



Local Government New Zealand

te kaitiaki matatū

MEDIA RELEASE

Changing the face of local government

For immediate release on 11 February 2005

A meeting of the metropolitan mayors today reaffirmed the need for the Government to look favourably at providing new funding tools to enable councils to meet the increasing needs of their communities.

"We simply cannot survive on rates alone," said Waitakere Mayor Bob Harvey, Chair of the metropolitan mayors meeting in Wellington to discuss funding issues facing local government.

"Cities are the engines of this country and there needs to be a fairer and more cost-effective system for funding local government. The Government understands the issues and we are looking forward to working with it to find solutions."

Mr Harvey said relentless expenditure pressure was coming from a range of sources such as population growth, the devolution of functions to local government from central government, growing community expectations, and new local government functions and services.

"For example, central government passed the Prostitution Reform Bill but it's local government that has to conduct inspections, deal with complaints, and implement and police the changes," said Mr Harvey.

Two guest speakers explored how other countries had dealt with funding issues. The first guest speaker was Professor John Peterson, Professor of Public Policy and Finance at George Mason University in Virginia. Professor Peterson's presentation covered the rationale for local service and infrastructure provision at city level, funding issues facing metro councils in general, the limitation of current funding mechanisms and alternative funding options that are practical, sustainable, adequate, and support local accountability and democracy.

The second guest speaker was Professor Graham Sansom, Associate Professor and Director of the UTS Centre of Local Government, University of Technology, Sydney. Professor Sansom was a member of the team established to examine cost-shifting to local government in Australia.

Mr Harvey said consideration needed to be given to the full range of new funding sources such as increased grants for national public good services and facilities provided at the local level and rating Crown-owned land.

"If local government is going to be able to meet the needs of the community effectively, it is imperative we modernise our funding tools."

A report from the team working on funding pressures and options will be prepared for the next Central/Local Government Forum, scheduled for June.

The meeting noted that the joint project currently underway between central and local government was the most comprehensive and constructive initiative for many years.

ENDS

Local Government New Zealand is the national voice of all 86 councils of New Zealand.

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Increasing ratepayers' burden typical tactic

COMMENT: Our property rating system is antiquated, unfair and inadequate

LAUNCHING his aborted Auckland City mayoral bid eight months ago, City Vision leader, Dr Bruce Hucker, standing as an independent, promised to keep rate rises to no more than 2 per cent above inflation. His rival, Dick Hubbard refused to commit himself.

Last week, Mayor Hubbard, his deputy and one-time rival, Dr Hucker and their City Vision-Labour majority, joined to announce plans for a 9.7 per cent rates rise overall, including an average 11 per cent rise for residents. Inflation is currently running at 2.7 per cent.

Their rightwing Citizens and Ratepayers Now opponents are thundering abuse. But they were no better when they were in power.

They were elected in 2001 on a promise to freeze rates. But over their three-year term they ramped up the charges on poorest households by



37 per cent. Rates for the wealthiest households went up only 4.3 per cent.

No wonder the majority of people don't bother to even vote. Not that one should be too hard on local body politicians. They have an impossible task trying to perform the tasks they're required by law and by popular demand to carry out, using a funding method inherited from feudal times.

The antiquated property rating system is unfair and inadequate and should have been abolished or supplemented by other forms of funding, years ago.

"more about socking it to the perceived rich than about getting Auckland moving again".

As representatives of the "perceived rich" of waterfront Orakei, the two tenderfoot politicians were obviously worried about their long-term political careers. But their unexpected abuse infuriated their leftwing friends, who had, after all, recently installed them into the chairmanships of two key committees, heritage and transport, both areas which will benefit from the extra rates to be levied.

One said if Mr Simpson was so concerned about saving money, why was he calling for urgent reports on an expensive footbridge across Waipapa Stream from Parnell to the Domain.

The proposed rate increase will bring in an additional \$60 million over three years which will go towards \$42 million on transport projects, \$8.4 million on open spaces, including a pittance on preserving volcanic cones, and another \$4.2

million on urban design and heritage preservation.

Mr Simpson said that instead of higher rates, council should be considering CBD congestion charges, hotel bed fees, rating Ports of Auckland, retaining GST on rates and persuading central Government to hand over more tax revenue.

To his more experienced colleagues, this was like telling grandma how to suck eggs. For years they've been battling these options back and forth with bureaucrats and the parliamentarians who have the final say, with no luck.

With parliamentary elections looming, maybe it's time we all starting leaping up and down and demanding funding reform for local government. A good start would be to get the right to levy a rate on Crown-owned land — to say nothing of the Ports of Auckland's vast downtown commercial estate.

With parliamentary elections looming, maybe it's time we all starting leaping up and down and demanding funding reform for local government. A good start would be to get the right to levy a rate on Crown-owned land — to say nothing of the Ports of Auckland's vast downtown commercial estate.

"We simply cannot survive on rates alone."

