



Tertiary Education Report: Toi Ohomai Institute of Technology Limited – Transfer and Disposal of Assets in Crown Title

Date:	23 March 2021	TEC priority:	Medium
Security level:	In Confidence	Briefing no:	B-21-00106
		Minister's office No:	

ACTION SOUGHT		
	Action sought	Deadline
Hon Chris Hipkins Minister of Education	<p>agree, subject to conditions outlined in this briefing, to transfer the assets in Crown title currently under the management of Toi Ohomai Institute of Technology Limited (Toi Ohomai) at its Tauranga (Windermere), Whakatane, Waipa and Taupō campuses into Toi Ohomai's legal title;</p> <p>agree, at its Rotorua campus, which is sited on land gifted to the Crown by Ngāti Whakaeu, that a land lease be issued to Toi Ohomai on behalf of the Crown and that the Crown's ownership interest in improvements (buildings) on the land be transferred to Toi Ohomai;</p> <p>agree that the Bongard campus, an asset in Crown title in central Tauranga which Toi Ohomai has identified for disposal, is surplus to requirements for educational purposes and that a <i>Gazette</i> Notice is issued to that effect and that the campus is disposed of;</p> <p>agree, subject to conditions outlined in this briefing, that Toi Ohomai retains the full net proceeds of sale of the Bongard campus declared surplus above, with the approval being for approximately s9(2)(j); and</p> <p>agree to forward this briefing to the Minister of Finance for his consideration.</p>	At your earliest convenience

Hon Grant Robertson Minister of Finance	<p>agree, subject to conditions outlined in this briefing, to transfer the assets in Crown title currently under the management of Toi Ohomai Institute of Technology Limited (Toi Ohomai) at its Tauranga (Windermere), Whakatane, Waipa and Taupō campuses into Toi Ohomai's legal title;</p> <p>agree, at its Rotorua campus, which is sited on land gifted to the Crown by Ngāti Whakaue, that the Crown's ownership interest in improvements (buildings) on the land be transferred to Toi Ohomai; and</p> <p>agree, subject to conditions outlined in this briefing, that Toi Ohomai retains the full net proceeds of sale of its Bongard campus, an asset in Crown title in central Tauranga identified by Toi Ohomai as surplus to its requirements, with the approval being for approximately s9(2)(j)</p>	At your earliest convenience
Enclosure: No		Round Robin: Yes

CONTACT FOR TELEPHONE DISCUSSION (IF REQUIRED)			
Name	Position	Telephone	1st contact
Gillian Dudgeon	Deputy Chief Executive, Delivery	s9(2)(a)	✓
s9(2)(a)	Project Manager, TEI Crown Asset Transfers and Disposals	[Redacted]	[Redacted]

THE FOLLOWING DEPARTMENTS/AGENCIES HAVE SEEN THIS REPORT				
<input checked="" type="checkbox"/> MoE	<input checked="" type="checkbox"/> Treasury	<input checked="" type="checkbox"/> LINZ	<input checked="" type="checkbox"/> Te Arawhiti	<input checked="" type="checkbox"/> TEC
Minister's Office to Complete:		<input type="checkbox"/> Approved <input type="checkbox"/> Noted <input type="checkbox"/> Seen <input type="checkbox"/> See Minister's Notes	<input type="checkbox"/> Declined <input type="checkbox"/> Needs change <input type="checkbox"/> Overtaken by Events <input type="checkbox"/> Withdrawn	
Comments:				

Executive Summary

1. The Crown asset transfer and disposal policy agreed by Cabinet in 2009/2010 enables tertiary education institutions (TEIs) to apply to have the Crown-titled property assets they have managed since 1990 transferred into their own legal title. It also enables TEIs to seek the disposal of Crown-titled assets that are surplus to their requirements and obtain up to 100 percent of the net proceeds of their disposal.
2. All former institutes of technology and polytechnics became subsidiaries of Te Pūkenga – New Zealand Institute of Skills and Technology (Te Pūkenga), on 1 April 2020, as part of the Reform of Vocational Education. The subsidiaries remain TEIs in their own right. By the end of 2022, all subsidiaries will be fully incorporated into Te Pūkenga. At that point all assets in their ownership will pass to the ownership of Te Pūkenga.
3. This briefing covers the application by Toi Ohomai Institute of Technology Limited (Toi Ohomai) which is one of the only two remaining Te Pūkenga subsidiary applications yet to be approved by Joint Ministers (Education and Finance).
4. The application by Toi Ohomai encompasses:
 - the transfer of the title of land (and building) assets to Toi Ohomai at its campuses at south Tauranga (Windermere), Whakatane, Waipa (south of Rotorua) and Taupō;
 - at Toi Ohomai's Rotorua campus, where the campus is sited on land gifted to the Crown by Ngāti Whakaue and the Trust representing Ngāti Whakaue does not support a transfer of land title from the Crown:
 - the issuing of a land lease to Toi Ohomai on behalf of the Crown; and
 - the transfer of the Crown's ownership interest in buildings and other improvements on the land to Toi Ohomai.
 - the disposal of Toi Ohomai's surplus Crown-titled Bongard campus in central Tauranga (a vacant six-storey building in poor to average condition), which the Ministry of Education (MoE) has also identified as surplus to education purposes; and
 - the consideration of Toi Ohomai's case to retain the full net proceeds of the above disposal, with the retention of the final 20 percent of proceeds (approximately \$9(2)(j) [REDACTED]) being subject to the agreement of Joint Ministers.
5. The Tertiary Education Commission (TEC) has assessed Toi Ohomai's application against assessment criteria agreed by Cabinet and supports the above transfer and disposal of assets. The TEC also supports Toi Ohomai retaining the full net proceeds of the disposal for investment in capital projects of value to the educational activities of the institution (the priority being the redevelopment of Toi Ohomai's substandard Taupō campus).
6. The TEC has consulted with the Treasury, MoE, Land Information New Zealand and the Office for Māori Crown Relations – Te Arawhiti over the proposed transfers and the disposal, and none of these departments or agencies has identified any reason not to proceed with the actions proposed in paragraph 4 above. The TEC has also advised Te Pūkenga of the proposals contained in this briefing and Te Pūkenga has noted that it is comfortable with the proposals.

¹ This estimate is based on a market valuation as at 31 December 2017. The final value will depend on the sale price.

Recommendations

We recommend that the Minister of Education and Minister of Finance jointly:

1. **note** that in October 2009 Cabinet [CAB Min (09) 38/12]:
 - a. agreed to allow tertiary education institutions (TEIs) to obtain the legal title to Crown-titled assets under their management;
 - b. agreed criteria to assess applications from TEIs for the transfer and disposal of assets; and
 - c. authorised the Minister of Education and the Minister of Finance to make decisions regarding this policy, and the transfer and disposal of assets.

