

Tertiary Education Report: Request by Te Pūkenga to establish a work-based learning subsidiary

Date:	2 March 2021	TEC priority:	High
Security level:	In Confidence	Report no:	B-21-00074
		Minister's office No:	

ACTION SOUGHT		
	Action sought	Deadline
Hon Chris Hipkins Minister of Education	agree that Te Pūkenga can establish a subsidiary company under section 340(1) of the Education and Training Act 2020 for the purposes of receiving arranging training activities from Transitional Industry Training Organisations; sign and send the attached letter to the Chair of Te Pūkenga.	
Enclosure: Yes	Round Robin: No	

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

<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 Withdrawn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:

Recommendations

Hon Chris Hipkins, Minister of Education

It is recommended that you:

1. **agree** that Te Pūkenga can establish a subsidiary company under section 340(1) of the Education and Training Act 2020 for the purposes of receiving arranging training activities from Transitional Industry Training Organisations.

Minister of Education

AGREE / DISAGREE

2. **sign and send** the attached letter to the Chair of Te Pūkenga informing him of your decision.

3. **agree** that the Tertiary Education Commission proactively release this briefing.

Minister of Education

AGREE / DISAGREE



Deirdre Marshall

Acting Deputy Chief Executive, Delivery
Tertiary Education Commission

2 March 2021

Hon Chris Hipkins

Minister of Education

___ / ___ / ___

Purpose

1. This briefing seeks your approval for Te Pūkenga to establish a work-based learning subsidiary company under the Education and Training Act 2020 (the Act) for the purposes of receiving arranging-training activity from Transitional Industry Training Organisations (TITOs).

The ability for tertiary education institutions to create subsidiaries

2. Tertiary education institutions (TEIs) have always had the ability to create subsidiaries and a significant amount of subsidiaries exist across the sector – both for educational and other purposes.
3. Section 340(1) of the Act provides Te Pūkenga with the ability to create one or more subsidiaries. However, a transitional provision is included in Schedule 1, Part 1, section 40 of the Act that states that Te Pūkenga must obtain ministerial approval before forming a subsidiary under section 340(1). This transitional provision applies until 31 December 2024.
4. This transitional provision was added to provide an independent check and balance against the possibility that Te Pūkenga could set up new enduring subsidiaries to simply replace the current 16 subsidiaries – that were formed from the previous institute of technology and polytechnics (ITPs) – and which section 21 (1) of the Act states will cease to exist by 31 December 2022.

Te Pūkenga has requested to establish a work-based learning subsidiary

5. On 19 February 2021, the Chair of Te Pūkenga wrote to you seeking your approval for Te Pūkenga to establish a work-based learning subsidiary company. The purpose of this subsidiary will be to receive the current arranging-training activity from TITOs over the next two years. The transition of activities must take place before 31 December 2022.
6. Subject to the TEC Board approving their transition plans, it is planned that BCITO, Competenz and Connexis will transfer their current arranging-training activity in full intact business operations units to the new work-based learning subsidiary on 1 August 2021. Each TITO will function as a discrete business unit within the work-based learning subsidiary. A chief executive will be appointed to lead the work-based learning subsidiary and lead the transition of these three TITOs and any other TITOs into Te Pūkenga.
7. A number of options were considered around how to begin transitioning arranging-training activity into Te Pūkenga. Te Pūkenga considered the establishment of a subsidiary provides the greatest benefits as well as minimises risk. In particular:
 - It minimises the risk of negatively impacting learners and employers and allows time to understand the service models, industries, systems, and capabilities within each business unit;
 - It minimises the risk of key staff attrition during the transition;
 - It ensures that the current arrangements with workplace and contract assessors, subject matter experts, moderators, and providers are preserved during the transition;
 - It allows time for Te Pūkenga to develop and establish its operating model, including the technology and information systems best suited to support the business units;
 - It allows time for the interdependence of business and information systems and existing operating models in the individual TITOs to be understood;

- It allows time for Te Pūkenga to develop a comprehensive integration plan; and
- It minimises financial risk and any risk of the subsidiary requiring operational financial support from the parent. The key risk being training volume contraction that might potentially arise through disruption and uncertainty.

The TEC's view

8. With the exception of the transition period for Te Pūkenga, TEIs can set up subsidiaries as they see fit. The TEC is not formally involved in such decisions as TEIs have the operational independence to make decisions that are in their long-term interests. As such, we consider there would need to be a very compelling reason for not recommending you approve the establishment of a subsidiary.
9. In this instance, we support Te Pūkenga's decision to set up a work-based learning subsidiary and have been consulted as part of the process that led to Te Pūkenga deciding to establish the subsidiary. The proposed approach is similar to that used to transfer the former ITPs into Te Pūkenga, while maintaining (for a transitional period) them as separate entities to ensure a smooth transition can be managed once the operating model work is complete. This transition of activities represents the first step towards enabling the integration of on-job, on-campus, and online training to occur.
10. In our view, the main risk to this approach is the potential to create a perception that work-based learning and provider-based learning are being kept separate given this new work-based learning subsidiary will not automatically dissolve at the end of the transition period, like the former ITP subsidiaries. This would be in contrast to the objectives of the reform of vocational education. However, we are comfortable that Te Pūkenga is using this subsidiary as a transitional step. We recommend that your letter to the Chair of Te Pūkenga makes it clear that you expect further integration once its new operating model is implemented, and that this work-based learning subsidiary should not long outlive the former ITP subsidiaries.
11. Section 340(3) states that the Governor-General may, by Order in Council made on the recommendation of the Minister, specify provisions of the Act that do not apply to a Te Pūkenga subsidiary formed under subsection (1) that does not provide education or training, or both. We consider that the relevant provisions of the Act are appropriate for the new work-based learning subsidiary. As such, we would expect to receive an annual report from the work-based learning subsidiary for 2021 that complies with section 306 of the Act.

Next steps

12. Subject to your agreement to allow Te Pūkenga to establish a new work-based learning subsidiary, we have drafted a letter in Appendix 1 for you to send to the Chair of Te Pūkenga informing him of your decision.

Appendix 1: Letter to the Chair of Te Pūkenga

Murray Strong
Council Chair
Te Pūkenga

By email: Murray.Strong@tepukenga.ac.nz

Dear Murray

Approval to establish a work-based learning subsidiary company

Thank you for your letter of 19 February 2021, seeking my approval for Te Pūkenga to establish a work-based learning subsidiary company to receive the arranging-training activity of Transitional Industry Training Organisations (TITOs).

I have agreed to approve your request to establish a work-based learning subsidiary company as part of the Te Pūkenga group. This subsidiary will need to comply with all parts of the Education and Training Act 2020, including producing an annual report.

I look forward to being updated on progress, including the planned transition of BCITO, Competenz and Connexis later this year. The transition of activities represents the first step towards enabling the integration of on-job, on-campus, and online training to occur. Given it is a transitional step, I expect that this subsidiary will cease to exist at an appropriate time when further integration occurs as part of the implementation of Te Pūkenga's operating model.

Yours sincerely

Chris Hipkins
Minister of Education

cc. Gillian Dudgeon, Deputy Chief Executive, Tertiary Education Commission
Stephen Town, Chief Executive, Te Pūkenga