

# Regulatory Impact Statement: Proposal to progress an Order in Council to convert Te Wānanga o Raukawa to a non-Crown entity Wānanga

## Coversheet

Purpose of Document	
Decision sought:	<i>The analysis in this Statement is to support Cabinet policy decisions for an Order in Council for Te Wānanga o Raukawa to convert to a non-Crown entity Wānanga.</i>
Advising agencies:	<i>Ministry of Education</i>
Proposing Ministers:	<i>Minister for Māori-Crown Relations: Te Arawhiti; Minister of Education</i>
Date finalised:	10 May 2023
Problem Definition	
<p>Education Ministers have committed to progressing the proposal of Te Wānanga o Raukawa to convert to a non-Crown entity Wānanga (through the provisions of the Wānanga enabling framework in the Bill) within this term of Government. To enable timely progress towards Te Wānanga o Raukawa decisions in the Wānanga enabling framework, an Order in Council (OIC) needs to be ready for the Minister’s consideration as soon as the Bill is enacted.</p> <p>To agree to proceed, Cabinet will need reasonable assurance that the work is likely to produce a fit-for-purpose draft OIC for consideration, provided the Bill is enacted without significant changes to the Wānanga enabling framework. If the Bill undergoes minor changes, we consider that a draft OIC could be amended in time to be considered by the Minister.</p> <p>To this end, this Statement considers whether the proposed policy settings address the statutory tests for the OIC that the Minister of Education must consider before making a recommendation to convert;<sup>1</sup> and the feasibility of implementing the proposed policy settings successfully, in the event that Te Wānanga o Raukawa converts to a non-Crown entity Wānanga.</p>	
Executive Summary	
<p>Te Wānanga o Raukawa has proposed policy settings for converting to a non-Crown entity Wānanga through an OIC. Conversion is provided for by the Wānanga enabling framework within the Education and Training Amendment Bill (No 3) (the Bill), which is currently being considered by Select Committee. Cabinet is considering whether to agree in principle to the</p>	

<sup>1</sup> Assuming the Bill is passed, and Cabinet agrees to progress the proposal of Te Wānanga o Raukawa: the Minister would consider a draft OIC, along with other supporting information and advice to make a decision about whether the statutory tests for recommending conversion to a non-Crown entity Wānanga are met. These tests are set out in the Bill: clause 94 of the new part 5 of Schedule1.

proposed policy settings for an OIC and agree to direct Parliamentary Counsel Office (PCO) to begin drafting. Provided there are no significant changes to the enabling framework as it was introduced in the Bill, an OIC could be considered by the Minister of Education after enactment.

The Wānanga enabling framework and the policy settings for an OIC are the result of intensive work over several years by the Wānanga sector, the Ministry of Education, and Te Wānanga o Raukawa to proactively address long-standing concerns raised in a number of Waitangi Tribunal claims. These concerns relate to a lack of choice for Wānanga regarding the administrative, governance, and accountability requirements for tertiary education institutions (TEIs), which has created an imbalance between kāwanatanga and rangatiratanga in the Wānanga-Crown relationship (see [Regulatory Impact Statement: Legislative Proposal for establishing a new framework for constituting Wānanga](#) for a full explanation of this).

Education Ministers have committed to progressing the Bill (which will provide choices to Wānanga through the enabling framework) and the proposal of Te Wānanga o Raukawa to convert to a non-Crown entity Wānanga (through the provisions of the enabling framework) within this term of Government. This commitment was made to Te Wānanga o Raukawa in 2018 and has been referred to in public consultation material and in previous advice to Cabinet. This is part of a commitment to resolve the issues raised in the various Waitangi Tribunal claims proactively and collaboratively.

The Bill and the Te Wānanga o Raukawa proposal are therefore being progressed in parallel so that a draft OIC can be ready for consideration by the Minister of Education immediately following enactment of the Bill.

The purpose of this Statement is to support Cabinet policy decisions and enable progress on OIC development to meet this timing.

## Options

This approach means that the analysis in this Statement is not a 'clean slate' or first-principles analysis. We have considered two options, which are analysed in Section 2 of this Statement:

- the counterfactual (Option One): Te Wānanga o Raukawa remains as a Crown entity once the Bill is enacted, with no bespoke administrative or accountability arrangements
- the preferred option (Option Two): a draft OIC for Te Wānanga o Raukawa to convert to a non-Crown entity Wānanga can be considered by the Minister once the Bill is enacted. The preferred option does not pre-empt the Minister's later consideration of the draft OIC and decision on whether or not to recommend conversion. However, this Statement considers an outcome of conversion to a non-Crown entity Wānanga in order to assess the costs, benefits, and implementation of the preferred option (see paragraphs 67 to 71 in Section 2, and Section 3).

## What stakeholders and the general public think

After joint Ministry of Education and Te Wānanga o Raukawa public consultation on its [proposal to become primarily accountable to its founding iwi](#), Te Wānanga o Raukawa received overwhelming support from its community (including ākongā and their whānau,

kaimahi, ART confederation members<sup>2</sup>, iwi members and others) for its proposal. Nearly all (99.4 percent) of the 342 submitters supported the proposal for Te Wānanga o Raukawa to become a new statutory entity that was no longer a Crown entity.

This consultation was carried out in September and October 2022, in parallel with wider [consultation on the Wānanga enabling framework](#). The Te Wānanga o Raukawa proposal reflected its choice within the anticipated framework and did not directly impact other groups. Therefore, the consultation was focused on Te Wānanga o Raukawa constituents.

In April 2023, the Associate Minister of Education met with members of Te Mana Whakahaere (the Wānanga Council) and representatives from Te Wānanga o Raukawa Foundation<sup>3</sup>, who confirmed that they strongly support the proposal for Te Wānanga o Raukawa to become a non-Crown entity Wānanga.

The Ministry of Education has consulted with the following departments and agencies about the proposed policy settings for the OIC: Treasury; Department of Prime Minister and Cabinet; Te Arawhiti: the Office for Māori Crown Relations; Ministry of Justice; Whaikaha: Ministry of Disabled People; Te Puni Kōkiri; Ministry for the Environment; the Tertiary Education Commission (TEC); the Public Service Commission; New Zealand Qualifications Authority (NZQA); the Office of the Auditor-General (OAG); Inland Revenue; Toitū whenua: Land Information New Zealand; Crown Law; and the Education Review Office.

## Limitations and Constraints on Analysis

### Education and Training Amendment Bill (No 3)

The analysis in this Statement builds on previous work to address the long-standing concerns of all three Wānanga about their lack of choice in terms of the administrative governance and accountability requirements placed on them as tertiary education institutions (see previous RIS for explanation of this). Work to address those concerns has resulted in the proposal for a Wānanga enabling framework, which is being progressed through the Bill [SWC-22-MIN-0247 refers].

The Bill was introduced to the House on 23 March 2023 and was referred to Select Committee after its first reading on 29 March. The analysis of the regulatory impact of that proposal, including full analysis of Te Tiriti o Waitangi implications for the principle of options, and recognition of the rangatiratanga of Wānanga, is in the [Regulatory Impact Statement: Legislative proposal for establishing a new framework for constituting Wānanga](#). This Statement does not repeat that previous analysis.

This Statement has been developed on the assumption that the Bill will be enacted with only minor or technical changes to the proposed enabling framework. Drafting instructions to PCO will reflect this.

Should the progress of the Bill result in substantive changes that affect the proposed enabling framework in the Bill and the pathway chosen by Te Wānanga o Raukawa, then the OIC drafted by PCO may not be able to be progressed at all, or may require further

<sup>2</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.

<sup>3</sup> Te Wānanga o Raukawa Foundation is an independent trust established in 2011 to receive the settlement funding from the resolution of the Wānanga Capital Establishment (WAI 718) claim, and will constitute Te Taumatua (the body to whom the Wānanga will be accountable). The Foundation is an independent and distinct entity from Te Wānanga o Raukawa and has experience in financial management and investment to protect and enhance the long-term mission of Te Wānanga o Raukawa.

policy decisions and the development of another Statement. Te Wānanga o Raukawa is aware of this risk.

This Statement does not include consideration of any options that have already been considered and eliminated in reaching the solutions proposed in the Bill, such as different changes to the Education and Training Act 2020 (the Act) or bespoke legislation for each Wānanga. It does not consider options that would be counter to a main intent of the Bill, which is to preserve the status of Wānanga as key providers of public tertiary education, having parity of esteem with Universities and Te Pūkenga.

The Education Ministers have committed to progressing the Bill and the Te Wānanga o Raukawa proposal in this current term of Government. To support this timeframe, the Ministry and Te Wānanga o Raukawa have developed proposed policy settings for an OIC in parallel with the development of the Bill. The timeframe requires PCO completion of an OIC for consideration by the Minister of Education upon enactment.

### **Te Wānanga o Raukawa has chosen a pathway within the proposed enabling framework**

In September and October 2022, the Ministry of Education and Te Wānanga o Raukawa consulted publicly and with stakeholders on whether, should the enabling framework be enacted, the Wānanga should convert to become a non-Crown entity Wānanga, or reconstitute itself as a Crown entity Wānanga.<sup>4</sup> Annex A provides a short description of the Wānanga enabling framework.

Te Wānanga o Raukawa has chosen to pursue the option of converting to a non-Crown entity Wānanga through OIC, within the parameters set in primary legislation. The Wānanga has received strong support from its community (including ākonga and whānau, kaimahi, ART Confederation members,<sup>5</sup> iwi/Māori organisation members and others) for this proposal. For more information on consultation, see Annex B.

Te Wānanga o Raukawa wishes to complete its OIC process as soon as possible after the Bill has passed. To this end, Te Wānanga o Raukawa began discussions with the Ministry on policy settings for an OIC early, and both parties have agreed the policy settings to present to Cabinet for approval in principle. Te Wānanga o Raukawa has kept the other Wānanga informed about its proposal.

This Statement does not consider options within the framework that were not chosen by Te Wānanga o Raukawa, as the intention of the framework is for each Wānanga to choose the pathway that it considers to be the best fit. However, the baseline remains as the counterfactual until the choice that Te Wānanga o Raukawa has made is realised.

### **Scope of this Regulatory Impact Statement**

This Statement is to support Cabinet policy decisions and enable the issuing of drafting instructions for an OIC for Te Wānanga o Raukawa. This approach means that this regulatory impact analysis is not a 'clean slate' or first-principles analysis. The proposed decisions reflect:

- the enabling framework in the Bill as introduced to the House on 23 March 2023

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<sup>4</sup> See *Discussion Document: Proposal to Reconstitute Te Wānanga o Raukawa through Order in Council*.

<sup>5</sup> The founding iwi of Te Wānanga o Raukawa, comprising of Te Āti Awa ki Whakarongotai, Ngāti Raukawa ki te Tonga and Ngāti Toa Rangatira.

- the choice of Te Wānanga o Raukawa to pursue conversion to a non-Crown entity Wānanga with bespoke administrative and accountability policy settings
- the counterfactual of Te Wānanga o Raukawa remaining as a Crown entity once the Bill is enacted
- the current state of negotiations for an OIC and discussions with Te Wānanga o Raukawa and the ART Confederation, including consultation with stakeholders by both parties.
- The cost benefit analysis and implementation sections have assumed that an outcome of the Minister's decision-making is a recommendation to convert Te Wānanga o Raukawa to a non-Crown entity Wānanga. This does not in any way pre-empt the Minister's future decision.

This statement is focused on the specific situation and preferences of Te Wānanga o Raukawa. It does not represent the choices of any other Wānanga to rebalance rangatiratanga and kāwanatanga using the Wānanga enabling framework. The Ministry of Education anticipates that the other Wānanga will take and develop their choices within the enabling framework in their own time.

#### Responsible Manager(s) (completed by relevant manager)

Katrina Sutich  
 General Manager Tertiary  
 Te Pou Kaupapahere  
 Ministry of Education



10 May 2023

#### 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 Regulatory Impact Statement "Proposal to progress an Order in Council to convert Te Wānanga o Raukawa to a non-Crown entity Wānanga" produced by the Ministry of Education and dated 10 May 2023.

The Panel considers that it meets the assessment criteria. It provides analysis and information sufficient to support a decision on Te Wānanga o Raukawa progressing to the next stage of becoming a new form of TEI that is not a Crown entity. This includes analysis of implementation issues. The Statement reflects the co-design approach with Te Wānanga o Raukawa.

Given the desire for Te Wānanga o Raukawa to complete its Order in Council process as soon as possible after the Bill has passed, the statement has been developed on an assumption that the Bill will be enacted with only minor or technical changes to the proposed enabling framework. If there are more significant changes then further regulatory analysis may be required.

## Section 1: Diagnosing the policy problem

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

#### Te Wānanga o Raukawa

1. Te Wānanga o Raukawa was established as a Private Training Establishment in 1981, and reclassified as a TEI and a Wānanga in 1993. It had 4,680 students enrolled in 2021, 58 percent of whom were Māori.
2. Like other Wānanga, Te Wānanga o Raukawa is an expression of the mana of its founding iwi. The founding iwi of Te Wānanga o Raukawa are Te Āti Awa ki Whakarongotai, Ngāti Raukawa, and Ngāti Toa Rangatira, and together they constitute the ART Confederation. Each of the three ART Confederation iwi has a representative on Te Mana Whakahaere (the Wānanga Council).

#### Te Wānanga o Raukawa Mātauranga (WAI 2698) claim

3. In its WAI 2698 claim, Te Wānanga o Raukawa expressed a strong desire to re-set its relationship with the Crown. As a TEI, it is currently subject to requirements which, in its view, limit its rangatiratanga by giving the Crown additional control over the organisation, thereby reducing its decision-making ability, and creating additional administrative burden.<sup>6</sup>

#### Ministry of Education and Te Wānanga o Raukawa approach to working together

4. The Government is taking a future-focused, policy-oriented approach to resolving contemporary Waitangi Tribunal claims and the Ministry of Education has committed to a co-design approach to resolving WAI 2698 alongside Te Wānanga o Raukawa.
5. The Ministry, on behalf of the Crown, entered into a Relationship Protocol agreement with Te Wānanga o Raukawa in 2019. The Protocol provides a framework for discussing and resolving the issues raised by the WAI 2698 claim and sets the principles of engagement. These principles include clear and effective communication, early and ongoing communication, acknowledgement of difference and the power and resource imbalance, and mana enhancing outcomes (see Annex C for a copy of the Relationship Protocol).

#### Te Hono Wānanga

6. The Ministry's work with Te Wānanga o Raukawa on its WAI 2698 claim sits alongside a broader programme of work with all three Wānanga. The Wānanga enabling framework was developed as part of this collaborative work with the Wānanga sector, and the proposed OIC follows from this proposed legislative change.
7. The Ministry of Education is also working with the three Wānanga on the development of a funding framework to best support educational delivery and outcomes of the

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<sup>6</sup> The WAI 2698 claim was registered with the Waitangi Tribunal in December 2017. The claim concerns two main issues:

- a. The impact of Crown tertiary education and science policies and funding mechanisms on the educational provision delivered by Te Wānanga o Raukawa and its contribution to the mātauranga continuum; and
- b. The tension between different understandings of rangatiratanga and kāwanatanga by Te Wānanga o Raukawa and the Crown, and how they are expressed in Crown tertiary education and science policies and processes.

Wānanga, and a quality assurance framework to enable the Wānanga to exercise rangatiratanga over their mātauranga while maintaining confidence in Wānanga educational delivery. This work is progressing alongside the legislative work stream in partnership with the Wānanga. It does not at this stage require legislative change. The funding and quality assurance workstreams are out of scope of the proposed enabling framework and of this Statement.