Transfer of land and buildings

2. **note** that Toi Ohomai Institute of Technology Limited (Toi Ohomai) has applied for the transfer of approximately \$113.5 million of Crown-titled assets under its management at south Tauranga (Windermere campus), Whakatane, Rotorua, Waipa and Taupō into its legal title;
3. **note** that the Tertiary Education Commission (TEC) has assessed Toi Ohomai's application against criteria agreed by Cabinet and recommends that the Crown-titled assets managed by Toi Ohomai at south Tauranga (Windermere), Whakatane, Waipa and Taupō – but not those at Rotorua – be transferred into the legal title of Toi Ohomai;
4. **agree** to transfer the assets in Crown title, managed by Toi Ohomai at its south Tauranga (Windermere), Whakatane, Waipa and Taupō campuses, into the legal title of Toi Ohomai, subject to:
 - a. the successful completion of the consents and clearances provided for in the Public Works Act 1981, and other relevant legislation and government policies related to the transfer of assets from the Crown to TEIs; and
 - b. Toi Ohomai, paying for the external costs of the transfer including, but not limited to, the services of a Land Information New Zealand (LINZ) accredited supplier and any other costs associated with the transfer process.

AGREE / NOT AGREED

Minister of Finance

AGREE / NOT AGREED

Minister of Education

Land lease and transfer of buildings at Rotorua

5. **note** that, at Rotorua:
 - a. Toi Ohomai's Mokoia campus is sited on land gifted to the Crown by Ngāti Whakaue and the Trust representing Ngāti Whakaue does not support a transfer of land title from the Crown; and
 - b. officials recommend that for policy and legal reasons the land should remain in Crown title and recommend that a land lease and a deed of waiver be issued on behalf of

the Crown to clarify and formalise Toi Ohomai's tenure of the land and ownership of improvements (mainly buildings) on the land.

6. **agree** to transfer to Toi Ohomai the Crown's ownership interest in improvements on the land in Crown title managed by Toi Ohomai at its Mokoia campus at Rotorua;

AGREE / NOT AGREED

Minister of Finance

AGREE / NOT AGREED

Minister of Education

We recommend that the Minister of Education:

7. **agree** that, at its Mokoia campus at Rotorua, Toi Ohomai be issued with a land lease on behalf of the Crown;

AGREE / NOT AGREED

Minister of Education

Disposal of a surplus property in central Tauranga

8. **note** that, in addition, Toi Ohomai has identified a Crown-titled property, its Bongard campus at 198 Cameron Road, in central Tauranga, as surplus to its educational requirements and is seeking its disposal and the retention of the full net proceeds of sale;
9. **note** that the TEC and the Ministry of Education (MoE) agree that the Bongard campus is surplus to educational requirements;
10. **agree** that the Bongard campus, an asset in Crown title, at 198 Cameron Road, Tauranga, is surplus to requirements for educational purposes and that a section 561 Education and Training Act 2020 *Gazette* Notice is issued to that effect;

AGREE / NOT AGREED

Minister of Education

11. **agree** that the property at 198 Cameron Road, Tauranga is disposed of subject to:
 - a. the successful completion of the consents and clearances provided for in the Public Works Act 1981, and other relevant legislation and government policies related to the disposal of Crown assets; and
 - b. Toi Ohomai paying for the external costs of the disposal including, but not limited to, the services of a LINZ accredited supplier and any other costs associated with the disposal process.

AGREE / NOT AGREED

Minister of Education

Proceeds of disposal

We recommend that the Minister of Education and Minister of Finance jointly:

12. **note** that where an asset in Crown title is put into disposal, rather than being transferred to a TEI, Cabinet agreed [CAB Min (09) 38/12] that:
 - a. 80 percent of the net proceeds of disposal will be available to the TEI for capital projects to support its educational activities; and
 - b. the remaining 20 percent (in this case approximately s9(2)(j)) may be made available to the TEI if the Crown agrees that the TEI is not overcapitalised and that it has demonstrated that the additional funding will be used in capital projects that are of adequate value to the educational activities of the institution.
13. **note** that the TEC has assessed Toi Ohomai's case for the retention and reinvestment of the proceeds of the disposal of its surplus Bongard campus at Tauranga against criteria agreed by Cabinet and recommends that Toi Ohomai retains the full net proceeds of sale of the Crown-titled asset, with a key factor in our recommendation being the need to replace sub-standard prefab classrooms, especially at its Taupō campus;
14. **agree** that Toi Ohomai retains the full net proceeds of the sale of the asset in Crown title at 198 Cameron Road, Tauranga, subject to:
 - a. the proceeds being reinvested in capital asset projects identified in Toi Ohomai's campus development plan and approved by the institution's board and the Te Pūkenga council; and
 - b. Toi Ohomai reporting to the TEC on which project(s) identified in the campus development plan will be funded by the proceeds.

AGREE / DISAGREE

Minister of Finance

AGREE / NOT AGREED

Minister of Education

15. **note** that the policy requires the TEC to ensure Toi Ohomai has approved business cases covering the full net proceeds of the disposal by the time of sale, otherwise the TEC is required to report back to Ministers prior to any release of funds to Toi Ohomai;
16. **note** that the TEC has consulted with the MoE, the Treasury, LINZ and the Office for Māori Crown Relations – Te Arawhiti over the proposed transfers and the disposal, and none of these departments or agencies has identified any reason why the above asset transfers and disposal should not proceed and Te Pūkenga has also noted that it is comfortable with the proposals in this briefing;

Next steps

17. **note** that, subject to your agreement to the above recommendations, the MoE will draft the required Memoranda of Understanding (MoUs) between Toi Ohomai and the Secretary for Education to set out the conditions of the transfer and the conditions of the disposal, with Toi Ohomai retaining the net proceeds of sale in accordance with your decision on recommendation 14 above;

18. **note** that, in accordance with your agreement to the above recommendations, and subject to the conditions set out in the respective MoUs being satisfied, the MoE will request that LINZ, acting under statutory delegation, approve the transfers under section 50 of the Public Works Act 1981; the disposal under sections 40 - 42 of the Public Works Act 1981; and execute agreements for sale and purchase;

We recommend that the Minister of Education:

19. **agree** that the TEC release this briefing with the contact information of officials and some financial forecasting information withheld; and

AGREE / **NOT AGREED**

Minister of Education

20. **agree** to forward this briefing to the Minister of Finance for his consideration.

