

# Regulatory Impact Statement: Legislative proposal for establishing a new framework for constituting Wānanga

## Coversheet

Purpose of Document	
Decision sought:	This analysis has been produced for the purpose of informing key policy decisions to be taken by Cabinet about establishing a new, mutually agreed, enabling framework for the administration of the Wānanga sector.
Advising agencies:	The Ministry of Education is solely responsible for the analysis and advice set out in this Regulatory Impact Statement (Statement), except as otherwise explicitly indicated.
Proposing Ministers:	Associate Minister of Education (Māori Education), Minister of Education
Date finalised:	06 December 2022
Problem Definition	
<p>Wānanga are tertiary education institutions (TEIs), which are currently classified as Crown Entities. Under the Education and Training Act 2020 (E&amp;T Act), a Wānanga is characterised by teaching and research that maintains, advances, and disseminates knowledge and develops intellectual independence, and assists the application of knowledge regarding āhuatanga Māori (Māori tradition) according to tikanga Māori (Māori custom). Three existing Wānanga provide tertiary education to 34,250 learners, which represents 8.6% of all enrolled tertiary learners (as of 2021).<sup>1</sup> Wānanga are distinguished by their ‘by Māori, for Māori’ educational provision and their focus on Māori as members of whānau, hapū and iwi. They therefore have important differences to other TEIs, not just in what they teach, but in how they teach.</p> <p>The administrative and accountability settings in the E&amp;T Act that apply to Wānanga as TEIs have not been substantially updated for 30 years, and Wānanga have generally not had the opportunity to co-design or choose these settings with the Crown. This is not aligned with the principle of partnership under Te Tiriti o Waitangi / The Treaty of Waitangi.</p> <p>Lack of choice about the administrative and accountability settings that apply to Wānanga as Crown Entities and TEIs does not adequately reflect and provide for:</p> <ul style="list-style-type: none"><li>• the unique role that Wānanga play in the education system</li><li>• the rangatiratanga and mana of Wānanga under Te Tiriti o Waitangi / the Treaty of Waitangi,<sup>2</sup> or</li></ul>	

<sup>1</sup> [Tertiary Participation | Education Counts](#)

<sup>2</sup> Refer to p.4 for more information about our understanding of Te Tiriti o Waitangi / The Treaty of Waitangi in this work, including in relation to the rangatiratanga and mana of Wānanga.

- that the Wānanga system of learning, including its critical role in protecting and revitalising te reo and mātauranga Māori, is a taonga.<sup>3</sup>

The Ministry of Education and the Wānanga agree that the lack of choice for Wānanga about the settings that apply to them as TEIs has not appropriately balanced the rangatiratanga of Wānanga and the kāwanatanga of the Crown. Both the Wānanga and the Crown have been negatively impacted by this lack of choice, as it has:

- constrained the ability of Wānanga to flourish and best meet the needs of their communities (including their staff, learners, whānau, iwi, hapū, and others)
- harmed the Crown's relationship with Wānanga (culminating in Waitangi Tribunal claims, including WAI 718, WAI 1298, WAI 2258, and WAI 2698), and
- compromised the Crown's kāwanatanga responsibilities towards Māori learners and active protection of Wānanga as a system of delivery.

Without change, this pattern is highly likely to continue. This risks further harm to the Wānanga-Crown relationship and the broader Māori-Crown relationship, and/or future Waitangi Tribunal claims lodged by the Wānanga against the Ministry of Education (although we cannot guarantee that such Tribunal claims would not occur even if the preferred option was implemented).

## Executive Summary

### **A package of work to address the needs and aspirations of Wānanga**

This Statement sets out the regulatory impact of establishing a new, enabling framework for Wānanga as TEIs in primary legislation, in response to the longstanding issues that the Wānanga sector has experienced, as outlined above.

This follows work with a partnership approach, over a period of years, between the Ministry of Education and the three existing Wānanga – Te Wānanga o Raukawa, Te Wānanga o Aotearoa, and Te Whare Wānanga o Awanuiārangi – to proactively improve policy settings for Wānanga holistically (rather than reactively, for example, in response to Waitangi Tribunal claims).

This has involved work with the Wānanga on three related issues: legislation, funding, and quality assurance. This Statement deals with legislative issues only, including the legislative status of Wānanga, their governance arrangements, and the Māori-Crown relationship. Separate work continues on funding and quality assurance.

### **An enabling Wānanga sector framework**

The Ministry of Education and the Wānanga consulted on an enabling framework which would include shared administrative settings that apply to all Wānanga, including relating to the key characteristics of Wānanga, and the processes for the establishment and disestablishment of Wānanga. The discussion document fulfilled Cabinet expectations for a Regulatory Impact Assessment (RIA) at the consultation stage: its two options have developed into the two options now being considered.

<sup>3</sup> "There can be no doubt that te reo Māori and mātauranga Māori are highly valued and irreplaceable taonga for New Zealand. These taonga exist nowhere else. The Crown has a duty actively to protect these taonga. The Tribunal believes that wānanga Māori are a modern application of an ancient process that was responsible for the protection, maintenance, and advancement of these taonga and that the Crown should move actively to ensure their viability and survival." Waitangi Tribunal, Wānanga Capital Establishment Report (p. 49).

Within the framework, each Wānanga could choose between two opt-in pathways through Order in Council, or choose to remain a Crown Entity TEI and retain the current administrative and accountability settings by not pursuing either opt-in pathway. The opt-in pathways include:

- **Pathway A: Becoming a bespoke TEI Wānanga (Crown accountability):** this pathway would provide flexibility for Wānanga to modify their administrative settings while retaining TEI and Crown entity status and accountability; or
- **Pathway B: Becoming a bespoke TEI Wānanga (Shared accountability):** under this pathway, the Crown and the individual Wānanga would work together to agree new statutory arrangements. Some lines of accountability would change, so the Wānanga became a TEI primarily accountable to an iwi, hapū, or other Māori organisation, rather than being solely accountable to the Crown.

Significant existing accountability settings (including relating to quality assurance and the application of Acts that relate to transparency and accountability for public funding) would continue to apply to all Wānanga, regardless of the pathway chosen within the enabling framework. Existing safeguards for current and future Wānanga learners would also continue to apply within an enabling framework.<sup>4</sup>

#### **This Regulatory Impact Statement sets out:**

- the rationale for why an enabling Wānanga sector framework is proposed to respond to longstanding issues with the current administrative and accountability settings for Wānanga
- analysis of options consulted on, including:
  - no change to existing settings for Wānanga (Option 1, the counterfactual)
  - an enabling framework (Option 2) with two optional pathways in addition to the current status: Entity A: bespoke TEI Wānanga (Crown accountability) and Entity B: bespoke TEI Wānanga (Shared accountability)
  - other options considered and discarded due to not meeting the criteria
- associated benefits, costs, and impacts of options
- next steps to implement and monitor the enabling framework, including Orders in Council and the Ministry of Education's agreed ongoing approach to working with the Wānanga, including to resolve any issues.

On balance of costs and benefits, we consider that an enabling framework will have the most positive impacts. These include benefits for Wānanga and their associated learners, staff, communities, hapū, and iwi; and, more broadly, for the Māori-Crown relationship and te reo and mātauranga Māori provision across the education system.

This option responds to feedback from consultation and from the three Wānanga that indicated strong support (from >95% of the total 1186 submitters) for establishing a new, enabling Wānanga sector framework. The submitters who did not support the proposals (or components of them) expressed concerns that the proposals did not go far enough in terms of separation from the Crown; that the Crown could not be trusted to fully enact or follow

---

<sup>4</sup> For example, learners' rights to enrol to study at Wānanga and access student loans and allowances (in accordance with existing eligibility criteria); and Wānanga obligations for their learners' wellbeing and safety, as required by the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021.

through on the proposed changes; and that changes may disadvantage Wānanga within the international higher education context. No additional options were raised by submitters during the consultation.

## Limitations and Constraints on Analysis

### Scope of this Regulatory Impact Statement

We consulted on the options presented within *Discussion Document: Proposal to Establish Enabling Wānanga Sector Framework*, which acted as an interim Regulatory Impact Statement for the purposes of Cabinet's agreement to proceed with consultation. This Statement focuses on developing these options, that were developed by the Ministry of Education together with the Wānanga. We previously considered other options but did not explicitly seek feedback on other options, and no additional options were raised by submitters during consultation. Accordingly, we are not in a position to detail a full scope of possible options in this Statement.

This Statement includes analysis related to the options consulted on, focussed on the enabling framework rather than the detail of Orders in Council for each Wānanga. If an enabling framework is enacted, each Wānanga would need to work with the Crown to agree Order in Council content in line with their preferred pathway and within the parameters set in primary legislation. Orders in Council are regulatory instruments. The Order in Council for each Wānanga would involve further consultation and an associated Regulatory Impact Statement (that outlines the problem, options, benefits, risks, and costs for that specific Wānanga and their chosen pathway), as well as being subject to Cabinet approval and drafting by Parliamentary Counsel Office. The Order in Council would also be subject to the oversight of the Regulations Review Committee, once finalised.

### The Crown's understanding of Te Tiriti o Waitangi / The Treaty of Waitangi in this work

Te Tiriti o Waitangi / The Treaty of Waitangi requires the Crown to consider its partnership and active protection obligations, in the context of kāwanatanga and rangatiratanga. The Crown must also give consideration to the Tiriti / Treaty principles of equity and options. For this proposal, the principles should be considered in relation to the Wānanga, in the first instance, but also to iwi and Māori more broadly. These broader groupings also have interests in Māori learner success in the tertiary education system, and the revitalisation, protection, and transmission of te reo Māori, mātauranga Māori and Wānanga, as a system of delivery.

Underlying the Ministry's work with the Wānanga are the following high-level Tiriti / Treaty assumptions:

- The Crown has the right to govern and must exercise good kāwanatanga.
- Each Wānanga as an organisation has rangatiratanga, as well as being an expression of the tino rangatiratanga of its founding iwi/Māori.<sup>5</sup>

---

5 This understanding is derived from Waitangi Tribunal reports, including the:

- Wānanga Capital Establishment report, in relation to WAI 718, p.49: "Rangatiratanga involves, at the very least, a concept of tribal self-management. The wananga [sic] that have been recognised as TEIs have all developed out of the efforts of Māori iwi groups [...] As such, the efforts of these tribal groups to create and sustain TEIs is a vital exercise of rangatiratanga."
- Report on the Aotearoa Institute claim concerning Te Wānanga o Aotearoa, in relation to WAI 1298, p.38: "Although their rangatiratanga might spring from devolved iwi authority, wānanga exercise a different kind of rangatiratanga. The councils of wānanga have, over time, formally assumed a leadership responsibility to care for and nurture the educational needs and aspirations of Māori in a changing world by providing āhuratanga Māori education. In a corporate sense, they have assumed the rangatira role, and so develop and exercise their rangatiratanga in carrying out their responsibilities."

- The Crown has an obligation to recognise the rangatiratanga of the Wānanga. The Crown's Tiriti o Waitangi / Treaty of Waitangi obligation is to foster, support, and assist their exercise of rangatiratanga.
- The Crown also has obligations to recognise the rangatiratanga of other iwi/Māori in the context of the tertiary education system.
- Te reo Māori and mātauranga Māori are taonga.
- Wānanga, as a system of learning that is inextricably linked with te reo Māori and mātauranga Māori, is a taonga.
- The transmission of mātauranga Māori and Māori success in the education system are valid Tiriti o Waitangi / Treaty of Waitangi interests.

These assumptions are derived from Articles 1-3 of Te Tiriti o Waitangi / The Treaty of Waitangi and jurisprudence, including findings of the Courts and the Waitangi Tribunal, as well as Deeds of Settlement between Wānanga and the Crown.

### **Joint development of these proposals with the Wānanga**

The analysis and development of options and advice in this Statement is underpinned by discussions and close work with the three existing Wānanga over a period of years, particularly with Te Wānanga o Raukawa in the resolution of its WAI 2698 claim against the Ministry of Education. This work has been intensive, resulting from a shared desire (that is, the Ministry and joint Ministers of Education together with the Wānanga) to address the Wānanga sector's longstanding concerns in partnership, in a timely way.

This analysis builds on previous work to consider a range of options that seek to adapt existing forms of tertiary education. It is not a 'clean slate' or first-principles analysis, because it recognises the history and background of the three existing Wānanga. Options include a Wānanga remaining as a Crown Entity or changing to a new organisational form that better meets iwi and hapū needs.

This analysis doesn't necessarily represent how the needs and aspirations of Wānanga, as both individual organisations and as a collective, may change over time, or the needs and aspirations of other tertiary education organisations that offer Māori Medium and/or Kaupapa Māori Education (MME/KME) and that may transition (or seek to transition) to become Wānanga in the future.

### **Consultation and gathering of data**

Our analysis of options drew on a six-week public consultation on the proposals (**Annex 1** summarises the process and findings). Consultation enabled strong participation (and the gathering of qualitative data) from iwi, hapū, staff, learners, and communities associated with the three Wānanga. It also enabled participation from the wider public, iwi, and other interested parties from the tertiary education sector (including some private training establishments that offer MME/KME and aspire to become Wānanga in the future).

We have assumed that the consultation identified key interested parties and provided sufficient opportunity for them to learn about and engage with the proposals. There are diverse views, needs, and aspirations among Māori, iwi, and hapū. Their specific interests in the proposals will vary, and not all provided feedback during the consultation period.