### Implications if the counterfactual is maintained

8. If the proposed OIC is not progressed to drafting by PCO and consideration by the Minister of Education, Te Wānanga o Raukawa would remain in the baseline pathway for an unknown period of time. This is the scenario that we have considered under the counterfactual, and this is detailed as an option in Section 2 below.
9. Te Wānanga o Raukawa would remain primarily accountable to the Crown, with the same governance and accountability settings that were in place prior to enactment of the Bill, and the intended rebalancing of kāwanatanga and rangatiratanga would not be carried out as soon as practicable.
10. The Ministry would inform Te Wānanga o Raukawa as early as possible under the commitments in the Relationship Protocol if the counterfactual were to eventuate. While both parties have a strong relationship and commitment to continue to work together to resolve the issues within the WAI2698 claim, the counterfactual would have a significantly negative impact on the relationship, and in particular on the current levels of trust.

### What is the policy opportunity?

11. Te Wānanga o Raukawa has developed administrative and accountability settings for an OIC through which it would convert to a non-Crown entity Wānanga. Te Wānanga o Raukawa has developed the proposed settings in accordance with the proposed enabling framework in the Bill, in negotiation with the Ministry of Education. The proposed settings are aligned with the requirements for OICs in the Bill as it stands, and are progressed sufficiently to inform drafting instructions to PCO.
12. Drafting the OIC in parallel with the passage of the Bill through the House is necessary for an OIC to be ready within the timelines that have been set by Education Ministers, for the Minister to consider under the new Part 5 of the Act following enactment.
13. The Minister of Education must consider a number of statutory tests when making a decision to convert an existing Wānanga to a non-Crown entity Wānanga under the proposed new Part 5 in the Act. This decision is not pre-empted by agreeing to issue drafting instructions to PCO.
14. To agree to progress the development of an OIC, Cabinet will need reasonable assurance that the proposed policy settings will enable timely progress towards Te Wānanga o Raukawa decisions in the enabling framework. To this end, this Statement provides analysis of the policy settings, anticipating the statutory tests in the Bill that the Minister will consider at a later stage. These are:
  - a. the functions and purposes of the Wānanga in the OIC are consistent with the characteristics of a Wānanga as set out in the Bill
  - b. the accountability arrangements in the OIC are sufficient for the effective governance and administration of the Wānanga (i.e. the clauses in the OIC that specify the iwi or Māori to whom the Wānanga is accountable for the effective

governance and administration of the Wānanga, the things for which the Wānanga is accountable, and what the Wānanga must do to ensure adequate accountability.)

- c. the iwi or Māori to whom the Wānanga proposes to be accountable in the OIC accept responsibility for ensuring accountability of Te Wānanga o Raukawa and Te Mana Whakahaere (the council), and whether they have access to the skills and resources reasonably necessary to carry out this function.

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

### Purpose and outcome

15. This Statement supports Cabinet in-principle decision-making on the policy settings for the OIC. As discussed in the Limitations and constraints section on pages 3 to 5 above, this proposal has been developed with Te Wānanga o Raukawa, and it represents its choice of pathway established within the proposed enabling Wānanga framework in the Bill to best fit the identity and aspirations of its founding iwi. The overall policy outcome sought is to develop an OIC that gives effect to this choice of pathway. For this outcome to be achieved there are important objectives in relation to the policy opportunity that must be met.

### Objectives

16. The overall objective for this Statement is for analysis to enable timely progress of the policy settings proposed by Te Wānanga o Raukawa. The following three objectives guide the assessment of the extent to which the proposed policy settings for the OIC are analysed to meet this overall objective.
17. The objectives are:
  - a. to support a strengthened Māori-Crown relationship with Te Wānanga o Raukawa;
  - b. to enable timely progress towards Te Wānanga o Raukawa decisions in the Wānanga enabling framework; and
  - c. proposals for an OIC are good quality, which means the policy settings will support ongoing viability of provision at Te Wānanga o Raukawa.



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

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

19. As with the objectives above, the criteria have been designed to support Cabinet in-principle decision-making on the policy settings for the OIC. The criteria also reflect the Ministry's regulatory stewardship principles, with the relevant principles mapped to each criteria.
20. The Ministry's principles are:
  - a. Te Tiriti o Waitangi – Regulatory systems support an effective Treaty of Waitangi partnership, provide active protection of taonga, and enable Māori to exercise their authority and agency in education.
  - b. Learner/Ākonga Focus – The regulatory system focuses on the impact on learners/ākonga as its ultimate beneficiaries and those protected by it.
  - c. Effectiveness – Regulatory systems deliver the intended outcomes and impacts.
  - d. Efficiency – The regulatory systems' burden of rules and their enforcement is proportional to the benefits expected to result.
  - e. Durable and resilient – Regulatory systems are flexible; they enable regulated parties to be innovative in the way they meet requirements.
  - f. Fairness and accountability – We build trust with and between learners, regulated parties, and the community. We provide clarity to all participants in a regulatory system about roles, responsibilities and legal obligations.
  - g. Risk management – We target compliance and enforcement activity at areas of greatest risk to regulatory system performance.
  - h. Capable regulator – The Ministry has the people and systems necessary to operate an efficient and effective regulatory regime.
21. The criteria are:
  - a. Progress on OIC development supports commitments made under the Crown's Relationship Protocol agreement with Te Wānanga o Raukawa to engage effectively on policy options and decisions, including the reconstitution of Te Wānanga o Raukawa as an entity that allows the proper exercise of tino rangatiratanga and kāwanatanga. (*Ministry regulatory stewardship principles of efficiency, risk management, fairness and accountability*)
  - b. Policy settings are sufficiently developed for future assessment against the statutory tests by the Minister.<sup>7</sup> If the Bill is passed in its current form, the Minister will need to consider whether:

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<sup>7</sup> Assuming the Bill is passed, and Cabinet agrees to progress the proposal of Te Wānanga o Raukawa: the Minister would consider a draft OIC, along with other supporting information and advice to make a decision about whether the statutory tests for recommending conversion to a non-Crown entity Wānanga are met. These tests are set out in the Bill: clause 94 of the new part 5 of Schedule 1.

- i. the functions and purposes of the Wānanga are consistent with the characteristics of a Wānanga
- ii. the accountability arrangements (to specified iwi or Māori) are sufficient for the effective governance and administration of the Wānanga
- iii. the specified iwi or Māori accept accountability and have access to the skills and resources reasonably necessary to ensure accountability of the Wānanga and its Council.

*(Ministry regulatory stewardship principles of Te Tiriti relationship, effectiveness, fairness and accountability)*

- c. The policy settings are developed sufficiently for Cabinet to assess their effectiveness for the transition into the new arrangements and the ongoing viability of provision at Te Wānanga o Raukawa for its ākonga, particularly ākonga Māori, and lead to ākonga engaging and achieving excellent education outcomes at Te Wānanga o Raukawa. *(Ministry regulatory stewardship principles of learner-ākonga focus, durable and resilient)*

22. We have weighted the three criteria equally and consider a viable option must meet all three criteria.
23. This Statement considers two options: the counterfactual (Option One), where Te Wānanga o Raukawa remains as a Crown entity once the Bill is enacted because there is no agreement to progress the conversion to a non-Crown entity Wānanga, and the preferred option where progress continues for Te Wānanga o Raukawa to convert to a non-Crown entity Wānanga via an OIC to be considered by the Minister once the Bill is enacted (Option Two).

### What options are being considered?

24. See the earlier discussion in the Limitations and Constraints on Analysis section (pages 3 to 5) about not considering options that have already been considered and eliminated in reaching the solutions proposed in the Bill, or options within the framework that were not chosen by Te Wānanga o Raukawa. As such, those options are out of scope for the purposes of this Statement.

#### Option One – Counterfactual

25. The counterfactual assumes that there is no agreement to progress drafting the OIC.
26. Therefore, Te Wānanga o Raukawa would remain as a Crown entity with the same settings within the enabling framework (proposed in the Bill) and there would be no further arrangements provided for within secondary legislation.
27. This is the baseline pathway within the enabling framework in the Bill in which there are no bespoke administrative or accountability arrangements for Te Wānanga o Raukawa (see the diagram in Annex A).
28. Under the counterfactual, the administrative and accountability settings for Wānanga in the Bill would continue to apply to Te Wānanga o Raukawa, which would remain accountable to the Crown. This means that the expression of the Crown's 'ownership interest' would be preserved through the current administrative and accountability settings for TEIs, which sets a tripartite relationship between responsible Ministers, a TEI's governing body (which is a council) and monitoring agencies. Ministers would

retain the key role in overseeing and managing Crown interest in TEIs, for example through their role in council appointments.

29. Te Wānanga o Raukawa would remain solely accountable to the Crown with no formal recognition of the relationship between founding iwi/hapū and the Wānanga, or the strong interest that the iwi/hapū have in the ongoing viability of the Wānanga.
30. There would not be any new administrative arrangements for:
  - a. purpose of the Wānanga;
  - b. functions of the Wānanga and additional duties of its council;
  - c. governance arrangements to best support the purpose and functions of the organisation, such as those relating to appointment, composition, suspension, or removal of members of the Wānanga council and associated arrangements.

### Option Two – Conversion to a non-Crown entity Wānanga

31. Under Option Two, Te Wānanga o Raukawa would progress towards becoming a new form of TEI that is not a Crown entity and is primarily accountable to the ART Confederation. The Crown would no longer have ownership interest in Te Wānanga o Raukawa as a non-Crown entity but the requirement under proposed new Part 4A in the Bill provides for the establishment, modification, and administration of Wānanga in a manner that gives effect to the principles of Te Tiriti o Waitangi and supports Māori-Crown relationships. And further to this, the Crown would continue to have kāwanatanga interests in the ongoing viability of Te Wānanga o Raukawa as a public tertiary education provider (as in [Part 4](#) of the Act).
32. While councils are responsible for the operation and performance of TEIs, currently the Crown (either through the Minister of Education or the TEC Chief Executive) may intervene if it is considered the institution may be at risk or is at risk. If Te Wānanga o Raukawa became a non-Crown entity, these intervention powers would move from the Crown to Te Taumatua, a new group acting on behalf of the ART Confederation (described in paragraphs 53 to 57). The current limitations on significant financial decisions by the Wānanga (consent from the Secretary of Education is needed to dispose of assets or borrow above set amounts) would instead be managed through the strategic planning process of the Wānanga, and would not require consent from the ART Confederation.
33. The Wānanga enabling framework in the Bill provides for key governance and reporting provisions to be disapplied in the Act, so that they can be determined via OIC, and therefore give effect to the choice of Te Wānanga o Raukawa to enable the ART Confederation and Te Wānanga o Raukawa to exercise rangatiratanga. These are summarised in this table (this is not an exhaustive list of what is disapplied in the Act):

Disapplied in the Act	Provided for in the OIC as –
Wider Act provisions around council membership are disapplied e.g. Ministerial appointment to council (s276), and Matters to be considered when appointing council members (s278).	No Ministerial appointments – determined by the ART Confederation/Te Mana Whakahaere, reflecting non-Crown entity status and covered by criteria for appointment of members
Ministerial interventions for appointing Crown observers for institutions (s289) and dissolving councils and appointment of commissioners (s290)	ART Confederation interventions - may appoint observer, and may dissolve Te Mana Whakahaere and appoint a Matapopore

Annual reports to the Minister on the operations of the institution during that year, which the Minister presents to the House of Representatives (s306)	Annual reports must be given to the ART Confederation and the Minister
Minister may require related entities to prepare statements or reports (s307)	ART Confederation may require a subsidiary of the Wānanga to prepare separate statements or reports.
Limitations on the powers of institutions (s282) which require Te Wānanga o Raukawa to seek consent from the Secretary of Education before disposing of assets, mortgaging assets, leasing land or buildings, or borrowing (above certain thresholds).	Te Mana Whakahaere may exercise these powers provided they are consistent with its 5-10 year statement of strategic direction, developed in consultation with the ART Confederation and Te Taumatua. If not, Te Mana Whakahaere must consult with the ART Confederation first.
A number of sections related to financial oversight and reporting are disapplied (s297, s298, s300, s306, s307).	Te Mana Whakahaere must prepare financial statements, and report regularly to Te Taumatua (representing the ART Confederation) on operational and financial matters.

34. As proposed under [new Part 5 \(Subpart 1, section 94 \(3\) in Schedule 1 of the Bill](#) there are several factors that the Minister must be satisfied of before making a recommendation to convert an institution to a Wānanga that is not a Crown entity. A key part of this statutory test is the need for the Minister to be satisfied that the accountability arrangements as provided for in the Bill are sufficient for the effective governance and administration of the Wānanga.
35. At a high level, Te Wānanga o Raukawa will be primarily accountable to the ART Confederation for the governance of the institution and ensuring it is achieving the purpose and functions of the Wānanga (as set out in the OIC) according to its kaupapa. Te Wānanga o Raukawa will retain accountability to the Crown for the quality of its educational provision and the use of public funding.<sup>8</sup> This is shown in the diagram on page 17.
36. Te Mana Whakahaere, the council of Te Wānanga o Raukawa, will be responsible for the governance of the institution and managing its affairs, for which it will be accountable to Te Taumatua.
37. The accountability arrangements for Option Two are discussed in detail in Section 3, which explains the implementation and monitoring provisions from the short-term through to medium-long term. This also includes consideration of the identification and mitigation of risks. The Bill provides for Te Wānanga o Raukawa and the TEC to agree a joint monitoring framework. The TEC would use this framework to assess whether the operation or long-term viability of Te Wānanga o Raukawa is at risk (as required under the Act).

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<sup>8</sup> The ART Confederation will also have oversight of these areas through its monitoring of the performance of Te Mana Whakahaere in fulfilling the functions of the Wānanga.

38. However, because the TEC's obligations under the Act are not limited or affected by the provision for an agreed monitoring framework, the TEC's monitoring would continue whether or not a framework was agreed with Te Wānanga o Raukawa.
39. Monitoring is discussed in more detail later in the RIS, including the continued roles of the TEC and NZQA for monitoring and quality assurance (see paragraphs 122 to 129).

