

## CHAPTER 4

# WANANGA AND TERTIARY EDUCATION REFORM IN THE 1990s

### 4.1 INTRODUCTION

This claim deals with the provision of tertiary education in New Zealand and how the institutions that deliver that education are funded. TEIS are State providers of tertiary education and may be universities, polytechnics, colleges of education, or wananga. They exist independently from the Crown and are under the control of governing councils. There are currently 39 TEIS: 25 polytechnics, seven universities, four colleges of education, and three wananga.

The governing statute for tertiary education in New Zealand is the Education Act 1989. In terms of that Act, wananga are defined as institutions. For the purposes of the Public Finance Act 1989, institutions are defined as ‘Crown entities’. As ‘Crown-owned entities’, the Crown acknowledges that it has an ownership interest in the institution. This means, in effect, that the Crown is committed to ongoing funding and will therefore provide assistance to institutions that are in financial difficulties.<sup>1</sup>

The purpose of this chapter is to examine the amendments made to the Education Act 1989 by the Education Amendment Act 1990 that provided for the funding of TEIS. The amendments instituted major changes in the area of tertiary education from what had operated previously, particularly in regard to capital establishment funding. Prior to 1990, the Crown provided newly established TEIS with substantial capital funds to purchase any necessary lands and buildings, as well as to set up necessary infrastructure. This chapter begins with an illustration of how TEIS received capital funding before 1990.

We then chart the development of the 1990 amendments from the late 1980s, when a series of tertiary education reviews began examining the operation of TEIS. These reviews culminated in recommendations for tertiary education reform that led to the passing of the Education Amendment Act 1990. Prior to the passing of this Act, wananga were not eligible to be classified as TEIS, and operated as PTES. It was only after the Government undertook a major process of tertiary education policy reform that wananga became eligible to be recognised as TEIS, and therefore eligible for guaranteed Government funding and the prestige of recognition as a TEI.

After reviewing the development of the 1990 amendments, we examine the current funding policies for TEIS. The amendments abolished capital establishment funding

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1. Document A76, app 2, para 3

and implemented a new TEI funding regime based on bulk funding of institutions. Under the amendments, institutions were required to cover all costs, including capital costs, from a single annual bulk grant. We look at these various funding policies created by the amendments.

The 1990 amendments also introduced the wananga class of TEI, making statutorily recognised wananga eligible for increased Government funding. By the early 1990s, it had come to the attention of the Government that the current funding arrangements for wananga needed closer examination. A Cabinet committee on education, training, and employment subsequently directed the development of a range of policy options to address the tertiary needs of Maori. Its unfinished report eventually became subsumed in an overall tertiary education review to guide tertiary education for the next 20 years.

Wananga began operating as TEIS without capital establishment funding from the Crown. The latter part of this chapter will examine the processes through which the Crown became aware of the current financial position of each wananga. This part of the chapter ends with an examination of Te Wananga o Aotearoa's unsuccessful application for a capital injection.

#### 4.2 CAPITAL FUNDING OF TEIS BEFORE 1990

Vince Catherwood, the senior manager of tertiary charters and funding in the Ministry of Education, gave evidence on the capital funding of TEIS prior to 1990. Provision of capital funding to what are now TEIS formerly operated under two different systems:

- (a) *Universities*: Capital funding for universities was managed through the University Grants Committee. This committee, operating under the Universities Act 1961, was given an indicative quinquennial grant, appropriated annually. It then allocated funding to universities from this fund. Universities applied directly to the committee for any capital expenditure, and it then decided between competing priorities from individual universities and managed its funding allocations within the overall appropriation voted by Parliament.
- (b) *Polytechnics, institutes of technology, technical institutes, community colleges, and teachers' training colleges*: Prior to 1990, the former Department of Education managed the provision of capital funding for bodies that are now known as polytechnics and colleges of education. The department received an annual appropriation from Parliament. Each institution made an annual case for capital development (major and minor capital works) to the department, which assessed competing priorities and made recommendations for capital expenditure within the constraints of the parliamentary appropriation.

Mr Catherwood stated that one of the shortcomings of this process was that no transparent criteria existed by which competing priorities were assessed. The process for determining capital bids was complex and detailed, and allocation depended solely on the department's assessment of need.