Waitakere Mayor Bob Harvey

incoming local government minister Chris Carter with a paper on this "long-standing grievance". Despite a \$5.7 billion central Government surplus, no relief — or solution — is in sight.

Back in Auckland City, the planned rate rise has caused ructions between City Vision-Labour and their minority coalition partners, the Action Hobson team of Christine Caughy and Richard Simpson.

No sooner had the proposed budget been announced than Action Hobson said they would oppose "every aspect of the City Vision/Labour rates-hike" claiming it's

» SEE ALSO
More Auckland news — A7

Waitakere Hospital Extension Opening

February 12 2005 – Mayor Bob Harvey's Speech

Kia Ora, Kia Orana, Talofa Lava, Fakalofa Lahi Atu, Dobro Dosli, Namaste, Ni Hau.

The Hon Annette King, Hon Chris Carter, David Cunliffe, Lynne Pillay, John Key.

Waitemata District Health Board Chair Kay McKelvie, board members, former board members.

Waitemata District Health Board CEO Dwayne Crombie, General Manager Waitakere and North Shore Hospitals Rachel Haggerty.

Deputy Mayor, councillors and community board members, hospital staff and other distinguished guests.

This is an auspicious day for the west and for Waitakere – a day for which we have waited more than four decades.

Many of you in this audience have been advocates, lobbyists and determined to have a hospital in the west.

I honour you and thank you sincerely.

And I'd like to acknowledge the many who have passed on, not seeing this dream realised.

There are many and they are legendary.

I want to acknowledge them.

I would also like to acknowledge the thousands who have suffered enormously when a loved one and family member has suffered disability, accident or illness.

You, living in the west, paid the penalty of having a hospital patient on the other side of the region.

It took a day, with poor transport, for you just to visit.

These years of waiting have been hard years for many.

The common phrase about Waitakere Hospital was: You could be born here and die here but nothing in between.

For too long that was too true.

But today that phrase and those days are well and truly behind us.

This is now a 'real' hospital with a raft of new services.

A hospital that we can say is truly ours.

I might add, on the subject of hospitals and ill health, I recently read that in 1800 the US had only two hospitals and by 1873 only 78.

It was only in the last century the world started to build hospitals and to come to terms with society's needs for care and compassion without the fear of disease and disability.

I could also remind you that Florence Nightingale's ideal was that nursing should be done in the home and she was wary of nurses becoming hardened by too much medical learning.

Her comment was "you cannot be a good nurse without being a good woman".

But today is not a day to discuss feminism, hospital funding or waiting lists.

It is a day to celebrate Waitakere's eco-hospital - the result of a partnership that fits the city's eco-vision and an extraordinary legacy for us all here today.

This truly is a building of smart and wonderful thinking.

It would be lightweight to tag it simply an eco-friendly facility.

It's much more than that.

But the philosophy has made it a reality.

Eco-efficient building materials and lighting have been used wherever possible.

Large, low windows allow patients to view more of the outside world and let in more natural heat and light.

And that means Waitakere uses 25 percent less air conditioning than any other hospital in the country.

Responsible storm-water management has been achieved and water saving fittings installed.

A commitment has been made to incorporating arts and the use of native plants.

The partnership between Waitakere City Council and the Waitemata District Health Board has been a key driver in this facility.

That partnership has also ensured it is locally designed icons and signs that help guide patients and visitors around the hospital.

Each department has a separate beach-themed icon and the names are in English and Maori, also symbolising our effective and long-term partnership with local iwi.

I would also just like to mention the economic benefit of this new hospital to Waitakere.

Hundreds of new jobs have been created and more than 95 percent of those jobs have been filled by local people.

I was at the Trusts Stadium when the recruitment drive was in full swing and it was just wonderful to see – one great Waitakere facility using another great Waitakere facility for the good of Waitakere citizens.

This hospital reflects Waitakere City and its peoples.
This hospital does us proud.

To mark this auspicious occasion I would like to present Waitakere Hospital with a fabulous piece of art by local Karekare artist Dean Buchanan.

This painting reflects the overall theme of the hospital – bright and glorious.

INFORMATION PACK

WAITAKERE CITY COUNCIL SUBMISSION ON THE EDUCATION (ESTABLISHMENT OF UNIVERSITIES) AMENDMENT BILL

DATE: THURSDAY 25 NOVEMBER 2004

TIME: 2.30PM (ARRIVE 2.15PM)

VENUE: GLADSTONE ROOM, KINGSGATE HOTEL, 92-102 GLADSTONE
ROAD, PARNELL

**PRESENTATION NOTES FOR MAYOR – EDUCATION
(ESTABLISHMENT OF UNIVERSITIES) AMMENDMENT BILL**

DATE: Thursday 25 November 2004

TIME: 2.30pm (Meet at venue by 2.15pm)

VENUE: Gladstone Room, Kingsgate Hotel, 92-102 Gladstone Road, Parnell

NOTES

Thank you for the opportunity to present the submission of Waitakere City Council. With me I have Councillor Janet Clews, Chairperson of the Finance and Operational Performance Committee, Harry O'Rourke, Chief Executive, and Ross McLeod, Director: Corporate and Civic Services.

