



Tertiary Education Report: Decision on Nelson Marlborough Institute of Technology Limited's application to retain the full net proceeds from the sale of a residential property at Blenheim

Date:	13 January 2021	TEC priority:	Low
Security level:	In Confidence	Report no:	B-20-00751
		Minister's office No:	

ACTION SOUGHT		
	Action sought	Deadline
Hon Chris Hipkins Minister of Education	agree that Nelson Marlborough Institute of Technology Ltd retains the full net proceeds of the sale of a residential property at Blenheim transferred to it from the Crown, with the approval being worth 9(2)(j) [REDACTED], and forward this submission to the Minister of Finance for his consideration.	At your earliest convenience
Hon Grant Robertson Minister of Finance	agree that Nelson Marlborough Institute of Technology Ltd retains the full net proceeds of the sale of a residential property at Blenheim transferred to it from the Crown, with the approval being for \$0.08 million.	At your earliest convenience
Enclosure: No	Round Robin: Yes	

CONTACT FOR TELEPHONE DISCUSSION (IF REQUIRED)			
Name	Position	Telephone	1st contact
Gillian Dudgeon	Deputy Chief Executive, Delivery	9(2)(a) [REDACTED]	✓
9(2)(a) [REDACTED]	Senior Advisor, Monitoring and Crown Ownership	[REDACTED]	

THE FOLLOWING DEPARTMENTS/AGENCIES HAVE SEEN THIS REPORT

- | | | | | | | |
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| <input type="checkbox"/> DPMC | <input type="checkbox"/> MPI | <input type="checkbox"/> ENZ | <input type="checkbox"/> ERO | <input type="checkbox"/> MBIE | <input checked="" 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 checked="" type="checkbox"/> Treasury |

- Minister's Office to Complete:**
- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments:

Executive Summary

1. In 2010, when establishing the tertiary education institution (TEI) Crown asset transfer and disposal policy, Cabinet agreed that should a TEI sell a property within five years of its transfer from the Crown it must pay up to 20 percent of the net proceeds of sale to the Crown. However, a TEI may retain the full proceeds of a sale if it satisfies the assessment criteria agreed by Joint Ministers in 2018.
2. Nelson Marlborough Institute of Technology Ltd (NMIT) submitted its Crown asset transfer and disposal application in 2013. All the Crown-owned properties it managed were transferred into NMIT's legal title in January 2017.
3. The transferred properties included a Blenheim property which is a three-bedroom house on 0.1 hectares of land that has been used for student accommodation for many years. In December 2017, NMIT's Council agreed the property was surplus to requirements and in October 2019 agreed to sell it to Te Runanga o Ngāti Kuia Trust for 9(2)(i).
4. In July 2020, NMIT submitted its application to retain the full net proceeds of the sale of the Blenheim residential property, which it is selling within five years of its transfer from the Crown. The discretionary 20 percent, which NMIT is seeking to retain, is worth 9(2)(i) on a sale value of 9(2)(i) less disposal expenses.
5. The Tertiary Education Commission (TEC) has assessed NMIT's application against assessment criteria agreed by Joint Ministers in 2018, and recommends that NMIT retains the full net proceeds of the sale based on the following:
 - a. NMIT's proposed use of the 9(2)(i) to support planned capital works at its Marlborough, Nelson and Richmond campuses, which will provide value to the educational activities of the institution;
 - b. Although NMIT has only had legal title to the property for three years, almost seven years have elapsed since it applied for the transfer of Crown-owned assets and six years have elapsed since NMIT signed the Memorandum of Understanding for the transfer process;
 - c. NMIT's expenditure in maintaining the property as fit-for-purpose student accommodation as part of its overall asset management responsibilities;
 - d. NMIT is not overcapitalised and disposing of assets it no longer needs is consistent with the effective and efficient management of its assets;
 - e. NMIT continues to comfortably exceed the minimum Capital Asset Management (CAM) expectations for tertiary education institutions; and
 - f. the amount in question is judged to be negligible when considering other potential priorities for the Crown or specifically under Vote Tertiary Education.
6. As part of the Reform of Vocational Education, from 1 April 2020 NMIT became a subsidiary of Te Pūkenga – New Zealand Institute of Skills and Technology. Te Pūkenga supports NMIT's application to retain the full net proceeds of this disposal.
7. The TEC has consulted with the Ministry of Education (MoE) and the Treasury in preparing this briefing and both support the TEC's recommendation for NMIT to retain the full net proceeds.