AGREE / **NOT AGREED**

Minister of Education



Gillian Dudgeon
Deputy Chief Executive, Delivery
Tertiary Education Commission

23 March 2021



Hon Grant Robertson
Minister of Finance

11 / 4 / 21



Hon Chris Hipkins
Minister of Education

07 / 04 / 2021

Purpose

1. This briefing seeks your approval, subject to certain conditions to be set out in Memoranda of Understanding (MoUs), to:
 - a. transfer into Toi Ohomai Institute of Technology Limited's (Toi Ohomai) legal title approximately \$65 million of Crown-titled assets currently managed by Toi Ohomai at its south Tauranga (Windermere), Whakatane, Waipa and Taupō campuses;
 - b. transfer to Toi Ohomai the Crown's ownership interest in approximately \$46 million of improvements (mainly buildings) on the Ngāti Whakaue gifted, Crown-titled land managed by Toi Ohomai at its Mokoia campus at Rotorua;
 - c. Toi Ohomai being issued with a land lease, on behalf of the Crown, at its Mokoia campus at Rotorua;
 - d. declare the Crown-titled Bongard campus Toi Ohomai manages at 198 Cameron Road, central Tauranga, as surplus to educational requirements;
 - e. dispose of the Crown-titled asset declared surplus above; and
 - f. Toi Ohomai retaining the full net proceeds of sale of the disposal of the Bongard campus for reinvestment in capital asset projects identified in Toi Ohomai's campus development plan and approved by the institution's board and the Te Pūkenga council.

Background

2. In October 2009, Cabinet agreed [CAB Min (09) 38/12 refers] to the Crown asset transfer and disposal policy which allows tertiary education institutions (TEIs) to obtain the legal title to Crown-titled assets under their management. The policy allows TEIs to acquire legal title to assets they have an on-going educational need for, provided there are no over-riding policy or legal reasons to retain the assets in Crown title.
3. The policy also provides that, where a Crown-titled asset is no longer fit for purpose or is surplus to requirements, it can be disposed of with a proportion of net proceeds able to go to TEIs. Cabinet agreed criteria to assess applications from TEIs for the transfer and/or disposal of assets and authorised the Minister for Tertiary Education and the Minister of Finance to make decisions regarding this policy, the transfer of assets, and the retention of net proceeds of sale by TEIs.
4. All institutes of technology and polytechnics became subsidiaries of Te Pūkenga, on 1 April 2020, as part of the Reform of Vocational Education. The subsidiaries remain TEIs in their own right. By the end of 2022, all subsidiaries will be fully incorporated into Te Pūkenga. At that point all assets in their ownership will pass to the ownership of Te Pūkenga.
5. The only current applications from subsidiaries of Te Pūkenga yet to be approved by Ministers are those from Toi Ohomai and Northland Polytechnic Limited (NorthTec).
6. Appendix C provides a diagrammatic overview of the process by which applications from TEIs for the transfer and/or disposal of TEI-managed Crown-titled assets are considered and implemented.

Application from Toi Ohomai Institute of Technology Limited

7. In February 2017, Toi Ohomai submitted its application to the Tertiary Education Commission (TEC) for the Crown-titled land (and building) assets that it manages at its Tauranga, Whakatane, Rotorua, Waipa and Taupō campuses to be transferred into its legal title.
8. In October 2019, the Chair of the Toi Ohomai Council wrote to the TEC noting that its Bongard campus in central Tauranga was now surplus to its educational requirements and requested that it be put into disposal as part of Toi Ohomai's application, with the institution retaining the full net proceeds of disposal.
9. The total value of the Crown-titled assets managed by Toi Ohomai, as indicated by that institution, is approximately \$126 million². They account for approximately 89 percent by value of all land and buildings owned and managed by Toi Ohomai³ and cover a land area of approximately 38 hectares.
10. Toi Ohomai's Whakatane, Waipa (south of Rotorua) and Bongard (central Tauranga) campuses are exclusively Crown-titled. Crown-titled assets also form the central core of Toi Ohomai's Windermere campus (at southern Tauranga), Mokoia campus (at Rotorua) and Taupō campus. The primary use of the Crown-titled assets is for academic (teaching and research) and centrally time-tabled teaching purposes. (Details are provided in Table 1, Appendix B).
11. Toi Ohomai's application states that there is an on-going educational need for the land and buildings (excluding the Bongard campus) and this is consistent with Toi Ohomai's 2019-2020 Investment Plan, its Teaching and Learning Strategic Framework 2017-2020, and its 2017 Campus Development Strategy. These documents provide a focus on the needs of the institution's wider regional population, which includes a high proportion of Tertiary Education Strategy target group students.
12. Te Pūkenga has indicated it supports Toi Ohomai's application for the transfer of Crown title assets and the disposal of the Bongard campus at Tauranga.

² Approximately \$70 million (by value) of buildings on Crown-owned land are reported in Toi-Ohomai's financial statements in its annual report as being owned by Toi Ohomai in that they have been built (or substantially refurbished) since 1990 and therefore their construction has been funded by Toi Ohomai. However, the presumption at common law is that the land includes any buildings and other improvements on the land, unless there is agreement to the contrary. In the case of Toi Ohomai the only such agreement is a head (ground) lease for the western half of its Windermere campus which, effective from 1 October 2002, defines all new standalone buildings constructed since that date as being the lessee's (i.e. Toi Ohomai's) buildings.

³ Asset values are calculated based on Toi Ohomai's fixed asset register at 31 December 2015.

Assessment

13. The TEC has assessed Toi Ohomai's application against the Cabinet-agreed criteria listed in Appendix A. The TEC has determined that Toi Ohomai's application has met the assessment criteria, specifically:

- a. Ownership status – Toi Ohomai has stated that the land and associated building assets covered by this application have been occupied and managed by Toi Ohomai and its predecessor institutions since 1990. The TEC and the Ministry of Education (MoE) have not found any evidence to the contrary.

Toi Ohomai and its predecessor institutions have maintained and developed these property assets and Toi Ohomai has clear beneficial ownership. These property assets all fall within the scope of the Crown asset transfer and disposal policy for TEIs.

The value of these property assets and associated depreciation costs have been recognised on Toi Ohomai's and its predecessor's accounts since 1996 and are included in the financial statements in its audited 2019 annual report.

The Crown-titled assets under Toi Ohomai's management are eligible to be transferred as there are no overriding policy or legal reasons to retain them in Crown title, with the exception of the land on which the Mokoia campus is sited at Rotorua (see paragraphs 27-29).

