

In confidence

Office of the Minister of Education

Chair State Sector Reform and Expenditure Control Committee (SEC)

## **Proposed draw-down from between-Budget contingency**

### **Purpose**

- 1 This paper seeks Cabinet agreement to draw-down funding from the between-Budget contingency for a short-term increase in Crown funding for the Education Council of Aotearoa New Zealand (the Education Council) while it demonstrates value-add to the profession and develops a long-term business plan to meet its new functions under the Education Act 1989 (the Act). This Crown funding would be delivered to the Education Council through a conditional funding agreement with the Ministry.

### **Executive Summary**

- 2 The Education Council is a critical element of our Education Work Programme. As an independent professional body, it has a central role to play in raising the status of teaching, leading the teaching profession and setting and maintaining high professional standards for teachers and education leaders.
- 3 The Education Council has been in place since 1 July 2015 and has made remarkable progress in a year, establishing itself as the professional body for teachers. The new Education Council has a far broader statutory remit than its predecessor, the New Zealand Teachers Council, and it will need to increase its revenue to meet its statutory obligations.
- 4 In taking stock of its financial situation, its revenue and systems, and the new functions it now needs to deliver, the Education Council has identified shortfalls as per the table below in its annual revenue.

	\$ 2016/17	\$ 2017/18	\$ 2018/19
Forecast Revenue	7,980	9,710	7,281
Forecast Expenditure	12,914	16,656	16,739
Net Operating surplus/(deficit)	(4,934)	(6,946)	(9,458)

- 5 The Education Council and the Ministry of Education have explored two options for raising the funding needed: increased fees to the profession (either through an increase of the practising certificate fee, and/or a new fee for a range of services) or a Government grant.

- 6 The Government is currently paying teachers' three yearly \$220 practising certificate fees, as agreed in settlements that apply for the terms of the current teachers' and principals' collective agreements. The Government is not obliged to fund fees beyond the expiry of these agreements, which expire between May 2018 and June 2019.
- 7 The current practising certificate fees have not been increased since 2010, and increasing them now would require a Budget bid to enable the Government to fund our collective employment agreement commitment.
- 8 Developing a new service fee or making changes to the amount of existing fees would require full consultation with the profession (with consultation beginning in October), and fees would need to be raised from 1 January 2017 in order to meet the Education Council's operating shortfall. Accordingly, a decision on the possibility of Government funding is required urgently.
- 9 I propose that we provide a grant to the Education Council, from the between-Budget contingency, that will see it through this initial period including the development of a high quality financial sustainability plan and enable it to demonstrate its value-add to the profession. I am seeking a one-off funding injection and I have made it clear to the Education Council I intend to set conditions on it. I have asked the Ministry of Education to strengthen its monitoring of the Education Council to ensure that the Education Council takes steps to ensure its long-term financial sustainability.
- 10 This proposal would enable the Education Council to consult the profession on raising fees during 2017, and to put the increase in place in time for the expiry of the first collective agreement in May 2018. I plan to issue a press release to announce the additional Crown funding, and to indicate that the Education Council will be putting in place the necessary fees to be self-funding from the expiry of the collective employment agreements. The Education Council's plan and timeline for ensuring financial sustainability are outlined in this paper.

## **Education Work Programme**

- 11 My three year Education Work Programme, approved by Cabinet in November 2014 [CAB Min (14) 38/5 refers], provides a coherent set of actions to improve the education system. Central to this work programme is the implementation of Investing in Educational Success (IES), which is focused on raising the quality of teaching and leadership and developing high quality 0-18 pathways for all children and young people. Communities of Learning I Kāhui Ako are the core component for the change I am seeking in IES. Communities of Learning I Kāhui Ako have gathered significant momentum, with 148 reaching more than 410,000 students with over 50% of eligible schools involved.
- 12 To support this system change, we are:
  - 12.1 updating the Education Act 1989, to focus it more on children and young people, and to enable system change that will support Communities of Learning I Kāhui Ako
  - 12.2 updating the early learning and schooling funding systems to make them responsive to the size of the education challenge, and informed by an understanding of how best to grow learning and achievement