I need to advise you that Waitakere City Council opposes the Education (Establishment of Universities) Amendment Bill in both form and apparent intent. You have received our detailed submission, so I propose simply to highlight the key reasons for our opposition to the Bill:

The Bill disadvantages the people of Waitakere City

- The Waitakere City community has been disadvantaged for some time in comparison with other parts of the region and country by the absence of a tertiary education institute of university status.
- Census data indicates that Waitakere City has a lower proportion of residents with tertiary academic qualifications or advanced vocational qualifications than most of the Auckland region and the country as a whole.
- This is now being addressed through the innovative partnership between Unitec and Waitakere City Council and the commitment of Unitec to the West
- Waitakere City Council believes that the range and credibility of educational opportunities within the city will be confirmed and enhanced by the conferring of university status on Unitec.

The Bill unfairly disadvantages Unitec

- The Bill appears to be designed to target Unitec and its application for university status.
- Unitec applied for university status in 1999 when the legislation provided for an assessment to be made as to whether Unitec meets the characteristics of a University.
- The Bill seeks to enable the Minister to withdraw the right to an assessment.
- Waitakere City Council believes the application should be assessed under that legislation in place in 1999 and the criteria it provides.
- Waitakere City is concerned that the Bill is likely to unilaterally deprive Unitec of a fair hearing.

Unitec has demonstrated its credentials as a University of Technology

- Unitec has a strong track record in delivering educational programmes ranging from trade and vocational education to professional postgraduate degree level qualifications underpinned by ground breaking, applied research.
- Unitec is operating beyond the level of delivery provided by other polytechnics around New Zealand, and has already demonstrated success as a dual sector "University" of Technology.
- Unitec meets the criteria for a University – it is characterised by a wide diversity of teaching and research, including at a high level; it advances, disseminates and assists the application of knowledge; and it most definitely promotes intellectual independence and community learning.
- Unitec's university credentials are confirmed by its success in obtaining research funding from the Foundation for Research, Science and Technology, more in line with other universities than other Polytechnics.
- A comparison between Unitec and Auckland University of Technology would see that both institutions are similar in their range and levels of activity - the only difference between them that one was slightly ahead of the other in lodging its application for University status.
- The Council believes that conferring university status on Unitec would reflect reality and would benefit those students who

choose Unitec as an education provider – as many in Waitakere City will likely do.

The Bill provides for poor Administrative Decision-making processes and is constitutionally unwise

- The Bill seems to be inconsistent with Parliament's moves toward greater accountability and robustness around administrative decision making.
- Parliament has progressively moved toward more rigorous requirements on administrative decision makers (for example the Local Government Act 2002 which I live with everyday).
- The Bill provides the Minister with the ability to deny an applicant university status without a proper assessment of the applicant institution having taken place and without detailed information and advice having been provided to the Minister.
- It is difficult to see how this can promote good decision making.
- Waitakere City Council is strongly opposed to Section 6 of the Bill.
- This section appears to provide for any successful application by Unitec made before the Bill is passed into law to be invalidated retrospectively.
- Such a law would set an unfortunate precedent and would be considered by Council to be constitutionally unwise. It amounts to a 'get out of jail free card' for the Minister.
- The Council asks that Section 6 of the Bill be omitted and that if Parliament feels that this Bill is necessary in some form, a savings clause should be included in it to protect the position of those already involved in processes under the existing legislation.

A Way Forward

It is obvious that the Government is concerned about promoting cooperation and coordination in the tertiary education sector rather than competition. It seems that it views the prospect of a growth in University numbers in the future as contrary to this goal.

In terms of a way forward that meets Governments goals and those of Unitec and Waitakere City, it would seem possible to provide for a new category of University, namely the dual sector "University of

Technology". In reality, there are already two of these – Unitec and AUT.

Such a move would signal a specific emphasis on applied research and learning with a specific class of institution to focus on delivery in this area. It would enable the Government to trim back and fix the number of "Blue-sky research" driven universities, and set clear criteria for what constitutes a dual sector institution. It would also enable Unitec and Waitakere City to meet their goals.