Inevitably, institutions applying for capital funding resorted to political lobbying, and these representations added a further dimension that department officials had to consider in making an assessment of priorities.

Under the pre-1990 policy, the State provided capital funding to TEIS via the two conduits of the University Grants Committee and the Department of Education. Through these channels, an institution whose bid was accepted received funding for land and buildings over and above its operational funding. By 1990, this was no longer the case.

### 4.3 MAJOR POLICY CHANGES, 1989–90: THE HAWKE REPORT

During the 1980s, several reviews were carried out concerning various aspects of tertiary education. These culminated in the Working Group on Post Compulsory Education and Training in March 1988. This group was chaired by Professor Gary Hawke, then the director of the Institute of Policy Studies at Victoria University, and it was charged with the task of drawing together all previous sectoral reports and making recommendations for comprehensive tertiary education reform. The Hawke report, as it became known, was published in July 1988 and was to prove a significant turning point in New Zealand tertiary education. Key recommendations included a considerable degree of decentralisation, so that those in charge of TEIS should have greater discretion over expenditure decisions. The report also recommended an improved funding system with greater incentives for decision-makers to use resources effectively and with a greater reliance on non-public financing.<sup>2</sup>

An important aspect of the report, for the purposes of this claim, was its focus on capital works. The report noted that, under the pre-1990 policy, institutions sought new buildings because they were ‘costless’, and since they came with establishment grants, they were a means of enhancing operating grants. The Hawke report favoured the addition of a ‘capital works’ component to the operational funding of institutions, and proposed that decisions about buildings should be devolved to the institutions themselves, thus requiring them to assess the comparative value of constructing new buildings against spending on other inputs. The Hawke report also set the foundation for major reforms covering all other aspects of tertiary education.

### 4.4 *LEARNING FOR LIFE AND LEARNING FOR LIFE: TWO*

In February 1989, the then Ministers of Education, the Right Honourable David Lange and the Honourable Phil Goff, released *Learning For Life*.<sup>3</sup> This document articulated the Government’s intended policies in relation to post-compulsory education. Under the intended funding policy for TEIS, capital establishment grants

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2. Document A47, paras 19–22

3. New Zealand Government, *Learning For Life: Education and Training beyond the Age of Fifteen*, Wellington, Government Printer, 1989 (doc A47, app 3)

were abolished and institutions would be funded by a bulk grant, from which they would meet all their own costs, including capital spending.<sup>4</sup> The bulk grant would be determined by a formula based on the nominal value of an equivalent full-time student. This meant that the amount of money that an institution received would depend on the number of students enrolled at the institution, and the relative cost involved in teaching the courses that those students undertook. Although automatic establishment funding had been abolished under the intended policy, the Government decided to retain the ability to inject funds for capital purposes when it was satisfied of the need to do so.

Following the release of *Learning For Life*, several working groups were established to present detailed recommendations on the implementation of these policies and TEI-related issues. The work of these groups culminated in *Learning For Life: Two*, which unveiled the Government's finalised policy for post-compulsory education. It signalled the Government's ideas for the promotion of education in Maori and within tikanga Maori and also outlined three possible approaches for Maori tertiary education:

- First, a department within an existing post-secondary educational training (PSET) institution offering education in Maori and within tikanga Maori. (This option was basically a continuance of the university Maori studies model.)
- A second option presented offered a separate campus alongside an existing PSET campus offering education in Maori and within tikanga Maori.
- The final option offered a separate PSET institution offering education in Maori and within tikanga Maori.<sup>5</sup>

The policy outlined in *Learning For Life: Two* explained that these projects might involve 'seeding funds for a specific period'.<sup>6</sup> After this, they would be funded on what would become known as the general EFTS basis (see sec 4.6).

