letter.
16. We understand that the Institute's Council is due to have its first meeting on the morning of 1 April 2020 to allow for such decisions to be made. Payment cannot be made until a signed copy of the letter is received.
17. A draft letter to the Chair-designate is attached as Appendix 1 for your consideration. Murray Strong was appointed as Chair of the Institute on 16 March 2020 [APH-20-MIN-0028 refers].

### ...with \$31 million of the up to \$120 million provided for 1 April 2020...

18. Cabinet's agreement is sought for a total of \$31 million in initial funding to be paid to the Institute. This will allow for the Institute to establish operations with confidence, appropriately manage any risks to the ITP network, and begin its transformation planning projects. The following funding is due to be provided on, or shortly after, 1 April 2020:

#### \$12 million for core capability and enabling projects

- \$6 million (of up to \$74 million) for the establishment and operation of the Council and head office of the Institute which will cover the first quarter of operations. We propose head office funding is paid quarterly in advance;
- \$2 million for initial engagement and marketing activities necessary to launch the Institute's brand and engage with and attract employers and students; and
- \$4 million (of up to \$23 million) of capital funding for the establishment and operation of key systems to support financial operations and data analysis. Single Stage Business Cases that are consistent with the Treasury's Better Business Case guidance are proposed for each project (financial operations and data analysis) before any further funding is released.

#### \$10 million for risk management

- \$10 million in capital funding for the initial capitalisation of the Institute and to be used as a first response reserve to manage cashflow issues and to provide a short-term buffer against adverse trends and events.

#### \$9 million for transformation planning projects

- \$3 million for the initial design and planning of the Institute's transformation of teaching and learning models;

- \$5 million (of \$7 million) for physical footprint assessment and evaluation and to progress the development of a capital asset management policy and strategy, an asset management information system, and a sector-wide improvement plan. The additional \$2 million will be paid in 2020/21 on appropriate progress being made on this work stream; and
  - \$1 million for development of an information systems strategic plan.
19. A Programme Business Case for the entire transformation programme, as well as business cases for each specific project, will be required before Cabinet consider any further investment in transformation planning activities. The exact requirements will be set out in the funding agreement following discussion with the Institute, including scope to build off previous business cases.

### **...alongside the establishment of a \$50 million capital contingency**

20. The \$50 million capital contingency to cover any forecast cash shortfalls in the Institute's subsidiaries will also become available on 1 April 2020, with funding to be provided only if agreed by the Minister of Finance and the Minister of Education. Before Ministerial decisions are sought on accessing this contingency we will want to ensure that the Institute has explored all options available to it to manage the financial performance and cash position of its subsidiaries. We would also require an independent financial appraisal of the subsidiary in question before any Crown support is provided. This is the process we have undertaken when providing Crown support to ITPs in recent years, and will be outlined further in the funding agreement.
21. We do not expect any requests to access funding from this contingency over coming months given cash balances for ITPs are always higher at the start of the year (due to the timing of tuition fees and TEC fees-free payments) before progressively declining through to a low point in and around December. As such, if there are to be any liquidity issues for ITPs in 2020, they are likely to appear in the second half of next year.
22. As noted above, after the initial funding payment on 1 April 2020, no further funding will be provided until the funding agreement is agreed and signed by all parties. The initial funding payment and the provisions of the letter attached in Appendix 1 will be incorporated in the funding agreement to ensure that all the terms under which the total amount of funding is paid are in one place.

### **Next steps**

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23. You will need to sign and send the attached letter to the Chair-designate of the Institute following the 30 March 2020 Cabinet decision requesting he sign it and return it, and for the Council to ratify it on 1 April 2020.
24. Once a signed copy of the letter has been returned to your office and you have confirmation that the Council have ratified the decision, sign and send the attached letter to the Secretary for Education authorising the \$31 million payment to be made to the Institute.
25. We will work closely with the Ministry of Education and the Institute to ensure payment is made as soon as possible.

## Appendix 1: Draft letter to the Chair-designate of the Institute

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Murray Strong  
Chair-designate  
New Zealand Institute of Skills and Technology

By email: [murray@r2future.com](mailto:murray@r2future.com)

Dear Murray

### **New Zealand Institute of Skills and Technology: Funding request and payment of initial funding**

As you know, the Establishment Board of the New Zealand Institute of Skills and Technology (the Institute) was tasked with undertaking the work necessary to establish the Institute on 1 April 2020.

As part of its work programme, the Establishment Board prepared a document titled *Changing the vocational conversation: NZIST establishment and transformation funding request* (the funding request), which was submitted to me on 19 February 2020.

