

## Tertiary Education Report: University of Canterbury – amendment to council constitution

<b>Date:</b>	9 October 2018	<b>TEC priority:</b>	Medium
<b>Security level:</b>	In Confidence	<b>Report no:</b>	B/18/00673
		<b>Minister's office No:</b>	

### ACTION SOUGHT

	Action sought	Deadline
<b>Hon Chris Hipkins</b> Minister of Education	<p><b>note</b> to amend the council constitution of a tertiary education institution that you, as Minister of Education, must agree the change;</p> <p><b>note</b> the council of the University of Canterbury 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><b>sign</b> the enclosed notice for the <i>New Zealand Gazette</i>;</p> <p><b>sign and send</b> the enclosed letter to the Chancellor of the University of Canterbury informing him of publication; and</p> <p><b>note</b> the amendment is required to facilitate the election of the Chancellor for 2019.</p>	To be published in the Gazette by 30 October 2018
<b>Enclosure:</b> Yes, Appendices A–B A. Notice for the <i>New Zealand Gazette</i> B. Letter to the Chancellor of the University of Canterbury	<b>Round Robin:</b> No	

### CONTACT FOR TELEPHONE DISCUSSION (IF REQUIRED)

Name	Position	Telephone		1st contact
Gillian Dudgeon	Deputy Chief Executive Delivery	(04) 462 5320	027 208 3573	
s9(2)(a)	Principal Advisor, Monitoring and Crown Ownership	s9(2)(a)	s9(2)(a)	✓

**THE FOLLOWING DEPARTMENTS/AGENCIES HAVE SEEN THIS REPORT**

- CERA     DPMC     ENZ     ERO     MBIE     MoE     MFAT  
 MPIA     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   See Minister's Notes            Withdrawn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**, Associate 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 Canterbury 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 Canterbury informing him of publication;

**AGREE / DISAGREE**

5. **note** the amendment is required to extend the eligibility of council members for appointment as Chancellor and facilitate election of the Chancellor for 2019; 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

09/10/2018

**Hon Chris Hipkins**

Minister of Education

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## Purpose

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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 Canterbury; and
  - **sign** the letter to the Chancellor of the University of Canterbury (Appendix B) confirming that you have done so.

## Background

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2. Under section 170 of the Education Act 1989, if a tertiary education 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.

### **Maximum terms served is an essential element of university constitutions**

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 Canterbury council has done so.
4. Section 171D(1) of the Act states that “the constitution of the council of an institution must contain a provision limiting the number of occasions on which a person may be appointed as a member of the council.” The amended constitution submitted by the council of the University of Canterbury includes a minor technical amendment to the provision covering the number of terms a council member may serve.

### **Amending the constitution extends the eligibility of council members for election as Chancellor**

5. The existing wording of the constitution is “three consecutive four-year terms”. As terms are often not consecutive or four years long, this wording limits the council’s ability to appoint members for the full 12-year duration as intended.
6. The proposed wording is “the number of occasions on which a person, other than the Vice-Chancellor, may be appointed as a member of the council is the number that, for that person, ensures the total period for which they are a member of the council does not exceed 12 years”. Comparable wording is used in the constitutions of four other universities.

7. s9(2)(ba)(i)

### **Proposed reappointment of the Ministerial appointees is a separate issue**

8. s9(2)(ba)(i) The Chancellor considers that continuity at governance level would be beneficial at this time to progress the Lincoln University/University of Canterbury partnership project and to support the new Vice-Chancellor, who is due to take up office in early 2019.

9. The TEC intends to provide you with advice on the reappointment of these two members in a few weeks' time s9(2)(ba)(i) and other Ministerial appointments due across the university sector.
10. The change to the Constitution can progress independently of your consideration of appointments.

### **We need your authority to publish the new constitution**

11. The amended constitution will be brought into effect by your publishing a notice in the *New Zealand Gazette*. The TEC confirms that the draft constitution provided by the University of Canterbury complies with the legislation.
12. We recommend that you publish the constitution in the *New Zealand Gazette* in the week beginning 22 October 2018, to come into effect on 30 October 2018.

### **Next steps**

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13. 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 Dr John Wood, Chancellor of the University of Canterbury, informing him the notice will be published in the *New Zealand Gazette*.