#### 4.5 CURRENT FUNDING POLICY FOR TEIS

The previous section described how, prior to 1990, many TEIS had received significant capital funding from the Government for establishment, development, and expansion. That funding procedure was to undergo dramatic and significant change with the passing of the Education Amendment Act 1990. In introducing the Bill to Parliament, the then Minister of Education, the Honourable Phil Goff, described it as 'the most significant reform ever carried out in the history of the New Zealand system of tertiary education and training'.<sup>7</sup>

The Long Title to the 1990 Act sets out the objectives that the Government sought to achieve by adding sections 159 to 319 to the Education Act 1989 and adding six of its

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4. *Learning For Life*, para 3.4

5. New Zealand Government, *Learning for Life: Two – Education and Training beyond the Age of Fifteen*, Wellington, Government Printer, 1989 (doc A46(b)), para 3.4.16

6. Ibid

7. 29 March 1990, NZPD, 1990, vol 506, p 1166

18 comprehensive schedules. (The 1989 Act had been passed by Parliament as recently as 29 September of that year.) Missing from the Long Title is any reference to the significant amendment that would bring capital funding for TEIS to an end.

The Long Title is as follows:

An Act to reform further the administration of education and, in particular, to reform tertiary education and training with a view to—

- (a) Giving tertiary institutions as much independence and freedom to make academic, operational, and management decisions as is consistent with the nature of the services they provide, the efficient use of national resources, the national interest and the demands of accountability; and
- (b) Establishing a consistent approach to the recognition of qualifications in academic and vocational areas; and
- (c) Encouraging greater participation in tertiary education and training, in particular by removing barriers to access for those groups of persons who have previously been under-represented; and
- (d) Contributing to a dynamic and satisfying society by promoting excellence in tertiary education, training, and research.

The Education Amendment Act 1990 implemented the policy reforms articulated in *Learning For Life: Two*. Parliament thereby added to the Education Act 1989 provisions relating to tertiary education and training. These provisions covered the establishment and disestablishment of TEIS, the registration of PTES, and the establishment of the New Zealand Qualifications Authority and the Education Training and Support Agency. The 1990 Act also introduced provisions for bulk funding under the EFTS funding system and made it possible for wananga to apply for TEI status, and thereby attain greater Government funding. Section 50(5) of the Act repealed the Universities Act 1961, thereby abolishing the University Grants Committee and its role in the provision of establishment funding.

As previously stated at section 3.2, Te Wananga o Aotearoa and Te Wananga o Raukawa were granted TEI status under these amendments in 1993. Te Whare Wananga o Awanuiarangi was granted TEI status under the amendments in 1997.

#### 4.6 EFTS FUNDING

Section 199 of the Education Act 1989 (as added by section 37 of the Education Amendment Act 1990) relates to the funding of institutions. There are two components to the funding system: a general grant calculated by what is known as the EFTS formula and special supplementary grants. Under the 1990 amendments, all TEIS receive a Government subsidy towards the cost of the provision of tertiary education and training tuition for domestic students, but the amount of funding each institution receives is contingent upon many factors and conditions. First, the number of EFTS places in any given year is set by Cabinet, and hence provides a level of constraint on expenditure. The Minister of Education determines the amount of funding for each TEI under section 199(2) of the Education Act, subsequent to the analysis of a

statement of objectives submitted by each institution. The total grant allocated to each TEI is determined by using the EFTS formula. The use of this complex formula underpins the reconciliation and accountability provisions of the Act.<sup>8</sup>

In making recommendations to their Minister on the level of funding for a TEI in any academic year, Ministry of Education officials take into account:

- the projected student enrolments supplied by the institution;
- an assessment of the current and previous academic years' performance in achieving EFTS enrolments;
- an assessment of the previous triennial performance;
- any Government policies for fields of study that are priorities for new growth funding; and
- any new programmes proposed for the coming triennium.

The level of ministerially approved EFTS places is then multiplied by the Study Right to non-Study Right ratio for each individual institution in each of the defined course or programme classifications.<sup>9</sup>

The Study Right policy was designed to 'encourage certain groups to undertake tertiary education by paying a higher subsidy for those identified groups of students'.<sup>10</sup> This policy generally targeted the young and long-term beneficiaries who had not received three years of tertiary education. Unfortunately, some members of groups that the Government wished to see participating more in tertiary education – including many women, Maori, Pacific Islanders, and mature students – did not meet the criteria for the additional Study Right support.<sup>11</sup> Such individuals were classified as non-Study Right and drew a lower Government subsidy for institutions.