### **The funding request seeks Crown funding to deliver an establishment and transformation programme**

The funding request describes three objectives of an establishment and transformation programme to be delivered by the Institute from 1 April 2020 to 31 December 2022. Those objectives are to:

- reorganise current institute of technology and polytechnic (ITP) and industry training organisation (ITO) legacy organisations, to bring them into a single institution, and to govern and manage them;
- transform the network, its delivery models, its Tiriti o Waitangi relationships, its physical and digital presence, and how it engages with learners of all types, employers, and communities; and
- active management of a provider network facing significant financial stress so that it continues to operate effectively, including leveraging existing capability within that network.

The funding request goes on to outline three categories for investment in the establishment and transformation programme for which Crown funding is sought, being:

- core capability and enabling projects;
- risk and contingency management; and
- planning and design of transformation delivery.

## **The Government has agreed, in principle, to provide up to \$120 million in Crown funding to the Institute**

Cabinet has agreed in principle to provide a total of up to \$120 million over the next three calendar years (1 April 2020 to 31 December 2022) to help the establishment, risk management and transformation planning activities of the Institute. This is comprised of:

- up to \$99 million to support the Institute to establish and build its core capabilities;
- \$10 million for the initial capitalisation of the Institute to provide it with sufficient working capital and to support it manage any short-term liquidity risks to its subsidiaries; and
- \$11 million to fund the design and planning that will scope and shape the future transformation of the Institute.

## **A \$50 million contingency has been established to assist the Institute to manage any viability issues**

As part of the Government support package, Cabinet agreed to establish a \$50 million contingency to assist the Institute manage any forecast cash shortfalls in its subsidiaries. This should assist the Institute to provide certainty of support to the new subsidiary directors. The release of funding from this contingency is subject to approval from the Minister of Finance and myself.

While it is clear that there are a number of ITPs in a poor financial position and which may face potential liquidity issues over the transition period, I would like to be clear that the Government expects the Institute to look at all options available to it to manage the financial performance and cash position across its subsidiaries before seeking any Crown funding from the contingency. This should include taking steps to make improvements across the ITP network through collaboration and rationalisation where possible. I also expect the Institute to liaise closely with the Tertiary Education Commission (TEC) on the performance of the Institute's subsidiaries, including engaging early with the TEC in respect of any subsidiaries that may encounter cashflow issues. The process and conditions for release of any funding from this contingency will be outlined in the funding agreement, which is discussed further below.

The Government has decided not to provide a \$70 million Crown overdraft as outlined in the funding request. We consider that the Institute has sufficient levers available to it to manage the financial performance and liquidity of its subsidiaries including: current ITP cash reserves (noting the ring-fencing policy), the \$10 million provided by the Crown for working capital, commercial borrowing, and the \$50 million contingency as outlined above.

## **The Government intends to provide \$31 million to the Institute on 1 April 2020**

The Crown will provide funding to the Institute on 1 April 2020 so that the establishment and transformation planning activities can get underway and the Institute can function and begin capability development. This will allow for the Institute to establish operations with confidence, appropriately manage any risks to its subsidiaries, and begin its transformation planning projects. Accordingly, the Crown will pay the Institute an initial funding payment of \$31 million for the quarter from 1 April to 30 June 2020 and beyond as follows:

### *\$12 million for core capability and enabling projects*

This is comprised of:

- \$6 million (of up to \$74 million) for the establishment and operation of the Council and head office of the Institute which will cover the first quarter of operations;
- \$2 million for initial engagement and marketing activities necessary to launch the Institute and engage with and attract employers and students; and

- \$4 million (of up to \$23 million) in capital funding for the establishment and operation of key systems to support financial operations and data analysis.

#### \$10 million for risk management

This is comprised of:

- \$10 million in capital funding for the initial capitalisation of the Institute and to be used as a first response reserve to manage cashflow issues and to provide a short-term buffer against adverse trends and events.

#### \$9 million for transformation planning projects

This is comprised of:

- \$3 million for the initial design and planning of the Institute's transformation of teaching and learning models;
- \$5 million (of \$7 million) for physical footprint assessment and evaluation and to progress the development of a capital asset management policy and strategy, an asset management information system, and a sector-wide improvement plan; and
- \$1 million for the development of an information systems strategic plan.

### **A funding agreement is needed to ensure accountability for funding**

Given funding for the establishment of the Institute is to be provided outside of the normal funding arrangements for tertiary education institutions, and mindful that there needs to be accountability for public expenditure including good value for money and ensuring best practice is followed, a set of monitoring and accountability arrangements are required.