- 12.3 ensuring diversity of choice for parents/whānau and consistency and certainty of funding for different types of schools
  - 12.4 significantly improving the data available on children and young people's achievement against each level of the curriculum, and
  - 12.5 targeting professional learning and development (PLD) to national priorities, and focusing investment in Communities of Learning | Kāhui Ako.
- 13 A central pillar to our Education Work Programme is the establishment, in July 2015, of the Education Council of Aotearoa New Zealand. The Education Council, as an independent professional body, has a central role to play in raising the status of teaching, leading the teaching profession and setting and maintaining high professional standards for teachers and education leaders. Its role is much broader than its predecessor the New Zealand Teachers' Education Council and the full range of functions in the Education Amendment Act 2015, Section 382, are detailed at Appendix 1.

## **Sustainability funding for the Education Council**

### ***The role of the Education Council***

- 14 The Education Council has made substantial progress in establishing itself as the professional body for the teaching profession, including:
- 14.1 successfully raising the visibility of its professional leadership role
  - 14.2 developing a new Code of Professional Responsibility for Teachers to be in place by 1 July 2017
  - 14.3 beginning the review of Practising Teacher Criteria and professional standards
  - 14.4 strengthening appraisal by running workshops to develop collective understanding of how to use the Practising Teacher Criteria, providing support to leaders and providing new resources, information and links online
  - 14.5 developing a five year strategic plan
  - 14.6 successfully managing the changed disciplinary functions
  - 14.7 growing its operational policy capacity
  - 14.8 reviewing its rules
  - 14.9 proactively engaging the sector on the future direction and shape of initial teacher education, and
  - 14.10 the establishment of the Centre of Leadership Excellence with an initial focus on Communities of Learning | Kāhui Ako leadership.

[REDACTED]

***Funding provided to establish the Education Council***

16 For many years, an annual grant of \$0.178m has been provided by the Ministry of Education to the Education Council and its forerunner the New Zealand Teachers' Education Council. This will continue. In addition, fixed term funding of \$3m was provided to the Education Council in 2015/16. This was used to support the Education Council's new role in terms of reviewing the Rules, the Code of Conduct, and the professional standards. I note that the Education Council inherited a deficit of around \$0.460m from the New Zealand Teachers' Education Council.

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[REDACTED]

***The capability, capacity and financial situation of the Education Council to undertake its expanded role***

18 Cabinet agreed, as part of the establishment of the Education Council, that it will be necessary to provide transitional financial support across a range of activities, including to ensure the new body can make a strong, confidence-building start on establishing its leadership role [CAB Min (13) 31/14 refers].

19 The Education Council's income is currently derived from the three yearly practising certificate fee for teachers providing a fee revenue of approximately \$7-8m per annum.

20 The three yearly practising certificate fee was last increased in 2010 and has not kept pace with operational costs that are estimated to increase to approximately \$16m per annum, creating a shortfall of approximately \$8.5m per annum.

21 The main drivers for the cost increase relate to:

21.1 the Education Council's broader purpose to raise the status of the profession and providing direction to the profession

21.2 increased complaints assessment business – from an increase in mandatory reporting

21.3 changes to teachers' identification verification processes

21.4 10% audit of practising certificate renewals – this is contracted to ERO and costs \$500,000 per annum

21.5 reviews of the Education Council's Rules, the practising certificate standards, the code of conduct and initial teacher education and consequential changes to the Education Council's business, and

- 21.6 the need for greater management capability so the Education Council can perform the new functions specified in the Act.
- 22 The Education Council's predecessor, the New Zealand Teachers' Education Council, had run down its reserves due to increased disciplinary costs and the impact of no fee increase, due to a delay in the transition.
- 23 In taking stock of its revenue and systems, and the new functions it now needs to deliver, the Education Council has identified shortfalls of approximately \$21.34m in annual revenue across the three financial years from 1 July 2016 to 30 June 2019. The income the Education Council currently receives through fees varies over a three year cycle, so that the shortfall is not exactly the same in each year of that cycle.
- 24 I instructed the Ministry of Education's Chief Financial Officer to review the Education Council's assessment of its shortfall. This review confirmed the shortfalls identified below in its annual revenue and I consider that funding will need to be identified to cover this.