In addition to these conditions, tertiary courses are funded at different levels according to the category they fall in (and the mix of Study Right and non-Study Right students attending). Higher cost courses such as science receive greater funding than lower cost courses such as business, and higher level courses such as honours or doctorates are funded at a higher rate than certificate courses.<sup>12</sup> There are 10 funding categories: A to E, G to I, P (for the funding of PTES), and X (extramural study). The 1998 base rates for the various categories range from \$6337 for category A to \$26,277 for category E, which covers doctoral and honours study. Category A includes subjects such as arts, social sciences, business, accountancy, community education, and law. The courses offered by wananga are classified as category A for funding purposes, and therefore draw the lowest amount of Government funding per course. In addition, the majority of wananga students are classified as non-Study Right students, which means that they attract an even lower percentage of the category A funding. (The table facing shows the actual annual figures for each category from 1997 to 1999 and the variable subsidy rates, which are dependent upon the Study Right policy.)

8. Ministry of Education, *The EFTS (Equivalent Full Time Student) Funding System for Tertiary Institutions*, 1997, 3rd ed, Ministry of Education, 1994 (reprinted 1996), (doc A47, app 5), sec 6.3

9. Ibid, sec 6.4

10. Ministry of Education, *Tertiary Education in New Zealand: Policy Directions for the 21st Century*, New Zealand Government White Paper, November 1998 (doc c2), p 6

11. Ibid

12. Document A47, para 35

	1997			1998			1999		
	Base rate (\$)	SR rate (\$)	NSR rate (\$)	Base rate (\$)	SR rate (\$)	NSR rate (\$)	Base rate (\$)	SR rate (\$)	NSR rate (\$)
A Arts; social sciences; business; accountancy; general, including community education; law	6337	6020	4753	6288	5974	4716	6206	5896	4655
B Agriculture (non-degree); architecture (non-degree); computing; engineering (non-degree); fine arts; music; nursing; science; trades	9600	9120	7200	9527	9051	7145	9402	8932	7052
C Agriculture (degree); architecture (degree); doctoral and honours (funding category A); engineering (degree); health sciences; foreign-going nautical	12,093	11,488	9070	12,000	11,400	9000	11,843	11,251	8882
D Doctoral and honours (funding category B)	22,165	21,057	16,624	21,995	20,895	16,496	21,706	20,621	16,280
E Doctoral and honours (funding category C)	26,480	25,156	19,860	26,277	24,963	19,708	25,932	24,635	19,449
G Dentistry; medicine; veterinary	24,082	22,878	18,062	23,898	22,703	17,924	23,584	22,405	17,688
H Specialist large animal science	18,616	17,685	13,962	18,473	17,549	13,855	18,231	17,319	13,673
Teaching	9316	8850	6987	9245	8783	6934	9124	8668	6843
P All courses and programmes provided by private training establishments	5398	5128	4049	5357	5089	4018	5287	5023	3965
X All extramural courses	6337	6020	4753	6288	5974	4716	6206	5896	4655
SR – Study Right    NSR – non-Study Right    SR rate is 95 percent of base rate; NSR rate is 75 percent of base rate Rates exclude adjustments to funding categories where courses or programmes have a clinical practice component									
Tertiary funding rates, 1997–99, as at July 1997 (all figures are GST inclusive). Source: document A47, appendix 5.									

Once the funding allocation has been determined, it is delivered to the institution in the form of a bulk grant. TEIS are required to use this grant to meet all costs, including the cost of any capital works required.

#### 4.7 THE EFTS CAPITAL COMPONENT AND FUNDING CAP

The capital component of the EFTS category was set at a notional figure of \$1030 per student in 1991. In essence, this amount was calculated by taking the total amount spent on the capital funding of TEIS at the time (ie, under the University Grants Committee and former Department of Education systems) and dividing it by the number of equivalent full-time students. Initially, the EFTS category separately identified the capital and operational components. Since 1992, however, this policy has no longer applied, and there is currently no distinction made between the capital and operational components of the bulk fund. This decision was made in order to give institutions the responsibility for deciding how their funds should be spent, either on operational costs or on capital investment.<sup>13</sup>

An important feature of the EFTS funding system from 1991 to 1998 was the cap on the total number of EFTS places available for allocation. Each year, every TEI was allocated a certain number of EFTS places that the Government was prepared to subsidise. Any student places over the annual allocation would have to be carried by the institution without Government support. It should be noted that almost every institution carries unfunded student places. However, because wananga are much smaller institutions than universities, this impacts significantly on the resources they are allocated by the Government.