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

### Key:

++ much better than the counterfactual

+ better than the counterfactual

0 about the same as the counterfactual

- worse than the counterfactual

-- much worse than the counterfactual

	<b>Option One – Counterfactual</b> Te Wānanga o Raukawa remains as a Crown entity once the Bill is enacted, with no bespoke administrative or accountability arrangements There is no agreement to progress on the conversion to a non-Crown entity Wānanga	<b>Option Two – Conversion to a non-Crown entity Wānanga</b> Progress continues for Te Wānanga o Raukawa to convert to a non-Crown entity Wānanga via an OIC to be considered by the Minister once the Bill is enacted
<b>a)</b> Progress on OIC development supports commitments made under the Crown’s Relationship Protocol agreement with Te Wānanga o Raukawa to engage effectively on policy options and decisions, including the reconstitution of Te Wānanga o Raukawa as an entity that allows the proper exercise of tino rangatiratanga and kāwanatanga	0 A delay in implementing conversion to a non-Crown entity may be seen not to meet commitments made by the Ministry and by Ministers of Education to engage constructively on policy options for an entity status to balance kāwanatanga and rangatiratanga (as provided for by the enabling framework).	++ The continuation of progress for Te Wānanga o Raukawa to convert to a non-Crown entity Wānanga via an OIC once the Bill is enacted supports commitments made under the Crown’s Relationship Protocol agreement with Te Wānanga o Raukawa to engage effectively on policy options and decisions, including the reconstitution of Te Wānanga o Raukawa as an entity that allows the proper exercise of tino rangatiratanga and kāwanatanga.
<b>b)</b> Policy settings are sufficiently developed for future assessment against the statutory tests by the Minister. If the Bill is passed in its current form, the Minister will need to consider whether: <ol style="list-style-type: none"> <li>the functions and purposes of the Wānanga are consistent with the characteristics of a Wānanga</li> </ol>	0 The counterfactual of a delay in implementing conversion to a non-Crown entity would lose momentum from Te Wānanga o Raukawa pursuing its preferred path, and reduce/defer benefits from pursuing the change. The effect in relation to this criterion would be around not acknowledging functions/purposes of Te Wānanga o Raukawa, and not allowing for fit-	++ Option Two would enable continuation of progress to convert to a non-Crown entity Wānanga via an OIC using the proposed policy settings. This would support the Minister’s consideration of the statutory tests around whether the functions and purposes of the Wānanga are consistent with the characteristics of a Wānanga, the accountability arrangements (to

<p>2. the accountability arrangements (to specified iwi or Māori) are sufficient for the effective governance and administration of the Wānanga</p> <p>3. the specified iwi or Māori accept accountability and have access to the skills and resources reasonably necessary to ensure accountability of the Wānanga and its Council.</p>	<p>for-purpose administrative and governance arrangements for Te Wānanga o Raukawa.</p>	<p>specified iwi or Māori) are sufficient for the effective governance and administration of the Wānanga, and the specified iwi or Māori accept accountability and have access to the skills and resources reasonably necessary to ensure accountability of the Wānanga and its Council.</p>
<p><b>c)</b> The policy settings are developed sufficiently to be considered against the transition into the new arrangements and the ongoing viability of provision at Te Wānanga o Raukawa for its ākonga, particularly ākonga Māori, and lead to ākonga engaging and achieving excellent education outcomes at Te Wānanga o Raukawa</p>	<p>0</p> <p>The counterfactual of a delay in implementing conversion to a non-Crown entity would lose momentum towards transition and defer both the transition and the ongoing benefits for ākonga and hapū/iwi.</p>	<p>++</p> <p>Option Two would enable implementation planning to give effect to the proposed policy settings. These would be ready for assessment against the ongoing viability of provision at Te Wānanga o Raukawa for its ākonga, particularly ākonga Māori, and lead to ākonga engaging and achieving excellent education outcomes at Te Wānanga o Raukawa.</p>
<p><b>Overall assessment</b></p>	<p>Option One would result in Te Wānanga o Raukawa remaining subject for longer than necessary to administrative and accountability settings that constrain its choice which is to be accountable to its founding iwi. The long-standing imbalance of kāwanatanga in relation to rangatiratanga would then remain an unresolved issue at the heart of the relationship between Te Wānanga o Raukawa and the Crown, as well as between the ART Confederation iwi and the Crown.</p>	<p>Option Two addresses the policy problem, meets the policy objectives, and delivers improvements on the counterfactual scenario against all the criteria. We consider it will enable policy settings via an OIC and robust implementation plans for consideration by the Minister, in a timely manner that meets the intent of the Relationship Protocol agreement.</p>

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

### We have analysed both options against the objectives and criteria

**Against criterion a)** Progress on OIC development supports commitments made under the Crown's Relationship Protocol agreement with Te Wānanga o Raukawa to engage effectively on policy options and decisions including the reconstitution of Te Wānanga o Raukawa as an entity that allows the proper exercise of tino rangatiratanga and kāwanatanga.

40. Option Two rates well against this criterion. The proposed policy settings for the OIC have been co-developed by the Ministry of Education and Te Wānanga o Raukawa through intensive work since the start of the year. We consider, and Te Wānanga o Raukawa agrees, that the proposed policy settings would not be materially improved with more time.
41. In the assessment of the Ministry the work on the policy settings is ready. A decision to progress would avoid delay and the risk of being seen not to meet commitments to engage constructively on policy options for an entity status to balance kāwanatanga and rangatiratanga (provided by the enabling framework).
42. While there is some risk that the enabling framework may change as the Bill progresses through the House, we consider that this is an acceptable trade-off to taking all practicable steps to meet our obligations as a Treaty partner and under our relationship agreement.
43. Conversely, if the enabling framework is enacted largely as introduced, and the OIC is not progressed, this risks the perception of an unreasonable delay and not meeting commitments (as above).

**Against criterion b)** Policy settings are sufficiently developed for future assessment against the statutory tests by the Minister.

44. Option Two rates well against this criterion. The Ministry considers the policy settings have been developed using appropriate process and quality assurance checks including being reviewed by the Ministry's legislative team, and working closely and consistently with Te Wānanga o Raukawa. We are not aware of any policy reason to delay.

*Progress can support the Minister's consideration of whether the functions and purposes of the Wānanga are consistent with the characteristics of a Wānanga.*

45. This requirement is intended to ensure that the functions and purposes of a newly converted Wānanga do not extend its operations significantly beyond the legislated characteristics of Wānanga. As the characteristics were developed after engagement with the three Wānanga to better describe their role in the education system, the current Wānanga are expected to meet all of the characteristics already.
46. The proposed policy settings for Te Wānanga o Raukawa include provisions for its functions and purposes as a non-Crown entity Wānanga, which the Minister will be able consult on, receive advice on, and assess.
47. The policy settings specify that Te Mana Whakahaere is accountable to the ART Confederation for the administration and operation of the Wānanga in a manner that is consistent with the characteristics of a Wānanga set out in the Act. This requires that the functions and purposes of the Wānanga and its council specified in the OIC are aligned

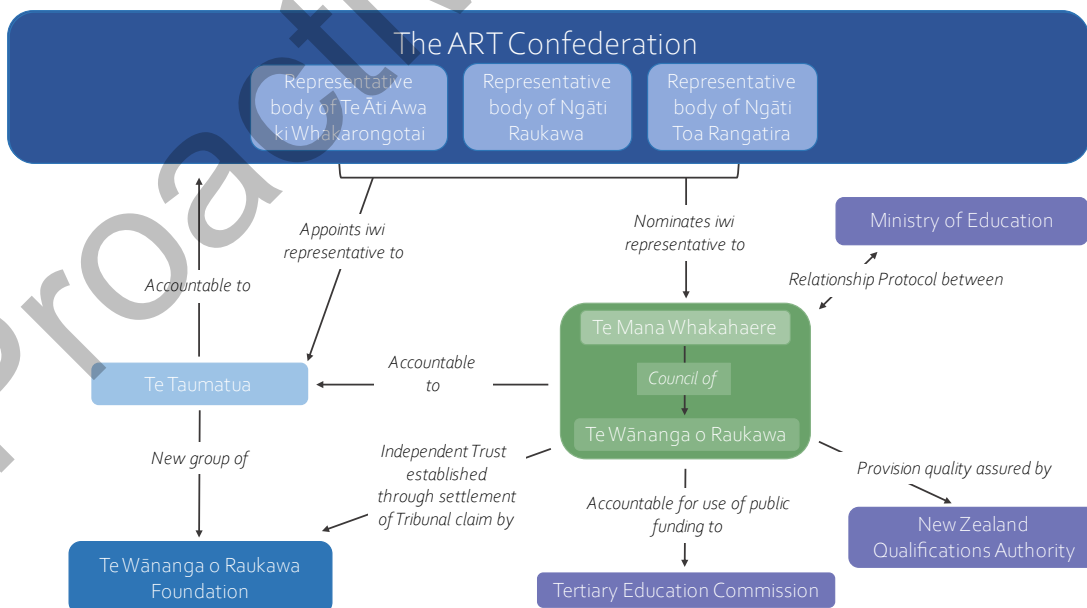


with the characteristics of Wānanga, and therefore support the Wānanga to remain within scope.

48. The overall policy setting for the purpose of the converted Wānanga is to maximise the contribution of the Wānanga to the resilience and prosperity of Māori as a people. Specific activities within this refer to furthering the goals of Whakatupuranga Rua Mano, supporting the mātauranga continuum, supporting staff and students, championing the reclaiming and revitalisation of te reo Māori and mātauranga by whānau, hapū and iwi, and advancing the kaupapa of the Wānanga.
49. The proposed policy setting for functions of the converted Wānanga articulate specific actions to achieve the purposes, which focus on provision of education and training within a kaupapa and tikanga environment, and delivery of programmes that support and are taught in te reo Māori, that foster mātauranga, and that strengthen whānau, hapū and iwi, and support Kaupapa-based approaches across a range of disciplines.
50. We do not expect the Minister to encounter any concerns during consultation on the proposed conversion (via OIC) that Te Wānanga o Raukawa is operating outside of the characteristics of a Wānanga in its proposed purpose and functions.

Progress can support the Minister’s consideration of whether the accountability arrangements (to specified iwi or Māori) are sufficient for the effective governance and administration of the Wānanga.

51. The proposed policy settings for accountability are to the ART Confederation (to which Te Wānanga o Raukawa will be primarily accountable).
52. The proposed accountability arrangements are based on clearly delineated roles and responsibilities between the key bodies, as outlined in Section 3 (paragraphs 91 to 110). The following diagram shows the accountability relationships between each of these bodies.



*Progress can support the Minister's consideration of whether the specified iwi or Māori accept accountability and have access to the skills and resources reasonably necessary to ensure accountability of the Wānanga and its Council.*

53. This will be particularly evident in the accountability arrangements provided under the policy settings. This will be based on acceptance by the ART Confederation of its accountability role, and the creation of a new group, Te Taumatua, to act on behalf of the ART Confederation for the purposes of monitoring the performance of Te Wānanga o Raukawa and instigating any required risk management and interventions.
54. Te Taumatua will be constituted by the Te Wānanga o Raukawa Foundation (the Foundation), which is an independent trust established in 2011 to receive the settlement funding from the resolution of the Wānanga Capital Establishment (WAI 718) claim. Te Taumatua will operate independently of the Foundation in the exercise of its role.
55. The purpose of the Foundation is to promote akoranga (teaching and learning), whakatupu mātauranga (exploration and creation of knowledge), and whakahaere (operations and administration) through the provision of financial and other assistance to Te Wānanga o Raukawa, the staff (including kaiāwhina) and students of Te Wānanga o Raukawa.
56. The Foundation is an independent and distinct entity from Te Wānanga o Raukawa and has experience in financial management and investment to protect and enhance the long-term mission of Te Wānanga o Raukawa. The Foundation already manages sizeable assets – it has grown the original settlement funding of \$17.9 million by 58 percent.
57. In our view, the Foundation's past performance speaks to the relevance of skills and experience for the Minister to consider.

**Against criterion c)** The policy settings are developed enough to be considered against the transition into and the ongoing viability of provision at Te Wānanga o Raukawa for its ākonga, particularly ākonga Māori, and lead to ākonga engaging and achieving excellent education outcomes at Te Wānanga o Raukawa.

58. Option Two rates well against this criterion. The counterfactual of a delay in progressing towards conversion would lose momentum towards the transition and defer both the transition and the benefits for ākonga and hapū/iwi.
59. We consider that the implementation and monitoring arrangements that would give effect to the policy settings in the OIC, if approved by the Minister, will facilitate the viability of provision at Te Wānanga o Raukawa for its constituents, especially ākonga and kaimahi. As with the transition period, we are confident that Te Wānanga o Raukawa will be well placed to take prime responsibility for implementing and monitoring as a non-Crown entity going forward. We note that the commitment of the Wānanga, its iwi, kaimahi and ākonga to this shift (as evidenced in the consultation feedback), its close relationship to its founding iwi, as well as its history of high performance are all factors supporting it to succeed.
60. We expect that over time, ākonga will benefit from the strengthened connection to, and recognition of, the ART Confederation as the Wānanga exercises its rangatiratanga in its governance and accountability arrangements. The Wānanga expects to redirect resources from ongoing Crown engagement to its significant mahi to support ākonga and connect with the iwi and hapū of the ART Confederation, including advancing whakatupu mātauranga activity and developing more programme offerings.

61. The viability of provision for ākonga of Te Wānanga o Raukawa is maintained through the ongoing relationship between the Wānanga and NZQA. Te Wānanga o Raukawa qualifications will remain listed on the New Zealand Qualifications Framework administered by NZQA, and graduates will therefore continue to achieve domestically and internationally recognised qualifications.
62. As outlined in the Section 3 (paragraphs 119 to 121), Te Mana Whakahaere and Te Taumatua will receive the relevant monitoring information to inform their decision-making processes through the kaupapa/tikanga framework, management and governance dashboards, and stakeholder reporting. We are satisfied that these monitoring information channels provide the opportunity for concerns or risks to be raised early, and that this will be more responsive than the counterfactual.
63. We consider that an ongoing monitoring role through the TEC, NZQA and the OAG is appropriate to monitor the Wānanga as a public education provider and a fundamental part of the tertiary education system. Paragraphs 122 to 129 in Section 3 provide a detailed outline of those monitoring activities.

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

64. The Ministry considers that Option Two is most likely to address the policy problem and meet the policy objectives. It is the only feasible option that is likely to deliver improvements on the counterfactual scenario against all the criteria. We consider that this option provides the necessary checks and balances for the Minister's statutory tests to ensure that the accountability arrangements as provided for in the Bill are sufficient for the effective governance and administration of the Wānanga.
65. The counterfactual would not meet all of the criteria. Under the counterfactual, the Crown may be considered to have unreasonably delayed meeting the commitments it has made to reset the relationship between Te Wānanga o Raukawa and the Crown, and thereby to rebalance kāwanatanga/rangatiratanga as this pertains to the governance, administration and accountability settings for Te Wānanga o Raukawa, and establish a solid basis for ongoing engagement and cooperation.
66. The overarching effect of the counterfactual in relation to the objective sought is that Te Wānanga o Raukawa would remain subject for longer than necessary to administrative and accountability settings that constrain its choice which is to be accountable to their founding iwi. The long-standing imbalance of kāwanatanga in relation to rangatiratanga would then remain an unresolved issue at the heart of the relationship between Te Wānanga o Raukawa and the Crown, as well as between the ART Confederation iwi and the Crown.

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

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

67. The strengthened connection to and recognition of the ART Confederation and ability of the Wānanga to achieve rangatiratanga in this space is a significant benefit. This benefit is expected to be felt across the whole Wānanga, and will be highly valued by ākonga.
68. Additional benefits are also expected from the freeing up of Wānanga resource from ongoing additional engagement to manage the Wānanga-Crown relationship from a

position of imbalance between rangatiratanga and kāwanatanga.<sup>9</sup> The ability of Te Wānanga o Raukawa to engage with various Crown agencies from a position that reflects its unique role, functions and aspirations will enable clearer and more authentic Wānanga-Crown engagement.

69. This in turn will enable more resource to be directed into supporting ākonga and connecting to ART Confederation iwi and hapū, including advancing whakatupu mātauranga activity and increasing programme offerings. The changes may help to grow numbers of ākonga from ART iwi and hapū as the accountability relationship between Te Wānanga o Raukawa and the ART Confederation is formally recognised. Ākonga will be able to feed into the strategic planning of the Wānanga through being consulted on the 3-yearly planning statements.
70. There will be moderate costs to Te Wānanga o Raukawa during establishment and transition including developing new governance collateral (e.g. new reporting dashboards, new Terms of Reference), a series of workshops for Te Mana Whakahaere and Te Taumatua members on the new accountability and governance arrangements, engagement with iwi, and legal fees for associated costs (e.g. amendment of the Trust Deed for the Foundation). These costs can be managed within baselines. Once all the new systems are in place, ongoing costs will be similar to the existing costs of the status quo.
71. Many of the specified costs and all of the benefits are not quantifiable, which is a limitation on our analysis. Analysis in the table below assumes that Option 2 could lead to conversion, and therefore includes the costs and benefits of implementing an OIC for a non-Crown entity Wānanga. In some areas, we have received indicative costs from Te Wānanga o Raukawa for expected outlays such as legal advice, holding workshops, and engagement with iwi, which are included in the table below.

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<sup>9</sup> This does not include reporting arrangements that will continue under the proposed conversion, for example financial reporting to TEC, and quality assurance with NZQA.