**Table 1: Education Council Annual Shortfall**

	\$ 2016/17	\$ 2017/18	\$ 2018/19
Forecast Revenue	7,980	9,710	7,281
Forecast Expenditure	12,914	16,656	16,739
Net Operating surplus/(deficit)	(4,934)	(6,946)	(9,458)

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***The Education Council's timeline to ensure financial sustainability***

- 26 I propose that the funding for the Education Council be contingent on it implementing a timeline to work towards financial independence and sustainability through consideration and consultation on an appropriate future fees structure. The steps are likely to include:
- 26.1 development and implementation of a proposal for increased and/or new fees under section 383(1)(a-g) of the Act, by 1 July 2018
- 26.2 development and implementation of a proposal for increased fees under section 364 and 372 of the Act, by 1 July 2019.
- 27 The Education Council's current practising certificate fee is \$220 for a three yearly certificate. The Education Council's analysis suggests that a fee of approximately \$470 for three years (or \$155 per annum) would be required to meet projected operating costs.
- 28 In the meantime the Education Council will undertake analysis of other revenue sources that could be raised to meet some of their operating costs prior to the expiry

of the collective agreements and the implementation of any new fees under sections 383 (1)(a-g) Act.

### ***Options for funding and reasons for urgency***

- 29 Government has agreed to pay teachers' practising certificate fees during the period of the current school teachers' and principals' collective agreements, so an increase to those would require a Budget bid. This obligation expires as each applicable collective agreement expires (with the last one, Area School Principals, due to expire 29 June 2019). To explore other options the Education Council has considered introducing a new service fee that is separate to the practising certificate fee. In order to meet its operating shortfall, the Education Council would need to raise fees effective from 1 January 2017 and to meet the requirements for consultation, the Education Council would need to begin consulting the profession in October. Accordingly, a decision on the possibility of government funding is required urgently.
- 30 I do not consider the introduction of a new fee to its members by the Education Council at this time to be appropriate. The Education Council's new professional leadership role relies on it developing the trust and confidence of their stakeholders and the profession. Giving the Education Council time and resources to do this will put them in a stronger position to consult with the sector about an increase to practising certificate fees which would take effect from 1 July 2019.
- 31 The Education Council is considering a number of scenarios for introducing an increase in fees following expiry of the current collective employment agreements. These include increasing the current practising certificate fee, introducing a new annual membership fee or a combination of both.

### ***Accountability requirements associated with new funding***

- 32 If Cabinet agrees to make this one-off funding available to the Education Council, I intend to set conditions. These would include that the Education Council employs an experienced financial adviser; and negotiating key performance indicators (KPIs) including:
- 32.1 the establishment by 1 January 2017 of intermediate outcomes that will confirm that the Education Council is on track to financial sustainability from 1 July 2019
- 32.2 the development by 1 July 2017 of a high quality, detailed business plan to meet the Education Council's functions under the Act, including scope, timing and implementation steps
- 32.3 confirmation of a sustainable long term financial plan by 1 October 2017, including the identification and prioritisation of a range of revenue sources
- 32.4 confirmation of an achievable people management plan suitable to achieve the Education Council's functions, and achievable within its financial plan, and
- 32.5 finalisation of any relevant consultation and implementation processes in time to establish an appropriate professional fee and other revenue sources from the dates of expiry of the collective employment.

