

Annex to Regulatory Impact Statement: Network Management Policy Approvals

1.1 Additional policy proposals

From 8 September to 13 October last year, we consulted on nine proposals to introduce a network management function to the early learning sector. Those proposals received broad support and will come into effect from 1 February 2023 if the Education and Training Amendment Bill (No 2) is passed. To clarify details and support the implementation of network management, the Ministry consulted on a second round of proposals from 14 April to 2 June 2022. These additional proposals relate to the priorities for National and Regional Statements and the policy for new regulations, and are specified below:

1. Priorities for network management to be outlined in National and Regional Statements.
2. Creation of new regulations for network management under section 636(1)(a) of the Act covering:
 - a. information required in applications for network management approval
 - b. processing timeframes for the Secretary for Education and Minister of Education completing assessments and making decisions, as relevant
 - c. the ability of the Secretary for Education to issue an official notice of network management approval and the matters it may cover
 - d. the ability of the Secretary for Education to use a statutory declaration to assess fit and proper, alongside the police vetting requirement
 - e. the ability to allow amendments to network management approval, as anticipated by the legislation, such as the expiry date or conditions
 - f. fees for network management.
3. A public register of network management approvals and revocations on the Ministry of Educations website.

These additional proposals support the introduction of the preferred options identified in the existing regulatory impact analysis (RIS) outlined in <https://assets.education.govt.nz/public/Documents/Ministry/Legislation/ETB/Network-Planning-in-Early-Learning.pdf> and <https://assets.education.govt.nz/public/Documents/Early-Childhood/network-management/Regulatory-Impact-Statement -Network-Management-in-Early-Learning.pdf> . Making these proposed changes does not alter the overall objectives of the network management function; they are largely technical and administrative changes that provide more detail and support the policy decisions that have been made. These changes impact on applicants in that they provide greater certainty around what is required of them during network management policy approval, with no additional costs.

Priorities for National and Regional Statements

We originally proposed that the network management National and Regional Statements would outline strategic priorities for government, identify areas of undersupply and areas where new services are not required by analysing multiple data sets, and provide additional information about the legislative requirements.

To support that initial policy change, we developed and consulted on the following ten strategic priorities that will be outlined in the statements:

1. Māori bilingual and immersion services (that are not excluded from the requirement are to seek network management approval)
2. hapū/iwi-owned services
3. services with a distinct Māori identity and culture
4. Pacific bilingual and immersion services
5. Pacific language and/or cultural services
6. language immersion services (non-English/Māori/Pacific)
7. services well-equipped for learning support needs
8. services well-equipped for migrants and former refugees
9. services planned to operate on a new school site
10. organisations funded by Targeted Assistance for Participation (TAP)

Following analysis of submissions from consultation, we propose progressing these priorities subject to one change; including an additional priority for wrap-around services. This priority covers services that provide early childhood education, but also facilitate other social services that meet the needs of their communities.

Policy for network management regulations

Information required in applications for network management approval

The initial policy change identified that network management applications will be made to the Ministry of Education following its introduction on 1 February 2023. To support that change, regulations will set out the information that applicants will be required to submit when making their network management application to the Ministry. This sets out clearly to applicants the information that will be required in the application form.

The information is also necessary as part of the assessment process for determining whether the application should be approved or declined. This includes the following four matters:

1. whether approval is sought to apply to operate a licensed:
 - i. early childhood education and care centre (centre); or

- ii. home-based education and care service; or
 - iii. hospital-based education and care service
2. information about the applicant
3. information about the proposed service
4. information that enables the Minister of Education and Secretary for Education to assess whether the service meets sections 17 and 18 of the Education Act, including any relationship with any National and Regional Statements issued.

There were no changes to these four broad areas or the detail under these areas following consideration of the submissions.

