



MP for Rimutaka

Minister of Education

Minister of State Services

Leader of the House

Minister Responsible for Ministerial Services

Dianne Kidd, Deputy Chair  
Unitec Institute of Technology Council  
139 Carrington Road  
Mt Albert  
Auckland

13 JUL 2018

Dear Dianne

## Preliminary decision to dissolve the council and appoint a commissioner

1. This letter is to give you written notice under section 195D(4)(b) of the Education Act 1989 of my preliminary decision to dissolve the council of Unitec Institute of Technology (**Unitec**) and appoint Mr Murray Strong as commissioner under section 195D(1) of the Education Act. In accordance with section 195D(4)(c) of the Education Act, I am giving the council 21 days in which to respond to the preliminary decision.
2. On 4 July 2018, I advised the council of the possible need to dissolve the council and appoint a commissioner, and sought submissions from the council and interested parties by 5.00pm on 12 July 2018 on the proposal.
3. I received 23 submissions on the proposal. While a number of the issues raised in the submissions are out of scope of the consultation, the submissions broadly support the proposal to dissolve the council and appoint a commissioner.
4. After considering the submissions, I believe on reasonable grounds that:
  - (a) there is a serious risk to the operation or long-term viability of the institution; and
  - (b) other methods of reducing the risk are likely to fail.
5. I set out the reasons for my preliminary decision below.
6. In accordance with section 195D(4)(c) of the Education Act, I am giving the council 21 days to respond to my preliminary decision. However, if you send me the council's submission on my preliminary decision before the expiry of 21 days (i.e., before 5.00pm on 6 August 2018), I will consider its submission as soon as possible after I receive it and make a decision.

## **There is a serious risk to the operation and long-term viability of Unitec**

7. Section 195D(2) of the Education Act provides that there is a serious risk to the operation or long-term viability of an institution if:
  - (a) the institution is, or is at risk of being, unable to pay its debts as they become due in the normal course of business; and
  - (b) according to the *Gazetted* "Risk Assessment Criteria for Tertiary Education Institutions" there is a serious level of risk to the operation or long-term viability of the institution.

### *Unitec is unable to pay its debts as they become due*

8. In April 2018, Unitec advised the Tertiary Education Commission (**TEC**) that it is projecting a shortfall for the 2018 year.
9. As the Chief Executive of the TEC had reasonable grounds to believe that Unitec may be at risk, Unitec agreed with the Chief Executive of the TEC to the appointment of an independent financial advisor (**IFA**) to monitor and advise on Unitec's financial position and performance.
10. On 15 June 2018, the IFA provided the TEC with its first formal report. The report clearly demonstrates that Unitec is unable to pay its debts as they become due in the normal course of business. In particular, the IFA forecasts that, in 2018, Unitec will have a shortfall of approximately \$19.1 million, with cash running out in September. It will require financial assistance to meet this shortfall and another projected shortfall in 2019.
11. A summary of the IFA's key findings is attached as Appendix 1.

### *The institution has an overall rating of Extreme Risk*

12. The *Gazetted* risk criteria provides that an institution is at risk if it has "*an overall rating of Moderate Risk or High Risk in the most recent financial performance assessment carried out under the Financial Monitoring Framework operated by the TEC from 1 January 2010.*"
13. The IFA has assessed Unitec as being high risk under the TEC's Financial Management Framework.

### *The council has not fulfilled, and continues not to fulfil its statutory functions and duties*

14. The *Gazetted* risk criteria provides that an institution is at risk if:
  - (a) the council has not fulfilled, and continues not to fulfil, its statutory functions and duties under the Education Act; and
  - (b) the council has failed, and continues to fail to ensure the institution maintains adequate systems and processes for effective planning, and for the effective management of the financial and educational performance and infrastructure of the institution.
15. Given the current financial situation of Unitec, I believe on reasonable grounds that the council has failed to fulfil its statutory duty to ensure that Unitec operates in a

financially responsible manner that ensures the efficient use of resources and maintains Unitec's long-term viability (section 181 of the Act).

16. Also, the fact that the council only became aware of the critical cash flow issues of Unitec in April 2018 demonstrates that the council failed to put in place effective processes to manage the financial and educational performance of Unitec. In addition, the IFA has not observed the level of unity and robust decision-making from the council required to develop and oversee an effective turnaround programme. I acknowledge that since 5 July 2018, there are a number of vacancies on the council.