Affected groups (identify)	Comment <i>nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups – Te Mana Whakahaere (the Council of Te Wānanga o Raukawa)	<p>Te Wānanga o Raukawa will:</p> <ul style="list-style-type: none"> <li>• Prepare and deliver induction and training workshops on the new accountability arrangements to Te Mana Whakahaere and Te Taumatua members.</li> <li>• Design and seek approval of risk criteria and Terms of Reference from Te Taumatua.</li> <li>• Design planning cycle and systems and reporting products for Te Taumatua.</li> <li>• Design new policies to reflect the new accountability arrangements.</li> <li>• Contribute to the OIC drafting, and seek legal advice.</li> </ul> <p>Iwi representatives from Te Mana Whakahaere will engage with and inform their iwi about the new arrangements</p>	<p><b>\$310,000 approximately</b> during establishment and transition.</p> <p><b>\$51,000 approximately</b> additional ongoing costs in steady state (reporting, ad hoc refresher/professional development workshops for Te Mana Whakahaere and Te Taumatua members), and engagement with iwi.</p> <p>If Te Taumatua determines that a risk intervention is needed, the costs are not likely to be greater than a Crown intervention under the status quo (both are hypothetical scenarios):</p> <ul style="list-style-type: none"> <li>• Matapopore are expected to be cost neutral or even cost saving as the funding to pay council members can be redirected to the Matapopore.</li> <li>• Specialist help is likely to be around \$10,000 to \$20,000 a month depending on the issue and workload.</li> <li>• Performance improvement plans are usually no to minimal cost, depending on the issue.</li> </ul>	<p>High evidence certainty – based on extensive implementation planning documentation by Te Wānanga o Raukawa, and status quo intervention costs from the TEC.</p>

<p>Regulated groups - Te Wānanga o Raukawa Foundation, and Te Taumatua</p>	<p>During establishment, the three members of Te Taumatua (one from each iwi in the ART Confederation) will need to understand and prepare for their accountable body duties and responsibilities, e.g. attend workshops, consider and approve risk criteria Terms of Reference, and advise their respective iwi about Te Taumatua.</p>	<p><b>Medium</b> during establishment.</p> <p><b>Low</b> costs after changes established (review reporting).</p>	<p>Medium evidence certainty – based on extensive implementation planning documentation by Te Wānanga o Raukawa.</p>
<p>Regulated groups Iwi (as nominating bodies of members of the Foundation and Te Taumatua)</p>	<p>During establishment, Iwi will nominate members, amend the Trust deed of the Foundation to provide for Te Taumatua.</p>	<p><b>Medium</b> during establishment.</p> <p><b>Low – Medium</b> during steady state with new requirement for three yearly confirmation of strategic direction with their Iwi representative.</p>	<p>High evidence certainty based on Trust Deed requirements.</p>
<p>Regulators TEC, NZQA</p>	<p>TEC (as the entity responsible for funding and monitoring tertiary organisations that receive Crown funding) – will continue to monitor Te Wānanga o Raukawa for the use of Crown funding, and carry out the investment plan process. No longer responsible for interventions or associated risk assessments for interventions.</p> <p>NZQA will continue its quality assurance of Te Wānanga o Raukawa qualification – no changes.</p>	<p><b>No</b> additional costs for TEC or NZQA during establishment or steady state.</p> <p>If TEC and Te Wānanga o Raukawa agree to a new monitoring framework, this work is unlikely to be substantive in the context of TEC's overall resourcing of its monitoring function.</p> <p>NZQA function remains as for the status quo.</p>	<p>High evidence certainty – based on the legislated functions of TEC and NZQA which are not affected by the Bill.</p>
<p>ART Confederation iwi and hapū</p>	<p>During establishment, iwi and hapū will participate in engagement with their nominated iwi member of Te Mana Whakahaere, and their member of Te Taumatua.</p> <p>Carry the fiscal risk if Te Wānanga o Raukawa were to fail.</p>	<p><b>Low</b> during establishment.</p> <p><b>No</b> additional ongoing costs after changes established.</p> <p><b>High</b> in the event of failure.</p>	<p>Medium evidence certainty – based on extensive implementation planning documentation by Te Wānanga o Raukawa.</p>
<p>Ākonga at Te Wānanga o Raukawa</p>	<p>Ākonga will have the opportunity to contribute to strategic direction every three years.</p>	<p><b>No</b> costs during establishment.</p> <p><b>Low</b> cost in term of time taken to engage with strategic direction, should they wish to.</p>	<p>High evidence certainty – based on extensive implementation planning documentation by Te Wānanga o Raukawa.</p>

Kaimahi at Te Wānanga o Raukawa	Kaimahi will have the opportunity to contribute to strategic direction every three years.	<b>No</b> costs during establishment.  <b>Low</b> cost in term of time taken to engage with strategic direction, should they wish to.	High evidence certainty – based on extensive implementation planning documentation by Te Wānanga o Raukawa.
Wider government	Value of Te Wānanga o Raukawa is removed from the Crown’s balance sheet.	\$67.512 million	High evidence certainty - value of Te Wānanga o Raukawa on the Crown’s balance sheet.
<b>Total monetised costs</b>		\$67.873 million	
<b>Non-monetised costs</b>		<i>Medium during establishment</i>  <i>Low once reached steady state</i>	
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups – Te Wānanga o Raukawa including Te Mana Whakahaere,	Strengthened connection to and recognition of the ART Confederation and ability of the Wānanga to achieve rangatiratanga in its governance and accountability arrangements.  Freeing up of Wānanga resources from ongoing additional Crown engagement (over and above standard engagement and reporting) to address this long-standing issue.	High	High (extremely strong desire across the constituent groups of Te Wānanga o Raukawa for this outcome was evident through consultation).
Regulated groups - Te Wānanga o Raukawa Foundation, and Te Taumatua	Strengthened connection to and recognition of the ART Confederation by Te Wānanga o Raukawa, through Te Taumatua being the accountable body for the financial and educational outcomes of the Wānanga.	Medium	High evidence certainty based on the Trust Deed for the Foundation.
Regulated groups - Iwi (as nominating bodies of members	More clarity of expectations on nominated iwi representatives including frequency of engagement, and clarification of iwi ability to remove their nomination if they are not satisfied with their	Medium	High evidence certainty – included in proposed OIC policy settings.

of the Foundation and Te Taumatua)	representative's activity (for both Te Mana Whakahaere and Te Taumatua iwi representatives).		
ART Confederation iwi and hapū	The Wānanga expects to have freed up resources that can be redirected to its ongoing significant mahi to supporting ākonga and connecting to ART iwi and hapū, including developing more programme offerings.	High	Medium evidence certainty – consultation gave overwhelming support for this option from all groups surveyed including ART Confederation iwi and hapū, who saw this as a return to delivery 'by iwi and for iwi', and is a factor in Te Wānanga o Raukawa strategic planning.
Ākonga and kaimahi at Te Wānanga o Raukawa	Pride in their Wānanga being accountable to its founding iwi as an expression of rangatiratanga.  Programmes and resources connected to iwi or hapū.  The Wānanga will be able to respond more quickly and flexibly to some issues that may arise, e.g. improvements to accommodation.	High	High evidence certainty – consultation gave overwhelming support for this option across all groups surveyed including ākonga and kaimahi.
Other Wānanga	The completion of the OIC process for Te Wānanga o Raukawa and its conversion to a non-Crown entity TEI would provide proof of concept for the enabling framework, and give the other Wānanga greater confidence that pursuing an OIC can be successful (if that is the chosen pathway under the enabling framework).	Medium	Medium evidence certainty- based on discussions with the three Wānanga
Employers	No immediate impacts anticipated. Expect flow on benefits over time due to learners' success regarding te reo Māori and mātauranga Māori, and their ability to further the interests of their communities. The benefits are likely to be larger for employers that work closely with the Wānanga, who may have opportunity to work with the Wānanga on new or changed provision that meets their needs.	Low	Low



Education agencies– TEC, NZQA	A stronger relationship with Te Wānanga o Raukawa that is based in a renewed relationship and appropriate balance between kāwanatanga and rangatiratanga.	High	Medium evidence certainty – the OIC will provide the reset and go towards the resolution of WAI 2698, though the ongoing relationship will also be determined by how Te Tiriti partners continue to relate to one another.
Wider government	Meeting Te Tiriti obligations in Wānanga-Crown relationships.	High	Medium evidence certainty – the OIC will provide the reset and go towards the resolution of WAI 2698, though the ongoing relationship will also be determined by how Te Tiriti partners continue to relate to one another.
<b>Total monetised benefits</b>		N/A	
<b>Non-monetised benefits</b>		<i>High</i>	<i>High</i>

Proactively released

## Section 3: Delivering an option

### How will the new arrangements be implemented?

72. This Statement will support an in-principle decision to progress development of an OIC. The details of the OIC will be confirmed after Parliament has completed its consideration of the Bill and it will rely on the Bill being passed into law. As such, this section covers the implementation and monitoring arrangements under the preferred option, based on the policy settings.

### Short-term – Transition to new accountability arrangements

73. The new arrangements are proposed to come into effect on the commencement date specified in the OIC, which is 1 January 2024. The anticipated timing is for Cabinet to consider the OIC in August 2023 and, subject to its agreement, there will be four months to implement transition plans before the new arrangements come into effect on 1 January 2024. We consider that this allows sufficient preparation time for Te Mana Whakahaere and Te Taumatua to put transition plans into action.

### The Minister must make a recommendation to convert Te Wānanga o Raukawa to a non-Crown entity Wānanga

74. Under the Wānanga enabling framework in the Bill, the Governor-General may, by OIC made on the recommendation of the Minister, convert Te Wānanga o Raukawa to a non-Crown entity Wānanga.
75. Before making the recommendation, the Minister must:
- a. consult Te Mana Whakahaere
  - b. consult the ART Confederation
  - c. consult other persons or bodies that the Minister thinks fit
  - d. be satisfied that the functions and purposes of the Wānanga are consistent with the characteristics of a Wānanga set out in section 398D of the Bill
  - e. be satisfied that the accountability arrangements are sufficient for the effective governance and administration of the Wānanga; and
  - f. be satisfied that Te Taumatua –
    - i. accepts responsibility for ensuring accountability of Te Wānanga o Raukawa and Te Mana Whakahaere; and
    - ii. have access to the skills and resources reasonably necessary to ensure accountability of Te Wānanga o Raukawa and Te Mana Whakahaere.

### Preparation for conversion

76. Te Taumatua will be established prior to the proposed conversion on 1 January 2024, currently planned for October 2023. This will ensure that it is ready to begin its monitoring and accountability role. Preparatory work to establish Te Taumatua is expected to include:
- a. amending the Trust Deed for Te Wānanga o Raukawa Foundation Trust to specifically provide for Te Taumatua, and for iwi members to act in this new role independently of the Foundation (expected September)

- b. discussions between the Foundation and Te Mana Whakahaere and decisions about delegations for Te Mana Whakahaere and planning and reporting arrangements (June – July)
  - c. engaging with nominating iwi and their hapū, marae and whānau on the change and its implications (expected June – July)
  - d. training/workshops for nominating bodies and for prospective members of Te Taumatua, building on existing onboarding processes for iwi representatives on Te Mana Whakahaere (expected July – August)
  - e. confirming initial expectations of reporting and engagement from Te Wānanga o Raukawa to Te Taumatua after engagement (expected August – September); and
  - f. ensuring that secretariat and other specialist or support functions are available for Te Taumatua (expected September).
77. Te Wānanga o Raukawa management will be responsible for communicating decisions made by Cabinet on the OIC within their organisation and informing people of changes to their responsibilities. This is expected to include:
- a. engaging with kaimahi, ākonga and whānau on the change, and their interests and expectations (expected June – July)
  - b. Te Mana Whakahaere decisions about organisational policies (e.g., to implement new processes or powers of Te Mana Whakahaere), processes (e.g., reporting) and delegation (e.g., to Tumuaki and staff). These are expected in August – September
  - c. informing kaimahi of changes to their responsibilities and supporting processes (expected September)
  - d. transition workshops for Te Mana Whakahaere members and senior staff of Te Wānanga o Raukawa to clarify the roles and responsibilities of the two bodies and provide any necessary capability building (expected October); and
  - e. new planning, reporting and monitoring arrangements to meet the OIC expectations and the needs and interests of Te Taumatua (expected by November – December).
78. Externally, Te Mana Whakahaere and the TEC will work together to agree to a monitoring framework (refer to paragraph 124). The agreed monitoring framework is expected to cover:
- a. the objectives of the TEC's monitoring of the Wānanga
  - b. the roles and responsibilities of the Minister of Education, the TEC and the Wānanga
  - c. setting and clarifying expectations
  - d. areas of performance monitored by the TEC
  - e. assessing and reporting on risk
  - f. information requirements and arrangements to support monitoring
  - g. performance reporting

- h. performance issues and how they will be managed, including the TEC's role in interventions; and
  - i. relationship expectations and engagement protocols.
79. In the absence of an agreed framework, both the TEC and Te Taumatua will still be able to monitor, and Te Taumatua will have intervention levers available.
80. The current role of NZQA will not change under the OIC, and so its relationship with Te Wānanga o Raukawa will continue as is, in terms of NZQA's legislative role.
81. Under section 106 of New Part 5 inserted into Schedule 1 of the Bill, Wānanga converted to a non-Crown entity Wānanga must provide a final report to the Minister in accordance with section 45J(1) of the Public Finance Act 1989. The Minister may specify the contents of the final report and the date or dates by which the contents of the report must be provided.<sup>10</sup> Te Mana Whakahaere will prepare the report, and the Minister must present a copy of the final report to the House of Representatives as soon as practicable after receiving it.

*The first Te Mana Whakahaere of the converted Te Wānanga o Raukawa*

82. Te Mana Whakahaere will be made up of two representatives from each of the three iwi of the ART Confederation, Te Tumuaki, and up to three additional members appointed by Te Mana Whakahaere. It is likely that the three iwi members currently on Te Mana Whakahaere will provide continuity with the first Te Mana Whakahaere of the converted Wānanga.
83. The OIC provides that for the purpose of making appointments to the first Te Mana Whakahaere, each person or body responsible for appointing members to Te Mana Whakahaere may appoint the number of members required in accordance with the OIC. The appointment of a member to the first Te Mana Whakahaere takes effect on the date the appointment occurs, or the commencement date, whichever is later.
84. If on the commencement date a vacancy in the first Te Mana Whakahaere exists, Te Mana Whakahaere:
- a. may, by written notice to any person who was holding office of the Wānanga that was a Crown entity immediately before that day, authorise that person to act as a member of Te Mana Whakahaere until any vacancy is filled by the person or body responsible for appointing the vacancy; and
  - b. must give a copy of every notice to the person or body responsible for appointing a person to a vacancy.
85. The person or body responsible for appointing members to the first Te Mana Whakahaere must appoint the number of members required within 12 months after the commencement date.

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<sup>10</sup> If Te Wānanga o Raukawa were converted to a non-Crown entity on 1 January 2024, its final report would be for the period to 31 December 2023 and could be provided by 30 April 2024 (if the Minister specified a due date in line with current annual reporting practice).

Conversion on 1 January 2024

86. The assets and business of Te Wānanga o Raukawa would be vested by law, as the Bill states that 'on or after the date of conversion' to a non-Crown entity Wānanga, 'the rights, assets, and liabilities of the wānanga that was a Crown entity vest in the wānanga that is not a Crown entity'.<sup>11</sup> As Te Wānanga o Raukawa already owns its assets as all other TEIs do, this will not change the operation of the Wānanga in the short-term.
87. Te Wānanga o Raukawa is currently a Crown-controlled entity and part of the Crown consolidated accounts, along with the two other Wānanga. From the Crown side, we will need to de-recognise the Ministry's \$67.512 million investment in Te Wānanga o Raukawa on its non-departmental balance sheet. This reflects accounting treatment in accordance with PBE IPSAS 35 Consolidated Financial Standards, not an actual transfer of investments.
88. For the TEC, we expect that on a day-to-day basis little will change in terms of its monitoring of Te Wānanga o Raukawa, although this will be confirmed in the monitoring framework.