In closing, I need to advise you that Waitakere City Council:

- 1. Opposes the Education (Establishment of Universities) Amendment Bill**
- 2. Seeks that the Select Committee recommend that the Bill's progress through the House be discontinued**
- 3. Seeks that the application of Unitec for university status be processed under the provisions of the legislation in place in 1999.**
- 4. Strongly supports Unitec's application to attain University Status under the Education Act 1989.**
- 5. Seeks, in the event that the Select Committee decides that some form of the Bill is necessary, to have Section 6 of the Bill omitted and a Savings provision included to provide for applications for university status to be processed under the legislative provisions extant at the time the application was made.**
- 6. Seeks a recommendation from the Select Committee to the Minister that the application of Unitec for university status be processed without further delay.**

Appendix One – Full Council Submission



Waitakere City Council
Te Taiāwhā o Waitākere

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18 November 2004

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Office of the Chief Executive
Harry O'Rourke, JP

FXED

Select Committee Clerk
Education and Science Select Committee
Parliament Buildings
WELLINGTON

Dear Sir/Madam

SUBMISSION ON THE EDUCATION (ESTABLISHMENT OF UNIVERSITIES) AMENDMENT BILL

Waitakere City Council welcomes the opportunity to make this submission on the Education (Establishment of Universities) Bill.

The western areas of Auckland, which now comprise Waitakere City, have long been poorly served by the tertiary education sector, something that is now being addressed through the admirable commitment by Unitec New Zealand (hereafter Unitec) to the West, and the innovative partnership between Unitec and Waitakere City Council. It is within this context that Waitakere City Council comments on the Bill that is currently being considered.

Waitakere City Council supports Unitec's application to obtain university status and therefore opposes the Bill in so much as it will prevent this or may make it more difficult. The Council believes that Unitec's establishment as a dual sector university would be in the interests of the Waitakere City community, as well as serving to improve educational opportunities and standards for the country as a whole. The Waitakere City community has been disadvantaged for some time in comparison with other parts of the region and country by the absence of a tertiary education institute within the city. Census data indicates that Waitakere City has a lower proportion of residents with tertiary academic qualifications or advanced vocational qualifications than most of the Auckland region and the country as a whole. In the absence of a local university, many of the most talented young people from Waitakere City are forced to leave and go elsewhere to take up tertiary education opportunities. Often they do not return. This has an impact on the educational levels of the workforce and business communities within Waitakere City.

In response to this situation, Waitakere City has long sought to have a tertiary education institute of university status established within the city. One initiative that is now coming to fruition is the partnership with Unitec, which is providing for significant capital investment in teaching facilities by Unitec in Waitakere City. Waitakere City Council believes that the range and credibility of educational opportunities within the city will be confirmed and enhanced by the conferring of university status on Unitec.

Unitec has a track record in delivering educational programmes and opportunities ranging from trade and vocational education through professional degree level qualifications up to doctoral level, including ground breaking, applied research. Unitec has proved that it has moved beyond the level of delivery provided by other polytechnics around New Zealand, and has already demonstrated success as a dual sector "University" of Technology.

Unitec's university credentials are confirmed by looking at its research record. Unitec has been successful in obtaining significant research funding from the Foundation for Research, Science and Technology, in line with other universities. It seems to have been recognised through this funding that the research that Unitec undertakes provides for a much needed contribution to applied research in the New Zealand Tertiary Education sector.

A comparison between Unitec and the other institution of a similar nature, being Auckland University of Technology, would see that both institutions are similar in their range and levels of activity, and that the only difference between them in terms of University status is that one was slightly ahead of the other in lodging its application.

The Council believes that conferring university status on Unitec would reflect reality and would further benefit those students who choose Unitec as an education provider. It would seem that there is an emerging consensus in the education sector that Unitec becoming a dual sector University of Technology (as it is in all but name at the moment), would be the best way ahead for both Unitec and the communities it serves. Waitakere City is concerned that the Bill as drafted is likely to unilaterally deprive Unitec of this opportunity.

Waitakere City Council is also concerned, from a fairness perspective, about the retrospective nature of the Bill and the administrative processes provided within it. The Bill appears to provide the Minister with the ability to deny an applicant university status without a proper assessment of the applicant institution having taken place and without detailed information and advice having been provided to the Minister. It is difficult to see how this can promote good decision making. Parliament has progressively moved toward more rigorous requirements on administrative decision makers, particularly with respect to the need to base decisions on robust analysis and information. The decision-making provisions of the Local Government Act 2002 are a prime example of this. The Bill as drafted seems to be inconsistent with Parliament's moves toward greater accountability and robustness around administrative decision making.

The Bill also appears to be designed to target Unitec and its application for university status. The Waitakere City Council sees this aspect of the Bill as very disadvantageous to its community. Unitec applied for university status under the 1999 legislation, which provides for an assessment to be made as to whether Unitec meets the characteristics of a University. Waitakere City Council believes it is appropriate that the application should be assessed under that legislation and the criteria it provides. Already the legislative framework has been adjusted to require that granting of university status must be in the 'national interest'. While it is unclear how this would be assessed, something such as this application, which is so positive for the large population in the natural catchment area for Unitec comprising Waitakere City (185,600 residents according to Statistics projections) and the western areas of Auckland City (193,200 residents according to Statistics projections), must be in the national interest. In any case the Council believes that Unitec's application should be judged on its merits – if Unitec does not meet the standards required in order to receive university status then, although we will be disappointed, we will accept that decision. However, we are confident that Unitec will make the grade. Unitec certainly is characterised by a wide diversity of teaching and research, including at a high level; it does advance, disseminate and assist the application of knowledge; and it most definitely promotes intellectual independence and community learning. It should be allowed to seek university status as it originally set out to do. A detailed assessment should take place forthwith.