- b. Capital asset management integration – from the evidence provided, Toi Ohomai demonstrates that it has in place capital asset management systems and processes that enable it to effectively and efficiently manage its portfolio of property assets.
- c. Educational need – Toi Ohomai states that it requires the use of the assets for the current and future delivery of its educational programmes, with the exception of its Bongard campus at Tauranga. It has declared the ongoing educational purpose of each asset, based on the agreed definition of educational purposes. The TEC is satisfied from its own observations and regular monitoring that the current use of the assets is as stated by Toi Ohomai.

On the evidence provided in Toi Ohomai's 2019-2020 Investment Plan, 2017 Campus Development Strategy and Teaching and Learning Strategic Framework 2017-2020, the TEC considers that the assets will support current and future educational needs.

- d. Financial performance and risk – the TEC considers that the financial performance of Toi Ohomai is at a sufficient level that it will not present a significant risk to the Crown following the transfer of the assets. Toi Ohomai has good financial management capability, and the TEC considers it capable of managing the transferred assets.
- e. Educational risk – the TEC considers that Toi Ohomai's educational performance is of a sufficient level that it is not likely to be subject to an intervention or closure that could present a risk to the ongoing ownership of the assets.

Assets we recommend be transferred

14. On the basis of the TEC's assessment, it is recommended that Ministers agree to transfer the assets in Crown title currently managed by Toi Ohomai at its Tauranga (Windermere), Whakatane, Waipa and Taupō campuses into the legal title of Toi Ohomai, subject to:

- a. the successful completion of the consents and clearances provided for in the Public Works Act 1981, and other relevant legislation and government policies related to the transfer of assets from the Crown to TEIs; and

- b. Toi Ohomai paying for the external costs of the transfer including, but not limited to, the services of a Land Information New Zealand (LINZ) accredited supplier and any other costs associated with the transfer process.

Asset we recommend be disposed of

15. Toi Ohomai has identified its Bongard campus at 198 Cameron Road, central Tauranga as surplus to its current and future needs and is seeking its disposal. This Crown-titled asset consists of a vacant six-storey building, in poor to average condition, on 0.24 hectares of land, with a 2017 estimated market value of \$^{s9(2)(j)} [REDACTED]
16. The TEC agrees that this asset is surplus to Toi Ohomai's educational requirements and, as it is vacant, its disposal will have no adverse impact on the delivery of educational programmes by Toi Ohomai. The MoE has also identified it as surplus to wider state educational requirements.
17. On the basis of the TEC's assessment, officials recommend that the Minister of Education declares the Crown-titled asset at 198 Cameron Road surplus to educational requirements via a section 561 Education and Training Act 2020⁴ Gazette Notice and agrees that it can be disposed of subject to:
 - a. the successful completion of the consents and clearances provided for in the Public Works Act 1981, and other relevant legislation and government policies related to the disposal of Crown assets; and
 - b. Toi Ohomai paying for the external costs of the disposal including, but not limited to, the services of a LINZ accredited supplier and any other costs associated with managing the disposal process.

We recommend Toi Ohomai retains the full net proceeds of disposal

18. The policy provides that:
 - a. 80 percent of the net proceeds of disposal will be available to the TEI for capital projects to support its educational activities, provided the TEI has approved business cases for the reinvestment of all proceeds by the time the asset is sold; and
 - b. the remaining 20 percent may be made available if the Government agrees, at the time of approving the TEI's application, that the TEI is not overcapitalised and that it has demonstrated that the additional funding will be used in capital projects of value to the educational activities of the institution.
19. Toi Ohomai has applied to retain the full net proceeds of the disposal to contribute to funding the replacement of substandard prefabricated buildings at its Tauranga (Windermere), Whakatane, Rotorua (Mokoia) and Taupō campuses and the construction of new trades facilities at its Taupō and Rotorua campuses.
20. The TEC will work with Toi Ohomai to determine which of these projects represent the best investment opportunity for the proceeds and seek to ensure that the required business cases are developed by the time the asset is sold.
21. Toi Ohomai is seeking to use the 20 percent of proceeds (approximately \$^{s9(2)(j)} [REDACTED]) to fund Phase 1 of the redevelopment of its Taupō campus, which entails replacing all its

⁴ The Minister of Education has portfolio responsibility for exercising this statutory power. If the disposal is agreed, the Ministry of Education will arrange for the land to be declared surplus under section 561 of the Education and Training Act 2020 (under delegated authority) and the Minister of Education to be advised accordingly.

substandard prefabricated buildings with a new fit-for-purpose building. A business case for Phase 1 s9(2)(j) has been prepared in accordance with Treasury guidelines and approved by Toi Ohomai's Council. The TEC considers that this capital project will provide additional value by increasing the effective capacity and capability of Toi Ohomai.

22. The policy requires the TEC to ensure Toi Ohomai has approved business cases covering the full net proceeds of the disposal by the time of sale, otherwise the TEC is required to report back to Ministers prior to any release of funds to Toi Ohomai.
23. Toi Ohomai is not overcapitalised according to its most recent Statement of Financial Position.
24. On the basis of the TEC's assessment, officials recommend that Ministers agree to Toi Ohomai retaining the full net proceeds of the sale of its Crown-titled Bongard Campus at 198 Cameron Road, Tauranga subject to:
 - a. the proceeds being reinvested in capital asset projects identified in Toi Ohomai's campus development plan and approved by the institution's board and the Te Pūkenga council;
 - b. Toi Ohomai reporting to the TEC on which projects will be funded by the proceeds; and
 - c. the TEC reporting back to Ministers should it consider that Toi Ohomai has not met any of the above conditions for the retention of the full net proceeds of the disposal.

Protection of Māori Interests

25. The Crown Asset Transfer Policy has a number of mechanisms designed to safeguard Māori interests in land and buildings. As part of assessing transfer applications, the TEC requests information from the Office for Māori Crown Relations – Te Arawhiti (Te Arawhiti) on the status of Treaty claims in areas where a TEI has requested Crown-titled assets be transferred or disposed.
26. Te Arawhiti has advised that the land for which transfer is sought at Tauranga and Waipa is in areas where there are Treaty of Waitangi claims yet to be settled. On this basis Te Arawhiti has advised that the land in those locations is subject to the Protection Mechanism and Sites of Significance Process. This could result in provisions deemed necessary to protect Māori interests being included on titles prior to transfer.
27. Toi Ohomai's campus at Rotorua is situated on land gifted to the Crown by Ngāti Whakaue for a range of public purposes under the terms of the Fenton Agreement of 1880. As a consequence of the Crown's Agreement with the Pukeroa Oruawhata Trust and Proprietors of Ngāti Whakaue Tribal Lands Inc. (representing Ngāti Whakaue), in 1993, the land is now subject to the Ngāti Whakaue Gifted Lands Policy, with the Pukeroa Oruawhata Trust (the Trust) representing Ngāti Whakaue's interest in the land.
28. The Gifted Lands Policy would not appear to directly apply to a transfer of title from the Crown to Toi Ohomai, as the land is not surplus and its use is not changing, however, the Policy does not appear to address the situation of the land not being surplus but ownership changing outside of the core Crown to a TEI. The Trust does not support a transfer of title from the Crown to Toi Ohomai and in 2009 lodged a caveat on the title which prevents any dealings in the land, including any transfer of ownership, without the Trust's agreement.
29. In these circumstances, and in relation to the matter below, officials recommend that for policy and legal reasons the land should remain in Crown title. The land at Rotorua has thus