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<sup>11</sup> New Part 5 in Schedule 1 (96),(2),(a)].

## Implementation risks

89. The table below identifies potential risks to the implementation of the proposed OIC, the likelihood of this risk occurring, the expected impact should this risk eventuate, the overall risk rating, and the mitigations available for the risk.

	Risks	Likelihood	Impact	Risk rating	Mitigation
QUALITY	Te Taumatua is unable to fulfil its roles and responsibilities	Unlikely	Major	Medium	Ongoing workshops will ensure regular professional development. If the iwi representative body is not satisfied with the performance of their representative, they may rescind their nomination and appoint a new representative.
	A mutually agreed framework between the TEC and Te Mana Whakahaere cannot be agreed	Unlikely	Minor	Low	The TEC has successfully negotiated a monitoring framework with Te Pūkenga, so there is a precedent for this work with a much larger TEI than Te Wānanga o Raukawa. In the absence of an agreed framework, both the TEC and Te Taumatua will still be able to monitor, and Te Taumatua will have intervention levers available.
SCOPE/COST	There may be unintended consequences from the changes as it is a new and untested approach	Possible	Moderate	Medium	Te Taumatua, TEC and NZQA monitoring will identify any potential issues and risks, and the Bill and OIC provide for multiple different points of escalation/intervention if necessary.
	Te Taumatua is unsure of its new roles and responsibilities as distinct from the role and responsibilities of the Foundation	Unlikely	Major	Medium	Te Wānanga o Raukawa WAI 2698 claims team will organise and deliver workshops to explain liability, roles and responsibilities. Te Taumatua, as an accountability body, is closer to the Wānanga than existing accountability relationships. Te Taumatua members will meet with the Minister to provide assurance that they understand their roles and responsibilities. The amended Trust Deed will set out the role of Te Taumatua and will provide for its independence from the Foundation.
	Workshops, legal advice and/or iwi consultation do not occur/are unable to be sourced	Rare	Moderate	Low	Back-up plans would be arranged by Te Wānanga o Raukawa, or Te Mana Whakahaere in the case of iwi consultation.

<b>TIME</b>	There are delays in setting up the first Te Mana Whakahaere e.g., representative bodies are unable to nominate two iwi representatives	Unlikely	Moderate	Low	The OIC provides that the first members must be appointed within 12 months from the commencement date.
	There are delays in setting up the monitoring mechanisms e.g., the monitoring dashboard	Unlikely	Moderate	Low	There are existing processes in place that can be adapted for this purpose.
	Unintended consequences and compliance burdens from government policies and practices continue to occur	Likely	Moderate	Medium	The Ministry will initiate the facilitation about this with other agencies and work to ensure others are aware of and fully understand the proposed changes.

Proactively released

## Medium to long-term – ongoing accountability under Option Two

90. While the OIC does not make any changes to the Act, this section discusses the ongoing accountability arrangements for Te Wānanga o Raukawa in both the OIC and the Act to provide a fulsome understanding of how this option will be implemented.

### Te Mana Whakahaere will govern Te Wānanga o Raukawa and manage its affairs

91. Te Mana Whakahaere will be made up of two representatives from each of the three iwi of the ART Confederation, Te Tumuaki, and up to three additional members appointed by Te Mana Whakahaere.
92. Te Mana Whakahaere will be responsible for the governance of Te Wānanga o Raukawa and the management of its affairs, including ensuring that the Wānanga operates in a financially responsible manner that ensures the efficient use of resources and maintains the long-term viability of the Wānanga. The diagram on page 17 shows the role of Te Mana Whakahaere in leading the planning, doing, monitoring, reporting, and consulting cycle.
93. Te Mana Whakahaere will be responsible for the financial management of the institution, although there will be conditions on the exercise of its powers by the ART Confederation.<sup>12</sup> Its financial operations will be subject to audit and reporting on a regular basis, and the requirements of its accounting records will remain the same as other TEIs. Te Mana Whakahaere will report on its activities through its annual report, which will include financial statements and a statement of performance audited by the Office of the Auditor-General.
94. Te Mana Whakahaere will be required to issue a statement that sets out the strategic direction of the Wānanga for the next five to 10 years, issued at least every three years.<sup>13</sup> Before issuing the statement, Te Mana Whakahaere must engage with ākonga and kaimahi to develop the statement and consult on the proposed statement with Te Taumatua and other interested or affected persons or bodies. Te Mana Whakahaere will also prepare an Investment Plan that covers the strategic intent of the Te Wānanga o Raukawa, how it will address learner success, and a summary of activity and performance measures before receiving funding from the TEC (as set out in sections 424 – 426 of the Act).
95. Te Mana Whakahaere will have the ability to remove members if the member has shown misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of Te Mana Whakahaere or the individual duties of members.

### Te Wānanga o Raukawa will be primarily accountable to the ART Confederation, acting through Te Taumatua

96. Te Mana Whakahaere will be accountable to the ART Confederation for the following matters:
- a. the educational performance and education outcomes for ākonga enrolled at the Wānanga

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<sup>12</sup> Limits on the powers of Te Mana Whakahaere, provision 33 in the OIC.

<sup>13</sup> Statement of strategic direction, provision 34 in the OIC.



- b. the effective and efficient financial management and financial performance of the Wānanga
  - c. the long-term operation and viability of the Wānanga
  - d. the administration and operation of the Wānanga in a manner that is consistent with the characteristics of a Wānanga set out in the Act; and
  - e. progress towards achieving the stated purposes of the Wānanga.
97. The ART Confederation will be represented by Te Taumatua, which will be made up of the iwi members of Te Wānanga o Raukawa Foundation board.
98. The Foundation is an independent and distinct entity from the Wānanga and has experience in financial management and investment to protect and enhance the long-term mission of the Wānanga. The Foundation already manages sizeable assets – it has grown the original settlement funding of \$17.9 million by 58 percent<sup>14</sup> – and has the relevant skills and experience to effectively hold Te Mana Whakahaere accountable.
99. The iwi members on the board of the Foundation, who will make up Te Taumatua, will not be permitted under the OIC to also serve on Te Mana Whakahaere. This separation will prevent any perceived or actual conflicts of interest from arising as Te Taumatua fulfils its role of holding Te Mana Whakahaere accountable. As there is some shared membership between Te Mana Whakahaere and the Foundation through ex-officio roles, the Trust Deed will provide for the independence of Te Taumatua from the Foundation to prevent any perceived or actual conflicts of interest.
100. Te Taumatua will have a variety of levers available to guide Te Mana Whakahaere as well as reserve powers to intervene if necessary. Te Taumatua will be able to direct Te Mana Whakahaere to amend its draft statement of strategic intent, or request that a new statement be drafted at any time, so that it can appropriately steer Te Mana Whakahaere according to its aspirations for the Wānanga.<sup>15</sup>
101. Section 287 (criteria for risk assessment of institutions) of the Act will no longer apply to non-Crown entity Wānanga given that the Crown will no longer hold intervention powers, and Te Taumatua will set its own criteria for risk assessment for Te Wānanga o Raukawa.
102. If Te Taumatua perceives there to be any risks in the operation of Te Mana Whakahaere, Te Taumatua will be able to request information from Te Mana Whakahaere about its operations and/or financial position.<sup>16</sup> If it has concerns that Te Wānanga o Raukawa or its educational performance may be at risk, Te Taumatua may:
- a. appoint an observer or observers to Te Mana Whakahaere<sup>17</sup>
  - b. require Te Mana Whakahaere to obtain specialist help<sup>18</sup>; and/or

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<sup>14</sup> Te Wānanga o Raukawa Foundation Annual Report, 2021-22.

<sup>15</sup> Statement of strategic intent, provision 34 in the OIC.

<sup>16</sup> Te Taumatua may request additional information, provision 39 in the OIC.

<sup>17</sup> Te Taumatua may appoint observers, provision 40 in the OIC.

<sup>18</sup> Specialist help, provision 42 in the OIC.

c. require Te Mana Whakahaere to prepare a performance improvement plan.<sup>19</sup>

103. Te Wānanga o Raukawa does not currently have any subsidiaries. However, if in future there were to be subsidiaries, Te Taumatua may require subsidiaries to prepare separate statements or reports in addition to the group reporting by Te Wānanga o Raukawa.<sup>20</sup> This provides Te Taumatua with the ability to have oversight of the operation of any subsidiaries to assess the overall financial performance and long-term viability of the Wānanga.
104. If there is a serious risk to the operation or long-term viability of the Wānanga, and other methods of reducing the risk either have failed or appear likely to fail, Te Taumatua may dissolve Te Mana Whakahaere and appoint one or more Matapopore to act in place of Te Mana Whakahaere.<sup>21</sup> As soon as Te Taumatua is satisfied the risk has reduced enough so that it is appropriate that Te Wānanga o Raukawa be administered by a council, a new Te Mana Whakahaere must be appointed.
105. Te Wānanga o Raukawa has reported strong surpluses over the past ten years, including through the COVID-19 pandemic, and is considered a well-run organisation. As at the end of 2022, it had significant cash reserves meaning it is well placed to deal with any unforeseen negative shocks. The TEC does not see any financial risks arising from the changes being made.

*The ART Confederation will have ongoing involvement in the accountability relationship*

106. The ART Confederation will in large part be represented by Te Taumatua, as a single decision-making body is needed for effective interventions. The ART Confederation will also be represented by the three representative bodies that nominate iwi representatives to Te Mana Whakahaere.
107. The constitution of Te Mana Whakahaere is designed to ensure that the ART Confederation is sufficiently represented and have the majority voice on the Council. Each of the three iwi that constitute the ART Confederation will be responsible for appointing their two representatives to Te Mana Whakahaere, and will have the ability to rescind their appointment if they consider that their representative is not performing their duties.<sup>22</sup>
108. The iwi nominated members of Te Mana Whakahaere will operate a dual role:
- a. a duty to act in the best interests of the entity they are governing; and
  - b. bringing the perspective of their nominating iwi, including its concerns, aspirations for the Wānanga, to the governance table.
109. Iwi representatives on Te Mana Whakahaere will be required to consult with their iwi representative body before making decisions on the following matters, unless consistent with the statement of strategic direction:
- a. selling or otherwise disposing of land or interests in land within the rohe of the three iwi of the ART Confederation

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<sup>19</sup> Performance improvement plan, provision 43 in the OIC.

<sup>20</sup> Additional reporting by any Te Wānanga o Raukawa subsidiary, provision 37 in the OIC.

<sup>21</sup> Te Taumatua may dissolve Council and appoint one or more Matapopore, provision 45 in the OIC.

<sup>22</sup> Appointment of members, provision 14(2-3) and removal of members, provision 19 in the OIC.

- b. acquiring, selling, or otherwise disposing of land or interests of land outside the rohe of the three iwi of the ART Confederation
- c. disposing of or distributing taonga of the Wānanga; and
- d. mortgaging or otherwise charging assets or interests in assets.<sup>23</sup>

110. In addition to iwi voice on Te Mana Whakahaere and the relationship with the nominating bodies, Te Taumatua will be made up of representatives of each of the three iwi of the ART Confederation. This ensures that the ART Confederation is represented in each layer of decision-making and accountability.

Lines of accountability to the Crown will remain

111. While many of the Crown's accountability levers are being transferred to Te Taumatua, other Crown accountability measures are ongoing; reflecting the Crown's ongoing kāwanatanga responsibilities in relation to the provision of public tertiary education (as discussed in Annex A). The Crown's role will be to monitor and evaluate the quality of the educational provision and use of public funding by Te Wānanga o Raukawa. The funding and regulatory powers of the TEC and NZQA discussed below are out of scope of the OIC, but are discussed here to provide a comprehensive picture of the accountability arrangements for Te Wānanga o Raukawa as a non-Crown entity Wānanga.

112. Te Wānanga o Raukawa will continue to receive government funding – subject to TEC approval of an Investment Plan and any conditions the TEC places on funding – under the funding framework that applies to all tertiary education organisations (TEOs).<sup>24</sup> Te Wānanga o Raukawa will remain accountable to the TEC for the use of public funding, and the monitoring arrangements to ensure this are described below (paragraphs 122 to 127). The TEC will retain its reserve power to suspend, revoke or withdraw funding if it is satisfied on reasonable grounds that:

- d. the organisation is not complying with a funding condition
- e. the organisation is not achieving an outcome in relation to which funding has been given when measured against performance indicators; or
- f. the organisation is not providing adequate and timely information required by TEC or the Ministry.<sup>25</sup>

113. The TEC will still be able to request information from Te Mana Whakahaere for the purpose of fulfilling its legislated functions, and will continue to provide advice to the Minister about the activities and performance of TEOs and the tertiary education sector generally.<sup>26</sup>

114. NZQA will continue to quality assure Te Wānanga o Raukawa, as it does all TEOs except universities. The monitoring frameworks it uses to fulfil this function are described below (paragraphs 128 to 129).

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<sup>23</sup> Conditions on the exercise of powers of Te Mana Whakahaere, clause 33 in the OIC.

<sup>24</sup> Section 400 of the Education and Training Act 2020.

<sup>25</sup> Section 16, Schedule 18, Education and Training Act 2020.

<sup>26</sup> Section 288 and 409 of the Education and Training Act.

115. NZQA collects information on organisations from NZQA's quality assurance processes (e.g. external evaluation and review, applications, visits) and concerns raised by students, staff, and other government organisations. NZQA also has the power to obtain information from an institution for the purpose of performing its functions.<sup>27</sup>
116. NZQA assesses whether there is a risk to students or a breach of legislative requirements and may take action to address these risks. NZQA's actions can include:
- a. working with providers to ensure they are taking corrective actions
  - b. imposing conditions on accreditation with the agreement of a provider
  - c. issuing compliance notices
  - d. withdrawing consent to assess, accreditation or approval; or
  - e. legal action for breaches of the Act.
117. The Tertiary and International Learners Code of Practice will still apply to Te Wānanga o Raukawa, and NZQA will provide support and monitoring where applicable through its role as the Code Administrator as it currently does for all TEOs.
118. Cabinet has agreed to parameters to ensure continued monitoring and transparency [CAB-22-MIN-0589 refers]. The following Acts would continue to apply to a non-Crown entity Wānanga as they relate to accountability for the use of public funding and to the transparency of the organisation to ākonga and communities:
- 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; and
  - f. Crimes Act 1961 (officers and staff are 'officials').

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

### Monitoring and evaluation

#### Te Mana Whakahaere, Te Taumatua and the ART Confederation

119. Once established, Te Mana Whakahaere and Te Taumatua will inform and shape the reporting they receive to monitor the operation of Te Wānanga o Raukawa, its education and whakatupu Mātauranga activity, and progress on its strategic plans and vision. Te Mana Whakahaere and Te Taumatua will each receive relevant monitoring information from a range of sources including:
- a. the kaupapa/tikanga framework (for example, reporting by the Audit, Risk and Investment Committee)
  - b. management and governance dashboards (for example, ongoing risk reporting), and

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<sup>27</sup> Section 458 of the Education and Training Act 2020.

- c. stakeholder reporting (for example audit reports from the Office of the Auditor-General).
120. Te Mana Whakahaere will review and evaluate whether the desired outcomes of the ART Confederation for the Wānanga are being achieved through annual reporting and the statement of strategic direction consultation process.
121. The ART Confederation will monitor the performance of Te Wānanga o Raukawa through its annual reporting and the annual report back by iwi representatives. The ART Confederation, through the representative bodies, will have the opportunity to evaluate the progress of Te Wānanga o Raukawa towards meeting the aspirations of the iwi through the setting of a statement of strategic direction at least every three years. If the iwi representative bodies are not satisfied with the performance of the Wānanga or its progress, it has powers to intervene as discussed above (paragraphs 102 to 104).