One particularly troubling aspect of the Bill is Section 6. This appears to provide for any successful application by Unitec made before the Bill is passed into law to be invalidated retrospectively. Such a move would set an unfortunate precedent and would be considered by Council to be constitutionally unwise. It amounts to a 'get out of jail free card' for the Minister, in the case that a Court rules that the current delays are unfair and that an assessment should take place. The Council, as an administrative decision maker itself, would love to have such devices at its disposal. However, quite properly, it does not. The Council asks that Section 6 of the Bill be omitted and that if Parliament feels that this Bill is necessary in some form, a savings clause should be included in it to protect the position of those already involved in processes under the existing legislation.

In summary, Waitakere City Council:

1. Opposes the Education (Establishment of Universities) Amendment Bill and seeks that the Select Committee recommend that the Bill's progress through the House be discontinued and that the application of Unitec for university status be processed under the provisions of the 1999 legislation.
2. Strongly supports Unitec's application to attain University Status under the Education Act 1989.
3. Seeks, in the event that the Select Committee decides that some form of the Bill is necessary, to have Section 6 of the Bill omitted and a Savings provision included to provide for applications for university status to be processed under the legislative provisions extant at the time the application was made.
4. Seeks a recommendation from the Select Committee to the Minister that the application of Unitec for university status be processed without further delay.

Waitakere City Council would like to be heard in support of this submission. We understand that submissions will be heard in Auckland on Thursday 25 November 2004, and if this is the case, we would seek a hearing time between 1.00pm and 3.00pm on that day.

Yours faithfully



Harry O'Rourke, MNZM, JP
CHIEF EXECUTIVE

**Appendix Two – Parliamentary Library Bills Digest
Summary of Bill**

BILLS DIGEST

**EDUCATION (ESTABLISHMENT OF UNIVERSITIES) AMENDMENT BILL
2004**

Date of Introduction: 17 September 2004

Bills Digest No. 1160



NEW ZEALAND PARLIAMENTARY LIBRARY

Bills Digest No. 1160

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Caution

This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status.

Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

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**EDUCATION (ESTABLISHMENT OF UNIVERSITIES) AMENDMENT BILL
2004**

Date of introduction: 17 September 2004
Portfolio: Education
Select Committee: As at 22 September, 1st reading not held

PURPOSE

The aim of the Bill is to amend the Education Act 1989 (the Act) to give priority to the requirement that the establishment of a new university must be in the interests of the tertiary education system and the nation as a whole.

BACKGROUND

Establishment of educational institutions – Section 162 of the Education Act 1989
Section 162(2) of the Education Act 1989 provides that the Governor-General may, by Order in Council made on the written recommendation of the Minister, establish a body as a college of education, a polytechnic, a specialist college, a university, or a wananga, as the Governor-General considers appropriate.

Section 162(3) provides that before deciding whether or not to recommend to the Governor-General the making of such an Order in Council the Minister of Education must:

- give the New Zealand Qualifications Authority a reasonable period in which to give advice on the matter and “consider any advice so given” (*Section 162(3)(a)*);
- satisfy himself or herself that the establishment of the institution is in the interests of the tertiary education system and the nation as a whole (*Section 162(3)(ab)*); and
- consult with such institutions, organisations representing institutions, and other relevant bodies, as the Minister considers appropriate (*Section 162(3)(b)*).

Section 162(4) provides that in recommending to the Governor-General that a body should be established as a college of education, a polytechnic, a specialist college, a university, or a wananga, the Minister must take into account:

- that universities have all the following characteristics and other tertiary institutions have one or more of those characteristics:

- they are primarily concerned with more advanced learning, the principal aim being to develop intellectual independence;
 - their research and teaching are closely interdependent and most of their teaching is done by people who are active in advancing knowledge;
 - they meet international standards of research and teaching;
 - they are a repository of knowledge and expertise; and
 - they accept a role as critic and conscience of society (*Section 162(4)(a)(i)-(v)*); and
- that certain institutions have the following characteristics:
 - a college of education is characterised by teaching and research required for the pre-school, compulsory and post-compulsory sectors of education, and for associated social and educational service roles;
 - a polytechnic is characterised by a wide diversity of continuing education, including vocational training, that contributes to the maintenance, advancement, and dissemination of knowledge and expertise and promotes community learning, and by research, particularly applied and technological research, that aids development;
 - a specialist college is characterised by teaching and (if relevant) research of a specialist nature that maintains, enhances, disseminates, and assists in the application of knowledge and expertise;
 - a university is characterised by a wide diversity of teaching and research, especially at a higher level, that maintains, advances, disseminates, and assists the application of, knowledge, develops intellectual independence, and promotes community learning; and
 - a wananga is characterised by teaching and research that maintains, advances, and disseminates knowledge and develops intellectual independence, and assists the application of knowledge regarding ahuatanga Maori (Maori tradition) according to tikanga Maori (Maori custom) (*Section 162(4)(b)(i) – (iv)*).