Recommendations

Hon Chris Hipkins, Minister of Education

We recommend that you:

1. **forward** this briefing to the Minister of Finance for his consideration;

We recommend that the Minister of Education and the Minister of Finance jointly:

2. **note** that the tertiary education institution (TEI) Crown asset transfer and disposal policy provides for TEIs to apply to have the Crown assets they manage, to be either:
 - a. transferred into their legal ownership for ongoing educational purposes; or
 - b. disposed of, with up to 100 percent of the net proceeds of disposal being available to the TEI for investment in capital projects that support educational activities.
3. **note** that where a TEI disposes of an asset within five years of its transfer from the Crown, the TEI is required to pay up to 20 percent of the net proceeds of sale to the Crown, but may retain the full net proceeds of sale if it satisfies assessment criteria agreed by Joint Ministers in 2018;
4. **note** that Nelson Marlborough Institute of Technology Ltd (NMIT) has applied to retain the full net proceeds (i.e. the above 20 percent, equating to 9(2)(i) from the sale of a Blenheim residential property to Te Runanga o Ngāti Kuia Trust within five years of its transfer from the Crown, and Te Pūkenga – New Zealand Institute of Skills and Technology supports this application;
5. **note** that the Tertiary Education Commission (TEC) has assessed NMIT's application against the framework of assessment criteria agreed by Joint Ministers in 2018;
6. **note** that in terms of the above framework the TEC considers the reasons to support NMIT's application to retain the full net proceeds of sale include:
 - NMIT is not overcapitalised;
 - NMIT proposes to use the 9(2)(i) to fund planned capital works at its Marlborough, Nelson and Richmond campuses; and
 - NMIT continues to comfortably exceed the minimum Capital Asset Management (CAM) expectations for TEIs.
7. **note** that the TEC considers that there are sufficient reasons for NMIT to retain the full net proceeds from the sale of its Blenheim property (i.e. the discretionary 9(2)(i)) as, based on the information provided to officials, NMIT satisfies the key criteria agreed by Joint Ministers in 2018;
8. **agree** that NMIT retains the full net sale proceeds from the disposal of its Blenheim property, sold within five years of its transfer from the Crown, for investment in capital works it has identified that will benefit educational outcomes;

AGREE DISAGREE

Minister of Education

AGREE / DISAGREE

Minister of Finance

9. **note** that the Ministry of Education and the Treasury have been consulted in the preparation of this briefing and both support the TEC's recommendation for NMIT to retain the full net proceeds.

We recommend that the Minister of Education:

10. **note** that once notified of the decision of Joint Ministers, the TEC will provide your office with a letter to communicate the decision to NMIT; and
11. **agree** that the TEC releases this briefing once it has been considered, with information on NMIT's future financial plans and NMIT's financial viability information withheld due to commercial sensitivities, and the contact details of officials also withheld.

AGREE DISAGREE

Minister of Education



Gillian Dudgeon

Deputy Chief Executive, Delivery
Tertiary Education Commission

13 January 2021



Hon Chris Hipkins

Minister of Education

08 / 02 / 2021

Hon Grant Robertson

Minister of Finance

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Purpose

1. This briefing seeks your agreement to Nelson Marlborough Institute of Technology Ltd (NMIT) retaining the full net proceeds of the sale of a surplus residential property at 2 Seymour Street, Blenheim, to Te Rūnanga o Ngāti Kuia Trust, within five years of its transfer from the Crown. The relevant discretionary proceeds are worth 9(2)(i).

