



## Tertiary Education Report: Te Pūkenga's draft Statement of Intent 2024-2027 and Statement of Performance Expectations 2024

<b>Date:</b>	4 December 2023	<b>TEC priority:</b>	High
<b>Security level:</b>	In Confidence	<b>Report no:</b>	B-23-00904
		<b>Minister's office No:</b>	

ACTION SOUGHT		
	Action sought	Deadline
<p><b>Hon Penny Simmonds</b> Minister for Tertiary Education and Skills</p>	<p><b>agree</b> to EITHER:</p> <ul style="list-style-type: none"> <li>• <b>provide</b> feedback to Te Pūkenga on its current Statement of Intent (SOI) in time for it to be finalised before the beginning of Te Pūkenga's 2024 financial year; <b>OR</b></li> <li>• <b>grant</b> Te Pūkenga an extension of up to one year to produce an SOI more aligned with your objectives under section 139B(1) of the Crown Entities Act 2004; <b>OR</b></li> <li>• <b>waive</b> the requirement for Te Pūkenga to produce an SOI under section 139B(3) of the Crown Entities Act 2004 given your intention to disestablish it (<i>recommended option</i>).</li> </ul> <p><b>note</b> that there is no option to delay or waive the requirement for Te Pūkenga to finalise its Statement of Performance Expectations (SPE) for 2024, and if you have any feedback on its draft SPE, this should be provided as soon as possible.</p> <p><b>sign and send</b> the attached draft letter to the Chair of Te Pūkenga informing him of your decision and feedback.</p>	<p>As soon as is practicable</p>
<b>Enclosure:</b> Yes	<b>Round Robin:</b> No	

CONTACT FOR TELEPHONE DISCUSSION (IF REQUIRED)			
Name	Position	Telephone	1st contact
9(2)(g)(ii)		9(2)(g)(ii)	✓
Tim Fowler	Chief Executive		

**THE FOLLOWING DEPARTMENTS/AGENCIES HAVE SEEN THIS REPORT**

- DPMC    MPI    ENZ    ERO    MBIE    MoE    MFAT  
 MPP    MSD    NZQA    NZTE    TEC    TPK    Treasury

**Minister's Office to Complete:**

<input type="checkbox"/> Approved	<input type="checkbox"/> Declined
<input type="checkbox"/> Noted	<input type="checkbox"/> Needs change
<input type="checkbox"/> Seen	<input type="checkbox"/> Overtaken by Events
<input type="checkbox"/> See Minister's Notes	<input type="checkbox"/> Withdrawn

**Comments:**

## Recommendations

---

**Hon Penny Simmonds**, Minister for Tertiary Education and Skills

*It is recommended that you:*

1. **note** that Te Pūkenga submitted its draft Statement of Intent (SOI) for the 2024 to 2027 period and its draft Statement of Performance Expectations (SPE) for 2024 to the former Minister of Education on 31 October 2023 for formal consideration, as required by the Crown Entities Act 2004.
2. **note** that the Crown Entities Act 2004 requires the relevant Minister to respond to the draft SOI and SPE within 15 working days if they have any feedback, which was 21 November 2023.
3. **note** that Te Pūkenga resubmitted its draft SOI and SPE to you on 28 November 2023, and although the legislative deadline has passed, we consider you can still provide feedback in time for Te Pūkenga to incorporate it into its final documents, which must be published before the end of the calendar year.
4. **note** that section 139B of the Crown Entities Act 2004 allows you to either grant Te Pūkenga an extension of up to one year to produce an SOI that is more aligned with your policy intentions or to waive the requirement to produce an SOI at all given your intention to disestablish Te Pūkenga.

5. **agree** to EITHER:

- a) provide feedback to Te Pūkenga on its current SOI in time for it to be finalised before the beginning of Te Pūkenga's 2024 financial year; **OR**

AGREE / DISAGREE

- b) grant Te Pūkenga an extension of up to one year to produce a new SOI more aligned with your objectives under section 139B(1) of the Crown Entities Act 2004; **OR**

AGREE / DISAGREE

- c) waive the requirement for Te Pūkenga to produce an SOI under section 139B(3) of the Crown Entities Act 2004 given your intention to disestablish it (*recommended option*).

AGREE / DISAGREE

6. **note** that there is no option to delay or waive the requirement for Te Pūkenga to finalise its SPE for 2024, and if you have any feedback on its draft SPE, this should be provided as soon as possible so that it can be published in time for Te Pūkenga's 2024 financial year.
7. **agree** to sign and send the attached draft letter to the Chair informing him of your decision.

AGREE / DISAGREE

8. **agree** that the Tertiary Education Commission proactively release this briefing.

AGREE / DISAGREE

TERTIARY EDUCATION REPORT: TE PŪKENGA'S DRAFT STATEMENT OF INTENT 2024-2027 AND STATEMENT OF PERFORMANCE EXPECTATIONS 2024



**Tim Fowler**

Chief Executive  
Tertiary Education Commission

4 December 2023



**Hon Penny Simmonds**

Minister for Tertiary Education and Skills

05/12/23

## **Purpose**

---

1. This briefing sets out your responsibilities as Minister with regards to Te Pūkenga's draft Statement of Intent (SOI) for the 2024 to 2027 period and its draft Statement of Performance Expectations (SPE) for 2024. Given your intention to disestablish Te Pūkenga, we have also provided you with options on how you may wish to proceed with regards to Te Pūkenga's SOI.