The analysis of options in this Statement has been limited by a lack of quantifiable data. It is difficult to quantify the specific costs and benefits associated with the different options:

costs and benefits will depend on the pathways chosen by each Wānanga (and when these choices are made), and many relate to core Tiriti o Waitangi / Treaty of Waitangi concepts.

### **Wānanga continue as tertiary education providers**

The focus of the analysis is on Wānanga as tertiary education providers. This includes that:

- Wānanga will continue to examine the quality of their teaching and learning, and use public funding for their teaching and learning, regardless of the design of any (or all) Wānanga.
- The New Zealand Qualifications Authority and the Tertiary Education Commission will continue to carry out their current legislated functions in quality assuring and monitoring the performance of the Wānanga. Any changes to how these functions are carried out and relationships with the Wānanga would not require changes to the Education and Training Act 2020. If any issues are identified in the quality of teaching and learning of a Wānanga, there will continue to be opportunities for the Crown and the Wānanga to work together to address those issues.
- Wānanga and other tertiary education providers will continue to work together to ensure strong learner pathways and staircasing across the education sector.
- Wānanga and other MME/KME providers will continue to work together as part of a broader MME/KME pipeline across the education sector.
- Industry and employers, with Workforce Development Councils, will continue to work with Wānanga, where appropriate, to ensure the ongoing value and relevance of qualifications to industry and employers.

We have assumed that our preferred option strengthens the relationship between Māori and the Crown, and allows for different Wānanga forms, including into the future.

### **Responsible Manager(s)**

Katrina Sutich  
Group Manager Tertiary Education  
Te Puna Kaupapahere / Policy  
Ministry of Education



06 December 2022

### **Quality Assurance**

Reviewing Agency:	Ministry of Education
Panel Assessment & Comment:	<p>The Ministry of Education's RIA panel assessed the Legislative proposal for establishing a new framework for constituting Wānanga.</p> <p>The RIA panel considers that the RIA partially meets the assessment criteria. The panel notes that the RIA clearly sets out the problem and the options identified to address the problem. Possible change options were developed in partnership with the wānanga. The partnership approach reflects that the objective of</p>

the work is to design a new framework for constituting wānanga that better reflects the nature and purpose of the wānanga as Māori tertiary education providers, on their own terms.

Following Cabinet approval, a discussion document sought feedback on the change options and asked whether other options should be explored. No new options were identified through the consultation.

This approach meant that a comprehensive set of options was not fully analysed in the RIA. The panel further notes that as this is analysing the establishment of enabling legislation the implementation stages were not analysed in this RIA and will need to be undertaken when developing the Order in Council for each wananga.

# Table of Contents

- Regulatory Impact Statement: Legislative proposal for establishing a new framework for constituting Wānanga ..... 1
- Coversheet ..... 1
- Section 1: Diagnosing the policy problem..... 9
  - What is the context behind the policy problem and how is the status quo expected to develop?..... 9
  - What is the policy problem or opportunity? ..... 12
  - What objectives are sought in relation to the policy problem? ..... 17
- Section 2: Deciding upon an option to address the policy problem..... 18
  - What criteria will be used to compare options to the status quo? ..... 18
  - What scope will options be considered within? ..... 18
  - How do the options compare to the status quo/counterfactual? ..... 28
  - What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits? ..... 30
  - What are the marginal costs and benefits of the option? ..... 31
- Section 3: Delivering an option..... 37
  - How will the new arrangements be implemented? ..... 37
  - How will the new arrangements be monitored, evaluated, and reviewed? ..... 38
- Annex 1: Summary of views raised during consultation..... 40



## Section 1: Diagnosing the policy problem

### What is the context behind the policy problem and how is the status quo expected to develop?

#### The nature of the tertiary education system

- 1) Government regulates tertiary education provision, including the entry and operation of tertiary education providers, and education products (including qualifications, micro-credentials, and assessment and skill standards). Tertiary education organisations ('providers') must fit within one of the approved provider types or they cannot offer approved qualifications and programmes. For the 2022/2023 financial year, Government allocated approximately \$5.3 billion<sup>6</sup> to tertiary education, including around \$3.7 billion to support approved providers in educational delivery.
- 2) Tertiary Education Institutions (TEIs) are a subset of tertiary education organisations. Currently, TEIs are public providers and Crown entities, and include universities, Te Pūkenga, and Wānanga. Private Training Establishments (PTEs) are another type of tertiary education organisation that provide tertiary or vocational education and training, but they are not TEIs or Crown Entities. In 2021, over 85% of all tertiary learners studied at a TEI (that is, 311,000 out of a total of 358,000 tertiary learners). The Education and Training Act 2020 (E&T Act) provides for the establishment, governance, planning, monitoring, and reporting of TEIs.
- 3) The New Zealand Qualifications Authority (NZQA) accredits education providers and their products and ensures that New Zealand's qualifications can be recognised and valued internationally. The Tertiary Education Commission (TEC) allocates funding to tertiary education providers for their operation and grants access to student loans and allowances for those providers. The TEC also monitors and reports on providers' performance and provides publically available careers and transitions guidance for learners.
- 4) Learners have freedom to choose whether, where, and how they undertake tertiary education, and can freely move between tertiary education providers. Learners' rights are enshrined in legislation.<sup>7</sup> Industry and employers, with the support of Workforce Development Councils, work with tertiary education providers to ensure that learners gain the necessary knowledge, skills, and competencies through their programmes and qualifications.

#### Status quo: Wānanga are TEIs and Crown Entities

- 5) Wānanga and all other TEIs (Te Pūkenga and universities) are currently Crown Entities.<sup>8</sup> Crown Entities are covered by the Crown Entities Act 2004, Public Finance Act 1989, and Public Service Act 2020, as well as the E&T Act. Although Crown Entities are stand-alone bodies corporate that are legally separate from the Crown, they are included on the Crown's balance sheet and accountable to the Crown in the managing of their assets and liabilities.<sup>9</sup>

---

<sup>6</sup> This includes \$4.019 billion in Vote Tertiary Education and a further \$1.344 billion across Vote Social Development and Vote Revenue. [Vote Tertiary Education - Vol 2 Education Sector - The Estimates of Appropriations 2022/23 - Budget 2022 \(treasury.govt.nz\)](#).

<sup>7</sup> Refer to footnote 4.

<sup>8</sup> See section 305 of the Education and Training Act 2020.

<sup>9</sup> This is sometimes referred to as the Crown's "ownership interest." The Ministry acknowledges that this interest, as applied to the Wānanga, is contested by the Wānanga in the context of the Māori-Crown partnership.

- 6) The E&T Act sets out provisions for the administration of TEIs as Crown Entities. These include the provisions in Subpart 3 of Part 4, Subpart 1 of Part 5, Subparts 2 and 4 of Part 6, and Schedule 11 of the E&T Act that apply to Wānanga.<sup>10</sup>

### ***Wānanga have a unique role and contribution in the tertiary education system***

- 7) The three existing Wānanga (Te Wānanga o Raukawa, Te Wānanga o Aotearoa, and Te Whare Wānanga o Awanuiārangi) were founded as iwi-based and iwi-led institutions, emerging as an iwi response to poor educational outcomes for Māori in mainstream education. Prior to becoming TEIs (and therefore Crown Entities) in the 1990s, the Wānanga were initially established as PTEs. In the absence of other options, Wānanga fought to be recognised as TEIs to achieve their strategic goals for Māori, formalise their status alongside universities and polytechnics, grow as organisations, and gain greater access to Government funding. The administrative and accountability settings that currently apply to Wānanga as Crown Entities have not been substantially updated for more than 30 years.
- 8) As stated by the Waitangi Tribunal, the relationship between Wānanga as a system of delivery, te reo Māori, and mātauranga Māori is 'inextricable.'<sup>11</sup> Under the E&T Act, a Wānanga is characterised by teaching and research that maintains, advances, and disseminates knowledge and develops intellectual independence, and assists the application of knowledge regarding āhuetanga Māori (Māori tradition) according to tikanga Māori (Māori custom). Wānanga are distinguished by their 'by Māori, for Māori' educational provision and their focus on Māori as members of whānau, hapū and iwi. Wānanga have a strong focus on Māori learner success and are an integral part of the broader Māori Medium and Kaupapa Māori Education pipeline. They therefore have important differences to other TEIs, not just in what they teach, but in how they teach.<sup>12</sup>

### **What if the counterfactual was retained?**

- 9) If the counterfactual was retained, Wānanga would continue to be Crown Entity TEIs that are solely accountable to the Crown. Existing arrangements for Wānanga (including relating to funding, quality assurance, and learner wellbeing and safety) would continue to apply. Wānanga would continue to not have the option to partner with the Crown to develop the administrative and accountability settings that apply to them as TEIs. This would continue to constrain the ability of the Wānanga to exercise their rangatiratanga (and the expressions of the tino rangatiratanga of their founding iwi and hapū), and to flourish as Wānanga.

---

10 These provisions relate to:

- the establishment and disestablishment of Wānanga, including the characteristics of a Wānanga
- Wānanga councils, including composition, the appointment process, the detailed arrangements that support the governance of institutions, the functions and duties of councils, and the powers of institutions and councils
- institutions at risk, and monitoring and interventions
- auditing, financial accountability, reporting, and transparency requirements and the application of the Crown Entities Act 2004, and
- academic freedom and institutional autonomy.

11 Waitangi Tribunal, The Wānanga Capital Establishment Report, p. 54.

12 As of 2021, the majority of Wānanga learners are Māori (54% of enrolments), and 18,655 Māori learners (approximately 25% of all Māori learners in tertiary education) are enrolled at a Wānanga. Further information about the unique role and contribution of Wānanga in the tertiary education system and broader Māori Medium and Kaupapa Māori education pipeline is available at: [Social and cultural outcomes for Wānanga students | Education Counts](#) and [Wānanga Ringahora: The economic contribution of the Wānanga sector | Te Taihuhu o Ngā Wānanga](#).

- 10) Retaining the counterfactual would continue to compromise the Crown’s kāwanatanga responsibilities relating to Wānanga, their learners, and the protection of te reo Māori, mātauranga Māori, and the Wānanga system of learning. This would have significant negative ramifications on the Crown’s ability to enact its responsibilities under Te Tiriti o Waitangi / The Treaty of Waitangi, including:
  - a) protecting, normalising, and increasing the transmission of te reo and mātauranga Māori, and
  - b) working to ensure the wellbeing and success of Māori learners, communities, hapū and iwi over the long-term, given the well-established links between language, identity, and culture for the success of Māori as Māori.
- 11) However, the Wānanga have proved to be resilient and adaptable, working as PTEs and then Crown Entity TEIs to achieve success for Māori learners, staff, communities, hapū, and iwi. This includes in their provision of, and delivery through, te reo and mātauranga Māori. If the counterfactual was retained, we expect that Wānanga would continue to work towards and achieve positive outcomes by Māori, for Māori. However, this would occur because of the efforts of the Wānanga – these successes would arguably be *despite* the constraints of the current administrative and accountability settings for Wānanga, and not because of them.
- 12) The relationship between the Wānanga and the Crown has historically been very strained but has recently improved as the Wānanga and the Crown have worked together to develop proposals that seek to ‘rebalance and reset’ the Wānanga-Crown relationship. Given the time, effort, and expertise that the Wānanga have already contributed to developing these proposals with the Crown, retaining the counterfactual risks significant harm to the Crown’s relationship with the Wānanga – both as individual Wānanga and as a collective. A relationship breakdown would have significant negative impacts on the Crown’s ability to engage with Wānanga as Crown Entity TEIs, including on monitoring and interventions to prevent TEIs from failure.
- 13) Retaining the counterfactual also risks future Waitangi Tribunal claims lodged by the Wānanga against the Crown (although it is possible that such Tribunal claims could occur even if the counterfactual was not retained). These, in turn, would have significant negative impacts, both fiscally and for the Māori-Crown relationship more broadly.

## **Related decisions and work-programmes**

### ***Timeline of this work***

- 14) The proposals in this Regulatory Impact Statement have been developed together with the three Wānanga over a period of years. In August 2019, joint Education Ministers agreed that officials should work with the Wānanga to improve policy settings for Wānanga holistically, rather than continuing to take a reactive, issues-based approach as has often been the case, such as in response to Waitangi Tribunal claims.
- 15) In June 2020, the Ministry of Education and the Wānanga formalised a joint work-programme to explore opportunities to address the Wānanga sector’s long-standing concerns. In June 2021, Cabinet signalled that it was open to taking a differentiated approach to Wānanga to better meet their needs and aspirations, noting also that joint Education Ministers intended to explore options for legislative change allowing Te Wānanga o Raukawa to establish itself as an independent entity [SWC-20-MIN-0096 refers].
- 16) Since then, the Ministry of Education has been working with the Wānanga on three related issues: legislation, funding, and quality assurance. This Regulatory Impact Statement deals with legislative issues only, including the legislative status of

Wānanga, their governance arrangements, and the Māori-Crown relationship. Separate work continues on funding and quality assurance.

- 17) In September 2022, Cabinet agreed to the Ministry of Education undertaking six weeks of public consultation on the legislative proposals; and on the related proposal for Te Wānanga o Raukawa to reconstitute itself under the proposed new framework. Te Wānanga o Raukawa's proposal would enable it greater agency and autonomy, while maintaining a continued relationship with the Crown over shared interests [CAB-22-MIN-0388.01 refers].
- 18) This consultation ran from 19 September to 28 October 2022. Wānanga were active partners in the consultation, organising hui, presenting alongside the Ministry of Education team, and conducting surveys of their communities.