	1993	1994	1995	1996	1997	1998
Funded EFTS places	54	281	473	591	855	1021
Actual EFTS places	53	333	516	653	1004	1202*
Unfunded places	-1	52	43	62	149	181
Actual percentage above funded	-1.9	18.5	9.1	10.5	17.4	17.7

\* Wananga estimate

Growth in EFTS places at wananga, 1993–98. Source: document A39, page 24.

Since 1994, the EFTS grant included a base grant of \$1000 per equivalent full-time student, up to a maximum of \$250,000. This base grant is ostensibly made in order to recognise that smaller TEIS, such as wananga, have to pay a proportionately higher level of their funding in administrative and infrastructure costs since they may not be able to practise the same economies of scale as the larger TEIS. All TEIS receive this grant. It appears to the Tribunal that, in granting this money to all TEIS, the policy effectively fails to recognise the higher proportion of costs that must be met by smaller institutions.

13. Document A47, para 36

#### 4.8 SUPPLEMENTARY GRANTS

Special supplementary grants are paid to TEIS under section 199(1)(b) of the Education Act for activities that, for various reasons, do not fall into the EFTS mechanism. Special supplementary grants must be used for the purposes for which they were allocated, and there are strict reporting requirements. An example of a special supplementary grant includes a 1998 grant to all TEIS (except Te Wananga o Aotearoa, which declined to make an application for the funding) for providing support for students with disabilities. Special supplementary grants cannot be used for capital funding purposes.

From their acceptance as TEIS, wananga received funding based on the EFTS system. This system made no allowance for 'start-up' or capital establishment funding from the Crown, as had been allowed to all other mainstream TEIS established before 1990. Since the establishment of wananga as TEIS, their representatives have applied for supplementary grants. These have included requests for special capital injections for campus, library, and information technology purposes. To date, each application has been unsuccessful.

The capital base of wananga is too small to operate effectively under the post-1990 funding system. Wananga are small institutions and lack substantial teaching facilities. Because of this, they are unable to attract and cater for the number of students needed to create the appropriate economy of scale under the EFTS system. This situation eventually led to wananga asking for capital injections from the Government to ensure their viability.

#### 4.9 DEVELOPMENT OF WANANGA POLICY

This section highlights certain concerns made known to Cabinet in 1994 regarding wananga policy. These concerns were raised at a time when Te Whare Wananga o Awanuiarangi was in the process of applying for wananga TEI status. In June 1994, a report by the Cabinet Committee on Education, Training, and Employment was sent to the Minister of Education noting that the arrangements for wananga at that time were flawed and that the development of further wananga along similar lines was undesirable.<sup>14</sup>

The committee highlighted several issues, including the desire of a significant number of iwi to establish their own wananga. The committee was worried that this could potentially result in the proliferation of numerous small institutions that would face a limited ability to grow and to develop into credible institutions able to offer Maori a wide range of programmes. By 1994, nine iwi-based organisations (including Awanuiarangi) were wishing to explore the concept of wananga status in the future. The Cabinet committee report was also concerned that the establishment of wananga involved using both an ownership and a purchasing arrangement to achieve

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14. Report of the Cabinet Committee on Education, Training, and Employment (CAB(94)M19/17(5)), 26 May 1994 (doc A50(a))

Government objectives for Maori tertiary education. The committee believed that combining ownership and purchasing arrangements might inhibit the flexibility with which the Government could pursue its objectives in Maori tertiary education. It thought that there was a risk that the Government's purchasing would be confined to the institutions in which it held an ownership stake. The committee explained that this approach exposed the Crown to financial risk, since the Crown could be liable in the event of institutional failure. The committee also noted that this might be particularly pertinent in relation to small institutions such as wananga, because the EFTS funding system worked best for larger institutions.<sup>15</sup>

The report noted that officials had raised several potential resource implications for wananga under the current policy. Ministry of Education officials considered that alternative arrangements, including modifications to the wananga option, needed to be explored to reduce the Crown's exposure to financial risk and better meet the needs of Maori in terms of providing viable and responsive tertiary education.<sup>16</sup> The Cabinet committee report suggested that the Ministry of Education and Te Puni Kokiri develop a range of alternative policy options that might be appropriate for Maori tertiary education, including modifications to the wananga option, and report back to the committee by 31 October 1994. In the meantime, officials recommended that no further wananga be established, with one possible exception, until a decision was made on an appropriate long-term strategy for Maori tertiary education.