Policy background

2. In 2009/2010, Cabinet agreed to a policy that, subject to certain conditions, allows tertiary education institutions (TEIs) to obtain the legal title to Crown-owned property assets under their management [CAB Min (09) 38/12 and SOC Min (10) 5/6]. The policy also provides incentives for TEIs to identify assets for disposal that are surplus to their requirements.
3. Where a TEI identifies assets for disposal, as part of its asset transfer application, 80 percent of the net proceeds is available to the TEI for capital projects to support its educational activities. The remaining 20 percent is also available to the TEI if the Crown agrees it is not overcapitalised and has demonstrated the funds will be used in capital projects that contribute to the educational activities of the institution.
4. In order to discourage TEIs from circumventing the above requirements, Cabinet also agreed that should a TEI sell a property within five years of its transfer, then the TEI must pay up to 20 percent of the net proceeds to the Crown. This requirement to only pay back up to 20 percent recognises that an asset may become surplus sooner than expected and aims to discourage TEIs from simply delaying the disposal of such assets until the five years have elapsed.
5. As the policy did not provide a basis to assess applications from TEIs to retain the full net proceeds of sale of properties sold within five years of transfer, in June 2018, Joint Ministers agreed a framework of assessment criteria. This framework, as set out in Appendix A, now provides the basis for a consistent approach to the treatment of all such applications.
6. Under section 27 of the Education and Training Act 2020 (the Act), on and after 1 April 2020, the rights, assets, and liabilities of the existing polytechnics vest in the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology (Te Pūkenga) subsidiary. Clause 36(1)(b) of Schedule 1 of the Act also allows a matter or thing that would have been completed by the existing polytechnic to be completed by its corresponding Te Pūkenga subsidiary. Te Pūkenga is aware of NMIT's application to retain the full net proceeds and supports it.

NMIT is seeking to retain the full net proceeds of the sale of a residential property in Blenheim

7. In July 2020, NMIT submitted its application to the Tertiary Education Commission (TEC) to retain the full net proceeds from the sale of its Blenheim residential property, which it has sold within five years of its transfer from the Crown. The property is a 110 square metre three-bedroom house on 0.1012 hectares of land, which NMIT agreed to sell to Te Rūnanga o Ngāti Kuia Trust in October 2019 for 9(2)(i).
8. NMIT has not had any cash flow constraints in the past, but like every other TEI, is starting to feel the impacts of COVID-19 and the resultant drop in international student enrolments. This will affect its revenue streams in the short-term, which in turn affects discretionary expenditure and planned capital expenditure. As such, the discretionary 20 percent of net proceeds 9(2)(i) (), which it is seeking to retain, is seen as valuable funding for its modest capital plans.

9. In requesting the retention of the full net proceeds of the disposal of its Blenheim property, transferred from the Crown within the last five years, NMIT acknowledges that the discretionary funds 9(2)(i) must be spent on capital projects and has specifically identified the requirement for expenditure on building refurbishment and teaching space enhancement projects on its many campuses in the Nelson-Marlborough region. These projects have a total cost of around 9(2)(i), which is around 50 percent of NMIT's normal annual capital budget.

We have assessed NMIT's application against the criteria agreed by Joint Ministers

10. The following sections apply the framework as set out in Appendix A to NMIT's request.

Criteria i and ii: The time taken to transfer the assets NMIT is disposing of

It took some time to transfer the asset to NMIT – so NMIT held it for less time than if the transfer had been completed within the normal timeframe

11. Cabinet established the Crown asset transfer and disposal policy in March 2010. In October 2013, NMIT applied to have the Crown assets it managed transferred into its legal ownership. NMIT had managed these assets since 1990.
12. A Memorandum of Understanding (MoU) setting out the terms of the asset transfer process was signed by NMIT in November 2014. In total it took just over three years from NMIT's asset transfer application in October 2013 to the final transfer of the assets in January 2017. Much of this time was taken up with obtaining the required Heritage New Zealand and Treaty of Waitangi clearances.
13. Following the transfer, when updating its Capital Asset Management (CAM) plan NMIT identified land and buildings that had now become surplus to its requirements or no longer fit-for-purpose. The revised plan recognised the need to reduce NMIT's property footprint, improve overall property utilisation and realise proceeds of surplus property for reinvestment. As a result, in December 2017, NMIT's Council agreed that its property at 2 Seymour St, Blenheim was surplus to requirements and should be put into disposal.

Criteria iii: Whether NMIT is overcapitalised

By our assessment NMIT is not overcapitalised

14. The TEC has applied the tests for overcapitalisation (covering working capital and asset turnover ratios) to historical financial information and future forecasts provided by NMIT. These are the same tests the TEC has used in assessing previous applications by TEIs that have applied to retain the full net proceeds of sale of an asset transferred from the Crown. The results of these tests confirm that NMIT is not overcapitalised.
15. NMIT is currently operating at a threshold¹ that suggests investment in capital renewal could improve.

Criteria iv and viii: Whether the retained funds will be used in capital projects that are of value to the educational activities of NMIT and supporting Business Cases

NMIT has provided evidence that the funds sought will be used in capital projects of value to its educational activities

¹ Physical asset reinvestment ratio (capex to depreciation) is slightly <1. Recommended threshold is 1.