### ***Māori Medium Education / Kaupapa Māori Education (MME/KME) work programme***

- 19) In September 2021, Cabinet also agreed that the Ministry develop a work programme to grow Māori Medium education and Kaupapa Māori education (MME/KME), in conjunction with a Cabinet-appointed Māori Medium Education Oversight Group (Te Pae Roa) [CAB-21-MIN-0395 and APH-21-MIN-0287 refer]. The Ministry and Te Pae Roa have been developing options for a new system-wide framework, with the goal of increasing the numbers of Māori learners in MME/KME early learning and schooling to 30% of Māori learners by 2040, and growing pathways in tertiary education (including in Wānanga and other tertiary education organisations, such as Māori PTEs).
- 20) There are clear links with the Wānanga work, but work with the Wānanga is further progressed and is based on the specific history and operating context of the Wānanga. We will continue to work with Wānanga to ensure ongoing alignment with strategies to grow MME/KME across the broader education sector.

### ***Related Government work programmes***

- 21) These proposals:
  - a) support the implementation of the *Tertiary Education Strategy* (in particular, priority 8 – enhancing the contribution of research and mātauranga Māori in addressing local and global challenges)
  - b) contribute to a Government action under *Ka Hikitia – Ka Hāpaitia* (in particular, the outcome domain of Te Rangatiratanga – Māori exercising their authority and agency in education)
  - c) align with discussion presented in *Manu Kōkiri – Māori Success and Tertiary Education: Towards a Comprehensive Vision* (in particular, discussion around individual and collective mana, health and wellbeing, the role of iwi/Māori and mātauranga Māori in tertiary education, and Te Tiriti o Waitangi / The Treaty of Waitangi), and
  - d) will also support the *Maihi Karauna* and the *Maihi Māori* and the status of te reo Māori as an official language.

## **What is the policy problem or opportunity?**

### **The nature of the problem**

- 22) The Ministry of Education and the Wānanga agree that the current administrative and accountability settings that apply to Wānanga as Crown Entities do not reflect the unique role that Wānanga play in the education system; the rangatiratanga and mana of Wānanga under Te Tiriti / The Treaty; or that the Wānanga system of learning,

including their critical role in protecting and revitalising te reo and mātauranga Māori, is a taonga.

- 23) Becoming TEIs (and therefore Crown Entities) has meant that the Wānanga had to fit into an education system that is led and directed by the Crown, and have not had the opportunity to shape the administrative and accountability settings that apply to them. For Wānanga, the constraints of this system have held back their evolution as Māori institutions and constricted their ability to flourish as Wānanga. The Wānanga have had less autonomy and ability to regulate their own affairs and best meet the needs of their founding iwi, staff, learners, and communities.
- 24) This has harmed the relationship between the Wānanga and the Crown, and to an extent, the associated hapū and iwi relationships with the Crown as well. Evidence of this includes ongoing poor relationships between each Wānanga and the Crown, which at low points has resulted in Waitangi Tribunal claims, including WAI 718 (lodged by the Chief Executives of the three Wānanga in 1998), WAI 1298 (lodged on behalf of the Aotearoa Institute Trust Board, representing Te Wānanga o Aotearoa, in 2005), WAI 2258 (lodged by the Chief Executives of the three Wānanga in 2009), and WAI 2698 (lodged by Te Wānanga o Raukawa in 2017).
- 25) Constraints on the Wānanga sector's ability to flourish and the resulting poor Wānanga-Crown relationship has, in turn, compromised the Crown's kāwanatanga responsibilities towards Māori learners and active protection of Wānanga as a system of delivery.

### **Disproportionate impacts on Māori**

- 26) There are diverse views, needs, and aspirations among Māori, and the impacts of current administrative and accountability settings for Wānanga on Māori (and their interests in the current arrangements) will vary. However, issues resulting from the current administrative and accountability settings for Wānanga have disproportionately impacted the Māori Tiriti / Treaty partner – especially the three existing Wānanga, and their respective founding and supporting iwi, hapū, communities, staff, and learners (paragraphs 28-38 include more detail about these impacts).
- 27) Current administrative and accountability settings also impact iwi, hapū, and existing Māori tertiary education organisations (such as PTEs) who may want to establish Wānanga, or transition to become Wānanga, in the future. It is difficult to quantify how many iwi/hapū or Māori organisations would establish new Wānanga or become Wānanga in the future, if that option was available to them. There are currently thirteen PTEs that offer MME/KME provision ('Māori PTEs'). During consultation, we received written submissions from one iwi and three Māori PTEs aligned with iwi, all of whom expressed aspirations to establish or become Wānanga in the future.

**There is an opportunity for administrative and accountability settings for Wānanga to:**

***(a) be designed with Tiriti/Treaty partners together, in a way that recognises the individual mana of Wānanga ...***

- 28) In contrast to other Crown Entity TEIs, each Wānanga has a relationship to the Crown as a Crown Entity, and also as an expression of iwi or Māori rangatiratanga under Te Tiriti o Waitangi / The Treaty of Waitangi. This partnership means that the Crown must recognise the rangatiratanga of each Wānanga, and this may involve enabling each Wānanga to operate under different administrative and accountability settings. The inability of the Wānanga to be involved in co-developing the administrative and accountability settings that apply to them is not aligned with contemporary understandings of the application of the Tiriti / Treaty principle of partnership in policy development.

- 29) During consultation, a clear majority of submitters said that current administrative and accountability settings for Wānanga do not reflect the significance of the Tiriti / Treaty relationship between the Crown and the Wānanga. A majority of submitters also agreed that the proposed changes would strengthen the relationship between the Crown and Māori (via the Wānanga and their respective iwi, hapū, and communities).
- 30) There is an opportunity for changes to be made to the current legislative framework for Wānanga, together with Wānanga, in a way that responds to their individual needs and aspirations and provides each Wānanga with more flexibility and autonomy to better reflect and enable a partnership approach to education. This step would support a flourishing Wānanga sector and set strong foundations for the future relationship between the Wānanga (both as individual Wānanga and collectively) and the Crown.
- 31) This will create the right environment for the Wānanga to deliver better outcomes for their learners, staff, communities, hapū, iwi, and Māori. A strong flourishing Wānanga sector has benefits for both sides of the Māori-Crown relationship. A flourishing Wānanga sector provides 'by and for Māori' education that supports outcomes that go beyond individual learner success to enhancing language, culture, and communities.

***(b) better reflect the rangatiratanga of each Wānanga as expressed in Te Tiriti/The Treaty***

- 32) The E&T Act establishes a system of accountability for Wānanga, as Crown Entities, to the Crown only. Only the Crown can establish and disestablish Wānanga under the E&T Act, and Wānanga are accountable to the Crown for both financial and educational performance. All three Wānanga have advised us that, in their view, the lack of choice regarding accountability settings for Wānanga is inconsistent with the principle of rangatiratanga. This lack of choice is misaligned with the role of Wānanga, both as expressions of the tino rangatiratanga of their respective founding iwi, and as organisations with rangatiratanga themselves.
- 33) This is a theme that was reiterated strongly during the consultation: almost all submitters considered that the lack of choice regarding current accountability settings for Wānanga undermines the rangatiratanga of each Wānanga and their respective founding iwi. A majority of submitters agreed that changing the accountability settings for Wānanga in legislation, to provide the Wānanga with greater options, would more appropriately recognise and reflect the rangatiratanga of each Wānanga.
- 34) There is, therefore, an opportunity for accountability settings to better reflect the rangatiratanga of Wānanga by enabling Wānanga to choose whether to be accountable to the Crown or to their own founding iwi, within a broader enabling framework. Greater choice of options regarding accountability settings would not change the role of Wānanga as public education providers that constitute a fundamental part of the tertiary education system. Significant existing accountability settings would continue to apply to Wānanga in whichever pathway is chosen, including, for example, relating to educational performance, learner wellbeing, use of public money, financial management, transparency, and the conduct of public entities.

***(c) better reflect the unique role, and collective mana, of Wānanga in te ao Māori and the MME/KME pipeline***

- 35) Current administrative and accountability settings (including relating to both the characteristics and governance of TEIs) are based on the traditional university model, rather than on the role and functions of other forms of TEI, including Wānanga.
- 36) *Characteristics of TEIs:* For example, non-university TEIs are currently required to have only one of the five characteristics of a TEI set out in the E&T Act, while universities

must meet all five characteristics.<sup>13</sup> This can be seen to imply that Wānanga are lesser institutions, with lower standards for entry than universities. These administrative settings do not reflect the unique role and mana of Wānanga as kaitiaki of MME/KME provision in the tertiary sector (including their provision of and through te reo and mātauranga Māori, and their shared emphasis on Māori learner success) and the importance of te reo and mātauranga Māori as taonga under Te Tiriti o Waitangi / The Treaty of Waitangi.

- 37) *Governance of TEIs:* For example, the E&T Act prescribes numbers of members that a TEI’s council may have, the basis for their appointment, and term limits for council members.<sup>14</sup> These settings do not recognise the role that others, including founding iwi or other Māori, may play in the governance of a Wānanga, or the enduring kaitiaki responsibilities, within a te ao Māori perspective, that some council members may have in relation to a Wānanga. Collectively, these settings constrain the ability of Wānanga to regulate their own affairs, respond to iwi and Māori objectives, and/or to factor in te ao Māori interests in Wānanga performance and strategic direction.
- 38) These issues were emphasised by a majority of submitters during the consultation, who highlighted the differences between Wānanga and other TEIs (including in their ‘by and for Māori’ provision and te ao Māori worldview), and the importance of the Wānanga collectively within the broader MME/KME pipeline. Te Matakāhuki<sup>15</sup> and Te Kāhui Amokura<sup>16</sup> expressed support for changing the administrative and accountability settings for Wānanga, noting that Wānanga contribute significantly to the revitalisation, generation, transmission, and normalisation of te reo and mātauranga Māori, and this role and contribution is not appropriately recognised by the current administrative and accountability settings.

### Key stakeholders and the nature of their interest

- 39) The following table sets out the key stakeholders that the Ministry considers to have an interest in these proposals, including the nature of their interest. The table draws on evidence from consultation on these proposals, as well as earlier consultation on the Reform of Vocational Education (RoVE) more generally. Detailed discussion of the views raised by stakeholders during consultation is included in **Annex 1**.

Stakeholders	Nature of interest
<b>Iwi, hapū, and Māori organisations not connected to an existing Wānanga</b>	<p>Broader interests in the:</p> <ul style="list-style-type: none"> <li>• exercise of rangatiratanga and the Crown’s recognition of rangatiratanga</li> <li>• protection, normalisation, and revitalisation of te reo and mātauranga Māori as taonga</li> <li>• wellbeing and success of Māori as Māori</li> <li>• strengthening of the Māori-Crown partnership</li> </ul> <p>... as enshrined in Te Tiriti o Waitangi / The Treaty of Waitangi.</p>
<b>Iwi, hapū, and Māori organisations connected to any or all of the existing Wānanga</b>	<p><b><i>In addition to the interests for iwi, hapū and Māori organisations not connected to existing Wānanga:</i></b></p> <p>Strong interest in the success and continuation of Wānanga, including the Wānanga system of delivery, provision of and through te reo and mātauranga Māori, and focus on Māori learner success.</p>

13 See Section 268(2)(d) of Subpart 3 of Part 4 of the Education and Training Act 2020.

14 See Sections 275 to 279 of Subpart 3 of Part 4, and Schedule 11, of the Education and Training Act 2020.

15 Te Matakāhuki is the umbrella organisation representing Te Kōhanga Reo National Trust, Te Rūnanga Nui o Ngā Kura Kaupapa Māori o Aotearoa, Ngā Kura ā Iwi o Aotearoa, and Te Tauihu o Ngā Wānanga.

16 Te Kāhui Amokura is a sub-committee of Universities New Zealand (UNZ) comprised of the Māori Deputy Vice-Chancellor, Assistant Vice-Chancellor, or Pro-Vice Chancellor from each of the eight New Zealand universities.