In July 1994 (three years prior to Te Whare Wananga o Awanuiarangi being granted wananga status), Te Puni Kokiri reported to the Minister of Maori Affairs on the status of the Aotearoa Institute since being proclaimed a TEI. The report included an acknowledgement by the Ministry of Education that, while formal establishment procedures existed for the recognition of wananga as TEIS, there was no clear or coherent policy on the funding of set-up costs and ongoing financial support for wananga.<sup>17</sup> In May 1994, the Ministry of Education, Treasury, and the State Services Commission estimated that institutions needed at least 1000 students to be self-sufficient under the EFTS system.<sup>18</sup> At this time, the Aotearoa Institute was funded on the basis of 200 equivalent full-time students, and Raukawa was funded on the basis of 81.<sup>19</sup> Despite the Ministry of Education's awareness that the EFTS funding system was not adequate for smaller institutions, the Cabinet committee recommended pressing on with considering Awanuiarangi for TEI status. This was done in the belief that a decision to decline TEI status for Awanuiarangi would generate accusations of bad faith.<sup>20</sup>

In 1994, the Ministry of Education had estimated the initial capital works costs for wananga – covering land purchase, an administration building, a library, and teaching facilities – at approximately \$10 million, staged over a three-year period. However, the Ministry believed that any newly established wananga would have been

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15. Report of the Cabinet Committee on Education, Training, and Employment, para 4

16. Ibid, para 5

17. Report to Minister of Maori Affairs from chief executive, Te Puni Kokiri, 1 July 1994 (doc A76, app 2)

18. Document A50(a), para 29

19. Ibid, para 14

20. Ibid, para 38(i)

operating as a PTE and would therefore have buildings and equipment.<sup>21</sup> This was not the case. The July 1994 report by Te Puni Kokiri on Te Wananga o Aotearoa acknowledged the importance of wananga to Maori, and it recommended that:

- provision be made for capital establishment funding for wananga . . .;
- a special EFTS cost category be set up for wananga . . .;
- financial assistance should be provided for those organisations seeking ‘wananga status’ . . .;
- the term ‘wananga’ should be protected under law.<sup>22</sup>

Te Puni Kokiri concluded that Te Wananga o Raukawa and Te Wananga o Aotearoa were being treated unfairly because the basis for their funding was not equal to that of other TEIS, and it saw this as being a critical issue that needed to be resolved.<sup>23</sup>

As stated previously, the Ministry of Education and Te Puni Kokiri were to report to the Cabinet Committee on Education, Training, and Employment by 31 October 1994. This report was never completed. Instead, the report became subsumed by a larger overall review of tertiary education, culminating in the release of a Green Paper on tertiary education in September 1997. This was subsequently followed in November 1998 by a White Paper, which proposed new Government policy for tertiary education in New Zealand.

#### 4.10 FUTURE DIRECTIONS FOR TERTIARY EDUCATION: THE WHITE PAPER

In September 1997, the Government released a Green Paper entitled *A Future Tertiary Education Policy for New Zealand: Tertiary Education Review*.<sup>24</sup> This outlined possible policy directions for tertiary education for the next two decades. The Green Paper was a consultative document designed to promote discussion and debate, in order that interested parties might provide feedback to the Government.

The Green Paper noted that a policy on wananga still needed further development, and it highlighted other issues relevant to Maori education and training. Most notably, it asked whether the term ‘wananga’ needed protection, and whether the relationship between the Crown and wananga could be better expressed through alternative arrangements to the standard Crown–TEI relationship. In setting the direction and priorities for the next two decades, the Government identified four objectives for tertiary education:

- improving opportunities for participation
- improving the participation and achievement of currently under-represented groups

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21. Ibid, para 21

22. Document A76, app 2, para 7

23. Ibid, app 2, paras 8–15

24. Ministry of Education, *A Future Tertiary Education Policy for New Zealand: Tertiary Education Review*, New Zealand Government Green Paper, September 1997 (doc A7)

- improving incentives for the quality of qualifications, programmes and providers
- encouraging value for the students' and the Government's financial contribution.<sup>25</sup>

The Green Paper identified possible ways of meeting these objectives and, following further work by the Government, resulted in the release of a White Paper entitled *Tertiary Education in New Zealand: Policy Directions for the 21st Century* in November 1998. This paper proposed modifications to the legislation and was intended to establish a coherent framework that would be the basis of tertiary education policy for the next 20 years. It outlined policies for the resourcing, quality assurance, research, information requirements, and governance and accountability arrangements of public TEIS. The White Paper stated that these policies would focus the tertiary sector on meeting the objectives set out in the Green Paper.