been excluded from the land assets recommended for transfer to Toi Ohomai. However, the TEC recommends that Toi Ohomai be issued with a land lease, on behalf of the Crown, to clarify and formalise the status of its tenure of the land and a deed of waiver to clarify and formalise its ownership of improvements on the land.

30. As a matter outside the scope of the Crown asset transfer and disposal policy, but considered at the same time as Toi Ohomai's application, the Trust proposed that the gifted land Mokoia campus is situated on be transferred back to the Trust. The Trust proposed that it would then provide a ground lease to Toi Ohomai to facilitate its continued use of the site for educational purposes under a commercial arrangement.
31. Officials (MoE, TEC, LINZ and Te Arawhiti) explored this option with the Trust and Toi Ohomai. MoE, which administers the Crown's ownership interest in the land while it is used for education purposes, made the decision that on balance it is preferable to retain the land in Crown ownership. This protects the position of all parties involved, including Toi Ohomai, the Trust and the Crown, and ensures that no party is worse off than the status quo.

Consultation

32. The TEC has consulted with the Treasury, MoE, LINZ and Te Arawhiti in the development of this briefing. Te Pūkenga has also noted that it is comfortable with the proposals in this briefing.

Next Steps

33. Subject to your joint agreement to the recommendations contained in this briefing, the MoE, in consultation with the TEC, will prepare MoUs for the transfers and for the disposal of the Bongard campus to be executed by the Secretary for Education and Toi Ohomai.
34. The transfer MoU will set out the parameters of the transfers and will include⁵:
 - a. which assets are included in the transfer of title;
 - b. arrangements for protecting Māori interests in the land and/or buildings;
 - c. any other provisions, covenants or encumbrances related to the use and/or sale of the land or buildings, including the provision in the policy which requires a TEI to pay to the Crown up to 20 percent of the net proceeds of sale if a transferred property is disposed of within five years of its transfer; and
 - d. any specific requirements to be met by Toi Ohomai prior to the transfer of the legal title including those set out in paragraph 14.
35. Once all parties have agreed to the MoU, the normal transfer processes contained in the Public Works Act 1981, related legislation, and relevant government policies will be followed. This takes some 6-12 months and longer where issues arise during the clearances process.
36. A decision by the Minister for Land Information, or delegate, is needed, confirming that the transfer of the public work is required for the public interest and that the land is required for

⁵ An agreement for transfer or disposal needs to be executed by the Minister for Land Information. A MoU establishes parameters associated with any transfer or disposal, but the details must be set out in a sale agreement which must be agreed to by the Minister for Land Information (or delegate).

that public work. Following that, a sale agreement, to be executed by LINZ, under delegation from the Minister for Land Information, will be actioned. Under the Public Works Act 1981, all transfers of land from the Crown to tertiary institutions for public works are subject to the approval of the Minister (or delegate).⁶

37. The disposal MoU will set out the parameters of the disposal and will include:
 - a. which asset has been declared surplus to educational requirements and is to be disposed of;
 - b. appointing Toi Ohomai to act as the Crown's agent for the disposal and setting out the MoE's expectations;
 - c. any other provisions, covenants or encumbrances related to the sale of the land or buildings;
 - d. any specific requirements to be met by Toi Ohomai as part of the disposal process including those set out in paragraph 17;
 - e. arrangements for the proceeds of sale, and for Toi Ohomai receiving the specified percentage of the net proceeds; and
 - f. the specified purpose for which the net proceeds from the sale of the surplus land and buildings will be reinvested as set out in paragraph 24.

38. Once all parties have agreed to the disposal MoU, the normal disposal processes contained in the Public Works Act 1981, related legislation, and relevant government policies will be followed. This can take up to two years. A sale agreement will be executed by LINZ under delegation from its chief executive.

⁶ Tertiary institutions are a 'local authority' under the Public Works Act 1981. Legally, it is for the Minister for Land Information to agree to transfer this land from the Crown to Toi Ohomai.

Appendix A: TEI Crown Asset Transfer and Disposal Assessment Criteria

Cabinet has agreed [CAB Min (09) 38/12] to criteria for assessing applications from tertiary education institutions (TEIs) for the transfer or disposal of Crown-titled assets:

In cases of transfer or disposal:

- The TEI must have managed the asset since at least 1990.⁷
- There must be no overriding legal or policy reasons to retain the asset in Crown title (and where there are, the Crown will negotiate a lease or another suitable alternative with the TEI).⁸
- There must be no disagreement from any third party over which TEI should receive the transferred asset or proceeds of disposal (with particular reference to past and current usage and management).
- The TEI must have incorporated the Government's Capital Asset Management programme into its strategic, financial planning and reporting systems.⁹
- The TEI's financial risk must be assessed using the Tertiary Education Commission's (TEC's) Financial Monitoring Framework.¹⁰
- The TEI's educational risk must be assessed using a variety of measures including educational performance indicators as determined by the TEC.

In cases of transfer:

- The assets to be transferred must be required to support TEIs giving effect to their investment plans and capital asset management plans.¹¹

⁷ The policy is intended to apply to the sizeable group of assets that have been used and managed by TEIs for as long as the Crown has owned the assets. This is distinct from the smaller number of Crown-titled assets leased by TEIs in recent years to meet their changing needs, to which the policy does not apply. 1990 is the year in which tertiary institutions were first established in legislation in their current form and thus provides a useful cut-off.

⁸ For instance, a future Treaty of Waitangi settlement could in some cases represent an overriding policy reason to retain land in Crown title for the time being.

⁹ The TEC has developed a TEI Capital Asset Management programme (CAM) reporting framework (which includes a TEI CAM Standard) to enable TEIs to work toward meeting the Government's expected levels for good practice (as set out in the Treasury CAM guidelines).