	Strong interest in the wellbeing and success of Māori individuals and communities associated with the Wānanga and their respective iwi, hapū and Māori organisations.
<b>Existing Wānanga</b>	<p><b><i>In addition to the interests for iwi, hapū and Māori organisations both connected and not connected to existing Wānanga:</i></b></p> <p>The three Wānanga are core partners and stakeholders with strong interests in addressing their long-standing issues relating to the current administrative and accountability settings for Wānanga as Crown Entities, as detailed in this Regulatory Impact Statement.</p> <p>Interests are both as individual Wānanga (with individual needs and aspirations) and as a collective (via their Peak Body, Te Tauihu o Ngā Wānanga).</p>
<b>Tertiary education organisations with MME/KME provision (including Māori PTEs)</b>	<p>Interest in MME/KME provision in the tertiary education sector.</p> <p>Actual or potential aspirations to become Wānanga in the future (which will vary across organisations depending on their specific contexts, needs, and aspirations).</p>
<b>Other MME/KME organisations, including MME/KME Peak Bodies such as Te Matakāhuki</b>	<p>Strong interest in the protection, normalisation, and revitalisation of te reo and mātauranga Māori as taonga.</p> <p>Broader interests in MME/KME provision and the continuation of an MME/KME pipeline across the education sector.</p>
<b>Other tertiary education organisations and Crown Entities</b>	<p>Interest in connections across the tertiary education sector, including:</p> <ul style="list-style-type: none"> <li>• pathways and staircasing for learners</li> <li>• parity of esteem between tertiary education organisations</li> <li>• maintaining the value and quality of tertiary qualifications for New Zealand's education sector.</li> </ul>
<b>Other education providers (especially secondary schools)</b>	<p>Interest in secondary/tertiary transitions and partnerships.</p> <p>Interest in the supply of learners to Wānanga.</p> <p>Users/benefiters of tertiary education providers, including Wānanga, that educate future teachers.</p>
<b>Learners and their whānau, families, and parents</b>	<p>Interest in freedom of choice about where and how learners can undertake tertiary study, including the availability of MME/KME pathways across the education system.</p> <p>Interest in quality of education and strength/value of qualifications.</p> <p><b><i>And for Māori learners and their whānau, families, and parents, in addition to the above:</i></b> Broader interests as members of iwi, hapū, and/or Māori organisations.</p>
<b>Wānanga kaimahi (staff, employees)</b>	<p>Interest in job security and satisfaction within the Wānanga system of delivery.</p> <p><b><i>And for Māori staff/employees, in addition to the above:</i></b> Broader interests as members of iwi, hapū, and/or Māori organisations.</p>
<b>Industry and employers, including Māori economy</b>	<p>Interest in the value and relevance of industry qualifications and work-integrated training (including that offered by the Wānanga), and in the MME/KME pathways to achieving them.</p>



<p><b>Government agencies</b></p>	<p><b>NZQA, as quality assessor:</b> interest in maintaining the value and quality of tertiary qualifications for New Zealand's education sector (including ensuring qualifications can be internationally recognised).</p> <p><b>TEC:</b> interest in the funding and operations of Wānanga within the tertiary education sector. Monitors the performance of tertiary education organisations that receive TEC funding and provides publically available careers guidance to learners.</p> <p><b>Other agencies, including the Treasury, Public Service Commission, and Te Arawhiti – Office for Māori-Crown Relations:</b> broader interests in a functioning tertiary education sector and Māori-Crown partnership, including with respect to specific provisions and clauses in legislation.</p>
-----------------------------------	---

### What objectives are sought in relation to the policy problem?

- 40) The overall objective in relation to the policy problem is to find a new approach to balancing kāwanatanga and rangatiratanga within the administrative and accountability settings for Wānanga (as discussed in depth above). We consider that the objectives that we consulted on remain fit for purpose to seek a better balance between kāwanatanga and rangatiratanga.
- 41) The objectives are to create administrative and accountability settings for Wānanga that:
- a) are consistent with Te Tiriti o Waitangi / The Treaty of Waitangi – in particular, that they:
    - recognise the mana of the Wānanga and reflect the partnership relationship they have with the Crown (Ministry of Education regulatory stewardship principle: Te Tiriti o Waitangi / The Treaty of Waitangi)
    - enable flexibility to reflect the unique purpose, role, and functions of individual Wānanga in the tertiary education system (Ministry of Education regulatory stewardship principles: efficiency; durable and resilient)
  - b) maintain confidence in the tertiary education system as a whole (Ministry of Education regulatory stewardship principles: learner/ākonga focus; effectiveness; fairness and accountability; risk management).
- 42) The objectives sought align with the Ministry of Education's regulatory stewardship principles, and especially the principle related to Te Tiriti / The Treaty: regulatory systems support an effective Tiriti / Treaty partnership, provide active protection of taonga, and enable Māori to exercise their authority and agency in education. As this work entails a predominantly administrative shift, the other regulatory stewardship principles are not significantly impacted, although we have indicated the most relevant regulatory stewardship principles alongside each objective above.
- 43) We consider that achieving these objectives will support a flourishing Wānanga sector with flow-on benefits for educational success outcomes (especially for Māori learners), and the provision, development, and transmission of te reo and mātauranga Māori, as well as setting strong foundations for the future relationship between the Wānanga and the Crown.
- 44) A Tiriti / Treaty-based relationship between the Wānanga and the Crown, enshrined in legislation, would also provide a foundation upon which other areas of shared interest to the Wānanga (and their communities) and the Crown can be advanced to give expression to Te Tiriti / The Treaty. For instance, through changes to funding mechanisms and quality assurance in accompanying workstreams.

## Section 2: Deciding upon an option to address the policy problem

### What criteria will be used to compare options to the status quo?

- 45) The following criteria were developed in partnership with the Wānanga to assess the options against the policy objectives. These criteria were also utilised in consultation. They relate to the core Tiriti / Treaty concepts of kāwanatanga and rangatiratanga that are central to the objectives sought in relation to the policy problem. The criteria seek to articulate the concept of balance between Crown and Māori, and to draw out the aspects of the tertiary system that inspire confidence:
- a) Criterion 1: Recognises the unique public roles and functions that each Wānanga undertakes and fulfils for their learners, whānau, communities and founding iwi, and in the tertiary education system
  - b) Criterion 2: Facilitates recognition of the mana of the Wānanga, collectively and individually
  - c) Criterion 3: Facilitates an appropriate sharing of accountability for Wānanga, reflecting the Māori-Crown relationship
  - d) Criterion 4: Facilitates certainty and minimises transition risks in the tertiary education system
- 46) The criteria reflect the Crown's understanding of its obligations under Te Tiriti o Waitangi / The Treaty of Waitangi in this context, and draw out different aspects of consistency with Te Tiriti / The Treaty that the Wānanga have identified as lacking within the current legislative settings (criteria a, b, and c).
- 47) They also reflect the Crown's role as steward of the tertiary education system (criteria c and d). While criteria a, b and c together address the key concerns Wānanga have raised over the years, criterion d relates to the ongoing kāwanatanga responsibility for the tertiary system as a whole. It also relates to addressing the concerns of the Wānanga in a timely way for greater system stability, in a way that draws on established and tested components of the tertiary system. The specifics of implementing the preferred option are discussed in section 3.
- 48) We have weighted the four criteria equally and consider a viable option must meet all four of the criteria. A viable option needs to recognise the rangatiratanga and mana of the Wānanga, and enable the Crown to appropriately and responsibly carry out its stewardship of the education system (of which the Wānanga sector is an integral part).

### What scope will options be considered within?

- 49) The options for legislative change consulted on were developed in response to longstanding and consistent Wānanga concerns that current legislation does not adequately reflect and provide for the unique role that Wānanga play in the education system, or for the rangatiratanga and mana of Wānanga under Te Tiriti / The Treaty. The options were developed in a Tiriti / Treaty partnership approach with Wānanga to address their long-standing concerns.
- 50) This Regulatory Impact Statement considers two options following consultation: the counterfactual (Option 1), and an enabling Wānanga sector framework (Option 2), described below. Option 2 is an enabling framework, which allows each wānanga to choose from multiple pathways, including a path of deferring significant change for each existing wānanga until they are ready.

- 51) Wānanga consider, and the Ministry agrees, that current legislation creates a relationship (in terms of governance, accountability, and administrative settings) that is too far weighted to kāwanatanga and consequently does not accurately reflect the work iwi/Māori have done to establish and support Wānanga or provide the right balance of accountability to iwi/Māori, particularly founding iwi.
- 52) Working in partnership and good faith to find a balance between kāwanatanga and rangatiratanga in legislation represents a significant turning point in the relationship between the Crown and Wānanga.

### Option 1 – Counterfactual

- 53) Under the counterfactual, the existing administrative and accountability settings for TEIs in the E&T Act would continue to apply to Wānanga. Wānanga would remain accountable to the Crown.
- 54) This option is already in place and requires no legislative change. On the surface, this could appear to promise more stability within the tertiary education system, in line with criterion 4: Facilitates certainty and minimises transition risks in the tertiary education system.
- 55) Option 1 preserves the expression of the Crown’s ‘ownership interest’ through the current administrative and accountability settings for TEIs, which set a tripartite relationship between responsible Ministers, the TEIs’ governing body (which is a council) and monitoring agencies. Ministers have a key role in overseeing and managing Crown interest in TEIs, for example through their role in council appointments, setting direction and funding levels, and monitoring entity performance. The Ministers’ monitoring agency, the TEC, provides Ministers with information, analysis and advice about the effectiveness, efficiency, and educational and financial performance of TEIs.<sup>17</sup>
- 56) Under Option 1, Wānanga would remain subject to administrative and accountability settings that constrain their choices, do not adequately reflect and provide for their unique role in the education system, and do not recognise the rangatiratanga and mana of Wānanga under Te Tiriti / The Treaty. Option 1 does not meet criteria 1, 2 or 3:
  - a) recognises the unique public roles and functions that each Wānanga undertakes and fulfils for their learners, whānau, communities and founding iwi, and in the tertiary education system
  - b) facilitates recognition of the mana of the Wānanga, collectively and individually
  - c) facilitates an appropriate sharing of accountability for Wānanga, reflecting the Māori-Crown relationship.
- 57) The lack of choice for Wānanga relating to these settings has already harmed the relationship between Wānanga and the Crown, resulting in past Waitangi Tribunal claims.<sup>18</sup>
- 58) If Wānanga continue to have no choice about the administrative and accountability settings that apply to them as Crown Entity TEIs, there is a high likelihood that the goodwill engendered through the good faith development of legislative options will be

---

<sup>17</sup> This does not mean the administrative and accountability settings only apply in Option 1. Through Option 2, these settings either continue as they are (for example, the TEC’s monitoring function and Ministers setting direction and funding levels) or responsibility may be moved to the founding iwi, hapū or other Māori organisation through Order in Council (OIC) (for example, council appointments).

<sup>18</sup> Refer to paragraphs 22 to 25.

lost. This is likely to contribute to a further deterioration of the Wānanga-Crown relationship (and broader Māori-Crown partnership) over time.<sup>19</sup>

- 59) The Ministry considers that overall Option 1 would:
- a) be detrimental to the Māori-Crown partnership
  - b) carry significant reputational and legal risk to the Crown through failure to reasonably address the recommendations resulting from Waitangi Tribunal claims, and consequent failure to meet the Crown's obligations under Te Tiriti o Waitangi / The Treaty of Waitangi (including obligations to support te reo and mātauranga Māori across the education system)
  - c) fail to support the full potential of the Wānanga sector and the MME/KME pipeline, risking unintended consequences within the tertiary education system.

## **Option 2 – Establishing an enabling Wānanga sector framework**

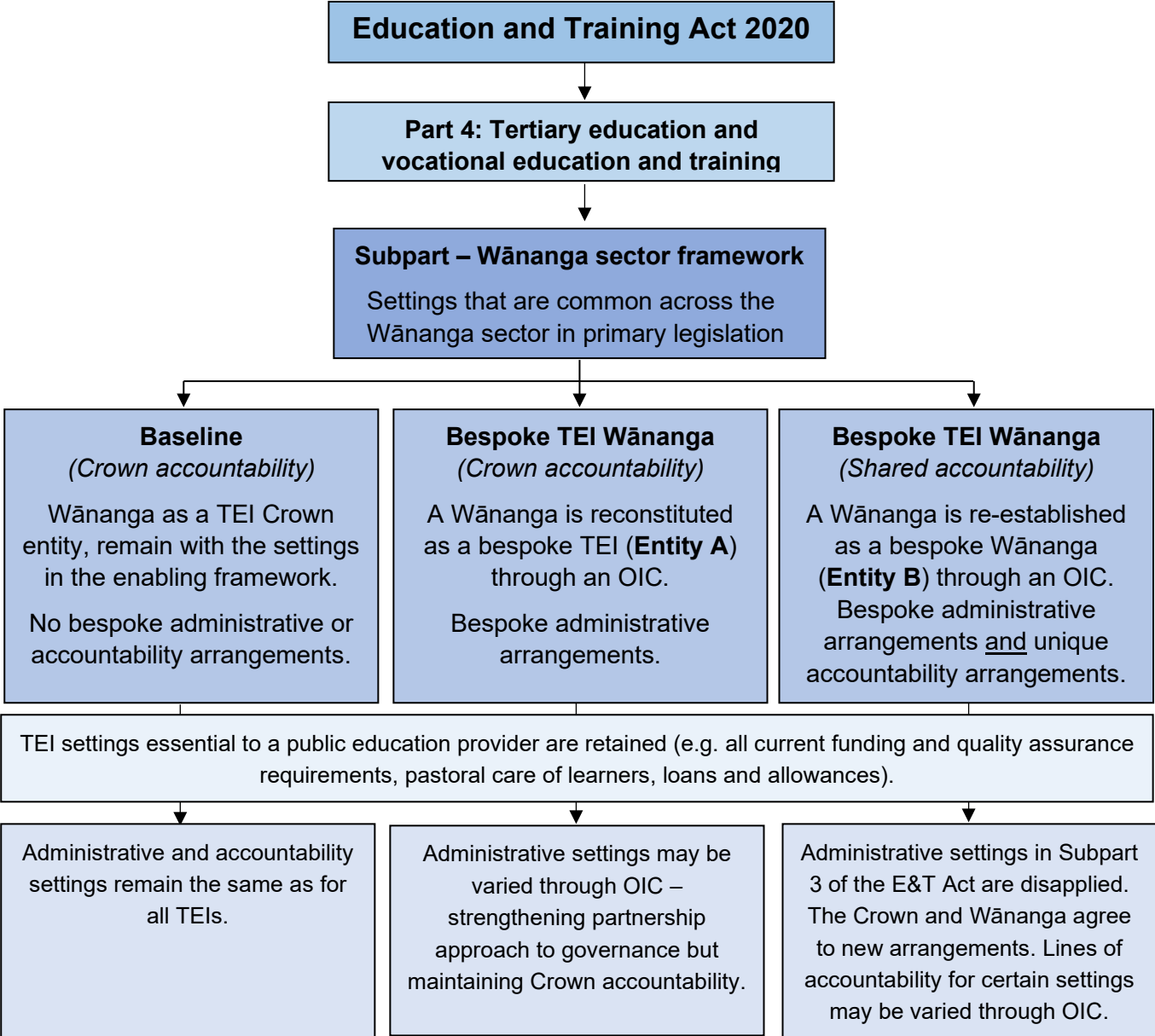
### **Overview**

- 60) The Ministry has co-designed Option 2 with the three Wānanga to address their long-standing concerns arising from the lack of choice in current accountability and administrative settings in primary legislation, and to provide an enabling framework that more appropriately recognises and describes the Wānanga, and provides for individual expression of rangatiratanga, and the needs and aspirations of each Wānanga.
- 61) Within Option 2, Wānanga will have shared administrative settings and can choose one of two opt-in pathways through Order in Council (OIC): Entity A or Entity B (which are discussed further below). Wānanga can also choose not to pursue change through OIC, or to wait until they are ready. Until an OIC process is completed, the baseline settings in the enabling framework will apply to Wānanga, and these do not entail any changes to administrative or accountability settings. All of these pathways (Entity A / Entity B / no change) are choices within Option 2.
- 62) These choices provide the Wānanga with flexibility, and therefore are a crucial starting point to the individual expression of rangatiratanga and aspirations by each of the Wānanga. They offer each Wānanga a range along which to find a point of balance between kāwanatanga and rangatiratanga that fits with their identity and aspirations: from the current settings where accountability is to the Crown (with a more partnership-based approach to administrative settings agreed through OIC), to the Entity B pathway where accountability is shared between the Crown and iwi, hapū or other Māori organisations (with specific lines of accountability agreed through OIC).
- 63) The diagram below shows how the Wānanga sector framework fits within the E&T Act and the choices available within it.