Crown counsel submitted that key policies outlined in the White Paper were expected to have a positive impact on the participation and achievement of Maori in tertiary education and on the responsiveness of tertiary providers to Maori and iwi.<sup>26</sup> Counsel submitted that the significant policies outlined in the White Paper were likely to be relevant to the claim, and that these intended policies would have to be considered in assessing the capital needs of wananga.

A significant policy change proposed in the White Paper is the abolition of the EFTS funding system. In 1999, the EFTS system is due to be replaced by the universal tertiary tuition allowance (UTTA), which will remove the cap on the number of students that the Government will subsidise. According to the White Paper, from 1999 all students studying for quality qualifications taught at viable New Zealand tertiary providers will receive taxpayer support for their study. Alan Sargison, the manager of the Tertiary Ownership Monitoring Unit, submitted that, as high-growth institutions, wananga would benefit from the enhanced funding of growth through the demand-driven resourcing under the UTTA system.<sup>27</sup>

Another important policy outlined in the White Paper focused on the need to resolve capital disparity amongst institutions. The White Paper announced a subsidy differential to recognise the different levels of capital made available from public resources to each public institution. Mr Sargison submitted that wananga would benefit from this variable subsidy tuition regime. He explained that TEIS, including wananga, with a lower level of public capital relative to the number of students they enrol will receive a higher rate of subsidy, so that a more even-handed distribution occurs across the sector of all the public resources available for tertiary education.<sup>28</sup>

Crown counsel submitted that wananga would also benefit from the phasing out of the Study Right policy (see sec 4.7). Study Right was designed to encourage certain groups to undertake tertiary education by paying a higher subsidy for those identified groups of students, but the majority of wananga students – including women, Maori, and mature students – do not meet the criteria for the additional support.<sup>29</sup>

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25. *A Future Tertiary Education Policy for New Zealand*, p 68

26. Document c6, para 54

27. Document c3, para 23

28. Ibid

29. Document c2, p 6

#### 4.11 THE TRIBUNAL'S CONCLUSION ON THE 1998 WHITE PAPER

The above are a few examples of the new policies outlined in the White Paper that Crown counsel submitted would benefit wananga. The Tribunal believes that, given time, this may prove to be the case. However, the Tribunal feels that it must stress to the Government that this claim was accorded urgency because the financial need of wananga is immediate. The new policies announced in the White Paper might well prove to benefit wananga in time, but they will not benefit them now, when they need it most. In his supplementary evidence, Mr Sargison outlined that wananga would benefit from the variable tuition subsidy regime. Under examination from the Tribunal, however, he explained that the necessary legislation designed to give life to the new policies was due to go before Parliament some time in 1999. Implementation of this new policy might begin in the year 2000, and even then it would be a staged introduction. Mr Sargison admitted that it might be the year 2000 at the earliest before wananga would receive the variable tuition subsidy.

Although wananga will undoubtedly benefit from the additional funding guaranteed under the UTTA system, 1999 must necessarily be seen as a transitional year that will not immediately benefit wananga and address their very real concerns. The main concern of wananga is that they have not received capital funding, and this has served to place them in jeopardy. The Tribunal believes that the concerns of wananga are immediate and need to be addressed now.