Why the Bill is required

Section 162 of the Education Act requires that the Minister of Education must be satisfied that all the requirements of that section are satisfied before recommending the establishment of a university. The entire range of considerations and procedures in Section 162 must be complied with before the making of this recommendation.

The Bill provides for a two stage process. The Minister of Education must firstly seek advice as to whether an application for establishment as a university is "in the interests of the tertiary education system and the nation as a whole".

After considering that advice, the Minister must either:

- decide to proceed to the further stages of the process; or
- form the view that the establishment of a particular body as a university would not be "in the interests of the tertiary education system and the nation as a whole" and, after consultation particularly with the requestor, confirm that decision, and reject the request for establishment as a university at that point without needing to go on to the next stages of the procedure..

UNITEC

A recent news report¹ has described the case of UNITEC, an Auckland polytechnic.

"One of the country's top-ranked polytechnics is considering legal action against the Government in its fight to be recognised as the country's ninth university. Unitec has been battling since 1996 to join the eight elite tertiary institutions. But it claims it has been scuppered at every attempt by a Government determined to prevent a fair and open assessment.

"The latest spoiler came on Friday when Associate Education Minister Steve Maharey tabled the Education (Establishment of Universities) Amendment Bill. It allows the minister to decide whether an institution should be measured against university criteria without an actual assessment taking place. 'This step is being taken to streamline the processes so that valuable resources are not wasted,' said Mr Maharey.

"Unitec first applied for redesignation in 1996 and renewed its application in 1999, but it has never been processed. Chief executive John Webster said it was the third time in four years the Government had drafted legislation designed to block Unitec from assessment. 'If it weren't such a waste of public funds, and so patently unjust, the way the Government has acted would be humorous,' he said. 'The process adopted by the Government has been unfair and, we have been advised, unlawful.' Unitec did not want to take court action, but 'our council has a statutory obligation to act in the best interests of our students, and we will have to consider all our options', said Dr Webster.

"Unitec's application got as far as the formation of a Qualifications Authority-appointed international assessment panel in May 2000, but two weeks before the visit the Government introduced the Education (Limiting the Number of Universities) Bill. Though the bill never made it into law, Unitec is still waiting to be assessed. Legislation was passed in 2002 providing that, as well as an institution having to demonstrate that it meets the criteria for university status, the minister must be satisfied that its redesignation would be in the national interest.

"The new legislation means Mr Maharey has the power to decide in advance whether an assessment can take place. Dr Webster says Unitec meets the criteria for university status so comfortably that, after an assessment, it would be hard for Mr Maharey to turn it down. The minister said Unitec's case would still be considered if it wished, but 'it will need to be done under the new procedures with issues of national interest

¹ Stuart Dye, Unitec weighs up legal action in uni struggle, *New Zealand Herald*, 20 September 2004, p. A12.

addressed first'. He said current legislation meant the Qualifications Authority was potentially wasting a great deal of time and money considering whether an organisation should become a university, when it was clear the proposal was not in the national interest. The issue had been highlighted by Unitec's request to be reclassified as a university, said Mr Maharey'.

"Unitec is one of the largest tertiary institutions in the country, with about 5800 equivalent-fulltime students in its higher-education divisions - much larger than Lincoln University - and 4500 in its sub-degree division. It rated 12th of all tertiary institutes in the Performance-Based Research Fund rankings released this year and claims to have matured into a 'world-class university of technology'. But it is often seen as the poor cousin to universities and some have welcomed the new legislation.

"The Vice-Chancellors Committee, which represents the country's universities, said the distinctive characteristics of universities needed to be maintained to protect established standards and New Zealand's reputation as a provider of international standing of university education. 'What this country needs is a greater level of investment in the existing universities, not more universities,' said committee chairman Professor Stuart McCutcheon. He said it was a not about blocking Unitec per se. Other institutions were also seeking assessment for university status. 'Our position is that any organisation must meet the requirements of the Education Act, such as most of the teaching must be done by people involved in research.' He said the Research Fund rankings showed that was not the case at Unitec".

"Timeline

- 1995: Unitec lodges application for university status;
- 1996: Application suspended until guidelines on assessment are developed;
- 1999: Under new guidelines Auckland Institute of Technology achieves university status;
- August 1999: Unitec lodges application for assessment;
- May 2000: Application formally suspended with introduction of Education (Limiting Number of Universities) Amendment Bill 2000
- July 2000: Bill is deferred;
- March 2001: Tertiary Education Advisory Commission recommends no change to the criteria that define a university;
- July 2001: Unitec lodges application;
- 2002: Application suspended with introduction of Education Amendment Bill requiring becoming a university to be in the national interest;

- May 2003: Education (Limiting Number of Universities) Amendment Bill 2000 is discharged;
- August 2003: Unitec signals its intent to reactivate its application;
- September 2004: Government tables Education (Establishment of Universities) Amendment Bill⁷.