---

<sup>19</sup> Refer to paragraphs 12 to 13.

Diagram 1: Wānanga sector framework in the Education and Training Act



- 64) The enabling Wānanga sector framework would set out administrative settings in the E&T Act that would be common to all Wānanga, articulating the following in legislation:
- a) key characteristics of Wānanga (apply to all Wānanga)
  - b) processes for the establishment and disestablishment of a Wānanga (apply to all Wānanga)
  - c) process to become a bespoke TEI Wānanga (Crown accountability) through the Entity A pathway
  - d) process to become a bespoke TEI Wānanga (Shared accountability) through the Entity B pathway
  - e) Te Tiriti o Waitangi / The Treaty of Waitangi purpose statement
  - f) Statement of funding decisions by the TEC.

### ***Key characteristics of Wānanga***

- 65) The framework will articulate the key characteristics that define Wānanga collectively as unique among TEIs and within the wider tertiary system, consistent with Te Tiriti / The Treaty. These characteristics are designed to articulate the role of Wānanga at the same level of detail as the existing characteristics of TEIs (of which Wānanga must currently only meet one out of five characteristics), encouraging parity of esteem between Wānanga and other TEIs. The current legislative description of Wānanga in clause 268 of the E&T Act is very brief compared to universities and we consider that it is no longer fit for purpose to define Wānanga.
- 66) The Wānanga and the Ministry propose that the characteristics of Wānanga should acknowledge the following aspects:
- a) Iwi are instrumental in their establishment;
  - b) They are concerned with a wide diversity of teaching and rangahau [scholarship or research] that maintains, advances, and disseminates knowledge and develops intellectual independence, and assists the application of knowledge regarding Mātauranga Māori and āhuatanga Māori according to tikanga;
  - c) Within the tertiary education sector, they are kaitiaki of Mātauranga Māori, Te Reo Māori, and Tikanga;
  - d) While advancing the intellectual life of the community they also have a role in the promotion and maintenance of social, spiritual, cultural, political and economic well-being in the community;
  - e) At all levels of governance and operations their models of practice are consistent with tikanga and Mātauranga Māori;
  - f) They accept a role as a critic and conscience of society from a Mātauranga Māori, Te Reo Māori and Tikanga perspective;
  - g) Their scholarship and teaching are closely interdependent, aimed at higher learning, and teaching is undertaken by people who are active in advancing Mātauranga Māori and other knowledge systems;
  - h) They position themselves within the networks of indigenous tertiary institutions across the world and contribute to the setting of international indigenous standards of scholarship and teaching.

### ***Processes for the establishment and disestablishment of a Wānanga***

- 67) Primary legislation will articulate processes for establishment and disestablishment of a Wānanga that reflect a partnership approach and are consistent with the mana of Wānanga collectively and individually.
- 68) The decision to establish a Wānanga remains at the discretion of the Minister of Education. The Minister would be required to seek advice from Te Tauihu o Ngā Wānanga<sup>20</sup> on whether the proposed Wānanga meets the characteristics of a Wānanga and take that advice into account. We consider Te Tauihu o Ngā Wānanga has a breadth of experience and insight that will be invaluable in supporting the Minister's decision. However, while the Minister must 'give special regard' to the advice

---

<sup>20</sup> Te Tauihu o Ngā Wānanga is the Peak Body for the Wānanga sector and an incorporated society and registered charity.

of Te Taihū o Ngā Wānanga, the Minister has the final say in whether or not to establish a new Wānanga.

- 69) Although disestablishment is an unlikely event, the Wānanga framework includes it so that it would be carried out with recognition of the balance sought in the framework between kāwanatanga and rangatiratanga. Under the current disestablishment provisions for TEIs, the decision to disestablish is made by the Governor-General at the recommendation of the Minister,<sup>21</sup> and all the assets of a disestablished TEI are vested back into the Crown. To better recognise the role of iwi in establishing Wānanga, their investments, or assets Wānanga have gained through Tiriti/Treaty settlements, the Minister would consult with the iwi and hapū that were instrumental in the establishment of the Wānanga.
- a) For an Entity A Wānanga, the Minister would take the views of the iwi, hapū or Māori organisation into account, as primary accountability sits with the Crown. All the assets of a disestablished Entity A Wānanga would be vested back into the Crown, unless otherwise mutually agreed. For example, special consideration will need to be given to the treatment of assets where they are the result of a Tiriti/Treaty settlement.
- b) For an Entity B Wānanga, the views of the iwi, hapū, or Māori organisation that has accepted primary accountability as part of the re-establishment process would be instrumental in the decision to disestablish. In principle, the entity holding the primary accountability for the Wānanga would be responsible for assets and liabilities. Upon disestablishment, any remaining assets would be redistributed for a public or charitable Māori tertiary education purpose and would not be accessible for any private pecuniary benefit.

### ***Te Tiriti o Waitangi / The Treaty of Waitangi purpose statement***

- 70) The Wānanga framework would include a purpose statement that would describe the express policy objective of giving effect to the principles of Te Tiriti o Waitangi / The Treaty of Waitangi and supporting Māori-Crown relationships, by enabling Wānanga to be established and administered in a way that recognises the interests of iwi and Māori. This would clearly signpost the significance of the enabling framework in the context of Te Tiriti / The Treaty.
- 71) There would be a corresponding reference in section 9 to the Wānanga sector framework provisions as one of the measures in the E&T Act that recognises and respects the Crown's responsibility to give effect to Te Tiriti / The Treaty. This is intended to ensure that Te Tiriti / The Treaty provisions in the E&T Act are clear and consistent.
- 72) The Wānanga framework would also provide for a preamble in each OIC to describe the contextual background to the establishment of the Wānanga and any appropriate acknowledgments by the Crown, for example in response to Waitangi Tribunal findings.
- 73) We consider these settings will help to reset the relationship with Wānanga through providing context for their relationship with the Crown, which is different from other providers and is based on Te Tiriti / The Treaty.

---

<sup>21</sup> Requirements for the recommendation to disestablish are detailed in s270 of the E&T Act. The Minister may not recommend disestablishment of a TEI unless the Minister is satisfied on reasonable grounds that there are good reasons to do so, is satisfied that the disestablishment is in the interests of the tertiary education system and the nation as a whole, and specifies these reasons in the recommendation.

### **Statement of funding decisions by the TEC**

- 74) A relatively minor amendment to section 424 of the E&T Act (criteria for assessing proposed plans) would require that the purpose and functions of the Wānanga are taken into account in the criteria that the TEC uses when assessing proposed investment plans (in addition to the Crown's objectives as outlined in the Tertiary Education Strategy).
- 75) This does not change the existing funding processes, which are set through Ministerial determination, or the TEC's function of allocating funding through investment plans. It is intended to provide assurance that, in principle, the TEC can make funding decisions consistent with the purpose and functions of a Wānanga (consistent with its characteristics) even if a Tertiary Education Strategy does not include that level of detail. The TEC would still need to be enabled through the relevant funding mechanism to approve the activities proposed in a Wānanga investment plan.

### **Wānanga Order in Council (OIC) pathways**

#### *Entity A: Bespoke TEI Wānanga (Crown accountability)*

- 76) The enabling framework will include an opt-in pathway for a Wānanga to become a bespoke TEI through OIC (Entity A pathway). This will provide flexibility for Wānanga to modify their administrative settings while retaining accountability to the Crown. The Crown and Wānanga would work together to agree new administrative settings where the Wānanga wished to undertake governance decisions in a more partnership-based way. These could include:
- a) the purpose of the Wānanga
  - b) the functions of the Wānanga and its Council
  - c) governance arrangements including appointment, composition, suspension, or removal of members of the Wānanga's council and associated arrangements; and
  - d) requirement to seek the agreement of the Public Service Commission as to the terms and conditions of the employment of a Chief Executive.
- 77) There would be limitations on the nature of the governance arrangements that could be agreed for an Entity A Wānanga. In addition, any new duties and functions of councils would be additional to the existing duties and functions in the E&T Act, and would not reduce accountability arrangements under the E&T Act. Current monitoring and interventions frameworks would continue to apply.

#### *Entity B: Bespoke TEI Wānanga (Shared accountability)*

- 78) The enabling framework will include an opt-in pathway for a Wānanga to become a bespoke TEI with accountability lines to both the Crown and to its founding iwi, hapū or another Māori organisation through an OIC (Entity B pathway). The Crown and that Wānanga would work together to agree new statutory arrangements that are expected to cover the following matters:
- a) the purpose of the Wānanga
  - b) the functions of the Wānanga and its council
  - c) the governance arrangements, including arrangements relating to the appointment, composition, suspension, or removal of members of the council



- d) the duties and powers of the Wānanga and its council
  - e) who the Wānanga is accountable to for educational and financial performance, and what it must do in relation to this
  - f) what interventions might apply and who can decide to intervene (the TEC monitoring function under the E&T Act remains unchanged, and there will be a procedural requirement for the TEC and Entity B Wānanga to mutually agree an approach to monitoring the Wānanga)
  - g) financial matters, and reporting provisions; and
  - h) other matters that are necessary or desirable to clarify the administrative arrangements of the Wānanga and its council and their relationship with the Crown.
- 79) Through the Entity B pathway, the Wānanga would retain the status of a TEI in recognition that they remain a legislated tertiary provider that continues to focus on the provision of education for the public good, but their primary accountability would be to an iwi, hapū or other Māori organisation. This would be a change in existing lines of accountability, rather than a reduction of accountability. Some accountability lines would remain with the Crown, as detailed in **Diagram 1**.
- 80) Legislation will limit the scope of what the Crown and Wānanga can agree to change, including aligning any changes to the characteristics of a Wānanga (as set in primary legislation) and reflecting its role as a provider of education. The Crown would continue to have an interest in the ongoing network of by Māori for Māori tertiary education, and in the taonga of te reo and mātauranga Māori supported by the Wānanga system of tertiary education. Ministers would need to agree to propose the OIC to the Executive Council.
- 81) The Crown would not have the same interests and responsibilities should the organisation fail and therefore would not operate the associated controls the Crown has to prevent this (for example, the requirement for consent for certain financial actions such as borrowing and disposal of property). Instead, a line of accountability for the ongoing viability of the Wānanga would be provided back to another body through OIC (such as iwi, groups of iwi or hapū, or other Māori organisation). If this body was not in a position to provide financial assistance, it would be up to them and the Crown to decide how it would respond to a Wānanga at risk of financial failure (noting that there is no guarantee of financial assistance from the Crown to any TEI at risk of financial failure). We would expect the TEC and the responsible body for the Entity B Wānanga to be communicating as any risks begin to emerge, through the agreed monitoring framework that the TEC will use to carry out its monitoring function.

***Consultation showed strong support for Option 2 and the pathways it provides***

- 82) The response from consultation was overwhelmingly supportive of Option 2. Across the board, submitters acknowledged the problem definition, or aspects of it, and acknowledged Option 2 as a viable way to address those issues. Written submissions from Te Matakahuki and Waikato-Tainui also highlighted Option 2 as their preferred option, in line with their own goals and aspirations. No alternative options were raised in consultation.
- 83) Responses to consultation showed that Wānanga communities and stakeholders were very supportive of Option 2 and of the intended pathways of their own Wānanga within the enabling framework where that was expressed:

- a) Te Wānanga o Raukawa ran a survey amongst its staff and learners on its proposal to reconstitute itself as a new statutory entity through the enabling framework (Entity B pathway) with dual accountability to the ART Confederation<sup>22</sup> and the Crown and nearly all of the 344 submitters (99%) supported that pathway.
- b) Te Whare Wānanga o Awanuiārangi ran a survey amongst its staff and learners, proposing to become a bespoke TEI (Entity A Wānanga). The majority of the 55 submitters supported that pathway.
- c) Te Wānanga of Aotearoa ran two surveys (consulting with its staff and learners separately), on the enabling framework. 90% of 96 staff submitters and 88% of 126 learner submitters supported changes to the legislation to enable Wānanga to set up their own administrative settings through OIC.