#### Crown – TEC and NZQA

122. The TEC will continue to play an important role in monitoring Te Wānanga o Raukawa. Most business-as-usual TEC monitoring of Te Wānanga o Raukawa will continue as it currently does, particularly monitoring of performance against its funding allocation and the performance measures in its Investment Plan, as well as ensuring compliance with funding conditions. The TEC already has robust monitoring processes around non-Crown entities i.e., private training establishments (PTEs). The funding-related provisions in the Act give the TEC the ability to monitor funded organisations, and the TEC can also use funding conditions to introduce more specific monitoring as needed.
123. Te Wānanga o Raukawa would still be included in the requirement of the TEC's Chief Executive under section 405 of the Act to 'on an ongoing basis, monitor institutions that receive funding in order to assess whether the operation or long-term viability of any of those institutions is at risk' with the option of reporting to the Minister of Education on the outcomes of that monitoring. This is an opportunity for the TEC to formally raise concerns with the Minister, and it is expected that the TEC would informally raise any concerns with Te Mana Whakahaere prior to informing the Minister (although this will be agreed to in the monitoring framework).
124. In addition to the above requirement, section 405 of the Bill enables the Chief Executive of the TEC, along with Te Mana Whakahaere, to establish a framework for monitoring risk to the operation and long-term viability of the Wānanga having regard to the purpose of the Wānanga and its accountability to the ART Confederation (as discussed in paragraph 78). The TEC then:
- a. must undertake any monitoring activity in relation to the Wānanga in accordance with the framework, and may report on the outcome of risk monitoring; and
  - b. may report on the outcome of risk monitoring in relation to the Wānanga to the Minister and to the ART Confederation for the operation and long-term viability of the Wānanga.
125. The TEC uses several frameworks to routinely monitor TEIs, including:
- a. twice annual TEI Financial Management reports, which can be assessed against the TEC's Financial Monitoring Framework; and

- b. 10-year capital intentions plans submitted annually, alongside participation in an annual capital asset management capability assessment process.
126. One of the key functions of the TEC is to monitor the performance of the tertiary education sector generally. The TEC undertakes reviews of system-level trends and issues and shares its findings with the sector to help TEOs improve their performance and compliance. Te Wānanga o Raukawa will still be a part of this system-wide monitoring.
127. The TEC will gather data on the operation and long-term viability of the Wānanga and its educational performance through its monitoring, including data submitted by Te Wānanga o Raukawa through the Single Data Return (SDR). The SDR is an electronic database of learner enrolment and completion information that is required to be completed three times a year as a condition of funding. The TEC uses the SDR data for:
- a. monitoring the performance of Te Wānanga o Raukawa (and all TEOs) against its investment plan
  - b. funding and fund recovery
  - c. publishing performance information; and
  - d. statistical reporting.
128. NZQA uses a variety of frameworks to fulfil its quality assurance monitoring function, including:
- a. reviewing consistency of graduate outcomes for qualifications at levels 1-6 on the New Zealand Qualifications Framework (NZQF)
  - b. national external moderation of NZQA-developed unit standards; and
  - c. monitoring of programmes, including compliance visits and External Evaluation and Review (EER) to evaluate the relative quality and performance of the TEO.
129. These monitoring and assessment activities inform NZQA's risk management processes.

## Review

130. The iwi of the ART Confederation will have regular opportunities to review the performance of the Wānanga and ensure that the accountability system is operating as intended. This is reflected in the proposed OIC provisions that a member of Te Mana Whakahaere nominated by iwi must report back to that iwi at least annually as to the activities and operational performance of the Wānanga, and a member nominated by the iwi must at least once every three years seek confirmation on the iwi aspirations for the Wānanga.
131. The Relationship Protocol between the Ministry of Education and Te Wānanga o Raukawa notes that both the Ministry and the Wānanga are committed to building a strong and healthy relationship for the future, with ongoing engagement on a range of matters that may affect both the Ministry and the Wānanga in the future.
132. As part of the principles to guide engagement in the Protocol, both the Ministry and Te Wānanga o Raukawa have agreed to early and ongoing communication, to involve each other in the discussion of an issue as soon as possible, before solutions have been reached or decisions made.

133. In this way, the Relationship Protocol provides a foundation for both the Ministry and Te Wānanga o Raukawa to communicate about any potential issues that may prompt a review of the legislation as soon as they arise.

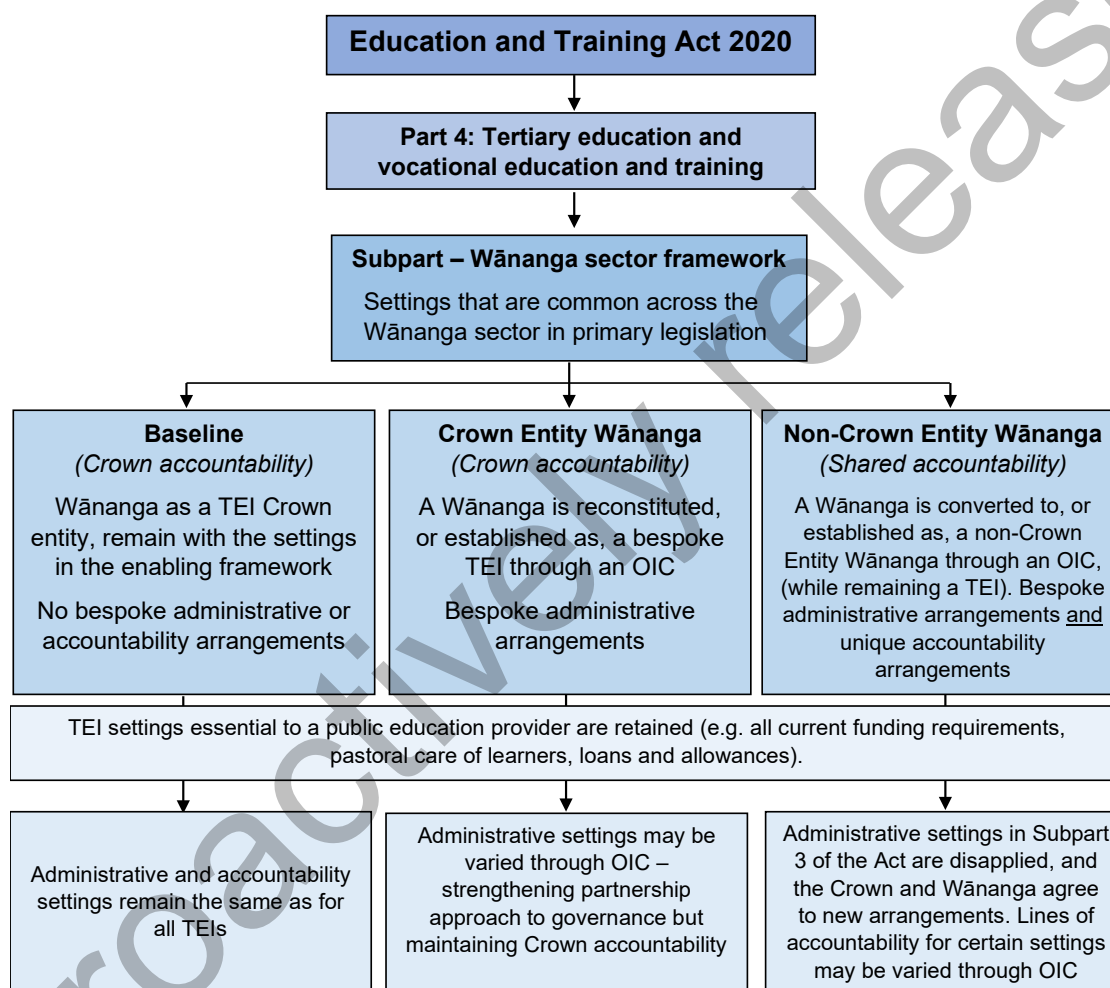
Proactively released

## Annex A - The Wānanga enabling framework

The proposed enabling framework in the Bill was developed in partnership by the Ministry and the three Wānanga to better recognise:

- the individual and collective mana and tino rangatiratanga of the Wānanga,
- the Tiriti o Waitangi/Treaty of Waitangi-based relationship between the Wānanga and the Crown, and
- the unique role the Wānanga play in the tertiary education system

If enacted, it would provide for each Wānanga to express its rangatiratanga through choosing the pathway for administrative and accountability settings that best suits its situation and aspirations. These pathways are:



An ongoing role for the Crown will be to monitor and evaluate the quality of the educational provision and use of public funding by Te Wānanga o Raukawa, in line with Crown interests across all tertiary education in line with the Crown's ongoing kāwanatanga responsibilities.<sup>28</sup>

<sup>28</sup> We consider that the Crown's ongoing kāwanatanga responsibilities in this context are to:

- ensure high quality public education for all learners and the effective and efficient management of public financial resources
- actively protect Wānanga as a system of learning and their critical role in protecting, advancing, and disseminating te reo Māori and mātauranga Māori; and
- foster, support, and assist the Wānanga in their exercise of rangatiratanga.



To this end, the Wānanga enabling framework does not change the powers that NZQA and the TEC need to fulfil these functions. However, there is an expectation that NZQA and the TEC will develop new monitoring mechanisms and other frameworks that better reflect the Tiriti-based relationship the Crown has with Te Wānanga o Raukawa. The relationship between NZQA and the TEC and all three Wānanga will be examined through the quality assurance and funding workstreams of Te Hono Wānanga.

Use of the pathways will be led by Wānanga as they each determine whether they remain with the new status quo, or wish to become either a Crown entity Wānanga or a non-Crown entity Wānanga through OIC.

It is open to Te Wānanga o Aotearoa and Te Whare Wānanga o Awanuiārangi to begin discussions with the Ministry about their intentions in their own time, after deciding which (if either) of the two pathways they want to pursue.

The Ministry would provide advice to Education Ministers on any proposals, including details of proposed policy settings.

## Annex B: Consultation

Alongside consultation on proposed change to establish a new legislative framework for the Wānanga sector, Te Wānanga o Raukawa and the Ministry of Education have also consulted on the options presented within *Discussion Document: Proposal to Reconstitute Te Wānanga o Raukawa through Order in Council*, proposing Te Wānanga o Raukawa to become a non-Crown entity Wānanga. Consultation was completed in October 2022.

Submissions on the proposals were received through survey, hui or written submission. The responses were overwhelmingly supportive of the proposed changes.

Te Wānanga o Raukawa received overwhelming support from its community (including ākonga and their whānau, kaimahi, ART confederation members, iwi members and others) for its proposal. Of the submitters, 117 identified as ākonga of the Wānanga, and 111 as whānau of ākonga (respondents could identify in multiple ways).

Nearly all (99%) of the 344 submitters supported the proposal for Te Wānanga o Raukawa to become a new statutory entity. Only two submitters did not support changes.

The Ministry offered two surveys: one in relation to the Wānanga enabling framework and one for the reconstitution of Te Wānanga o Raukawa proposal. Two responses were received for the latter, both were supportive of the reconstitution of Te Wānanga o Raukawa.

Key themes that emerged from the comments in support of change for Te Wānanga o Raukawa, included:

- the need for tino rangatiratanga for Te Wānanga o Raukawa and for Māori,
- wanting mana motuhake;
- giving iwi control of what they started (often referring to the ART Confederation);
- finding the balance between tino 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 Te Tiriti obligations.

### Impacts on ākonga, employers, iwi/hapū

In the feedback from consultation that Te Wānanga o Raukawa undertook on the proposal, 145 submitters noted positive outcomes for individuals, whānau, hapū or iwi affected by the proposal. Benefits that were identified included:

- Whānau, hapū and iwi able to exercise their tino rangatiratanga over their education and a better balance with kāwanatanga.

One submitter noted: 'It will enable us as a whānau, hapū to grow together and succeed within our own right. It will also give opportunities to our rangatahi.'

- Greater educational success and opportunities for ākonga, with these benefits ongoing for future generations.
- More reasons for ākonga to study at Te Wānanga o Raukawa.
- The protection of taonga and the mātauranga Māori continuum in line with Whakatupuranga Rua Mano.

- Better representation for whānau, hapū and iwi in the governance of Te Wānanga o Raukawa.

Many respondents, including ākonga, expressed pride in the prospect of accountability moving back to the ART Confederation, and confidence in their founding iwi to be the accountable body for the Wānanga. The following comments are some examples of comments from ākonga:

- [the submitter supports the proposal] *to support the whanau that are coming through and to give the iwi their independence back rather than waiting for a yes or no man [from the Crown].*
- *I think they [the submitter's whānau, hapū and iwi] would be more confident to join in these learning spaces that have been built for and by Māori.*
- [I support] *the recognition and elevation of Te Wānanga o Raukawa mana.*

### **Impacts on regulators and wider government**

The consultation feedback by submitters noted wider benefits for other organisations, including government. This included that the reconstitution of Te Wānanga o Raukawa would provide an example of Tiriti partnership in action and set an example for other government departments and NGOs, and that Te Wānanga o Raukawa being enabled to flourish would signal the potential for new Wānanga to be established.

**Annex C: WAI 2698 Whakaaetanga Hononga |  
Relationship Protocol**

Proactively released

## Wai 2698 – WHAKAAETANGA HONONGA

### KUPU WHAKAMĀRAMA

Tēnei te Karauna ka tūtohu i te tono e kīia nei ko Wai 2698. E whakaae ana hoki te Karauna he kawenga kei runga i a ia ki te āta wānanga i taua tono, ki te urupare hoki i runga i te tika. Kua whakaae Te Wānanga o Raukawa rāua ko te Karauna, me te kore tonu o tētehi e noho papa i tō rātou whakaae ā muri ake nei, ka mahi tahi rāua i runga i te ngākau pono ki te whiriwhiri i ngā ara whakatika i ngā take kua whakapuakina i te Wai 2698.

Kua whakaū, ā, e whakapūmau tonu nei te Karauna i tōna hiahia ki te whiriwhiri i ngā rongoā kaupapa-here, toha pūtea mō ngā rā kei tua, e tika ai tāna tautoko i ngā kawenga whakatupu mātauranga a Te Wānanga o Raukawa; ā, ki te tuku anō i te pūtea e rawaka ana, e pai ai te hora a Te Wānanga o Raukawa i āna hōtaka ako.

Kua whakaae anō te Karauna, mō te wāhi ki ngā kawenga whakatupu mātauranga me te horahanga o ngā akoranga, me rere atu he pūtea takawaenga tae noa ki te wā e tatū ai, e whakatinanatia ai ngā rongoā kaupapa-here, toha pūtea mō tua.

Ko tā tēnei whakaaetanga hononga (ka kīia ko te ‘whakaaetanga’ ā muri ake nei), he whakatū anga e taea ai ngā take i ara ake i te Wai 2698 te matapaki, te whakatatū anō hoki. Ko tētehi take matua, ko te aro nui ki te haere kōtui o te tino rangatiratanga me te kāwanatanga. Ko te whakaaetanga nei te takahanga tuatahitanga i te ara whiri, whakatorokaha i te taura i waenganui i Te Wānanga o Raukawa rāua ko te Karauna; he whakatū anga e māmā ake ai te kōrero tahi me te mahi tahi ki te whakatatū i ngā take e whai pānga tahi mai ana ki ngā taha e rua.

### 1 NGĀ RŌPŪ WHAI WĀHI MAI KI TE WHAKAAETANGA

1.1 Ko te whakaaetanga nei, kei waenganui i:

- i. Te Wānanga o Raukawa, ko te Tumuaki hei kanohi mōna;
- ii. Te Karauna, ko Te Tāhuhu o te Mātauranga hei kanohi mōna.

1.2 Ko te koronga ia, hei ōna wā anō e rite ana tonoa ai ētehi atu tari kāwanatanga kia tautoko i ngā Rōpū e rua, kia ea ai te kaupapa me ngā whāinga o te whakaaetanga nei.

