

Universities NZ Submission

Education (Tertiary Education) Amendment Bill

May 2017

Introduction

This feedback represents the views of Universities New Zealand (New Zealand Vice-Chancellors' Committee), a statutory body comprising the Vice-Chancellors of all eight universities.

To discuss any matter raised in this submission, or for further information, please contact Chris Whelan, Executive Director, Universities New Zealand at 04-381-8500 or chris.whelan@universitiesnz.ac.nz

Submission

We support the majority of changes in the exposure draft of this Bill, in some cases with amendments to or strengthening of language. **However, we strongly oppose the S253 proposal because it would potentially jeopardise the international reputation of New Zealand's universities by allowing a Minister to consent to institutions using the term 'university' in their names when they did not meet the statutory definition of a university.**

The areas that we believe require further consideration are:

- 1) S159E (*allowing the TEC to charge a fee for inquiries into breaches of funding conditions*).

We **recommend** that the fee should be limited to actual costs incurred by the TEC and with an upper limit specified. This would avoid the risk of unreasonable fees being charged

- 2) S159NA (*funding mechanisms consistent with principle of equal treatment of all tertiary education providers*).

We agree that, at least in principle, any provider should be able to access the same level of funding provided they are achieving the same outcomes for graduates and taxpayers. **However, a critical point here is that "outcomes" must include measures of quality. For example, a degree taught in a research-rich environment and a degree of the same name taught in an environment largely devoid of research will not be of the same quality, nor create the same outcomes (nor cost the same to deliver).**

The definition of 'proposed outcomes' therefore needs further specification. At present the Bill states: "195NA(5) Proposed Outcomes means the outcomes proposed in the plan in relation to which funding approval is given...". However, the current Investment Plans, which institutions agree with the TEC, do not propose outcomes at course or qualification level.

It should be noted that the current Student Achievement Component (SAC) funding system breaches this principle in that it effectively gives all providers the same funding for equivalent

full-time students (EFTS) studying at the same level on the Qualification Framework and in the same subject area, irrespective of quality.

- 3) Sections 167-220 (*changes to arrangements around Councils*). We welcome the changes that sensibly simplify arrangements around the Councils of tertiary education institutions. We agree with Victoria University's submission on S167A (Method of Contracting) that; It is institutions themselves rather than Councils that enter into contracts. The Bill must be amended to reflect this.
- 4) Section 253C (*allowing the Minister to consent to registered establishments using certain terms in their names*). **We are strongly opposed to this provision because we believe it represents a threat to the international reputation of New Zealand's universities.**

Section 162 of the Act (reproduced at the end of this submission for ease of access) details the characteristics of a 'registered establishment' such as a university or wānanga. These characteristics are different and distinct for good reasons – they seek to describe institutions that are by statute different. They thus provide clear signals to students and employers, both in New Zealand and overseas, as to the sort of education provided. Only universities are required to have all five of these characteristics (Section 162(4)(a)).

By maintaining this distinction, New Zealand has largely protected the value of the term 'university', with all eight of its universities being ranked in the top 500 in the world (QS rankings) and delivering world-class education to both domestic and international students. This is an unambiguous, unqualified and powerful message that is well understood in the international market place. For example, the reputation of our university system means New Zealand universities attract large numbers of international students who contribute \$1 billion to the economy annually.

There is significant risk to New Zealand in blurring the boundaries between registered establishments. We understand that the primary intent of the change is to make it possible for a wānanga or ITP - i.e. an institution that is not a university - to use the word "university", either:

- (a) as a way of describing itself to a domestic or international audience (e.g., an ITP describing itself as a 'technical university', or a wānanga describing itself as an 'indigenous university') or,
- (b) to incorporate the term "university" in its legal name (e.g., 'Timaru Technical University')

We accept that terms like "Wānanga" and "ITP" are generally not known internationally, but allowing organisations to use the term "university" when they do not meet the statutory definitions of a university is not the solution. It will inevitably create unintended consequences and opportunities for abuse. For example:

1. Potential students exploring higher education options will not understand that an organisation referring to itself as a "technical university" or an "indigenous university" is not, in fact, a university and will not be able to award them a university qualification.
2. Potential employers (particularly internationally) are likely to review an employment application and mistakenly assume that a graduate of a "technical university" or an "indigenous university" is a university graduate. Misrepresenting graduates to employers will damage both the university and New Zealand brands.