### Other options considered and discarded

- 84) We consulted on the options presented within *Discussion Document: Proposal to Establish Enabling Wānanga Sector Framework*, which acted as an interim Regulatory Impact Statement for the purposes of Cabinet's agreement to proceed with consultation. This Regulatory Impact Statement focuses on developing these options, that were developed by the Ministry of Education together with the Wānanga. We previously considered other options but did not explicitly seek feedback on other options, and no additional options were raised by submitters during consultation. Accordingly, we are not in a position to detail a full scope of possible options in this Statement.
- 85) The following options were presented in the discussion document. They are not analysed further in this Regulatory Impact Statement as they were not supported by significant numbers of submissions.
- 86) ***Creating settings for the Wānanga sector specifically within the E&T Act***, to provide for the development of administrative settings that are specific to the unique role and needs of all Wānanga (rather than general administrative settings which apply to Wānanga in the same way that they apply to other TEIs). This was the approach taken for Te Pūkenga, which has its own section of the E&T Act, with TEI settings modified to align to its unique role and functions within the tertiary education system.
- 87) We did not progress this option as it would produce the same administrative settings for all Wānanga and would not recognise and/or respond to the individual mana and unique contexts, needs, and aspirations of each individual Wānanga. As such, it would not be able to meet criterion 2: *Facilitates recognition of the mana of the Wānanga, collectively and individually*, which in turn would not fulfil the Ministry's Te Tiriti o Waitangi / The Treaty of Waitangi obligations as we understand them in this context.
- 88) ***Developing primary legislation for some, or all, of the Wānanga***, setting out their administrative settings and relationship with the rest of the legislative framework for tertiary education. This option would, in theory, allow for entirely bespoke arrangements for each Wānanga. We gave serious consideration to this option due to the customisation that it would offer each individual Wānanga, recognition of the mana and unique role of each Wānanga, prior strong interest in this option from some of the Wānanga, as well as one submitter noting that a long-term vision of Option 3 (stand-alone legislation for each Wānanga) would be the embodiment of tino rangatiratanga. However, the Ministry and the three Wānanga agreed to discard this option because,

---

<sup>22</sup> The ART Confederation consists of the three founding iwi of Te Wānanga o Raukawa: Te Āti Awa ki Whakarangotai, Ngāti Raukawa and Ngāti Toa Rangatira.

on balance, Option 2 would better meet the criteria and is more likely to be progressed in the timeframes available.

- 89) This discarded option entailed significant uncertainties about the time that would be needed to develop and successfully progress up to three different new Bills through the House, and the extent to which this work would be prioritised under a future Government. If new Wānanga were to be established under this approach, they would each need their own legislation, which could be a significant barrier to new Wānanga being considered. It is difficult to quantify how many new Wānanga may be established under this approach in the future. This option would therefore not meet criterion 4: *Facilitates certainty and minimises transition risks in the tertiary education system.*
- 90) Furthermore, standalone legislation for each of the Wānanga could not be progressed at the same time (as the three Wānanga are at different stages of readiness in choosing which pathway they would like to pursue). This could be seen as undermining the mana of a Wānanga that did not have its own standalone legislation. As such, it would not meet criterion 2: *Facilitates recognition of the mana of the Wānanga, collectively and individually*, which in turn would not fulfil the Ministry's Te Tiriti o Waitangi / The Treaty of Waitangi obligations as we understand them in this context.

## How do the options compare to the status quo/counterfactual?

**Key:**

- ++** much better than the counterfactual – will substantially address long-standing concern(s) of the Wānanga
- +** better than the counterfactual – will go some way to address long-standing concern(s) of the Wānanga
- 0** about the same as the counterfactual
- worse than the counterfactual – will exacerbate long-standing concern(s) of the Wānanga
- much worse than the counterfactual – will substantially exacerbate long-standing concern(s) of the Wānanga

	<b>Option One – Counterfactual</b>	<b>Option Two – Overall Establishing an enabling Wānanga sector framework</b>
Recognises unique public roles and functions of Wānanga	0 Current administrative and accountability settings applied unilaterally do not adequately recognise the public role and functions of Wānanga.	<b>++</b> The enabling framework will recognise the unique roles and functions of the Wānanga through the characteristics to be added in the E&T Act. As the Wānanga support the detail, this will substantially address a major long-standing concern of the Wānanga.
Facilitates an appropriate sharing of accountability for Wānanga, reflecting the Māori-Crown partnership	0 Current administrative and accountability settings applied unilaterally do not facilitate an appropriate sharing of accountability for Wānanga, and do not support the Māori-Crown partnership.	<b>++</b> The enabling framework will facilitate an appropriate sharing of accountability for Wānanga, through the three choices (of Entity A, Entity B, or no change (i.e., not pursue change through OIC, or to wait until they are ready). Through this framework, each Wānanga will be able to pursue the option with the level of accountability to the Crown that is appropriate to them. This will substantially address a major long-standing concern of the Wānanga.
Facilitates recognition of the mana of the Wānanga, collectively and individually	0 Current administrative and accountability settings applied unilaterally do not facilitate recognition of the mana of the Wānanga, collectively and individually.	<b>++</b> The enabling framework will facilitate recognition of the mana of the Wānanga, collectively and individually through the three choices (of Entity A, Entity B, or no change). Through this framework, each Wānanga will be able to pursue an option that gives them a greater degree of control. This will substantially address a major long-standing concern of the Wānanga.

<p>Facilitates certainty and minimises transition risks in the tertiary education system.</p>	<p>0</p> <p>Current administrative and accountability settings would be retained for all Wānanga.</p> <p>Retaining these provides for certainty about the settings in the short term.</p> <p>In the medium- to longer-term the status quo creates ongoing uncertainty and risk for the Crown and Wānanga as the current settings have not provided for Wānanga to influence or determine their future as they have wanted to, and may continue to be challenged through the Waitangi Tribunal or courts.</p>	<p>0</p> <p>Once implemented, the enabling framework will facilitate certainty by giving a common set of characteristics and specific pathways to Wānanga with clearly defined accountability settings:</p> <ul style="list-style-type: none"> <li>• Current administrative settings may be retained (Baseline), or</li> <li>• Current administrative settings may be modified by OIC (Entity A); or</li> <li>• Current administrative settings may be modified and some accountabilities may be transferred from the Crown to iwi, hapū or another Māori organisation by OIC (Entity B).</li> </ul> <p>Each Wānanga can choose which pathway best suits their aspirations. The choices within the enabling framework will substantially addresses major long-standing concerns of the Wānanga – this is recognised in criteria 1 to 3 above, but it also facilitates certainty in the tertiary education system, as is relevant for criterion 4 as well.</p> <p>There will be some risks to manage in implementation in the Entity B pathway, as transfer of accountability may initially create some uncertainty. To the extent that the Crown no longer has early warning of risks in Wānanga, the Crown may not be able to support or intervene as early if a Wānanga were at risk of delivery or financial failure. This potentially increases risk to tertiary education outcomes overall. However, the founding iwi would act in their own best interests to ensure the overall and financial success of the Wānanga.</p> <p>As both Entity types would be TEIs, transition risks are limited compared to creating entirely new entities.</p> <p>Together, the increased stability of option 2 (the pathway choices) and the initial uncertainty (the implementation risks) mean that option 2 is similar to the counterfactual.</p>
	<p><b>Overall assessment</b></p>	<p>The counterfactual would not recognise the role and mana of the Wānanga generally, nor recognise the unique role and aspirations of each Wānanga, as the administrative and accountability settings can be applied unilaterally. Under the counterfactual, the Māori-Crown partnership is likely to deteriorate.</p>

## What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

### We have carefully considered trade-offs in reducing accountability to the Crown

- 91) Choosing between Option 1 and Option 2 entails trade-offs between the perceived security of existing levels of Crown influence and control over Wānanga with the intention of avoiding unintended consequences for the tertiary education system, and the introduction of new settings to achieve a more balanced relationship between the Crown and Wānanga as Tiriti / Treaty partners.
- 92) Option 2 would inevitably change how the Crown's interests have historically been expressed and protected. However, maintaining the status quo in the interests of supporting a stable education system denies the harms and costs of the status quo.
- 93) The design of Option 2 considers the obligations of the Crown to regulate the education system in the interests of good system stewardship. Option 2 does not deny kāwanatanga but seeks a better balance with the Wānanga as Tiriti / Treaty partners.
- 94) The proposal under Option 2 will retain existing system settings (for both Crown Entities and TEIs) to avoid introducing any new and untested elements. It expands the TEI framework as part of this, recognising that greater accountability to iwi does not change the role of Wānanga as public education providers and a fundamental part of the tertiary education system.

### We have carefully considered key accountability settings

- 95) Significant existing accountability settings will be retained as they are. These relate to being a tertiary education organisation and are important for maintaining coherence of the tertiary system and how it is funded.
- 96) Matters in the E&T Act that relate to the effective administration of the tertiary education system as a whole will continue to apply to the Wānanga. For example, these include: funding and quality assurance; maintenance of student records and information; learners' eligibility to access student loans and allowances; and Wānanga responsibilities for student accommodation and learner wellbeing and safety.
- 97) The general enrolment provisions for domestic and international learners in TEIs will continue to apply to Wānanga. These provisions are a critical underpinning of the public education function of a public education provider.
- 98) Acts that relate to accountability for the use of public funding and the transparency of the organisation to learners and communities will continue to apply to all Wānanga. These Acts are a fundamental element of public assurance in relation to public education, in line with the guidelines of the Legislation Design Advisory Committee (LDAC). Relevant Acts include the:
  - a) Official Information Act 1982
  - b) Ombudsman Act 1975
  - c) Local Government Official Information and Meetings Act 1987 (Part 7)
  - d) Public Audit Act 2001
  - e) Public Records Act 2005
  - f) Protected Disclosures (Protection of Whistleblowers) Act 2022.

## **We consider that Option 2 will best address the policy problem**

- 99) The Ministry and the Wānanga agree that Option 2 (the enabling Wānanga sector framework and the Entity A and Entity B pathways contained within it) is most likely to address the policy problem and meet the policy objectives of creating administrative settings for Wānanga that are consistent with Te Tiriti o Waitangi / The Treaty of Waitangi, and maintaining confidence in the tertiary education system as a whole.
- 100) The Ministry and the Wānanga also consider that Option 2 is likely to deliver the highest net benefits, and is the only option that is likely to deliver improvements on the counterfactual scenario against all the criteria:
- a) *Recognises unique public roles and functions of Wānanga*, through the articulation of the characteristics of Wānanga in primary legislation. Recognition of the unique kaupapa and whakapapa of Wānanga confers parity of esteem for Wānanga with the rest of the TEI sector
  - b) *Facilitates an appropriate sharing of accountability for Wānanga*, reflecting the Māori-Crown partnership – through the two opt-in pathways open for Wānanga
  - c) *Facilitates recognition of the mana of the Wānanga, collectively and individually* – the ability for Wānanga to choose whether to reconstitute themselves or not, and which opt-in pathway (if any) fits with their kaupapa and aspirations
  - d) *Facilitates certainty and minimises transition risks in the tertiary education system* through retaining TEI status for all Wānanga, and having all current TEI settings remain in effect until they are changed by an OIC.

## **What are the marginal costs and benefits of the option?**

### **Summary of expected costs and benefits**

- 101) Most costs and benefits of Option 2 (the enabling Wānanga sector framework and the Entity A and Entity B pathways contained within it) are not quantifiable. They relate to core Tiriti o Waitangi / Treaty of Waitangi constructs, including rangatiratanga and the Māori-Crown partnership. The lack of quantifiable data is a limitation; though our analysis of costs and benefits has been strengthened by qualitative data through strong participation in the 6-week consultation by the existing Wānanga, and their respective iwi, hapū, staff, learners, whānau, and broader communities (1141 out of 1186 submitters (96% of submitters) were associated with one or more of the three existing Wānanga).

### **Benefits**

- 102) The key expected benefits of an enabling Wānanga sector framework are to Wānanga as regulated groups. The benefits are greater recognition of the rangatiratanga and mana of individual Wānanga, through enabling Wānanga greater individual choice over the administrative and accountability settings that best meet and respond to their needs and aspirations within the enabling Wānanga sector framework. There will also be benefits for Māori, iwi, and hapū more generally, in terms of recognition of rangatiratanga, protection of te reo and mātauranga Māori as taonga, and strengthening of the Māori-Crown partnership as promised within Te Tiriti o Waitangi / The Treaty of Waitangi.
- 103) There are also strong benefits for te reo and mātauranga Māori provision over the medium term, including for Māori and non-Māori learners, MME/KME organisations, and the Crown. This includes ensuring a culturally appropriate and accessible pipeline for MME/KME learners through the education system, with clearer criteria and more

options for organisations (and iwi and hapū) wanting to become or establish Wānanga, and increased normalisation, provision, and transmission of te reo and mātauranga Māori, contributing to broader Government goals about Māori language and culture revitalisation.

- 104) For many years, Wānanga have had to necessarily direct their resources to operating within the constrained choices of the current settings. Under an enabling framework, we expect that Wānanga would redirect these resources to more directly meet the needs of their learners and their parents, whānau, families, and broader Wānanga communities. This, along with increased language and culture normalisation and revitalisation over time, will contribute over the medium term to increased wellbeing and learning success outcomes for Wānanga learners, including for Māori learners as Māori.