1.3 Te Wānanga o Raukawa

E toru ngā iwi kei te Kotahitanga o ART: ko Te Āti Awa ki Whakarongotai, ko Ngāti Raukawa ki te Tonga, ko Ngāti Toa Rangatira. Nō te tau 1975 ka takoto i te Kotahitanga o ART tētehi mahere whakapakari iwi ko *Whakatupuranga Rua Mano—Generation 2000* te ingoa. Ka tohua i reira ētehi kawenga rautaki hei whakatupu i te mātauranga, ka whakanoia anō ētehi keonga e taea ana te ine, he keonga me mahi kia tutuki i roto i te 25 tau.

i. Ko ngā whāinga o *Whakatupuranga Rua Mano*:

- (a) He whakakori anō i te Kotahitanga o ART ki te āta hāpai i te reo me ōna tikanga, me ōna mātauranga;
- (b) He whakahohe anō i ngā whānau, ngā hapū me ngā marae o te Kotahitanga o ART;
- (c) He whakahauora ake i te kāwai mātauranga.

- ii. Nō te tau 1981, i raro anō i te maru o *Whakatupuranga Rua Mano*, ka whakatūria e te Kotahitanga o ART a Te Wānanga o Raukawa. He whakatinanatanga tēnei o tōna rangatiratanga. E anga nui ana ngā kawenga whakatupu mātauranga a Te Wānanga o Raukawa ki te whakahoki mai, ki te whakahaumako, ki te whakarāwai i te kāwai mātauranga.

#### 1.4 Te Karauna

Ko Te Tāhuhu o te Mātauranga te kaitohutohu matua a te Kāwanatanga e pā ana ki te pūnaha mātauranga o Aotearoa. Ko Te Tāhuhu o te Mātauranga e tohu ana i te ahunga kia whāia e ngā pūtahi me ngā kaituku ratonga o te rāngai i ētehi whaitua matua e whitu. Koia ēnei:

- i. Te hautūtanga rautaki i te rāngai mātauranga;
- ii. Te taupua me te whakaputa rauemi mā te hapori;
- iii. Te taupua me te whakaputa rauemi mā ngā kaituku mātauranga;
- iv. Te whakahaere i te pūhera rawa kura;
- v. Te taupua me te whakaputa rauemi mā ngā kaiako;
- vi. Ngā haukotinga mō ētehi huinga ākongā ka āta tohua;
- vii. Te hautūtanga rautaki i te pūnaha kura tuatoru.

## 2 KUPU TAKAMUA

- 2.1 Ko Te Tiriti o Waitangi te tūāpapa o te hononga o te Karauna ki ngā iwi e toru nā rātou a Te Wānanga o Raukawa i whakatū—arā, ki a Te Āti Awa ki Whakarongotai, ki a Ngāti Raukawa ki te Tonga me Ngāti Toa Rangatira.
- 2.2 E kite mārire ana ngā Rōpū whai wāhi ki te whakaaetanga nei i te matawhānui, te pāuaua, te ngākau titikaha me te tautoko nui a ngā iwi nāna a Te Wānanga o Raukawa i whakatū.
- 2.3 E kite mārire ana hoki rātou i te hua me te hiranga o ngā kawenga whakatupu mātauranga a Te Wānanga o Raukawa; ka puta hoki he painga ki a rāua tahi i te whakawhanaketanga me te tauwhirotaunga o te kāwai mātauranga.
- 2.4 E whakaae ana te Karauna he tino wāhi tēnei mea te wānanga, he whare Māori e whāia ai te mātauranga tiketike, e whakapūmautia anō ai ngā tikanga ā-iwi; e whakaae ana hoki he pikaunga nui tā ngā wānanga i te rāngai kura tuatoru o Aotearoa.
- 2.5 Nō te 15 o Whiringa-ā-nuku 2008 i tatū ai tētehi take i waenga i te Karauna me Te Wānanga o Raukawa, ko te tono Wānanga Capital Establishment (Wai 718) tērā. Ko te kōwae 32 o taua Whakaaetaunga Whakataunga e whakaū ana i te oke nui a ngā Rōpū ki te mahi ngātahi i runga i te tika ā ngā rā kei tua. Kāore anō kia eke tēnei kōrero.
- 2.6 Kua tae tēnei ki te wā e whakatikaina ai te hononga o ngā Rōpū nei, e whakatinanatia tūturutia ai te haere kōtui a te rangatiratanga rāua ko te kāwanatanga i āta tohua mai e Te Tiriti o Waitangi.

### 3 KÖRERO HOROPAKI

- 3.1 Nō te 22 o Hakihea 2017 i tāpaea ai te hanga nei, a Te Wānanga o Raukawa Whakatupu Mātauranga Claim (Wai 2698).
- 3.2 E kī ana Te Wānanga o Raukawa nā ngā kaupapa-here a te Karauna e pā ana ki te whai i te mātauranga, te pūtaiao me ngā mahi auaha i te pae tuatoru, tae atu ki ngā ture e whai pānga ana, me ētehi hapa anō hoki, kua raru te whakatinana a te Kotahitanga o ART i tōna tino rangatiratanga mō te wāhi ki tōna kāwai mātauranga me āna kawenga whakatupu mātauranga i Te Wānanga o Raukawa.
- 3.3 Nō muri mai i te toronga a Minita Hipkins rāua ko Minita Davis i Te Wānanga o Raukawa i te 8 o Huitanguru 2018, i whakaae ngā kaitono me te Karauna me hiki te tono kia awe tonu te whakawānga o te tono nei, ā, ka whāia kētia ko te kōrero kanohi ki te kanohi hei ara whakatatū i ngā take i roto i te tono.
- 3.4 I roto i ā rātou matapakinga, ka kite hoki te Karauna me ngā kaitono he ara tēnei hei whakatika i te hononga i waenga i te Karauna me Te Wānanga o Raukawa, hei whakatakoto hoki i tētehi ritenga pai mō te whiriwhiri tahi i ngā kaupapa huhua e hāngai ana ki ngā Rōpū e rua tērā ka ara ake ā ngā rā e heke mai nei.
- 3.5 Nā runga i ēnei āhuatanga, ko te whakaaetanga nei te hua o ngā kōrerorero kanohi ki te kanohi a Te Wānanga o Raukawa rāua ko te Karauna mō te tono Wai 2698 te take, e whakanui ana hoki i te haere kōtui a Te Wānanga o Raukawa rāua ko te Karauna, otirā me te whakaae anō me whakapakari ake, me whakakaha ake taua hononga, mā te whakatū anga e māmā ake ai te kōrero tahi me te mahi tahi i runga i ngā take e hāngai ana, e whaihua ana ki a rāua tahi.
- 3.6 Hāunga anō te hihiri o ngā Rōpū e rua ki te whiri i tētehi taura torokaha, taura hauora mō ngā rā kei tua, e whakaae ana te Karauna kei Te Wānanga o Raukawa te tikanga ina hiahia maunu ia i tēnei whakaaetanga, ka whai kē ai i tā rātou tono Wai 2698 mā huarahi kē.

### 4 TE WHĀINGA MATUA

- 4.1 Ko te whāinga matua o te whakaaetanga nei, e pēnei ana:
  - i. Ko te whakatūturu i te titikaha o ngā Rōpū e rua kia tau te angitu ki Te Wānanga o Raukawa mō te wāhi ki tōna wawata, tae atu ki tana whāinga me te mahi kua tohua hei whakatutuki māna;
  - ii. Ko te whakamāmā i te huarahi e whakaaetia ai he aha ngā mahi whakatika e tika ana hei kawē mā te Karauna mō te wāhi ki ngā take i whakaarahia i te tono Wai 2698, kua kōrerotia hoki i te wāhanga “ngā take kia whiriwhiria ngātahitia”;
  - iii. Ko te tautāwhi i ngā Rōpū ki te raupine i tō rāua hononga kia kore ai e ara ake anō ēnei tūmomo raruraru ā muri ake nei;
  - iv. Ko te whakatū kahupapa e whaihua ai, e haere tonu ai ngā whiriwhiri tahi i ngā kōwhiringa me ngā whakataunga kaupapa-here tērā ka ngau ki Te Wānanga o Raukawa me tōna āheinga ki te whakahoki mai, ki te whakahaumako, ki te whakarāwai i te kāwai mātauranga.

## 5 NGĀ MĀTĀPONO HEI ARATAKI I TE WHIRIWHIRI NGĀTAHI

5.1 E whakaae ana ngā Rōpū e rua ko ngā mātāpono e whai ake nei hei taki i ngā whiriwhiri ngātahi i runga i tēnei whakaaetanga ā ngā rā e heke mai mai:

- i. Kia tika te taumata kōrero—kia whiriwhiria tētehi take, ka haere ngā whiriwhiri tahi i te taumata e tika ana, ka taurite hoki te āhua o ngā rōpū e rua;
- ii. Kia mārama, kia whaihua te kōrero—kia mārama, kia whaihua, kia rere arorangi ngā kōrero a tētehi taha ki tētehi;
- iii. Kia wawe, kia whāroa te kōrero—kia wawe tonu te whakapā atu, te hui atu a tētehi taha ki tētehi ina ara ake he take me matapaki tahi, i mua i te kitenga o te rongoā, i mua anō i te whakataunga;
- iv. Te whai pānga tahi—i ngā wā katoa e taea ai, ka mahi ngā Rōpū e rua ki te wherawhera, ki te arotahi ki ngā āhuatanga e whai pānga ana ki a rāua tahi;
- v. Te whakaae kia rerekē ngā whakaaro—i ngā wā ka ara ake he take tē kitea he huarahi e whakaae ai ngā taha e rua, ka āta whakapuakina, ka tūtuhutia anō hoki ngā whakaaro e rua;
- vi. Te pono—ka kōrero hāngai tonu ngā Rōpū e rua mō ngā āhuatanga kāore e whakaaetia; kāore e mea ake he pōhēhē kau noa, he mea kāore i mārama, tē aro rānei te tikanga o te kōrero a tērā atu taha;
- vii. Te ngākau tapatahi—kia mōhio ngā taha e rua ki ngā tepenga o tōna mana, ā, ki te puta he kī taurangi, kia kaua e waiho ki te ngutu noa;
- viii. Te whakaae e tītaha ana te nui o te awe me te rawa—e whakaae ana te Karauna he nui ake te awe me te rawa i tētehi o ngā Rōpū, ā, ka whai mārire ia kia kaua tēnei tūāhua e whakamahia hei painga mōna, hei whakatītaha kē atu rānei i tēnei āhuatanga;
- ix. He putanga hāpai i te mana—ka whakapau kaha mārire ngā Rōpū e rua kia puta ngā hua e hāpai ana i te mana.

## 6 TE KĀWANATANGA, TE TINO RANGATIRATANGA, ME TE TIRITI O WAITANGI

6.1 E mārama ana ngā Rōpū e rua ko te haere kōtui o te tino rangatiratanga me te kāwanatanga, i āta tohua rā e Te Tiriti o Waitangi, koia te aho tāhuhu o tēnei whakaaetanga me te tono Wai 2698.

6.2 E whakaae ana hoki ngā Rōpū e rua he rerekē te titiro a tēnā, a tēnā taha mō te wāhi ki te whakamāoritanga tika o Te Tiriti o Waitangi; erangi ia, e whakaae ana me mahi tahi tonu i runga i te ngākau pono ki te kimi rongoā e whakaaetia ana e ngā taha rua hei whakatatū i ngā take i ara ake i te tono Wai 2698.

## 7 NGĀ TAKE KIA WHIRIWHIRIA NGĀTAHITIA

7.1 Anei ngā mahi e noho tahi ai, e whiriwhiri tahi ai ngā rōpū nei:

- i. Ko te hoahoa i tētehi anga ko Te Tiriti te tūāpapa, e pai ai te āta whiriwhiri tahi a Te Wānanga me te Karauna i ngā kōwhiringa me ngā whakataunga kaupapa-here tērā tonu pea e ngau ki Te Wānanga o Raukawa me tōna āheinga ki te whakahoki mai, ki te whakahaumako, ki te whakarāwai i te kāwai mātauranga;



- ii. Ko te whakahou i te hanga ā-ture o Te Wānanga o Raukawa kia tū mai ai ia hei hinonga e taea ai te tino rangatiratanga me te kāwanatanga te whakatinana;
- iii. Ko te āta tūtohu i ngā mate kua pā ki Te Wānanga o Raukawa, i kōrerotia rā i te tono Wai 2698, me te āta whakahua i ngā mahi ka mahia e te Karauna hei rongoā i aua mate;
- iv. Ko te wherawhera i ētehi kōwhiringa huhua e whakatinanatia ai te tino rangatiratanga o Te Wānanga o Raukawa me te kāwanatanga o te Karauna i roto i tētehi pūnaha whakamana tohu mātauranga;
- v. Ko te whakatakoto me te whakatinana rongoā takawaenga hei tautoko i ngā whakahaere a Te Wānanga o Raukawa tae noa ki te wā e whakatatūria ai e ngā Rōpū e rua ngā rongoā kaupapa-here, toha pūtea e tika ana mō ngā rā kei tua.

## 8 TE HUARAHĪ WHIRIWHIRI TAHI ME NGĀ HUA E WAWATATIA ANA KIA PUTA AKE

- 8.1 Ko ngā whiriwhiri tahi i raro i tēnei whakaaetanga, ka kawea i roto i te wā, i runga hoki i ngā whāinga tōmua ka whakaaetia e ngā Rōpū i ōna wā anō, ā, i runga anō hoki i ngā āhuatanga ka tūpono te puta ake.
- 8.2 Hei mahinga tuatahinga, ka hoahoaina ngātahitia, ka whakaaetia hoki e ngā Rōpu e rua tētehi mahere mahi ā-tau hei whakatika i te hononga, hei whakaea anō hoki i te wawata me ngā tūmanako o Te Wānanga o Raukawa.
- 8.3 Ko tā te mahere mahi ā-tau:
  - i. He whakaatu i ngā mahi kia mahia, ā, mō āwhea oti ai;
  - ii. He tautuhi mā wai tēnā me tēnā mahi, tēnā me tēna putanga;
  - iii. He whakarite kia tuhia he pūrongo whakaatu i te koke haere o ngā mahi hei tāpae ki ngā Reo Mātāmua o ngā Rōpū e rua;
  - iv. He tautuhi i ngā tikanga tukutuku pārongo, tae atu ki: ngā kōwhiringa me ngā marohi kaupapa-here, ngā kupu tohutou, ngā taunakitanga me ngā whakataunga i roto i te whakatutukinga haeretanga o ngā mahi me ngā putanga;
  - v. He tautuhi i ngā wā – he tohu whānui nei i ngā wā, ā, kia rawaka anō te roa – e oti ai i ngā Reo Mātāmua ngā wānanga, ngā whakahokinga kōrero me ngā whakataunga e pā ana ki ngā panonitanga kaupapa-here tērā ka tāpaea ki ō rāua aroaro.
- 8.4 Mā Te Tāhuhu o te Mātauranga e ruruku ngā mahi a ngā pūtahi kāwanatanga katoa, me te hui anō ki Te Wānanga o Raukawa i ōna wā anō e tika ana kia pai ai te whakatutuki haere i te mahere mahi, te tuku pārongo ki ētehi atu pūtahi i ngā wā e tika ana, me te whakatatū anō hoki i ngā take tērā e ara ake.
- 8.5 E whakaae ana ngā Rōpū e rua kia tū he hui i ia tau, Rangatira ki te Rangatira, i waenganui i ngā Reo Mātāmua o Te Wānanga o Raukawa me ngā Minita o te Mātauranga, ki te tiro tiro e pēwhea ana te oti haere o ngā mahi kua tohua mā tēnā, mā tēnā i te mahere mahi.