16. NMIT plans to use the proceeds from the sale of its Blenheim property to support the funding of a range of capital projects totalling some 9(2)(i). NMIT proposes to use the 9(2)(i) to contribute to these planned capital works at its Marlborough, Nelson and Richmond campuses, with the apportionment of the funding being determined by project timelines. Specifically it has identified the following projects:
- Marlborough campus – the development of the New Zealand Wine Centre and refresh of existing campus buildings (9(2)(i)). Stage one of the New Zealand Wine Centre will provide offices, meeting rooms, and co-shared space for wine research institutions and industry to collaborate. The New Zealand Wine Centre is a research and innovation hub collaboration between NMIT, Bragato Research Institute, Marlborough Research Centre, Wine Marlborough, and Plant and Food Research.
 - Nelson campus – refurbishment of block A (administration and teaching suites) and block K (applied business building), extension of existing classrooms, and building more meeting rooms and teaching spaces (9(2)(i)).
 - Richmond campus – expansion of the campus currently home to NMIT's horticulture programme (9(2)(i)) to include carpentry courses, trades academy and foundation studies.
17. Business cases for these projects are not required in support of this application as the net proceeds of the property being disposed is well below \$1 million (the threshold for business cases under the criteria framework).
18. TEC is satisfied that NMIT is investing the proceeds of disposal in projects that contribute to educational value, which have gone through a rigorous evaluation and approval process, and are part of its capital plans.

Criteria v: Whether NMIT continues to meet Capital Asset Management (CAM) expectations

NMIT is an excellent performer in the CAM space and easily exceeds minimum requirements

19. NMIT is required to have regular independent assessments of the maturity of its asset management systems. NMIT has undertaken independent assessments in 2013, 2015 and 2017 with annual self-assessments in the intervening years and in 2019.
20. The recommended level for asset management maturity in the TEI sector is “core”² on the asset management framework for the state sector and Crown entities. The last independent assessment in 2017 determined NMIT to be at an “intermediate” level of maturity, which comfortably exceeds the recommended level. This has been confirmed in its most recent self-assessment in 2019.
21. In the independent assessment report in 2017, the assessor commented on NMIT's very clear strategy to focus on developing its new CAM plan released in 2017. The plan creates a robust foundation for the development of an effective plan of future capital intentions.

Criteria vi: Whether NMIT is a viable operation

NMIT remains a financially viable operation with a high level of educational performance

² “Core” is a range of 45-60 on a scale of 0-100. “Intermediate” is a range of 65-80. NMIT has achieved a score of 65.

22. NMIT has net assets of just over \$101 million. NMIT's annual revenue has been stable at around \$41 million for the past five years. Government funding accounts for just over 50 percent of this revenue. Of the rest, domestic and international fees provide 35 percent, and external research and other revenue 15 percent. These percentages are about average for the ITP sector.
23. Since 2011, NMIT's financial performance has been fairly stable, with only three of the nine years (2017 to 2019) showing deficits, mainly due to falling international student revenue. A deficit is also confirmed for 2020. Despite this, NMIT's operating margins have been healthy, averaging around nine percent during recent years, equalling the sector average. Operating cash flows for the past six years have been positive, averaging around \$5 million per annum. NMIT has maintained healthy liquid assets (cash and short-term investments) albeit with slight decreases in the last three years. NMIT's 2019 end-of-year balance was \$15.3 million.
24. On TEC's Financial Monitoring Framework (FMF), NMIT has a low risk rating. 9(2)(g)(i) under the current environment. NMIT has no borrowing.
25. Factors such as the shortage of skilled workers and increasing pipeline of school student numbers tend to translate into an increase in students pursuing vocational education. But, the COVID-19 related closure of tertiary institutions and the impact of border controls on international student enrolments could have delayed such increases. However the increase in unemployment numbers following COVID-19 has the potential to translate to higher enrolments as part of a natural economic cycle. This could help to offset the impacts of COVID-19.
26. Te Pūkenga is also working on developing a wider treasury management strategy covering inter-group funding. This strategy once implemented, will enable the shortfall in any subsidiaries' short-term working capital or liquidity requirements to be covered by Te Pūkenga. This provides an additional layer of assurance that any financial risks can be managed by drawing on the strength of the Te Pūkenga network.
27. NMIT has maintained a consistently high level of educational performance. Since 2015 it has maintained a New Zealand Qualification Authority (NZQA) External Evaluation and Review (EER) status of Category 1 (Highly Confident in the educational performance, and Highly Confident in the capability of self-assessment). This is the highest possible level on the EER scale.