¹⁰ The TEC's Financial Monitoring Framework (FMF) provides a high level snapshot of the financial health of an organisation. It considers a number of measures related to a TEI's profitability, balance sheet, and cash flow to determine a risk rating. Both audited and forecast results are considered. The results are averaged to give historical, future and overall FMF risk ratings.

¹¹ The definition of education purpose to meet the criteria of ongoing education need for assets has been defined by the TEC together with the tertiary education sector using categories specific to tertiary education institutions. It includes buildings used for academic and teaching space, central administrative support, student and staff services and accommodation, library space and commercial space.

Appendix B: Assessment of Toi Ohomai Institute of Technology Limited's Application

Ownership Status

1. Toi Ohomai Institute of Technology Limited (Toi Ohomai) has stated that it has managed the assets since 1990. The Tertiary Education Commission (TEC) and the Ministry of Education (MoE) have not found any evidence to the contrary. The assets were managed and maintained by the Bay of Plenty Polytechnic and Waiariki Institute of Technology until May 2016 when these predecessor agencies were merged to form Toi Ohomai (meaning legally that Toi Ohomai has managed these assets throughout the period of its predecessors).
2. The value of the assets sought for transfer and associated depreciation costs have been recognised on Toi Ohomai's accounts since 1996 and are included in the financial statements in its audited 2019 annual report.
3. Toi Ohomai has declared that it is not aware of any third party claims over the assets sought for transfer, other than in respect to the land on which its Mokoia campus is sited at Rotorua (see paragraphs 6-9). The TEC is not aware of any other tertiary education institute (TEI) that is likely to claim ownership of the assets.
4. A 20-year head (ground) lease between the Crown and the TEI over the land on the western half of Toi Ohomai's Windermere campus at southern Tauranga was entered into in 2002. The lease states that any buildings constructed on the land since that date at the TEI's cost are owned by the TEI. The provisions of the lease have been taken into account in assessing the value of the Crown-titled assets to be transferred.
5. The Office for Māori Crown Relations – Te Arawhiti (Te Arawhiti) has advised that the land for which transfer is sought at Tauranga and Waipa is in areas where there are Treaty of Waitangi claims yet to be settled. On this basis Te Arawhiti has advised that the land may be subject to the Protection Mechanism and Sites of Significance Process. This could result in provisions deemed necessary to protect Māori interests being included on titles prior to transfer.

Mokoia Campus at Rotorua – Gifted Land

6. The Crown-titled land on which Toi Ohomai's Mokoia campus is sited at Rotorua was gifted to the Crown by Ngāti Whakaue for a range of public purposes under the terms of the Fenton Agreement of 1880. In 1993, the Crown and Pukeroa Oruawhata Trust and Proprietors of Ngāti Whakaue Tribal Land Inc. (representing Ngāti Whakaue) signed an Agreement in relation to Ngāti Whakaue's claim to the Pukeroa Oruawhata Block on which the Mokoia campus is sited. As part of that Agreement, the Crown agreed to investigate the disposal of gifted lands should they ever become surplus, and any future changes of use of the gifted lands that might fall outside the scope of the original gifting. As a result the land is now subject to the Ngāti Whakaue Gifted Land Policy, with the Pukeroa Oruawhata Trust (the Trust) acting on behalf of Ngāti Whakaue in respect to Ngāti Whakaue's interest in the land.
7. Land Information New Zealand (LINZ) advises that the Gifted Lands Policy would not appear to directly apply to a transfer of title from the Crown to Toi Ohomai, as the land is not surplus and its use is not changing. However, LINZ notes that the Policy does not appear to address the situation of the land not being surplus but legal title changing outside of the core Crown to TEIs.
8. In a letter of 14 August 2017, the Trust advised Toi Ohomai that it was not in agreement with the proposed transfer of the gifted land from the Crown into Toi Ohomai's title. On 19 October 2017, the Trust reaffirmed this at a meeting with the TEC and Toi Ohomai. The

Trust's position is reflected in a caveat it lodged in 2009 on the title against dealings in the land, including a transfer of ownership, under section 138 of the Land Transfer Act 2017.

9. Title transfers under the Crown asset transfer and disposal policy are subject to there being no overriding policy or legal reason for the land to remain in Crown title. Given the above circumstances, and in relation to the matter below, it has been determined that for policy and legal reasons the land should remain in Crown title. The land on which the Mokoia campus is sited at Rotorua has thus been excluded from the land assets recommended for transfer to Toi Ohomai. However, the TEC recommends that Toi Ohomai be issued with a land lease, on behalf of the Crown, to clarify and formalise the status of its tenure of the land and a deed of waiver to clarify and formalise its ownership of improvements on the land.
10. As a matter outside the scope of the Crown asset transfer and disposal policy, but considered at the same time as Toi Ohomai's application, the Trust proposed the gifted land Mokoia campus is situated on be transferred back to the Trust. The Trust proposed that it would then provide a ground lease to Toi Ohomai to facilitate its continued use of the site for educational purposes under a commercial rental arrangement.
11. Officials, representing the MoE, TEC, LINZ and Te Arawhiti, explored this option with the Trust and Toi Ohomai. MoE, which administers the Crown's ownership interest in the land while it is used for education purposes, made the decision that on balance it is preferable to retain the land in Crown title. This protects the position of all parties involved, including Toi Ohomai, the Trust and the Crown, and ensures that no party is worse off than the status quo.

Capital Asset Management Integration¹²

12. The TEC agrees that Toi Ohomai has an appropriate level of Capital Asset Management (CAM) capability to enable it to effectively and efficiently manage its portfolio of assets. Toi Ohomai has made good progress in incorporating the Government's CAM expectations into its strategic, financial planning and reporting systems.
13. Toi Ohomai and its predecessors have provided regular capital intentions returns to the TEC. Toi Ohomai's 2019-2020 Investment Plan, Asset Transfer Application and its 2017 Campus Development Strategy set out Toi Ohomai's high level context for the maintenance and upgrading of campus facilities. Toi Ohomai, with oversight and input from Te Pūkenga, will build on these strategies to progress its Campus development plan in the context of regional education needs.
14. Most of the capital expenditure forecast for Toi Ohomai is focussed on replacing old relocatable buildings and rented space with new buildings which provide a modern flexible multi-use learning environment. In the short term these development proposals are focused on Toi Ohomai's Taupō and Mokoia campuses and in the longer term at its Windermere and Whakatane campuses. Toi Ohomai also plans in the short term for new trades facilities at its Taupō campus and in the longer term at its Mokoia campus.
15. In 2017, Toi Ohomai commissioned an independent assessment of its CAM systems and processes as a follow up to the 2015 assessments of its two predecessor agencies. The assessor noted that each of its predecessor agencies had long recognised the importance of capital asset management as a core business process and were progressively implementing a range of planned improvement activities, but these developments had been constrained in the interim by other priorities stemming from the 2016 merger.