Processing timeframes for the Secretary for Education and Minister of Education completing assessments and making a decision, as relevant

We heard from our engagement with the sector last year and during the Select Committee process considering the Supplementary Order Paper, how important it is for there to be processing timelines for network management. To support the licensing and decision-making process, we proposed that:

- a. The Secretary would be required to take all reasonably practicable steps to complete assessments of a complete application under section 18 of the Act within 30 working days. Section 18 covers both fit and proper and an initial assessment of financial viability.
- b. Subject to the Minister's ability to consider applications together, the Minister of Education would be required to endeavour to issue a decision on network management approval within 30 working days after receiving assessments from the Secretary for Education.
- c. The Minister of Education would be required to endeavour to issue a decision on an amendment to network management within 30 working days after receiving assessments from the Secretary for Education.

There were no changes following consideration of the submissions.

How official notice of network management approval will be given and its contents

Approved applicants will need to receive an official notice of network management approval from the Secretary for Education, outlining all the relevant details of the approval. This will support the application process by ensuring that applicants are clear what approval has been provided and what requirements they must continue to meet. We proposed that an official notice of approval to an applicant would include the following information which would be set out in regulations:

- service type (centre, home-based, or hospital-based service)
- the applicant's name and contact details

- a list of all governance members assessed as fit and proper (if the applicant is an entity)
- a detailed description of the service proposed including any special characteristics of the proposed service, e.g., philosophy (if any)
- the proposed location of the service
- the proposed size of service
- the date of issue
- the date of approval
- the date of expiry of network management approval
- any conditions and milestones and any associated dates to comply with those conditions and milestones
- any other relevant information, including expected date of establishment.

There were no major changes following consideration of the submissions. A minor change was made to include milestones to align with the Supplementary Order Paper enabling the ability of the Minister to set milestones ([Supplementary Order Paper No 162 \(released 23 May 2022\) \(b\) – New Zealand Legislation](#) refers). A second minor change is including over and under twos (if known) when providing information on the proposed size of service.

The Secretary completing assessments of fit and proper status and financial viability

The regulations will set out a number of procedural matters for network management. This will ensure consistency across licensing and network management and will provide applicants with an opportunity to seek an amendment to cover changing and unforeseen circumstances. We have developed a proposal relating to the Secretary assessing fit and proper and financial viability

There were no changes following consideration of the submissions.

Process to seek an amendment to an approval

This will provide applicants with an opportunity to seek an amendment to the expiry date or conditions (including milestones). We have developed a proposal relating to amendments to network management approvals.

There were no changes following consideration of the submissions.

Fees for network management

We proposed that the new regulations will set out a fee of \$500 (plus GST). In September and October 2021, we consulted the sector on the proposed fee and there was support for this fee: 73% of respondents agreed or strongly agreed with the proposed fee, and 17% were neutral. Due

to this support, we did not seek further feedback from the sector during the April to June 2022 consultation.

A register of network management approvals and revocations that would not be specified in these regulations

We proposed that all network management approvals would be listed on a dedicated Ministry of Education | Te Tāhuhu o te Mātauranga network management webpage alongside any National and Regional Statements. Approvals would indicate the applicant’s name, proposed service type (including any special characteristics), service size and area, and estimated date of establishment. This approval would remain on the website for as long as the approval is active.

All revocations of approval would also be notified publicly until the period of approval expires, including the primary reasons for revocation, which would be based on the provisions as outlined in the Bill. The revocation would only be published after the period for appeal has expired. If an approval is revoked, it would be recorded in a separate section of the website until the period of initial approval expires. The purpose of this is to ensure that future applicants are aware of changes in approval status. We do not propose to list declined network management applications.

The rationale for providing the revocation details is to provide transparency around the decision-making for network management and to enable future applicants to see on what grounds approval has been revoked.

There were no changes following consideration of the submissions.

Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry of Education
Panel Assessment & Comment:	The Ministry of Education’s Quality Assurance Panel has reviewed the Annex “Annex to Regulatory Impact Statement: Network Management Policy Approvals” and confirms that this annex provides additional information on the impact of the new changes and meets the quality assurance criteria for impact analysis.