It is important to appreciate that if an institution meets the statutory definition of a university, it *already has available* a means of becoming a university. Section 162 provides that such an

institution may apply to the Minister who, if satisfied that it meets the criteria, can recommend that the Governor-General, by Order in Council, establish that institution as a university.

The risk, therefore, is that a Minister could use Section 253C to permit an institution to call itself a university *when it did not meet the statutory definition of a university*. This would be both illogical and dangerous.

For these reasons, we strongly object to Section 253C and recommend that it be removed, in its entirety, from the Act.

Failing that, if the legislation proceeds as currently proposed, we would **recommend strongly** the following amendment (underlined):

“253C(5) The Minister may grant consent under **subsection (2) or (2A)** subject to conditions that the Minister considers reasonably necessary to—

- (a) ensure that the registered establishment or wananga to which the consent is granted has and continues to have all the characteristics of the institutions that may use the term without applying to do so; and
- (b) ensure that students, employers, and members of the public are adequately informed of the legal status or characteristics of the registered establishment or wananga to which the consent is granted; and
- (c) ensure adequate protection of the quality and reputation of the institutions that may use the term without applying to do so; and
- (d) protect the interests of the tertiary education system and the nation as a whole.”

We note that New Zealand Government has tended to increase protections around use of terms and titles where there is potential for providers to misrepresent themselves to consumers, or for consumers to be misled. One recent example of this is the move for all social workers to be registered so as to ensure they are fit to practice, are competent, and are suitably qualified. It would make no sense to do the opposite for universities.

It is also worth noting that many of New Zealand’s universities (all but Lincoln University and Massey University) have a Māori name which includes the words ‘whare wānanga’. There has been a suggestion that it would be unfair to prevent a wānanga calling itself a university when some universities have “wānanga” in their name. Such suggestions reflect a misunderstanding of the terminology being used.

The two terms are defined in the Māori Dictionary (www.maoridictionary.co.nz) as follows:

- **Wānanga:** (a) “To meet and discuss”, (b) “seminar, conference, forum”, (c) “Tribal knowledge, lore, learning, (d) “Instructor, wise person, sage...”, (e) “Tertiary institution that caters for Māori learning needs”.
- **Whare Wānanga:** “university, place of higher learning”.

The key point is that none of the universities that has ‘Whare Wānanga’ in its name is using the name to pass itself off as a Wānanga, as defined in s.162(4)(b)(iv). In other words, none would claim to be “characterised by teaching and research that maintains, advances, and disseminates knowledge and develops intellectual independence, and assists the application of knowledge regarding ahuatanga Maori (Maori tradition) according to tikanga Maori (Maori custom)”.

Education Act 1989

Section 162(4)

In recommending to the Governor-General under subsection (2) that a body should be established as a college of education, a polytechnic, a specialist college, a university, or a wananga, the Minister shall take into account—

(a) that universities have all the following characteristics and other tertiary institutions have 1 or more of those characteristics:

(i) they are primarily concerned with more advanced learning, the principal aim being to develop intellectual independence:

(ii) their research and teaching are closely interdependent and most of their teaching is done by people who are active in advancing knowledge:

(iii) they meet international standards of research and teaching:

(iv) they are a repository of knowledge and expertise:

(v) they accept a role as critic and conscience of society; and

(b) that—

(i) a college of education is characterised by teaching and research required for the pre-school, compulsory and post-compulsory sectors of education, and for associated social and educational service roles:

(ii) a polytechnic is characterised by a wide diversity of continuing education, including vocational training, that contributes to the maintenance, advancement, and dissemination of knowledge and expertise and promotes community learning, and by research, particularly applied and technological research, that aids development:

(iia) a specialist college is characterised by teaching and (if relevant) research of a specialist nature that maintains, enhances, disseminates, and assists in the application of knowledge and expertise:

(iii) a university is characterised by a wide diversity of teaching and research, especially at a higher level, that maintains, advances, disseminates, and assists the application of, knowledge, develops intellectual independence, and promotes community learning:

(iv) a wananga is characterised by teaching and research that maintains, advances, and disseminates knowledge and develops intellectual independence, and assists the application of knowledge regarding ahuatanga Maori (Maori tradition) according to tikanga Maori (Maori custom).