¹² Te Pūkenga will also need to conform to the operative Cabinet directed TEI CAM standards and practices.

16. The 2017 assessment report noted that a new management structure was being established, including for facilities management, to take responsibility for implementing integrated CAM improvements across the entity. These improvements would include completing the integration of asset specific systems and processes, rebuilding organisational capability and refocusing attention on asset management performance. Subsequent self-assessments in 2018 and 2019 have confirmed Toi Ohomai's CAM capability at "core" level, the minimum standard required of TEIs.
17. The TEC will monitor the progress of Toi Ohomai and Te Pūkenga in implementing the Government's CAM expectations through annual self-assessments, regular independent reviews and its normal engagement processes. Te Pūkenga is currently undertaking significant work on understanding its capital needs across the network and its capital asset management capability. In the near future, it is looking to implement a number of projects to lift capital asset management capability across its network. Te Pūkenga plans to develop a comprehensive capital asset strategy off the back of this work, consistent with its new operating model.

Educational Need¹³

18. Toi Ohomai is seeking the transfer of the assets in Crown title at the following campuses:

- Windermere, at southern Tauranga
- Whakatane
- Waipa, south of Rotorua
- Taupō

In addition, at its Mokoia campus at Rotorua, Toi Ohomai is now¹⁴ seeking:

- A land lease, issued on behalf of the Crown
- The transfer of the Crown's ownership interest in buildings on the campus.

19. Toi Ohomai provided information outlining the current and planned future educational use of the assets for which transfer is sought. The information was provided by way of a completed asset verification spreadsheet which allocated each building asset to an educational purpose. The educational purpose categories were developed by the TEC in liaison with the tertiary education sector. Table 1 at the end of this Appendix illustrates the educational purposes for which the assets are currently used and for which Toi Ohomai states they will be used in the future.
20. The bulk of the assets are allocated (by value) to academic space (teaching and research) and centrally time-tabled teaching space, both now and in the future. The Bongard (Tauranga), Whakatane and Waipa campuses are exclusively on Crown-titled land and Crown-titled land forms the central core of Toi Ohomai's Windermere campus at Tauranga, Mokoia campus at Rotorua and Taupō campus. Toi Ohomai owns land in its own right at its Windermere and Taupo campuses.
21. The TEC has not sought an independent verification of the use of a sample of the assets which Toi Ohomai is seeking to transfer. In this case, the TEC is familiar with the building assets concerned and this, coupled with an inspection of all relevant sites, means the TEC is confident that they are being used for the educational purposes identified by Toi Ohomai and are capable of being used in the future for the educational purposes stated.

¹³ It is expected that Te Pūkenga will similarly seek to meet the needs of the region, but may review the priorities and plans of the existing entity.

¹⁴ Following the decision to exclude the land at the Mokoia campus from the assets proposed for transfer from the Crown to Toi Ohomai.

22. The TEC considers that there are no matters of national educational interest that would be served by retaining the assets under Toi Ohomai's management in Crown title, with the exception of the land on which the Mokoia campus is situated at Rotorua.

Disposal of surplus property and retention of net proceeds

Identification and disposal of surplus property

23. Toi Ohomai has identified that a Crown-titled property it manages at 198 Cameron Road, central Tauranga, its Bongard campus, is now surplus to its current and future requirements and has requested that it be put into disposal. This now vacant property consists of a six-storey building, in poor to average condition, on 0.24 hectares of land. It had a 2015 net book value of \$12.7 million and a 2017 estimated market value of s9(2)(i)
24. The TEC agrees that this property is surplus to the current and future educational needs of Toi Ohomai. The MoE has also identified it as surplus to wider state educational requirements. As the property is not currently being used to deliver educational programmes there will be no educational impact resulting from its disposal. From a financial perspective, the consolidation of Toi Ohomai's property portfolio will result in a positive benefit in that holding costs will be reduced.
25. On the basis of the TEC's assessment, officials recommend that the Minister of Education declares the Crown-titled asset at 198 Cameron Road surplus to educational requirements via a section 561 Education and Training Act 2020¹⁵ Gazette Notice and agrees that it can be disposed of subject to:
- the successful completion of the consents and clearances provided for in the Public Works Act 1981, and other relevant legislation and government policies related to the disposal of Crown assets; and
 - Toi Ohomai paying for the external costs of the disposal including, but not limited to, the services of a LINZ accredited supplier and any other costs associated with managing the disposal process.

Retention of net proceeds of disposal

26. The policy provides that only 80 percent of the net proceeds of disposal will be available to a TEI for capital projects to support its educational activities and is subject to the TEI having approved business cases to a required standard by the time the asset is sold. If this condition is not met the TEC is required to report back to Ministers. Ministers then have the opportunity to permit the TEI to apply the funds to operational purposes, or to withhold the funds¹⁶.
27. The remaining 20 percent may be made available to the TEI if the Government agrees, at the time of approving its application, that the TEI is not overcapitalised and that it has demonstrated that the additional funding will be used in capital projects of adequate value to the educational activities of the institution.
28. Toi Ohomai has applied to retain the full net proceeds of the disposal as it needs to fund the replacement of substandard prefabricated buildings at its Tauranga (Windermere), Whakatane, Rotorua (Mokoia) and Taupō campuses with modern fit for purpose buildings and build new trades facilities at its Taupō and Rotorua campuses. The TEC will work with

¹⁵ The Minister of Education has portfolio responsibility for exercising this statutory power. If the disposal is agreed, the Ministry of Education will arrange for the land to be declared surplus under section 561 of the Education and Training Act 2020 (under delegated authority) and the Minister of Education to be advised accordingly.

¹⁶ The policy also provides the TEI with a further opportunity to revise its business cases and resubmit them to the TEC. In addition, the policy notes that issues, such as a pending merger (as with Te Pūkenga), may arise that will need to be taken into account and may delay the disposal and/or the release of the net proceeds of sale to the TEI.

Toi Ohomai to determine which of these projects represent the best use of the proceeds and seek to ensure that the required business cases are developed by the time the asset is sold.