MAIN PROVISIONS

Commencement

The Bill comes into force on the day after the date on which it receives the Royal assent (*Clause 2*).

Establishment of universities

The Bill provides that in considering whether to recommend that a body be established as a university, the Minister must be satisfied, having followed the procedure set out in New Section 162A (see below), that the establishment of the body as a university is in the interests of the tertiary education system and the nation as a whole and that the body has the characteristics of a university as set out in Section 162(4)(a)(i) to (v) and (4)(b)(iii) (described above) (*Part 1, Clause 3, inserting new subsection (3A) into Section 162 of the Education Act 1989*).

Procedures before recommending the establishment of a university

The Bill provides that in considering whether to recommend that a body be established as a university:

- the Minister must first determine whether the establishment of the body as a university is in the interests of the tertiary education system and the nation as a whole; and
- if the Minister is so satisfied, he or she must then seek and receive advice on, consult about, and determine whether the body has the characteristics of a university as set out in section 162(4)(a)(i) to (v) and (4)(b)(iii) of the Education Act 1989 (see above).

It is also provided that before determining whether the establishment of the body as a university is in the interests of the tertiary education system and the nation as a whole, the Minister must:

- seek and receive advice on the matter from the Tertiary Education Commission; and
- consult on the matter with such institutions, organisations representing institutions, and other relevant bodies as the Minister considers appropriate.

The bill also provides that before determining whether the body has the characteristics of a university as set out in section 162(4)(a)(i) to (v) and (4)(b)(iii) of the Education Act 1989, the Minister must:

- seek and receive advice on the matter from the New Zealand Qualifications Authority; and
- consult on the matter with such institutions, organisations representing institutions, and other relevant bodies, as the Minister considers appropriate.

If the Minister determines that the establishment of a body as a university is not in the interests of the tertiary education system and the nation as a whole, he or she

- is not required to determine whether the body has the characteristics of a university (as set out in Section 162); and
- may not seek or receive advice on the matter from the Qualifications Authority or any other body (*Part 1, Clause 4, New Section 162A of the Education Act 1989*).

Comment

If the Minister decides, in considering and deciding whether the “national interest” is met, that the “national interest” is not met, he or she has no discretion to continue the process and the request for the establishment of a university must be declined.

Use of the term “university”

The Bill amends the provisions of the Education Act 1989 relating to the consent of the Minister for the use by educational institutions of terms such as “university”. The amendments modify the requirements in relation to an application to use the term “university” in a similar manner to the requirements of New Section 162A (see above) (*Part 1, Clause 5, amending Section 264A of the Education Act 1989*).

Retrospective application

The Bill provides that an Order in Council that is made under Section 162(2) of the Education Act 1989 for the establishment of a body as a university, and which was made during the period from 17 September 2004 to the day before the date on which this Bill comes into force, ceases to have effect and expires, and the body identified in the Order in Council ceases to be a university, unless the written recommendation required for the Order in Council included a statement by the Minister that:

- the Minister was satisfied as to both matters under New Section 162(3A) (i.e. that the establishment of the university is in the national interest and that the body has the characteristics of a university); and
- that before making the recommendation, the Minister had followed the procedure as set out in proposed New Section 162A (*Part 2, Clause 6*).

Comment

This appears to be designed to prevent any successful Court action by Unitec based on the present law forcing the Minister to complete the entire Section 162 process to a favourable conclusion for Unitec before the Bill is passed.

**Appendix Three – Unitec Letter Outlining Acceptance of
Compromise University of Technology Approach**



7 October 2004

Parliament House
WELLINGTON

Dear MP

UNITEC – UNIVERSITY OF TECHNOLOGY CATEGORY

Our recent discussions on the Education (Establishment of Universities) Amendment Bill suggest that some members are uncertain as to our position on the possibility of finding compromise solutions that might, from the perspective of the Government, better reflect and secure our dual-sector mission.

We recognise that our explicit commitment to dual-sector education differentiates us from most other universities in New Zealand, despite the fact that we demonstrate the characteristics of a university as specified in the Education Act. With that commitment in mind, we actively promoted the concept of a separate *university of technology* category during the TEAC consultations in 2000. TEAC chose not to pursue the concept at the time. Their decision appears to have been taken mainly on the grounds that universities should have the characteristics specified in the Education Act (we agree, and Unitec does meet this criterion) and other countries do not put universities of technology in a special category.