Criteria vii: The financial implications for NMIT and the Crown, and evidence of investment in the asset

The amount represented by the 20 percent

28. The 20 percent of net proceeds equates to \$9(2)(i) on a gross sale value of 9(2)(i) and relates to property sold to Te Rūnanga o Ngāti Kūia Trust within five years of its transfer from the Crown. In order to complete the sale to the Trust, NMIT agreed to pay the 20 percent to the Ministry of Education (MoE) on settlement, to be held by MoE pending a decision by Joint Ministers on NMIT's application to retain this discretionary portion of the proceeds.

Has NMIT contributed to the value of the asset?

29. NMIT has invested in the maintenance of the asset as part of its normal asset management programme including painting, repairs of chattels and fittings, and replacement of carpets. This has ensured that the property has been kept in a fit and useable state and achieved an optimal return on disposal. The expenditure on this property cannot be separately identified.

NMIT's current financial situation

30. NMIT achieved a group deficit of \$0.6 million for the 2019 financial year. The original 2019 budget provided to TEC indicated a small surplus of \$0.1 million. The change is due to higher than budgeted depreciation costs due to the revaluation of land and buildings.
31. NMIT forecasts it will continue to be a financially viable organisation and that its core teaching and learning operations will show positive earnings with the expected growth in domestic enrolments due to student pipeline increases and the increase in unemployment numbers. As noted earlier, Te Pūkenga is also responsible for utilising its scale to improve support the viability of subsidiaries and the network as a whole.

Other potential priorities for the Crown

32. In the context of Vote Tertiary Education, the TEC's assessment is that the capital investments NMIT proposes to fund out of the net sale proceeds are of value, and will enhance the educational activities of NMIT. NMIT's strategic goals of improving overall property utilisation and realising proceeds of surplus property for reinvestment in educational initiatives will also be fulfilled. Investment in achieving these outcomes merits support.
33. The discretionary amount in question ⁹⁽²⁾⁽ⁱ⁾ () is also judged to be negligible when considering other potential priorities for the Crown.

Consultation and Recommendation

34. The TEC has consulted with the MoE and the Treasury in the preparation of this briefing and both agencies support the TEC's recommendation for NMIT to retain the full net proceeds. MoE is also satisfied that the process to assess NMIT's application has been followed as set out in the Crown Asset Transfer and Disposal policy and the subsequent assessment framework agreed by Joint Ministers.

Appendix A: Framework to Assess and Decide on Applications to Retain the Full Net Proceeds from the Sale of Assets Sold Within Five Years of their Transfer from the Crown

The framework of criteria below applies to applications by tertiary educational institutions (TEIs) for the retention of the final 20 percent of net sale proceeds, or part thereof, where assets are sold within five years of their transfer into TEI title.

The framework enables requests to be treated consistently and in accordance with the principles underpinning the TEI Crown Asset Transfer and Disposal Policy.

Requests are assessed against the following criteria:

- i. the time since the asset transferred;
- ii. the time taken to transfer the asset the TEI is disposing of since:
 - a. the TEI applied for the transfer of Crown assets; and
 - b. the time the TEI signed the Memorandum of Understanding (MoU) for the transfer process.
- iii. whether the TEI is overcapitalised;
- iv. whether the TEI has demonstrated that the retained earnings will be used in capital projects that are of value to the educational activities of the institution;
- v. whether the TEI continues to meet the government's CAM expectations;
- vi. whether the TEI remains viable;
- vii. the financial implications for the TEI and the Crown:
 - a. the amount the 20 percent represents;
 - b. the level of investment the TEI has contributed to the value of the asset, including clear evidence of this investment;
 - c. the TEI's current financial situation; and
 - d. other potential priorities for the Crown.
- viii. A business case aligned with Treasury's Better Business Case framework to demonstrate the value of the capital project(s) the full net proceeds would be invested in, including the benefits of investing the additional 20% (this applies where the net proceeds are expected to be more than \$1 million – *i.e. where 20% is \$200k or more*).

APPENDIX B: NMIT's 2 Seymour Street, Blenheim property

The property subject to disposal of is highlighted and illustrated below.

