

## Tertiary Education Report: Appointment of an advisory committee to support the Commissioner of Unitec

<b>Date:</b>	9 October 2018	<b>TEC priority:</b>	High Priority
<b>Security level:</b>	In Confidence	<b>Report no:</b>	B/18/00692
		<b>Minister's office No:</b>	

ACTION SOUGHT		
	Action sought	Deadline
<b>Hon Chris Hipkins</b> Minister of Education	<p><b>note</b> 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 Unitec in the exercise of his functions, duties and powers.</p> <p><b>agree</b> to appoint the four individuals proposed by the Commissioner of Unitec to the advisory committee to support the Commissioner in the exercise of his functions, duties and powers.</p> <p><b>sign and send</b> 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
<b>Enclosure:</b> Yes	<b>Round Robin:</b> No	

CONTACT FOR TELEPHONE DISCUSSION (IF REQUIRED)				
Name	Position	Telephone		1st contact
s9(2)(a)	Investment Manager	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							
<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Withdrawn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 Unitec in the exercise of his functions, duties and powers.
2. **note** that the Commissioner of Unitec has recommended four individuals to you to comprise an advisory committee, with a fifth individual from the Unitec staff to be recommended at a later date.
3. **agree** to appoint the following individuals to the advisory committee to support the Commissioner of Unitec in the exercise of his functions, duties and powers:
  - a. Tui ah Loo **AGREED / NOT AGREED**
  - b. Peter Winder **AGREED / NOT AGREED**
  - c. Matalena O'Mara **AGREED / NOT AGREED**
  - d. John Brockies **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 draft letters to the proposed members of the advisory committee announcing their appointment, if you agree with their appointments.
6. **agree** that the Tertiary Education Commission releases this paper proactively with personal information, including any information about unsuccessful nominees, the reasons for not appointing any former Unitec Council members, and the attached letters withheld.

**AGREED / NOT AGREED**



**Gillian Dudgeon**

Deputy Chief Executive – Delivery

Tertiary Education Commission

9 October 2018

**Hon Chris Hipkins**

Minister of Education

\_\_\_ / \_\_\_ / \_\_\_

## Purpose

---

1. The purpose of this briefing is to seek your decision on the appointment of four members to an advisory committee, whose purpose is to advise and support the Commissioner of Unitec Institute of Technology (Unitec) in the exercise of his functions, duties and powers.

## Requirement for an advisory committee

---

2. On 23 July, you announced that you were dissolving the Unitec Council and appointing Murray Strong as Commissioner 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 TEC and Murray Strong required him to determine the skills he required to advise and 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

---

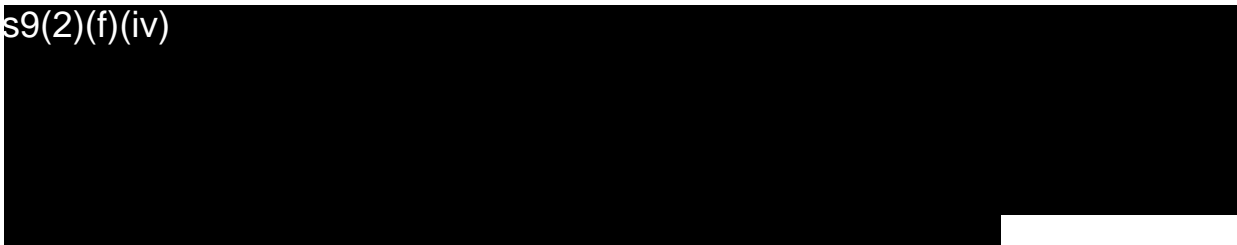
### The Commissioner has proposed four individuals to assist him in his role

5. The Commissioner considers that there are three principal components to determining the skills and expertise required to constitute an effective advisory committee. They are:
  - a. the Unitec Renewal Plan – the internal document that is the blueprint for the change programme to right-size the institution and realise the value of the land to be sold;
  - b. the terms and conditions of the Concessionary Loan Agreement between the Crown and Unitec for a 10-year concessionary loan of \$50 million; and
  - c. the MoU between the Commissioner and the TEC.
6. Based on the above requirements, and considering membership of the committee, the Commissioner has proposed the following members be appointed to an advisory committee:
  - **Tui Ah Loo** – Rūnanga member
  - **Peter Winder** – Chair of the Manukau Institute of Technology (MIT) Council
  - **Matalena O'Mara** – President, Unitec Students Association
  - **John Brockies** – independent/professional director
  - **Staff Team Advisory Rōpu member** – individual to be confirmed
7. Brief biographies on each of the four members are provided in Appendix 1.

**The Commissioner has recommended that the advisory committee does not include any previous Council members**

8. There had previously been discussion between the Commissioner, the TEC, and yourself around the possibility of one or more of the former Unitec Council members being appointed to the advisory committee.

9. s9(2)(f)(iv)



10. s9(2)(f)(iv)



**The Commissioner will be supported by financial and legal experts**

11. In addition to the advisory committee, the Commissioner has retained John Fisk, PwC, (who the TEC originally appointed as an independent financial advisor to Unitec in May 2018) to provide independent financial advice and s9(2)(a), Bell Gully, to provide legal advice to support the work at Unitec. Their expertise will be available to the Commissioner and the advisory committee.

**The TEC endorses the recommendations provided by the Commissioner**


12. The TEC usually assesses candidates for Ministerial appointment to tertiary education institutions (TEIs) 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.

13. 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. This is particularly important given the lack of stakeholder voice, particularly from staff and students, in the former Council's decision-making. We have also examined the ability of the proposed members to fulfil the Commissioner's requirements as set out in paragraph 5.

14. Overall, we are comfortable with the Commissioner's suggested appointees to the advisory committee, and are comfortable that 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 as well as stakeholder representation. The table in Appendix Two outlines the key skills and experience of the four proposed members.

15. 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. In terms of diversity, the advisory committee would also meet the new 50 percent requirement for women on state sector boards. The Commissioner has consulted with the local rūnanga on the proposed appointment of Tui Ah Loo and is currently engaging with staff on their representative. The Commissioner has discussed with the Tertiary Education Union that he will be proposing to you that a staff representative is appointed to the advisory committee.

16. s9(2)(f)(iv)



### **Fees and term of advisory committee members**

17. 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 Cabinet Office Fees Framework, this will be \$20,000 per annum.
18. The Commissioner has all the powers, functions and duties of the Council that he was appointed to replace. 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, over and above what has been outlined in paragraph 5, will be determined by the Commissioner in conjunction with the advisory committee.
19. The tenure of the advisory committee is dependent on the term of the Commissioner, which is indefinite and will cease once the matters at Unitec 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, a new Council will be appointed. At that time, the advisory committee would also cease to exist.
20. 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 Unitec's Renewal Plan progresses and the outcomes of the ITP Roadmap 2020 project 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 August 2019.

### **Next steps**

---

21. The Commissioner has informed each of the four recommended individuals that they are being considered.
22. The Act does not outline any specific process for the appointment of members to an advisory committee. Furthermore, this is the first time we have undertaken this process since early 2007, following a Crown Commissioner being appointed to Western Institute of Technology at Taranaki (WITT). If you agree to the four 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.
23. You are not required to consult on the appointment of members to an advisory committee. 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. We can advise and support you on this process, should you wish to go to APH.
24. We will update you later this year regarding the final appointee, who the Commissioner has recommended be a staff representative, after the Commissioner has engaged further with staff.