### *Strengthened monitoring arrangements*

- 33 I will require strong assurance that this funding is being managed appropriately, and that the Ministry of Education is taking steps to ensure the Education Council is on a sustainable long term financial footing before this funding expires.
- 34 Accordingly, I have asked the Ministry of Education to put in place strengthened monitoring measures in relation to the financial performance of the Education Council. The levers for this strengthened monitoring will be different for the Education Council, an independent statutory entity, than the usual approach that would apply to a Crown Entity.
- 35 I will exercise my power under the Act [section 384 (2)] to request additional information from the Education Council across the year, including:
- 35.1 quarterly updates on the Education Council's financial position, including updated forecasts and risk reporting
  - 35.2 quarterly reports against the Education Council's timeline for increasing its revenue to the required level by no later than 1 July 2019
  - 35.3 quarterly updates on the Education Council's steps to put in place improved financial capability as part of its management structure and systems.
- 36 The requirement to provide this information will be set out in a Funding Agreement between Ministry and the Education Council
- 37 The monitoring work programme is the responsibility of the Ministry's Deputy Secretary, Strategy, Planning and Governance who will provide advice and assurance to me on a quarterly basis and as required. The Deputy Secretary, Strategy, Planning and Governance may seek independent assurance on the information provided and will engage with the Education Council where this is necessary.
- 38 The EDUCANZ Transition Board commissioned Ernst & Young to do an Independent Quality Assurance of the readiness for transition. Ernst & Young recommended detailed financial modelling, including sensitivity analysis and scenario testing. Accounting firm Grant Thornton was then commissioned to prepare a three year financial forecast for the Education Council. This advice, including scenarios, was available to the incoming board.
- 39 I propose to commission a further independent review of the Education Council's financial situation, timed to be completed by 31 October 2017, which would report on:
- 39.1 the strengths and weaknesses of the Education Council's current and forecast financial position
  - 39.2 how well the Education Council directs, plans and controls financial resources to drive efficient and effective output delivery
  - 39.3 how well the Education Council identifies and manages its and the Crown's risk

39.4 the options available to the Education Council to address any areas of risk arising from any weaknesses

39.5 the Education Council's plan to become financially sustainable and self-sufficient over the medium term.

*Analysing other fees to recover costs*

40 The Funding Agreement will also require the Education Council to provide a plan on other revenue sources that could be raised to meet some of their operating costs. Section 383(1)(a – g) of the Act provides the Education Council the power to fix fees for a number of administrative services such as costs relating to performance of disciplinary functions.

41 The Education Council will consult on this as part of the broader consultation process on revenue, with these fees taking effect from 1 July 2018.

42 I am currently considering some Education Council appointments, and intend to bring a paper to Cabinet Appointments and Honours committee (APH) in November. As part of this process, as further assurance that the Education Council will take the steps necessary to ensure its financial sustainability by July 2019, I intend to appoint to the Education Council someone with business and commercial expertise.

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**Requirements for between-Budget contingency proposals**

46 The requirements for between-Budget contingency proposals [CO(15)/4 and CAB-16-MIN-0307 refer] are:

46.1 the proposal has not been previously considered and declined by Cabinet



- 46.2 the proposal must be urgent and cannot be funded through reprioritisation or deferred until the next Budget
- 46.3 proposals must be assessed according to the same criteria as Budget proposals, although Cabinet may provide an exemption to the requirement for cost benefit analysis where it would be impractical to undertake such analysis due to the urgency of the proposal.
- 47 This proposal meets the requirements of not having been previously considered and declined by Cabinet.
- 48 I want the Education Council to succeed. Without the time and resources to consolidate its new roles and responsibilities, there is a high chance that the Education Council won't convince the sector of its value in the short term.
- 49 If additional one-off funding is not secured, the Education Council would need to set a new, additional services fee, which would require consultation with the sector beginning in October. This timing means an urgent Cabinet decision is needed in order to give the Education Council certainty of the way forward.

### **Risks and mitigation**

- 50 The proposal to fund the Education Council shortfall risks embedding an increased level of expenditure by the Education Council, without certainty that future revenue will meet expenditure. It has been my expectation for the Education Council to be fully self-sufficient from 2019.
- 51 To mitigate this risk, I will require the Education Council to work with an experienced financial adviser to develop a detailed business plan that includes KPIs for setting the Education Council on a path to financial sustainability.
- 52 I will also instruct the Ministry to structure the grant to the Education Council so that payment is aligned to the completion of the business plan and KPIs being met.