*Unitec has failed to ensure Unitec is managed in accordance with its investment plan*

17. The number of students enrolled at Unitec is declining. Domestic EFTS have been in decline since 2012 with Student Achievement Component funded EFTS falling from 8,483 in 2012 to 5,281 in 2017 (38 per cent). Since 2015, international EFTS that had been partially countering the decline in domestic EFTS have also declined, from 2,171 in 2015 to 1,950 in 2017 (10 per cent). Unitec's total EFTS have declined just over 20 per cent since 2012.
18. This decline is continuing into the 2018 academic year, and Unitec is not enrolling the number of EFTS specified in its investment plan. Therefore, it is likely that the TEC will make a significant amendment to Unitec's plan under section 159YM of the Act.

***Other methods of reducing the risk are likely to fail***

19. There are a number of interventions specified in the Act that I and the Chief Executive of the TEC may take if we have reasonable grounds to believe that a polytechnic is at risk.
20. Those interventions (other than the appointment of a commissioner) are described and analysed in Appendix 2.
21. I believe on reasonable grounds that those methods for reducing the risk are likely to fail because action needs to be immediate, and managing the situation will involve more time and effort than current council roles.

***There are clear benefits of dissolving the council and appointing a commissioner***

22. I consider that dissolving Unitec's council and appointing a commissioner will reduce the current operation and long-term viability risks facing Unitec for the following reasons:
  - (a) a commissioner can make decisions quickly.
  - (b) a commissioner will ensure independent oversight of Unitec – decisions will not be stalled or limited by the way in which the council has previously approached issues.
  - (c) an advisory committee, that the Minister must appoint, can include any persons identified by the commissioner as having the skills needed to advise and support him or her in the exercise of the commissioner's functions, duties and powers.
  - (d) the Government will have greater confidence in the long-term viability of Unitec.

- (e) if required, a commissioner can appoint an external interim Chief Executive at the completion of the current interim Chief Executive's term, who can continue with the restructuring process that may require additional independent decision-making.

23. I look forward to receiving the council's submission.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'CH', with a long horizontal flourish extending to the right.

Chris Hipkins

**Minister of Education**

## APPENDIX ONE: INDEPENDENT FINANCIAL ADVISER'S (IFA) KEY FINDINGS

1. Unitec forecasts a net deficit in 2018 of \$21.2m (20.7% of total revenue). This will result in a cash deficit of \$19.1m by the end of 2018, with additional funding required from September 2018. The forecast prepared for 2019 also indicates the cash deficit situation will continue and up to \$27m additional funding will be needed if no reductions are made to Unitec's cost base. This forecast is based on Unitec achieving only 6,938 EFTS in 2018, with a continuing decline to 6,000 EFTS in 2019. The IFA has assisted Unitec in developing these forecasts.
2. The core operations of Unitec are not viable or sustainable in their current form. A fundamental structural change is required to right-size the organisation across both the support and teaching functions. This requires a decrease in the cost base by around 25% (\$29m) to result in a sustainable Unitec if a steady state of 6,000 EFTS is assumed for 2019. A reduction in headcount across both teaching networks and support functions will be required.
3. Given the significant change required, it is essential both management and governance (council) are highly effective, with the right mix in place to lead the organisation through this change. The IFA has not observed the level of unity and robust decision making from council required to develop and oversee an effective turnaround programme. The ability of the current executive leadership team (ELT) to implement a turnaround plan of this scale is also untested although they appear competent and engaged.
4. Unitec has been operating under an Interim Chief Executive (ICE) since January 2018. The ICE was previously a council member. His interim position terminated on 13 June 2018 and a new ICE has been appointed from the management team to take his place through to 31 December 2018. The IFA has observed that the departing ICE has instilled a transparent and collaborative way of working that has been embraced by the ELT and appreciated by wider staff and is a good foundation for executing change. The current ICE is continuing with this approach and is well supported by staff.
5. Unitec still retains significant land assets and is looking at various options to realise value from this land to fund its cash outflows while it right-sizes the business. A process is being developed to dispose of selected land assets, but it is unlikely to generate any cash in the 2018 calendar year, and also will not be enough to address the 2018 cash deficit situation.
6. Unitec is in current discussions with its bankers for access to borrowing. However, Unitec is not confident bankers will provide lending facilities while its core operations are unviable. Nevertheless, it cannot entirely be discounted as a source of financing sometime in the future.
7. Unitec has identified \$6.3m savings in core operations that are being realised, and a further \$6.5m savings due to the disestablishment of its property subsidiary the Wairaka Land Company. Management is working on further cost savings initiatives, which would result in large savings, but also result in sizeable redundancy payments.
8. In addition to cost savings, Unitec's ELT is aware of the need to focus on ensuring Unitec attracts and secures more EFTS. Some work on this aspect is currently underway.