### **No or minimal change**

- 105) There would be no change in status for existing tertiary education organisations that offer MME/KME provision (such as Māori PTEs). There would be a clearer pathway that appropriately reflects what would be needed if a PTE aspired to become a Wānanga. Consultation did not identify concerns that the enabling framework would make it prohibitively difficult for organisations to establish new Wānanga in the future. The existing Wānanga (via their Peak Body, Te Taihū o Ngā Wānanga) would provide advice to the Minister about establishing new Wānanga and would not decide.
- 106) We do not consider there are any costs and benefits for tertiary education organisations and TEIs that do not offer MME/KME provision (such as universities, Te Pūkenga, PTEs, and industry training organisations).
- 107) For current and future Wānanga learners, existing safeguards will continue to apply regardless of the pathway chosen within the enabling framework. This includes learners' rights to enrol to study at Wānanga; learners' rights to access student loans and allowances (in accordance with existing eligibility criteria); and Wānanga obligations for their learners' wellbeing and safety, as required by the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021.<sup>23</sup>
- 108) We consider that there will be minimal impacts on NZQA as quality assessor, or on the TEC in its role allocating funding for the tertiary education sector. Current funding and quality assurance mechanisms in the E&T Act would remain in place. Existing flexibility within these mechanisms will enable us to continue working with the Wānanga to develop a future funding framework for the sector and to consider changes to the quality assurance processes in partnership. Any costs or benefits to quality assurance or funding through these proposals are likely to be negligible.

### **Costs**

- 109) The key expected cost would eventuate only if Wānanga take the Entity B pathway in an enabling Wānanga sector framework, and it is not expected that all Wānanga would choose this pathway. This cost is included here to illustrate the potential cost and would be considered in a future Regulatory Impact Statement for an OIC. The potential cost is to the Crown, through non-cash accounting impacts on the Crown's balance sheet associated with a Wānanga choosing the Entity B pathway (Shared accountability), to be re-established as a new statutory entity. This would be approximately \$62.3 million in the case of Te Wānanga o Raukawa (which has indicated Entity B is its preferred

---

<sup>23</sup> [Education \(Pastoral Care of Tertiary and International Learners\) Code of Practice 2021 – Education in New Zealand](#)



pathway) and approximately \$182 million for all three Wānanga if all three were to choose this pathway.

- 110) For Te Wānanga o Raukawa, most of the asset value (\$50.6 million) results from its 2008 Tiriti o Waitangi / Treaty of Waitangi settlement (relating to WAI 718) and was charged against Budget 2008 allowances. It is usual for Tiriti / Treaty settlements to consist of transfers from the Crown to Māori. However, as Te Wānanga o Raukawa was legally a Crown Entity, accounting policy meant that funding for this settlement, in effect, transferred within the Crown. The Ministry is continuing to work through with the Treasury how this would be managed within Budget allowances.
- 111) These potential accounting costs arise because the Wānanga would no longer sit on the Crown's balance sheet if they were to become new statutory entities. For accounting purposes, an asset must be written-down, meaning that the value on the Ministry's balance sheet would need to be written-down to nil. No actual funds would be transferred within or outside the Crown accounts and there would be no direct impact on educational provision or on learners. It is the Ministry's assessment that one-off accounting costs are outweighed by the ongoing benefits of enabling the Wānanga greater choice in how they operate and enabling the Crown to better meet its Tiriti o Waitangi / Treaty of Waitangi obligations (including with regard to Māori learner success and the protection of te reo and mātauranga Māori as taonga).

### **Evidence certainty**

- 112) We have strong confidence (high evidence certainty) in the:
- a) costs and benefits for the three existing Wānanga, and their respective iwi, hapū, staff, learners, and broader communities. This is due to the Ministry's close work with the Wānanga over a period of years to develop these proposals, and the strong engagement from Wānanga communities during the six-week consultation.
  - b) benefits for Government more broadly. However, because the enabling sector framework entails choice for each Wānanga, we have lower confidence (low – medium evidence certainty) in the costs and benefits to the TEC as regulator, and the costs to the Crown more broadly.
- 113) We are less confident in the costs and benefits for iwi and hapū generally, since our engagement has primarily been with those associated with existing Wānanga. However, we have made some assumptions about broader costs and benefits for iwi and hapū based on our understanding of Te Tiriti o Waitangi / The Treaty of Waitangi in connection with this work (and broader Tiriti / Treaty jurisprudence). We have medium evidence certainty of the costs and benefits for iwi and hapū more broadly.
- 114) The eventual costs and benefits for Wānanga and the Government will depend on which option a Wānanga chooses within the enabling framework, and its OIC. It is not possible to know all the costs and benefits until some of these choices are made, and future OICs and the accompanying Regulatory Impact Statements will reflect these. The Ministry of Education, along with the TEC (as entity responsible for monitoring Crown Entity TEIs) and NZQA (as quality assessor), will continue to work closely with the Wānanga as they choose their respective pathways, to ensure the impacts of each pathway are appropriately weighed.

Affected groups	Comment	Impact	Evidence Certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups – existing Wānanga	<p><b>Potential costs are:</b></p> <p>a) time, resource, and effort to choose a pathway within the enabling Wānanga sector framework and undertake the OIC process to enact that pathway with the Ministry of Education</p> <p>b) costs of re-establishment as a new statutory entity, if a Wānanga chooses the Entity B pathway</p>	Low	High evidence certainty
Regulators	<p><b>The TEC, as entity responsible for monitoring Crown entity TEIs</b></p> <p>a) potential minor costs related to a Wānanga transitioning to become a new entity under the Entity B pathway (for example, work to mutually agree tailored monitoring approaches); however, these costs are unlikely to be substantive in the context of the TEC's overall resourcing of its monitoring function</p>	Low	Medium evidence certainty – dependent on pathway chosen by each Wānanga
Māori iwi and hapū	<p><b>Iwi and hapū connected to an existing Wānanga</b></p> <p>a) increased risk/responsibility and financial expense for Wānanga governance and operations, if a Wānanga chose to be accountable to its iwi/hapū under the Entity B pathway</p>	Medium	High evidence certainty
Other education organisations	<p><b>Tertiary education organisations that primarily offer MME/KME provision (such as Māori PTEs)</b></p> <p>a) slight risk that the criteria for becoming a Wānanga would be too stringent, therefore making it difficult for these organisations to transition to become Wānanga</p> <p>b) if the role of Wānanga as kaitiaki of te reo and mātauranga Māori is enshrined in legislation, there is a slight risk that other tertiary education organisations with MME/KME provision will not have the same parity of esteem (and may lose learners to Wānanga over time)</p>	Low	Medium evidence certainty for (a); low evidence certainty for (b) – see paragraph 105
Wider Government	<p><b>Potential costs are:</b></p> <p>a) cost impacts on the Crown's balance sheet if a (or some) Wānanga chose to transition from being a Crown Entity to a new statutory entity under the Entity B pathway</p> <p>b) fiscal risks to the Crown if the Wānanga are at risk of failure due to their transition to being a new entity form under the Entity B pathway</p> <p>c) adjusting 'business as usual' agency processes to reflect new Wānanga forms under the enabling framework</p>	<p>(a) \$62.3 million to \$182 million</p> <p>(b) low</p> <p>(c) low</p>	<p>Low evidence certainty:</p> <p>(a) dependent on pathway chosen by each Wānanga</p> <p>(b) proposed changes maintain accountability and enable Wānanga to perform</p> <p>(c) retaining TEI status manages costs</p>
<b>Total monetised costs</b>	<b>Largely unknown</b>	<b>\$62.3m – \$182m</b>	<b>Low evidence certainty overall</b>

Non-monetised costs		Low	Medium evidence certainty overall
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups – existing Wānanga	<p><b>Potential benefits are:</b></p> <ul style="list-style-type: none"> <li>a) greater recognition of the rangatiratanga of Wānanga (and their founding iwi and hapū) and greater ability to exercise their autonomy and agency in education</li> <li>b) greater choice of options for administrative and accountability settings that better meet the needs and aspirations of Wānanga – marginal cost savings in time/effort related to reporting on Wānanga priorities rather than Crown priorities</li> <li>c) legislative settings for Wānanga that more appropriately recognise and respond to the individual mana and unique needs and aspirations of each Wānanga</li> <li>d) legislative settings for Wānanga that better reflect the unique role and collective mana of Wānanga in te ao Māori and within the broader MME/KME pipeline – Wānanga recognised as kaitiaki of te reo and mātauranga Māori in tertiary education sector</li> <li>e) improved relationship between Wānanga and the Crown</li> <li>f) parity of esteem with other TEIs (Wānanga are not perceived to be ‘lesser’ institutions – and may see increase in learners over time)</li> </ul>	High	High evidence certainty
Regulators	<p><b>The TEC, as entity responsible for monitoring Crown entity TEIs</b></p> <ul style="list-style-type: none"> <li>a) minor cost savings associated with a Wānanga transition to a new statutory entity (Entity B), such as reduced need for Ministerial advice on council appointments and advice to the Secretary of Education on requests to exercise certain powers. However, these savings are unlikely to be substantive in the context of the TEC’s overall resourcing of its monitoring function</li> </ul>	Low	Medium evidence certainty – dependent on pathway chosen by each Wānanga
Māori iwi and hapū	<p><b>Iwi and hapū generally</b></p> <ul style="list-style-type: none"> <li>a) greater recognition of iwi and hapū rangatiratanga</li> <li>b) increased focus on the protection, normalisation, and revitalisation of te reo and mātauranga Māori as taonga</li> <li>c) improved Māori-Crown partnership</li> <li>d) iwi and hapū wanting to establish a Wānanga in the future have the ability to choose a wider range of Wānanga forms to meet iwi and hapū needs – inherent ‘option value’</li> </ul> <p><b>Iwi and hapū connected to an existing Wānanga:</b> <i>In addition to the above benefits:</i></p> <ul style="list-style-type: none"> <li>e) greater involvement and choice in governance and operations of Wānanga (for example, more iwi and hapū representation on councils)</li> </ul>	High	Medium evidence certainty for (a) and (b); high evidence certainty for (c-e)

Other education organisations	<p><b>Other education organisations in the MME/KME pipeline (such as Peak Body, Te Matakāhukī)</b></p> <p>a) legislative settings contribute to a thriving Wānanga sector, with a culturally appropriate and accessible pipeline for MME/KME learners through the education system</p> <p><b>Tertiary education organisations that primarily offer MME/KME provision (such as Māori PTEs)</b></p> <p><i>In addition to the above benefits:</i></p> <p>b) clearer pathway and criteria to transition to become a Wānanga, if desired</p> <p>c) more flexibility/options for settings that apply to Wānanga to be tailored to meet the unique needs and aspirations of the organisation, if it chooses to become a Wānanga in the future</p>	Low          Medium	High evidence certainty
Learners, and their whānau, families, and parents	<p><b>All learners and their whānau/families</b></p> <p>a) improved perception of the value of a Wānanga education if Wānanga have parity of esteem with other TEIs</p> <p>b) increased choice around where and how to undertake MME/KME study, if more Wānanga are established in the future</p> <p><b>Māori learners and their whānau</b></p> <p><i>In addition to the above benefits:</i></p> <p>c) normalisation of te reo and mātauranga Māori, and associated positive wellbeing impacts for Māori learners as Māori</p> <p>d) a strengthened sense of identity, culture, leadership and whānau involvement in Wānanga that, in turn, supports higher learning outcomes for Māori</p>	Low          Medium	Low evidence certainty for (a) and (b); high evidence certainty for (c) and (d).
Wider Government	<p><b>Potential benefits are:</b></p> <p>a) Improved Māori-Crown relationship with positive implications for how the Crown works with Wānanga/Māori in the future</p> <p>b) Reduced risk of future Waitangi Tribunal Claims by Wānanga against the Crown relating to the recognition and expression of their rangatiratanga and individual and collective mana</p> <p>c) Increased normalisation and transmission of te reo and mātauranga Māori, contributing to broader goals about Māori language and culture revitalisation</p>	High	High evidence certainty
<b>Total monetised benefits</b>	<b>Largely unknown</b>	<b>Unknown</b>	<b>Unclear</b>
<b>Non-monetised benefits</b>		<b>Medium / High</b>	<b>Medium evidence certainty</b>

## Section 3: Delivering an option

### How will the new arrangements be implemented?

- 115) If Option 2 is approved, the enabling framework will be part of an Education and Training Amendment Bill. If the Bill is successful and passes into law, the new characteristics clause would immediately recognise Wānanga collectively as unique among TEIs and within the wider tertiary system, consistent with Te Tiriti o Waitangi / The Treaty of Waitangi.
- 116) As noted earlier (paragraphs 95-98), significant existing accountability settings (including quality assurance, learner wellbeing and safety, and the application of Acts that relate to transparency and accountability for public funding) will continue to apply to all Wānanga under Option 2.
- 117) Next steps will be led by Wānanga as they determine whether they remain in the short term with the new status quo, or transition to one of the two pathways within Option 2. The legislative drafting will include transitional provisions for reconstitution through the Entity A pathway or re-establishment through the Entity B pathway. Decisions on these pathways will include details of OIC and Regulatory Impact Statements to support Cabinet decisions.
- 118) The immediate implementation focus will be working with the three existing Wānanga as they process or develop OIC proposals for agreement and Cabinet decision.
- 119) The Ministry will also carry out further policy design in the medium term, with iwi, Māori PTEs and wānanga stakeholders to confirm processes for new Wānanga to be established. This would include how entry standards based on the legislated characteristics of a Wānanga will work in practice for organisations or tertiary providers who want to become Wānanga.