29. Toi Ohomai is proposing to use the 20 percent of net proceeds (approximately §9(2)(j)) to contribute to the development of a new campus at Taupō. A business case for Phase 1 of the Taupō campus redevelopment (§9(2)(j)), prepared in accordance with Treasury better business case principles, was approved by Toi Ohomai's Council in November 2019. The Phase 1 development entails replacing all existing old substandard prefabricated buildings with a new fit-for-purpose building that will provide a modern flexible learning environment.
30. The TEC considers that the Phase 1 business case for Taupō meets the business case requirements to secure the 20 percent of net proceeds of the disposal. Also, on the basis of its most recent Statement of Financial Position Toi Ohomai is not overcapitalised. From a capital asset management perspective it makes good sense to dispose of an asset that is not integral to the delivery of the institution's core educational services and to reinvest the proceeds in fit-for-purpose facilities.
31. On the basis of the TEC's assessment and subject to the above conditions, officials recommend that Joint Ministers agree to Toi Ohomai retaining the full net proceeds of sale of the property for investment in capital asset projects identified in Toi Ohomai's campus development plan and approved by the institution's board and the Te Pūkenga council.

Financial Performance and Risk

32. The TEC considers that the financial performance of Toi Ohomai is at a sufficient level that it will not present a significant risk to the Crown following the transfer of the assets. Toi Ohomai has good financial management capability and the TEC considers it capable of managing the transferred assets. Furthermore, Toi Ohomai is now part of the wider Te Pūkenga group and can draw on the resources and capability of the wider group as required.
33. Bay of Plenty Polytechnic and Waiariki Polytechnic, which merged in mid-2016 to form Toi Ohomai, were both viable institutes in their own right. Toi Ohomai posted a \$4.8 million (4.6%) surplus for 2016. This surplus became a \$9.9 million (10.5%) deficit in 2017 (a turnaround of \$14.7 million). This turnaround has been attributed to reduced revenue due to reductions in both domestic and international enrolments symptomatic with the former institute of technology and polytechnic (ITP) sector trends and \$4.8 million of merger related costs. With the extraordinary costs related to the merger excluded, the 2017 deficit is aligned with the general trend for the former ITP sector.
34. Toi Ohomai continued to post deficits in 2018 and 2019. However these deficits were lower than previous, due to Toi Ohomai reducing its operating costs, especially on staffing, and depreciation (by prudent capital spending). This has resulted in its 2019 deficit of \$4.1 million being well below its peak deficit of \$9.9 million in 2017. Toi Ohomai expects to break-even in 2020, as per its latest forecasts.
35. Toi Ohomai's cash balances since the merger have remained healthy (from over \$31 million in 2017 to close to \$34 million in 2019). This is provisionally confirmed to reduce to \$28 million at the end of 2020 and does not present a risk to the Crown regarding the transfer of assets. Capital expenditure has slowed due to the deferment of some projects, which should preserve cash balances.
36. Toi Ohomai had an overall Financial Monitoring Framework (FMF) rating of low risk in 2016. The rating was moderate following the 2018 results and remains so on 2019 results. A level of moderate to high risk in the period immediately following a merger can be expected, while the implications of the merger are being embedded (restructures, impairments, redundancy

costs and asset write-off). The TEC considers that Toi Ohomai has good governance and is confident that it will work through and satisfactorily address any post implementation issues.

37. The establishment of Te Pūkenga is also intended to address persistent financial issues across the former ITP sector, and ensure a viable and sustainable national network of vocational education. This further supports our view that Toi Ohomai is not at risk of viability issues.

Educational Performance and Risk

38. Toi Ohomai's catchment covers a key part of the central-eastern North Island. Delivery in this part of New Zealand is required for the foreseeable future creating an ongoing need for the land and building assets that are proposed to be transferred.
39. At present Toi Ohomai is performing well educationally in that both the key Educational Performance Indicators of Course Completion and Qualification Completion are above the average for Te Pūkenga subsidiaries. Toi Ohomai also has an above average proportion of its domestic Equivalent Full Time Students (EFTS) identifying as either Māori or Pasifika.
40. As with almost all Te Pūkenga subsidiaries, Toi Ohomai has experienced declining student demand over the last few years. A key factor behind this was the high employment participation and low unemployment situation that existed through to early 2020.
41. Domestic EFTS were down in the first half of 2020 compared to the first half of 2019, but by the second half of 2020 were above the same period in 2019. Toi Ohomai has also budgeted for a significant increase in domestic EFTS in 2021.

Predominant Educational Purpose (Current and Future)	Area (ha)	Land Book Value (\$)	Building Net Book Value (\$)	Total Values (\$)	Proportion (% Value to Transfer)	Notes
Academic space (including dedicated teaching and research space)	18.6120	13,222,509	38,204,711	51,427,220	41.6	Includes the Bongard campus at Tauranga identified for disposal
Central administrative support			11,352,898	11,352,898	9.2	
Centrally timetabled teaching space (lecture theatres, seminar and tutorial rooms)	14.4953	5,110,000	33,429,215	38,539,215	31.2	
Library space including study centre and computerised student work spaces, information commons etc.			10,442,271	10,442,271	8.4	
Student and staff services space, including counselling and sports and recreation, student accommodation etc.			6,808,765	6,808,765	5.5	
Commercial space, including space leased or rented to others, bookshops, cafeteria etc.			3,173,194	3,173,194	2.6	
Other considered on a case by case basis (anything not included elsewhere including transition, decanting and vacant space)	4.6100	1,817,787		1,817,787	1.5	Subject to development proposals including for student construction of relocatable buildings, a transport hub and car parking (all currently on leased land).
Total Crown-titled land & buildings to be Transferred or disposed¹⁸	29.7514	20,150,296	103,411,054	123,561,350	100.0	
Land to be Retained in Crown title	8.0000	2,400,000		2,400,000		Mokoia campus, Rotorua ¹⁹
Toi Ohomai-titled land & buildings	1.6954	3,479,000	11,549,128	15,028,128		All at Windermere campus, south Tauranga
TOTAL Crown & Toi Ohomai owned land and buildings	39.4468	26,029,296	114,960,182	140,989,478		Approximately 89% by value of all land and building assets managed by Toi Ohomai are Crown-owned

¹⁷ The ownership of buildings on the Crown title covering the western half of the Windermere campus has been allocated in accordance with Section 1 of the Third Schedule of the Memorandum of Lease (ground lease) dated 14 November 2002. Sec 1.1(c) defines the Lessee's interest as being any new standalone building constructed on the land at the Lessee's cost during the period of the lease (i.e. post 1 October 2002).

¹⁸ This includes Crown-titled land; and Crown-owned buildings on Crown-titled land, on leasehold land, on third party land and on land in Toi Ohomai title.

¹⁹ While improvements on the land (mainly buildings) at the Mokoia campus have been included in the assets to be transferred, the land itself is not being transferred due to overriding policy and legal reasons.

Appendix C: Overview of the Process for Considering Applications for the Transfer and/or Disposal of TEI-Managed Assets in Crown Title