Cabinet agreed that a formal legal agreement between the Crown and the Institute that sets out the terms and conditions of the funding arrangement, including accessing funds beyond July 2020, and appropriate governance, targets, milestones, reporting and monitoring requirements for use of public funds, is required. The funding agreement will also set out the work that the Institute will need to do to seek any further funding beyond that which Cabinet has agreed to, that the funding request has identified as being necessary for further transformation planning and projects in the future. However the expectation is that the Institute should look at all funding options available to it ahead of seeking further Crown investment.

I have asked TEC officials to begin drafting the funding agreement and engage with you on its development in the near future. The funding agreement needs to be signed and in place before any further funding will be paid. My expectation is that there will be a funding agreement in place ideally no later than 30 June 2020.

### **There are a number of terms and conditions that apply to this initial funding payment**

The payment of this initial funding will allow the Institute to set up operations on 1 April 2020, and begin its establishment and transformation planning as soon as possible. With regards to the transformation planning, I am particularly keen that significant effort is put into a comprehensive review of the Institute's capital asset base, including an assessment of asset quality, utilisation and whether assets are fit-for-purpose, to inform the development of a capital asset management policy and strategy. This is a key piece of work and needs to be given priority.

Funding in addition to the initial payment will be provided in accordance with the funding agreement to be signed by the Institute and the Crown.

Cabinet's expectation is that the Institute will develop appropriate business cases in accordance with Treasury's Better Business Case framework for Ministerial or Cabinet endorsement before further funding is paid. Specifically, to access up to an additional \$19 million for the establishment and operation of key systems to support financial operations and data analysis, Single Stage Business Cases will be required for each project (financial operations and data analysis).

A Programme Business Case for the overall transformation programme, as well as business cases for each specific project, will be required before Cabinet consider any further investment in transformation planning activities. More detail on the process and expectations will be included in the funding agreement following discussion with the Institute, including processes for independent quality assurance.

The \$31 million in initial funding must be used for the purposes stated above. The Institute will be required to report to the TEC on the use of this funding and in its annual report against the performance measures for the relevant appropriations. Detailed reporting requirements, including reports on the use of funding, will be part of the funding agreement and will also apply to this initial payment.

### **Next steps**

To indicate your agreement to the conditions set out in this letter, please sign this letter and return it to my office. The Institute's Council will need to ratify the decision as soon as practicable on its establishment on 1 April 2020 before the initial payment can be made. I understand the TEC has engaged with you on the process that needs to be followed.

The establishment of the Institute is a significant decision for New Zealand and the vocational education and training sector. I look forward to working with you as you guide the establishment of the Institute and lead the transformation planning. Further detail on my expectations of the Institute are set out in my Letter of Expectations that will be sent to you in the near future.

Yours sincerely

**Chris Hipkins**  
**Minister of Education**

cc. Hon Grant Robertson, Minister of Finance  
Tim Fowler, Chief Executive, Tertiary Education Commission  
Barry Jordan, Chair, Institute's Establishment Board

I, Murray Strong, Chair-designate of the New Zealand Institute of Skills and Technology, agree to the conditions set out in this letter.

Murray Strong  
Chair  
New Zealand Institute of Skills and Technology

## Appendix 2: Draft letter to the Secretary for Education

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Iona Holsted  
Secretary for Education  
Ministry of Education  
PO Box 1666  
WELLINGTON 6140

Dear Iona

### **New Zealand Institute of Skills and Technology – payment of \$31 million in funding**

In March 2020, Cabinet agreed to provide up to \$120 million in funding to the New Zealand Institute of Skills and Technology (the Institute) to assist its establishment programme and transformation planning (CAB ref to be added). Cabinet also agreed to provide an initial payment of \$31 million to the Institute on, or shortly after, 1 April 2020. I have outlined the funding to be paid in a letter to the Chair of the Institute, Murray Strong, who has signed this letter on behalf of the Council agreeing to the conditions of payment. The Council has ratified that decision. A copy is attached for your records.

Officials will negotiate a funding agreement between the Crown and the Institute over coming months, which will set out the terms and conditions of funding, and the process for further funding to be accessed. As per the Cabinet decision, this should be agreed and signed by the Institute's Chair, the Minister of Finance and myself, ideally before 30 June 2020.

I therefore request that you, as the Secretary for Education, make payment to the Institute of \$31 million from Vote Tertiary Education comprised of:

- \$17 million from the Non-departmental Output Expense appropriation "Establishment of a Single National Vocational Education Institution"; and
- \$14 million from the Non-departmental Capital Expenditure appropriation "Support for a Single National Vocational Education Institution".

I would appreciate if this payment could be made as soon as possible.

Yours sincerely

**Chris Hipkins**  
**Minister of Education**

cc. Tim Fowler, Chief Executive, Tertiary Education Commission