## **Background on the SOI and SPE process**

---

### **Te Pūkenga must produce an SOI every three years and an SPE on an annual basis...**

2. Te Pūkenga is subject to provisions of the Crown Entities Act 2004 (the Act) that do not apply to other tertiary education institutions. Section 139 of the Act requires Te Pūkenga to develop an SOI at least once in every three-year period. Te Pūkenga last produced an SOI at the end of 2020 and so must do so before the end of 2023. The SOI must relate to the upcoming financial year and the following three financial years.
3. Section 149C of the Act sets out the obligation for Te Pūkenga to prepare an SPE for the upcoming financial year on an annual basis.

### **...in accordance with the requirements of an SOI and SPE as set out in the Act...**

#### *Statement of Intent*

4. Section 138 of the Act sets out the purpose of the SOI, which is to promote public accountability by:
  - a. enabling the Crown to participate in the process of setting Te Pūkenga's strategic intentions and medium-term undertakings.
  - b. setting out for the House of Representatives those intentions and undertakings.
  - c. providing a base against which Te Pūkenga's actual performance can later be assessed.
5. Section 141 of the Act sets out the required content of an SOI. Specifically, it must set out the strategic objectives that Te Pūkenga intends to achieve or contribute to. Among other things, it must explain how it intends to manage its operations to meet its strategic intentions and how it will assess its performance.

#### *Statement of Performance Expectations*

6. Section 149B of the Act sets out the purpose of the SPE, which is to:
  - a. enable the responsible Minister to participate in the process of setting annual performance expectations.
  - b. enable the House of Representatives to be informed of those expectations.
  - c. provide a base against which actual performance can be assessed.
7. Section 149E of the Act sets out the contents of an SPE. An SPE must include a concise explanation of what each reportable class of outputs is intended to achieve and explain how the performance of each reportable class of outputs will be assessed. The SPE must contain forecast financial statements for the upcoming financial year.

### **...and Te Pūkenga is required to submit a draft SOI and SPE to you for consideration...**

8. The process and timeline for providing the SOI and SPE to you is set out in section 146 and 149I of the Act respectively. Te Pūkenga must submit its draft SOI and SPE to you no later than two months before the start of the next financial year. Te Pūkenga met this timeline by submitting its draft SOI for 2024 to 2027 and SPE for 2024 to the former Minister of Education

on 31 October 2023. The draft SOI and SPE was subsequently sent to you by Te Pūkenga on 28 November 2023.

9. As Minister, you may provide comments to Te Pūkenga on its draft SOI and SPE although you have no obligation to give any feedback. The Act states that the responsible Minister must provide feedback no later than 15 days after receiving the draft SPE. To meet this statutory requirement, feedback would need to have been provided to Te Pūkenga by 21 November 2023. However, there is no consequence of not meeting this deadline and given the change of Government, we consider it is still appropriate for you to provide feedback if you wish.
10. Following any feedback, the Council must consider your comments before finalising the SOI and SPE as soon as practicable but before the beginning of Te Pūkenga's financial year (i.e. 1 January 2024).

## **Options for Te Pūkenga's SOI**

---

### **You can delay the requirement for Te Pūkenga to produce an updated SOI ...**

11. Given the Government's commitment to disestablish Te Pūkenga, you may wish for Te Pūkenga to make more fundamental changes to its SOI that cannot be made before the beginning of the 2024 financial year.
12. Under section 139B(1) of the Act, you may grant an extension of up to one year for Te Pūkenga to complete its SOI if you consider it is likely to have a significant change in the nature of the scope of its functions. You may only grant an extension if you are satisfied the extension will improve the quality of the SOI.
13. If you grant such an extension, Te Pūkenga could develop an updated SOI based on the new Letter of Expectations (LoE) you intend to issue to set out your priorities and expectations. It could include which parts of its work programme you would like to see proceed and which activity you would like stopped. Following our recent engagement with you, we have prepared a new draft LoE for your consideration (B-23-00909 refers).

### **...or remove the requirement for Te Pūkenga to provide a new SOI...**

14. Given your plans to disestablish Te Pūkenga, you may wish to remove the requirement to produce an SOI entirely. Under section 139B(3) of the Act, if a Crown entity is likely to be disestablished the responsible Minister may grant a waiver of the requirement to produce an SOI. We recommend this as the most sensible action given your plans to disestablish Te Pūkenga, and because publishing an SOI in the current environment is not particularly useful.
15. If you advise Te Pūkenga an SOI is not required due to it likely being disestablished, the SPE will become the primary public accountability document for Te Pūkenga's performance.
16. If you decide to either grant an extension or waive the requirement to produce an SOI, you must notify Te Pūkenga of the decision and Te Pūkenga must publish the extension or waiver online and the Minister's reason for granting it. The extension or waiver must also be published in the next annual report.

### **...but an SPE still must be produced**

17. No such provisions exist in the Act to grant an extension or waive the requirement for an SPE. As such, Te Pūkenga must publish an SPE for 2024 before the beginning of the financial year. If you have feedback on the SPE, you must provide this to Te Pūkenga as soon as practicable.

## **Te Pūkenga has developed a compliant SPE**

---

18. We consider that Te Pūkenga has developed an appropriate SPE for 2024 building off the improvements made in its SPE for 2023. We consider it to largely be fit-for-purpose in setting out performance expectations and is compliant with Treasury's guidance for creating SPEs.
19. Nevertheless, there are several areas where the presentation of information could be enhanced to allow the public and stakeholders to better understand the trend for certain targets and the improvement Te Pūkenga is seeking to make in 2024.

## **Next steps**

---

20. We have drafted a letter for you send to the Chair of Te Pūkenga based on our recommended option of waiving the requirement for an SOI. If you are satisfied with the content of the letter, please sign and send it to Murray Strong, Chair of Te Pūkenga.
21. Following any feedback, a finalised version of the SPE (and SOI depending on your decision) will be provided to you by Te Pūkenga before the end of 2023. This will allow you to table the SPE in the House and for Te Pūkenga to publish its SPE online.