## **9 TE AROTAKE I TE WHAKAAETANGA HONONGA**

- 9.1 E mārāma ana ngā Rōpū e rua kei te tupu tonu tō rāua nei hononga, ā, e tika ana kia arotakea te whakaaetanga i ia tau.
- 9.2 Hei whakatutuki i tēnei, ka hui ētehi māngai o ngā Rōpū e rua i ia tau ki te matapaki, ki te whakaae hoki ki ētehi panonitanga ki te whakaaetanga e whakaaro nei rātou ka whaihua. Ko ngā panonitanga ka whakaaetia, ka waitohungia e ngā tāngata kua tautapatia e ngā Rōpū mā rātou tērā mahi.
- 9.3 I tua atu i te arotakenga ā-tau, kei ngā rōpū anō te tikanga ina hiahia whakatakoto whakaaro rāua mō tētehi whakarerekētanga ki te whakaaetanga; ko tā tērā atu taha ina pērā, he aro ki te whakaaro i runga i te ngākau pai, me te whakahoki kōrero atu i te wā tata e taea ana.

## **10 NGĀ TEPENGA O TE WHAKAAETANGA**

- 10.1 E kī mārīre ana ngā Rōpū e rua ka whakapau kaha rāua ki te hāpai i te whakaaetanga, ki te manaaki hoki i ngā kupu paihere e mau mai ana ki roto.
- 10.2 Ki te tūpono pā he āhuetanga tē taea e ngā Rōpū te kaupare atu, he āhuetanga e kore ai ngā kupu paihere e manaakitia, kia tere tonu te whakamōhio atu i tērā atu taha, kia wawe anō te whakarite hui, te āta hui anō hoki ki te tiroiro me aha.

## **11 TE WHAKATATŪ I NGĀ TAUTOHE**

- 11.1 Ka whakapau kaha ngā Rōpū e rua, i runga anō i tā ngā Mātāpono o te Wāhanga 5 i runga ake nei i whakahau ai, ki te whakatatū i ngā tautohe.
- 11.2 Tērā pea ko te whakatatūnga o ētehi tautohe, ko te āta whakaae mārīre o ngā Rōpū e rua kāore rāua e whakaae.
- 11.3 Ko ngā tautohe tē kitea e ngā Rōpū e rua he tatūnga, erangi he āhuetanga e hinga ai te whakaaetanga nei, e hē anō ai te mahere mahi ki te kore e tatū, ka riro mā ngā Reo Mātāmua o ngā Rōpū e whakatau.

## **12 TE MANA MĀTĀMUA MŌ TĒNEI WHAKAAETANGA**

- 12.1 Ko te Tumuaki te mana mātāmua o Te Wānanga o Raukawa mō te wāhi ki tēnei Whakaaetanga.
- 12.2 Ko te Hēkeretari o Te Tāhuhu o te Mātauranga te mana mātāmua o te Karauna mō te wāhi ki tēnei Whakaaetanga.

## **13 TE WHAKAWHITINGA KI TE REO MĀORI**

- 13.1 He mea whakamāori te whakaaetanga hononga nei e Hēni Jacob.
- 13.2 Kua whakaūngia te tika o te whakamāoritanga e Piripi Walker.

## Wai 2698 RELATIONSHIP PROTOCOL

### EXPLANATORY NOTE

The Crown acknowledges the Wai 2698 claim and considers it has an obligation to carefully consider that claim and respond appropriately. Te Wānanga o Raukawa and the Crown have agreed without prejudice to work together in good faith to explore options that address the claims expressed in Wai 2698.

The Crown has confirmed and maintains its willingness to address the future policy and funding solutions required to properly support the whakatupu mātauranga activity of Te Wānanga o Raukawa; and to appropriately resource Te Wānanga o Raukawa in its provision of its learning programmes.

The Crown has also agreed that, with respect to both whakatupu mātauranga activity and course provision, interim resourcing should be provided until such time as future policy and funding solutions have been developed and implemented.

This protocol (the protocol) is intended to provide a framework within which the issues raised by the Wai 2698 claim can be discussed and resolved. A key issue is the need to address the relationship between tino rangatiratanga and kāwanatanga. The protocol is regarded as a first step in developing and strengthening the relationship between Te Wānanga o Raukawa and the Crown by providing a framework that will facilitate engagement and cooperation on matters of mutual interest.

### 1 PARTIES TO THE PROTOCOL

1.1 The protocol is between:

- i. Te Wānanga o Raukawa, represented by the Tumuaki;
- ii. The Crown, represented by the Ministry of Education.

1.2 It is expected that other government departments will be called upon when necessary to support the Parties to achieve the purpose and objectives of this protocol.

1.3 Te Wānanga o Raukawa

The ART Confederation comprises three iwi: Te Āti Awa ki Whakarongotai, Ngāti Raukawa ki te Tonga and Ngāti Toa Rangatira. In 1975 the ART Confederation designed an iwi development plan called *Whakatupuranga Rua Mano—Generation 2000*, with a range of strategic whakatupu mātauranga activity and measurable targets to be achieved over a 25-year period.

- i. *Whakatupuranga Rua Mano* sought to:
  - (a) Re-engage the ART Confederation with te reo me ōna tikanga, me ōna mātauranga;
  - (b) Reinvigorate the whānau, hapū and marae of the ART Confederation;
  - (c) Revitalise the mātauranga continuum.
- ii. As part of *Whakatupuranga Rua Mano*, the ART Confederation established Te Wānanga o Raukawa in 1981 as an exercise of rangatiratanga. The whakatupu mātauranga activity undertaken at Te Wānanga o Raukawa is committed to reclaiming, enriching and enhancing the mātauranga continuum.

#### 1.4 The Crown

The Ministry of Education is the Government's lead advisor on the New Zealand education system. The Ministry is responsible for shaping direction for sector agencies and providers across seven key areas. These include:

- i. Strategic leadership in the education sector;
- ii. Support and resources for the community;
- iii. Support and resources for education providers;
- iv. School property portfolio management;
- v. Support and resources for teachers;
- vi. Interventions for target student groups;
- vii. Strategic leadership in the tertiary system.

## 2 PREAMBLE

- 2.1 Te Tiriti o Waitangi forms the foundation of the relationship between the Crown and the three founding iwi of Te Wānanga o Raukawa—Te Ati Awa ki Whakarongotai, Ngāti Raukawa ki te Tonga and Ngāti Toa Rangatira.
- 2.2 The Parties to this protocol recognise the vision, drive, dedication and support of the founding iwi responsible for establishing Te Wānanga o Raukawa.
- 2.3 They recognise the inherent value and importance of the whakatupu mātauranga activity of Te Wānanga o Raukawa and have a shared interest in enabling the development and safekeeping of the mātauranga continuum.
- 2.4 The Crown acknowledges the importance of wānanga as Māori institutions of higher learning and cultural preservation; and the contribution of wānanga to the tertiary education sector of Aotearoa New Zealand.
- 2.5 On 15 October 2008 the Crown and Te Wānanga o Raukawa reached a settlement in respect of The Wānanga Capital Establishment claim (Wai 718). Paragraph 32 of the Deed of Settlement recorded the Parties' commitment to a constructive future relationship. This commitment has not yet been realised.
- 2.6 The Parties now have an opportunity to re-set their relationship, transforming it into an authentic expression of the relationship between tino rangatiratanga and kāwanatanga that was prescribed in Te Tiriti o Waitangi.

## 3 BACKGROUND

- 3.1 Te Wānanga o Raukawa Whakatupu Mātauranga Claim (Wai 2698) was lodged on 22 December 2017.
- 3.2 Te Wānanga o Raukawa claims that the Crown's tertiary education and science and innovation policies, and related acts and omissions, have prejudicially affected the exercise of tino rangatiratanga by the ART Confederation over its mātauranga continuum and the activity of whakatupu mātauranga at Te Wānanga o Raukawa.

- 3.3 Following a visit to Te Wānanga o Raukawa by Ministers Hipkins and Davis on 8 February 2018, the claimants and the Crown agreed that the application for urgency should be adjourned and that direct dialogue would be entered into in order to address the issues in the claim.
- 3.4 In their discussions, the Crown and the claimants also saw an opportunity to reset the relationship between the Crown and Te Wānanga o Raukawa, and to establish a solid basis for ongoing engagement on a range of matters that may affect both Parties in the future.
- 3.5 As such, this protocol is a product of the direct dialogue between Te Wānanga o Raukawa and the Crown in the context of the Wai 2698 claim, but is also recognition of the ongoing relationship between Te Wānanga o Raukawa and the Crown, and the need to develop and strengthen that relationship by providing a framework that will facilitate engagement and co-operation on matters of mutual interest and benefit.
- 3.6 Notwithstanding that the Parties are committed to building a strong and healthy relationship for the future, the Crown accepts Te Wānanga o Raukawa's right to withdraw from this protocol at any time, to continue to pursue their Wai 2698 claim through other avenues.

#### **4 PURPOSE**

- 4.1 The purpose of this protocol is to:
- i. Affirm the Parties' joint commitment to Te Wānanga o Raukawa's success in terms of Te Wānanga o Raukawa's stated vision, purpose, and function;
  - ii. Facilitate agreement on appropriate corrective action that the Crown will take with respect to the issues raised in the Wai 2698 claim, as set out in the "matters for engagement" section;
  - iii. Help the Parties to reset their relationship so as to ensure that such issues do not arise in the future;
  - iv. Provide a platform for constructive and ongoing engagement on policy options or decisions that are likely to affect the ability of Te Wānanga o Raukawa to reclaim, rejuvenate and expand the mātauranga continuum.

#### **5 PRINCIPLES TO GUIDE ENGAGEMENT**

- 5.1 The Parties agree that the following principles will guide future engagements under this protocol:
- i. Appropriate level of interaction—that where engagement occurs, it happens at the appropriate level, and that there is equivalence between each party;
  - ii. Clear and effective communication—that each party will communicate effectively and directly with the other party;
  - iii. Early and ongoing communication—that each party will involve the other in discussion of an issue as soon as possible, before solutions have been reached or decisions made;
  - iv. Commonality—that both Parties will seek wherever possible to explore and focus on common interests;

- v. Acknowledgement of difference—that where views of the Parties cannot be reconciled, the points of difference are articulated precisely and acknowledged;
- vi. Honesty—that the Parties speak frankly about their points of disagreement, rather than trying to brush them off as misunderstandings or inability to comprehend what the other party is saying;
- vii. Integrity—that each party is clear about the limits of their authority, and that any promises made are kept;
- viii. Acknowledgement of power and resource imbalance—that the Crown acknowledge the imbalance of power and resources that currently exists between the Parties, and that it takes all reasonable steps to ensure that this imbalance is neither exploited nor exacerbated;
- ix. Mana enhancing outcomes—that the Parties will use their best endeavours to achieve outcomes that are mana enhancing.

## **6 KĀWANATANGA, TINO RANGATIRATANGA, AND TE TIRITI O WAITANGI**

- 6.1 The Parties recognise that the relationship between tino rangatiratanga and kāwanatanga, as prescribed by Te Tiriti o Waitangi, is central to this protocol and to the Wai 2698 claim.
- 6.2 The Parties also acknowledge that they hold differing positions on the correct interpretation of Te Tiriti o Waitangi; but agree to work in good faith to achieve mutually acceptable solutions to address the issues raised by the Wai 2698 claim.

## **7 MATTERS FOR ENGAGEMENT**

- 7.1 The matters for engagement include:
  - i. Design of a Te Tiriti-based framework through which the Wānanga and the Crown can engage effectively on policy options and decisions that are likely to affect the ability of the Te Wānanga o Raukawa to reclaim, rejuvenate and expand the mātauranga continuum;
  - ii. Reconstitution of Te Wānanga o Raukawa as an entity that allows the proper exercise of tino rangatiratanga and kāwanatanga;
  - iii. Appropriate acknowledgement of any prejudice suffered by Te Wānanga o Raukawa, as outlined in the Wai 2698 claim, and the steps the Crown will take to remedy that prejudice;
  - iv. Explore a broad range of options in order to consider how the tino rangatiratanga of Te Wānanga o Raukawa and the kāwanatanga of the Crown can best be expressed in an accreditation system;
  - v. Development and implementation of interim solutions to support the operations of Te Wānanga o Raukawa until such time as the Parties have agreed upon appropriate future policy and funding solutions.

## **8 MECHANISM OF ENGAGEMENT AND DESIRED OUTCOMES OF ENGAGEMENT**

- 8.1 The engagements under this protocol will be carried out in accordance with the timeframes and priorities that the Parties agree on from time to time and as the circumstances require.

- 8.2 In the first instance, the Parties will co-design and agree an annual work plan to reset the relationship and achieve Te Wānanga o Raukawa's vision and aspirations.
- 8.3 The annual work plan will:
- i. Outline tasks and timeframes for work to be done;
  - ii. Specify who is responsible for tasks and deliverables;
  - iii. Provide for written report-backs on progress to the Parties respective Principals;
  - iv. Specify processes to share information, including: policy options and proposals, advice, recommendations and decisions in the achievement of tasks and deliverables;
  - v. Specify indicative and reasonable timeframes for consideration, feedback and decisions of any proposed policy changes by the Parties' respective Principals.
- 8.4 The Ministry of Education will coordinate the activity of all government agencies and engage on a regular basis with Te Wānanga o Raukawa to achieve the work plan, share information with other agencies as required and resolve any issues arising.
- 8.5 The Parties agree to a Rangatira ki te Rangatira annual hui between Te Wānanga o Raukawa's Principals and Education Ministers to review how the parties are progressing with the work plan.

## **9 REVIEW OF THE RELATIONSHIP PROTOCOL**

- 9.1 The Parties recognise that their relationship will continue to evolve and accordingly have agreed to review this protocol on an annual basis.
- 9.2 To this end, representatives of the Parties will meet annually to discuss and agree on any changes that might usefully be made to this protocol. Any agreed changes will be signed by the people authorised to sign on behalf of the Parties.
- 9.3 In addition to the annual review, either party may propose an amendment to the protocol at any time; which the other party will consider in good faith and respond to within a reasonable time.

## **10 LIMITS OF THE PROTOCOL**

- 10.1 Both Parties commit to using their best endeavours to uphold this protocol and to fulfil the commitments that it contains.
- 10.2 In the event that circumstances beyond the Parties' control prevent commitments from being upheld, immediate notice must be given and the Parties must commit to meet at the earliest possible convenience in order to review the situation.

## **11 RESOLUTION OF DISAGREEMENTS**

- 11.1 The Parties will make best endeavours with reference to the Principles outlined in Clause 5 above to resolve any disagreements.
- 11.2 Resolution of some disagreements may be reached by the Parties agreeing to disagree.

11.3 Disagreements that cannot be resolved between the Parties but are fundamental to maintaining this agreement and achieving the work plan, will be escalated to the Principals of the Parties.

**12 PRIMARY AUTHORITY FOR THE PROTOCOL**

12.1 The primary authority for Te Wānanga o Raukawa in regard to this Protocol is the Tumuaki.

12.2 The primary authority for the Crown in regard to this Protocol is the Secretary of the Ministry of Education.

**13 LANGUAGE**

13.1 A rendering of this whakaaetanga hononga/protocol into Te Reo Māori has been undertaken by Hēni Jacob.

13.2 This translation has been verified by Piripi Walker.



Hon Kelvin Davis  
Minister for Māori Crown Relations: Te Arawhiti  
Associate Minister of Education (Māori Education)  
14/11/2019



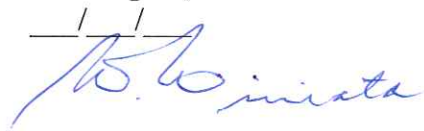
Hon Chris Hipkins  
Minister of Education  
14/11/19



Matiu Rei  
Te Mana Whakahaere



Robin Hapi,  
Amokapua, Wai 2698 Claimant



Whatarangi Winiata  
Ahorangi, Wai 2698 Claimant

14/11/2019



Mereana Selby  
Tumuaki, Wai 2698 Claimant

   /   /   



Ani Mikaere  
WAI 2698 Claimant

14/11/2019

Manurere Devonshire  
Te Mana Whakahaere

   /   /   