The latter claim is true up to a point (there are exceptions). However, in the countries without a special category, each university has normally been established under a separate legal instrument that clearly specifies its distinctive purpose and direction. The goals set for a university of technology can be, and are, different from those set for a research-led university. For example, the RMIT University Act 1992 includes, amongst the more general objectives of the university:

the provision of a multi-level system of post-secondary education programs relevant to the needs of the community covering a wide range of fields and levels from basic trade to post-doctoral studies with provision for recognition of prior learning and flexibility of transition between programs;

In New Zealand, where all universities are established under one Act, similar variations in goals could, in principle, be achieved by Charter and Profile negotiations. However, we recognise that establishing a special category would avoid any possible need for TEC to act in ways that might be seen to conflict with institutional autonomy. We have therefore done a significant amount of background work on how a special category could be defined, and on the international precedents that could be cited for such a category. The simplest approach would be to introduce a category of *university of technology* covering institutions with a dual-sector mission. Alternatively, it would be possible to provide for *networks*, under unified governance and senior management, that included at least one university and one polytechnic, as suggested in the "Distinctive Contributions" paper circulated by TEC in May 2004.

We are more than willing to consider any special category that would meet our central objectives while reflecting and securing our dual-sector mission, and look forward to having further discussions on the matter with the Government in the near future.

Finally, I have attached a brief outline of the reasons why recognising our university standing would be very much in the national interest. Such recognition would considerably improve our capacity to deliver access, equity and opportunity for students, enhance professional and vocational education in New Zealand, contribute to regional and national development, and export educational services. We would, of course, be happy to provide you with any further information that you may require.

Regards

Dr John Webster
Chief Executive and President

UNITEC AS A UNIVERSITY OF TECHNOLOGY NATIONAL INTEREST CONSIDERATIONS

Unitec is bringing new perspectives to university education in New Zealand and creating options that are urgently needed both nationally and regionally. Recognising that Unitec has matured into a highly effective dual-sector university would:

- *endorse the specific benefits that a teaching-led dual-sector university can bring to students;*
- *acknowledge the unique contribution seamless education makes to achieving national goals;*
- *enhance access to university education for people to whom it has traditionally been denied;*
- *secure the integrated delivery of professional and vocational education in the region;*
- *contribute to the social and economic development of the region and the country;*
- *confirm the value and standing of the work of students and staff members; and*
- *remove serious barriers to the export of dual-sector educational services.*

Many of the current problems being experienced in our tertiary education system have their origin in the significant discontinuities that already exist within a system formed more by pressures for definition and control than by a careful analysis of student, community and employer needs. Attempts further to increase differentiation (between the universities and polytechnics, for example) will exacerbate these problems unless proper attention is given to the roles and responsibilities of those organisations that are still able to bridge the divide. Some of the most serious discontinuities arise between:

- *industry training and formal vocational education*
- *vocational education and training and higher education*
- *undergraduate education and continuing professional practice*

Failure to provide secure pathways through these barriers will create almost insurmountable difficulties for students seeking to advance their studies within an increasingly differentiated system. The current serious skill shortages in NZ offer a particularly instructive example. These shortages reflect decisions by students to pursue what they believe will be more secure and flexible longer-term career options. They may know that trade training is a highly effective short-term investment, and that trades work can be better-paid and more satisfying than equivalent white-collar work. However, they still believe that to enter trade training, as an initial step, would limit their future options. Dual-sector institutions provide a guarantee that such need not be the case, and that trade training can be an excellent first step in a rewarding professional career built around continuing personal and professional development, and eventually including study at university level.

There is evidence that problems at the interface between industry training and vocational education are leading to a decline in our trade skills relative to international benchmarks. Experience in Australia is that dual-sector universities are much more successful than single-sector universities in providing curriculum and specialised expertise to support the broader vocational education and training sector and in encouraging students to move from vocational education and training to higher education. At the other end of the spectrum, there seems little doubt that, over time, the research-led universities will have to transfer resources from professional postgraduate programmes to research programmes that contribute more to PBRF rankings. Only dual-sector universities will have both the capacity and the motivation to address this vital segment of the market. In summary, dual-sector universities should:

- *ensure that students have credible and accessible pathways for professional development;*
- *provide specialised expertise in curriculum development and learning technologies;*
- *provide a credible focus for applied research and advanced practice.*

Unitec focuses on access, equity and regional development, and is making a \$30 million commitment to the communities in West Auckland and Waitakere. Many students in those communities are Maori, Pasifika, recent migrants, or belong to other disadvantaged groups. Unitec believes that students who complete university-level programmes deserve to graduate with university degrees. Denying them that right further marginalises people who are already marginalised and the resultant lack of cultural capital will limit the extent to which Unitec can serve as a driver for regional development.

Recognition as a dual-sector university would greatly assist Unitec to address the priorities established under the Tertiary Education Strategy and to contribute to both regional and national development. In fact, Unitec is committed to delivering education at university and polytechnic level, and offering clear pathways for students. Its infrastructure is in place, and a change of status would make no difference to the basis upon which it receives government funding. From a national perspective, the benefit-cost ratio of granting Unitec the recognition it deserves would therefore be very high indeed.