### **Financial implications**

- 53 I propose to provide the Education Council with one-off, fixed-term funding of \$21.34m from the between-Budget contingency. This would subsidise the amount that the Education Council needs for two and a half years, and would mean that the Education Council would need to raise practising certificate fees no later than 1 July 2019 to secure ongoing revenue at the necessary level.
- 54 The following would be sought (based on an increase in funding of \$21.34m for the Education Council spread over 2016/17, 2017/18, and 2018/19):

**Table 2: Proposed funding for the Education Council**

\$m	2016/17	2017/18	2018/19	Outyears
Increased funding for Education Council	4,934	6,946	9,458	-

### **Legislative implications**

55 There are no legislative implications arising from this paper.

### **Regulatory Impact**

56 There are no regulatory implications arising from this paper.

### **Gender and disability implications**

57 There are no gender or disability implications arising from this paper.

### **Consultation**

58 The Department of the Prime Minister and Cabinet has been informed of the proposals in this paper.

59 The Treasury has been consulted on the proposal in this paper.

### **Engagement and publicity**

60 I plan to announce the provision of this funding to the Education Council and to outline the amount of per teacher funding that it represents.

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### **Recommendations**

62 I recommend that Cabinet:

- 1 **note** that a central pillar to my Education Work Programme is the establishment, in 2015, of the Education Council of Aotearoa New Zealand (the Education Council)
- 2 **note** that, in taking stock of its revenue and systems, the Education Council has identified shortfalls of \$21.34m in annual revenue for FY16/17, FY17/18 and FY18/19
- 3 **note** that the Education Council and the Ministry of Education have explored the following options for raising the funding needed:
  - 3.1 increased fees to the profession (through either an increase in the practising certificate fee, or a new service fee) or
  - 3.2 a possible grant from Government
- 4 **note** that the Government is currently paying teachers' practising certificate fees, as agreed in the recent teachers' and principals' collective agreement settlements, and increasing them now would require a Budget bid

- 5 **note** that developing a new service fee would require full consultation with teachers (with consultation beginning in October), and this fee would need to be raised from 1 January 2017 in order to meet the Education Council's operating shortfall
- 6 **note** that giving the Education Council time and resources to develop its new professional leadership role and the trust and confidence of its stakeholders and the profession, will put it in a stronger position to consult with the sector about a required increase to fees, which would take effect from the expiry dates of the current collective employment agreements (expiry dates are between May 2018 and June 2019)
- 7 **note** that, in seeking a grant from Government, I have made it clear to the Education Council that this is a one-off funding injection
- 8 **note** that the Education Council requires an additional \$21.34m over FY 16/17, FY 17/18 and FY 18/19 to deliver its new functions under the Education Amendment Act 2015 and to demonstrate its value-add to the profession while it develops a long term sustainable business plan
- 9 **note** that Cabinet previously agreed that all between-Budget spending proposals would complete a cost benefit analysis (CBAX) using the CBAX model where appropriate [CO(15)/4 and CAB-16-MIN-0307 refer] but that due to the nature of this proposal, little additional value would be obtained from completing a CBAX
- 10 **approve** the following changes to appropriations for a short term increase in Crown funding for the Education Council as described in recommendation 9 with a corresponding impact on the operating balance:

Vote Minister of Education	Education Council	\$ million – increase/(decrease)				
		2016/17	2017/18	2018/19	2019/20	2020/21 & Outyears
Non-Departmental Output Expense:						
Contribution to the Education Council of Aotearoa New Zealand		4,934	6,946	9,458	-	-

- 11 **agree** that the proposed change to appropriations for 2016/17 in recommendation 10 be included in the 2016/17 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply
- 12 **agree** that the changes to appropriations in 2016/17 in recommendation 10 be charged against the between-Budget contingency for Budget 2016
- 13 **agree** that the Ministry of Education will enter into a conditional funding agreement with the Education Council, with the following conditions:

- 13.1 development and implementation of a proposal for increased and/or new fees under section 383(1)(a-g) of the Education Act 1989, by 1 July 2018
- 13.2 development and implementation of a proposal for increased fees under section 364 and 372 of the Education Act 1989, by 1 July 2019
- 14 **note** that the following strengthened monitoring measures will be put in place to provide assurance that the Education Council is taking steps to ensure it is on a sustainable long term financial footing before this funding expires:
  - 14.1 the Minister of Education will exercise her power under the Education Act 1989 [section 384 (2)] to request additional information from the Education Council across the year, including:
    - 14.1.1 quarterly updates on the Education Council's financial position, including updated forecasts and risk reporting
    - 14.1.2 quarterly reports against the Education Council's timeline for increasing its revenue to the required level by no later than 1 July 2019
    - 14.1.3 quarterly updates on the Education Council's steps to put in place improved financial capability as part of its management structure and systems
  - 14.2 the requirement to provide this information will also be set out in a Funding Agreement between Ministry of Education and the Education Council
  - 14.3 the Ministry of Education's Deputy Secretary, Strategy, Planning and Governance will provide advice and assurance to the Minister of Education on the Council's financial situation on a quarterly basis and as required
  - 14.4 the Deputy Secretary, Strategy, Planning and Governance may seek independent assurance on the information provided and will engage with the Education Council where this is necessary
- 15 **note** that the EDUCANZ Transition Board commissioned Ernst & Young to do an Independent Quality Assurance of the readiness for transition, and accounting firm Grant Thornton prepared a three year financial forecast for the Education Council
- 16 **note** that the Ministry of Education will commission an independent review of the Education Council's financial situation, timed to be completed by 31 October 2017, which would report on:
  - 16.1 the strengths and weaknesses of the Education Council's current and forecast financial position
  - 16.2 how well the Education Council directs, plans and controls financial resources to drive efficient and effective output delivery

- 16.3 how well the Education Council identifies and manages its and the Crown's risk
  - 16.4 the options available to the Education Council to address any areas of risk arising from any weaknesses
  - 16.5 the Education Council's plan to become financially sustainable and self-sufficient over the medium term
- 17 **note** that the Minister of Education is currently considering some Education Council appointments, and as part of this process intends to appoint to the Education Council someone with business and commercial expertise.

Authorised for lodgement  
Hon Hekia Parata  
Minister of Education

## **Appendix One – Functions of the Education Council of Aotearoa New Zealand**

The Education Amendment Act 2015, Section 382 states that: The functions of the Education Council are:

- (a) to provide leadership to teachers and direction for the education profession
- (b) to enhance the status of teachers and education leaders
- (c) to identify and disseminate best practice in teaching and leadership and foster the education profession's continued development in light of research, and evidence of changes in society and technology
- (d) to carry out the functions under Part 31 relating to teacher registration
- (e) to establish and maintain any criteria for teacher registration under Part 31 that the Education Council considers necessary or desirable
- (f) to establish and maintain standards for qualifications that lead to teacher registration
- (g) to conduct, in conjunction with quality assurance agencies, approvals of teacher education programmes
- (h) to establish and maintain standards for ongoing practice
- (ii) criteria for the issue of practising certificates of different kinds
- (i) to ensure that appraisals made by professional leaders for the issue and renewal of practising certificates achieve a reasonable and consistent standard, by auditing and moderating the appraisals made for at least 10% of the practising certificates issued or renewed in each year
- (j) to establish and maintain a code of conduct for teachers under section 387
- (k) to monitor and enforce the requirements relating to mandatory reporting in this Part and Part 31
- (l) to perform the disciplinary functions in this Part relating to teacher misconduct and reports of teacher convictions
- (m) to set the criteria for reporting serious misconduct and for reporting on competence issues
- (n) to perform the functions in this Part relating to teacher competence
- (o) to co-ordinate a system providing for the vetting by the Police of all teachers
- (p) to perform any other functions conferred on it by this Act or any other enactment.