### **Orders in Council (OICs) will need to be developed with Wānanga and approved by the Minister**

- 120) In order for either of the opt-in pathways to be used, the Crown and individual Wānanga would need to agree OIC content within the parameters set in the primary legislation. The OIC process requires consultation, Cabinet approval of the policy, drafting by Parliamentary Counsel Office, and authorisation for submission to the Executive Council by the Cabinet Legislation Committee, as well as being subject to the oversight of the Regulations Review Committee once finalised.
- 121) Each Wānanga could begin discussions with the Ministry about its OIC intentions in its own time, after deciding which (if either) of the two pathways it wants to pursue.
- 122) Te Wānanga o Raukawa has completed consultation for its proposal to reconstitute itself through the Entity B pathway, and is planning to develop an OIC once legislation for the enabling framework is more advanced. We expect to carry out consultation in partnership with Te Whare Wānanga o Awanuiārangi and Te Wānanga o Aotearoa when they are ready to move towards developing an OIC for Entity A or B pathways, using a similar process as used by Te Wānanga o Raukawa.
- 123) The primary legislation will specify that the responsible Minister must be satisfied that the new arrangements as described in the OIC are fit for purpose and that the proposed changed accountability arrangements are sufficient for the effective governance and administration of a Wānanga. The effect of this is that, until the responsible Minister is satisfied with the OICs, the Wānanga would remain in the baseline pathway of the framework with all current administrative and accountability settings in place.

## How will the new arrangements be monitored, evaluated, and reviewed?

- 124) This Regulatory Impact Statement cannot provide detail on the specific arrangements for each Wānanga, as these are yet to be developed. Within the proposed framework overall:
- a) the statutory monitoring responsibility and powers of the TEC would remain the same, and the TEC would continue to have responsibility for monitoring risk and the use of funding for all TEIs including all Wānanga
  - b) the TEC would continue with the current monitoring framework for Wānanga until any bespoke frameworks are agreed through OIC
  - c) following LDAC guidelines, all Wānanga will remain subject to the Ombudsmen Act 1975, the Public Audit Act 2001, the Public Records Act 2005, the Official Information Act 1982 (or the Local Government Official Information and Meetings Act 1987), and the Protected Disclosures (Protection of Whistleblowers) Act 2022.
  - d) the TEC would continue to incorporate all Wānanga into its overall risk monitoring across the whole tertiary education system and seek to manage and mitigate risks with available levers. The TEC's approach with all tertiary education organisations is to raise any emerging concerns with the organisation and to resolve them through informal channels wherever possible. The TEC would expect to continue this approach with Wānanga under the enabling framework
  - e) NZQA's role of providing quality assurance for Wānanga educational delivery and learner wellbeing and safety would not be affected by the framework.

### **The Ministry's agreed approach to working with the Wānanga will address issues, and measure success as OICs are developed**

- 125) The Ministry and Te Taihū o Ngā Wānanga meet regularly to monitor the health of the Wānanga-Crown relationship and key work programmes and can escalate issues as needed to Chief Executive or Board Chair/Ministerial level. This forum provides for early warning of any issues in implementation and a partnership approach to resolving them.
- 126) In addition, the Ministry is committed to completing the Partnership Agreements with each of the Wānanga:
- a) The Partnership Agreement with Te Wānanga o Raukawa is already in place and provides a framework for discussion and resolution of issues raised in the WAI 2698 claim, including development of options being proposed here. The re-establishment of Te Wānanga o Raukawa as a bespoke TEI Wānanga (Shared accountability) is within its scope. The mechanism includes co-design and agreement of an annual work plan specifying tasks, deliverables, reporting, and timeframes.
  - b) We have undertaken to develop Partnership Agreements with Te Wānanga o Aotearoa and Te Whare Wānanga o Awanuiārangi, as well as an Agreement with Te Taihū o Ngā Wānanga. We see these as important to provide a framework for discussion and resolution of any issues.
- 127) As the work to complete all the Partnership Agreements is ongoing, the Ministry and the three Wānanga previously agreed an approach specifically for how the Crown and Wānanga will work together to progress this legislative work. This agreement has been crucial to bring the work to this stage. It entails a shared commitment to:

- a) develop proposals together
  - b) reach agreement as much as possible and put forward joint proposals
  - c) present all views to the Minister for a final decision, where a joint proposal is not reached.
- 128) If the Wānanga decide that the issue is significant and a meeting is needed, then the Chairs of the Wānanga will seek a meeting with the Minister to discuss the issue.
- 129) This agreed way of working with the Wānanga in relation to the legislative workstream gives life to the intentions expressed in our existing and developing formal agreements. This agreement, the mutually agreed relationship protocol with Te Wānanga o Raukawa, and the established ways of working with Wānanga to develop this legislative workstream provide a framework that we can use with each Wānanga. For example, if the Ministry and Wānanga have difficulty in reaching a shared view on any aspects of a proposed OIC, we would use the processes in the agreed approach to the legislative workstream.

## Annex 1: Summary of views raised during consultation

### Who did we hear from during consultation?

- 130) Almost 1,200 people or organisations participated in the six-week consultation on these legislative proposals, including:
- a) 540 people provided verbal feedback at ten online and in-person hui co-hosted by the Wānanga and the Ministry of Education
  - b) 646 people provided written feedback through standalone email submissions and/or by completing one of the four surveys developed by each of the Wānanga and the Ministry respectively.
- 131) The vast majority (1141 people, 96%) of submitters were staff, learners, hapū, iwi, or communities associated with each of the three existing Wānanga. We also heard from a few members of the public (who sought information at hui and/or completed the Ministry's online survey); Māori PTEs, including some with stated aspirations to become Wānanga in the future (who attended an online hui for PTEs and completed written submissions); Waikato-Tainui iwi; Te Matakāhuki;<sup>24</sup> and Te Kāhui Amokura.<sup>25</sup>

### What did we hear?

- 132) Submissions were overwhelmingly (>95%) in support of changing the administrative and accountability settings for Wānanga in line with Option 2 – the enabling sector framework. Across the board, submitters acknowledged the problem definition, or aspects of it, and acknowledged Option 2 as a viable way to address those issues. Wānanga and their communities had varying opinions on which sub-option was preferred, though a clear majority supported having availability of options and greater choice, agency, and autonomy through the existence of an enabling framework.
- 133) Of the few submitters who did not support the proposals (or components of them), key themes emerged. These included concerns that the proposals didn't go far enough in terms of separation from the Crown; that the Crown could not be trusted to fully enact or follow through on the proposed changes; and that changes may disadvantage Wānanga within the international higher education context. No additional options were raised by submitters during the consultation.

### Regulated parties – Wānanga

- 134) **Te Wānanga o Raukawa** expressed strong support for the Entity B pathway (becoming a bespoke TEI Wānanga (Shared accountability)), noting that this would give them a better level of autonomy and have a better balance between rangatiratanga and kāwanatanga. They noted that this work has been a long time coming and encouraged their staff, learners, and community to make submissions in support of the proposal.
- 135) **Te Wānanga o Aotearoa** expressed support, in both in-person/online hui and a written submission, for separate primary legislation for each Wānanga as their ideal state (this was one of the options the Ministry considered and then discarded after consultation as not sufficiently meeting the criteria). They noted that they support Option 2 (the enabling framework with the Entity A and Entity B pathways) now, as it is the most achievable within this term of Government.

---

24 Te Matakāhuki is the umbrella organisation representing Te Kōhanga Reo National Trust, Te Rūnanga Nui o Ngā Kura Kaupapa Māori o Aotearoa, Ngā Kura ā Iwi o Aotearoa, and Te Tauhū o Ngā Wānanga.

25 Te Kāhui Amokura is a sub-committee of Universities New Zealand (UNZ) comprised of the Māori Deputy Vice-Chancellor, Assistant Vice-Chancellor, or Pro-Vice Chancellor from each of the eight New Zealand universities.



- 136) **Te Whare Wānanga o Awanuiārangi** noted, in consultation with their staff, learners, and stakeholders, that if the proposed legislative framework was successful, its position is to pursue Option 2A (bespoke TEI Wānanga (Crown accountability) under the Wānanga sector framework).

### ***Wānanga staff, learners, founding iwi/hapū, and wider community***

- 137) In a survey run by Te Wānanga o Raukawa amongst its community (including learners and whānau, staff, ART confederation<sup>26</sup> members, iwi/Māori organisation members, and others), 99% of submitters supported the proposal for Te Wānanga o Raukawa to become a new entity under the Entity B pathway in the enabling framework. Just two submitters did not support changes. Key themes from submissions included: the need for rangatiratanga for Wānanga and for Māori; wanting mana motuhake; giving iwi (and particularly, the ART Confederation) control of what they started; finding the balance between rangatiratanga and kāwanatanga; supporting and embedding the goals of Whakatupuranga Rua Mano (the iwi development plan of the ART confederation, through which Te Wānanga o Raukawa was founded); and the Crown meeting its obligations under Te Tiriti o Waitangi / The Treaty of Waitangi.
- 138) In two surveys run by Te Wānanga o Aotearoa of its staff and learners, a majority of submitters considered that current administrative and accountability settings do not accurately reflect the mana and rangatiratanga of Wānanga, a Te Tiriti o Waitangi-based relationship between Wānanga and the Crown, or the unique role of Wānanga in tertiary education. 90% of staff submitters and 85% of student submitters supported changes to the legislation to provide flexibility for Wānanga to set their own administrative and accountability settings.
- 139) In a survey run by Te Whare Wānanga o Awanuiārangi of its staff and learners, approximately 91% of submitters considered change is needed to better recognise the mana and rangatiratanga of Wānanga, the Te Tiriti o Waitangi-based relationship between Wānanga and the Crown, and the unique role Wānanga play in tertiary education. Submitters identified benefits of an enabling sector framework, including that it provides progression, recognition, and validity; will be mana enhancing; will help shape and define the futures of learners in a unique way, only possible in New Zealand; and in doing so, may provide a valuable model for other indigenous cultures. 95% of submitters supported the position of Te Whare Wānanga o Awanuiārangi to pursue Option 2A within the enabling framework.

### ***Māori PTEs***

- 140) 13 Māori PTEs sought information on the proposals in an online hui, and three provided written responses. None were opposed to the changes, but some offered cautionary comments:
- 141) **Te Pū Wānanga o Anamata (PTE aligned with Ngāi Tūhoe)** discussed its history and the difficulties it faces as a PTE, noting that “small under-resourced iwi-focused organisations” are pitted against larger Crown entities. They questioned how iwi will maintain Kaitiakitanga over their mātauranga; the processes to validate iwi representation within a Wānanga; and how existing Crown-Iwi relationships in education are being considered in the proposals.
- 142) **Te Wānanga Whare Tapere o Takitimu (PTE aligned with Ngāti Kahungunu)** discussed their aspiration to seek Wānanga status in future, indicating preference for the Entity B pathway within the enabling framework. However, they cautioned that this would be contingent on the Crown honouring Te Tiriti o Waitangi / The Treaty of

---

<sup>26</sup> The ART Confederation consists of the three founding iwi of Te Wānanga o Raukawa: Te Āti Awa ki Whakarongotai, Ngāti Raukawa, and Ngāti Toa Rangatira.

Waitangi. They expressed support for the aspirations of the current Wānanga, noting that “Crown behaviour and practices with regards to Wānanga have undermined, under-valued and enforced non-Māori tikanga on a ‘House of Learning’ that was set up with the intent ‘For-Māori, By-Māori.’”

- 143) **Tūranga Ararau (PTE aligned with Te Aitanga ā Māhaki, Rongowhakaata and Ngāi Tāmanuhiri)** highlighted that they were established as a PTE due to a lack of alternative options. They note that current settings mean Wānanga are ‘owned’ by the Crown and consider this unacceptable, as it “directly contradicts the partnership principle as guaranteed by the Treaty of Waitangi.” They noted that any changes to Wānanga characteristics must enable its iwi to retain ownership and control.

#### ***Iwi and hapū***

- 144) We did not hear strongly from iwi and hapū not connected to existing Wānanga, with only one written submission, from **Waikato-Tainui iwi**. This iwi supported the enabling framework, noting it would be the closest ‘step in the right direction’ to enabling iwi to “become self-sufficient through quality mātauranga-led academic and vocational education.” The iwi noted that options development and the broader Te Hono work should include iwi and hapū so that iwi and hapū voice is adequately represented.

#### ***MME/KME organisations***

- 145) **Te Matakāhuki** supported the enabling sector framework and considered that the Entity B pathway is most consistent with the aspirations of Wānanga, “unshackling Ngā Wānanga from legislative bounds so they may stand in their own power.” They also noted that this option is most consistent with their own goals and aspirations for MME/KME provision across the education sector.

#### ***Other tertiary education organisations, including TEIs***

- 146) We did not hear strongly from other tertiary education organisations or TEIs, with the exception of Te Kāhui Amokura, the Universities New Zealand Māori governance sub-committee. They strongly supported the enabling sector framework as a means to acknowledge the unique role that Wānanga play in the tertiary education system; enable greater clarity of the roles and functions of each Wānanga; better recognise the uniqueness of each Wānanga and their communities; and provide a “much much-needed formalised approach to what has at times seemed like ‘ad hoc’ or ‘add on’ attempts from various Governments and its agencies to engage the wider tertiary sector across different kaupapa where we have seen the Wānanga sector missing or not included at all in education conversations.”