#### 4.12 CHOICE IN EDUCATION

The Ministry of Education's *Strategic Business Plan, 1998–2001* sets out the Government's goals for education until the year 2001. This plan states that the educational achievement levels of all students must rise over time and that the significant disparity in the educational achievement of some groups in our community must be reduced.<sup>30</sup> The Crown wants to offer New Zealanders education that responds 'quickly and effectively to wider social and economic impacts and the needs of different communities, society, and employers'.<sup>31</sup> In that regard, Professor Graham Smith raised a very important issue for Maori education and the notion of responsiveness. Professor Smith believed that, through a lack of Crown resourcing, wananga were in danger of creating a culture of educational poverty. Wananga are being forced to rely on the goodwill and commitment of staff, students, and kaumatua to the kaupapa. While this provides an interim solution, the quality and responsiveness of educational programmes must necessarily be compromised in the long run.<sup>32</sup>

Operating with a sustained lack of resources also has the potential to create negative views of wananga as educational institutions amongst Maori. As Dr Linda

30. Ministry of Education, *Strategic Business Plan, 1998–2001*, Wellington, Ministry of Education, 1998 (doc c1), pp 10–11

31. *Ibid*, p 11

32. Document A58, para 4

Smith pointed out, wananga have had little or no support for capital works or for infrastructure development. They have had to provide land, buildings, teaching facilities, technology, libraries, and staff from their own resources.<sup>33</sup> This Tribunal acknowledges that TEIs and, in particular, universities, have, at their foundation and in subsequent years, benefited significantly from private bequests from their constituent communities. Examples of this can be found in the records of those institutions. Universities have also had over 100 years to develop their research cultures, reputations, and traditions of educational excellence.<sup>34</sup>

Wananga, in comparison, have had few, or no, endowments or infrastructure grants, little enabling support, and no realistic staffing base. There has been very little recognition by the Crown that wananga need significant financial support to develop libraries and build up their technology and their classroom and research facilities. There is an enormous disparity in the research capacity of universities as compared to wananga.<sup>35</sup> This fact alone could actively discourage individuals, both potential staff and potential students, from teaching at or attending wananga, and create a negative stereotype of the institution, owing to a poverty of resources. As a result, the rolls of wananga may remain static, drop, or become loaded with poor achievers, resulting in a reduction of funding and available courses. Added to this, good staff may leave, the capital costs may not be able to be maintained, and the wananga may either close or function at an unacceptably inadequate level.<sup>36</sup>

The Ministry of Education states that it recognises the need ‘to contribute towards achieving better outcomes for Maori’. The Ministry has identified a need to ‘focus more strongly on building relationships, on consultation, and on working alongside Maori communities’.<sup>37</sup> The need for consultation with Maori over issues concerning Maori development is not just necessary, it is vital, and it is common sense.

#### 4.13 FINANCIAL REPORTS ON WANANGA

Under section 220 of the Education Act 1989 (as added by section 37 of the Education Amendment Act 1990), all TEIs are required to submit annual financial reports to the Minister of Education. These reports must be prepared in accordance with the Public Finance Act 1989, and are reviewed by the Ministry of Education’s Tertiary Ownership Monitoring Unit. This unit undertakes additional review work and analysis, as required, for any institution identified as being at risk.<sup>38</sup>

In January and February 1998, interim reports were received for 1997 and these revealed that the financial position of six TEIs required further research and analysis. Te Whare Wananga o Awanuiarangi was one of these institutions. The monitoring unit commissioned PricewaterhouseCoopers to analyse the 1997 provisional results

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33. Document A59, para 18

34. Ibid, para 19

35. Ibid, para 20

36. Document C4, para 38

37. Document C1, p 6

38. Document A49, para 4

and the 1998 budgets of each 'at risk' institution. PricewaterhouseCoopers was to take into account historical performance and to identify key issues and risk factors, as well as visit each institution and explore key issues in order to assess the reasonableness of the TEI's 1998 budget and business plans.<sup>39</sup> In summary, the report to the monitoring unit was to highlight the major risks facing each institution; the likely financial outcome for 1998, with a range of conservative to optimistic results; and any significant medium-term viability issues.

PricewaterhouseCoopers was also commissioned, in mid-1998, to investigate the capital situation of Te Wananga o Raukawa and Te Wananga o Aotearoa. This resulted from a meeting held on 30 April 1998 between the Minister of Education, the Honourable Wyatt Creech, and the executive chairman of the Wananga Association, Turoa Royal, when the issue of capital funding for wananga was discussed. Subsequently, on 13 May 1998, the Minister wrote to Mr Royal outlining the basis of the EFTS funding structure and the special circumstances in which capital injections had been made to other TEIS. The Minister advised Mr Royal that he would like to consider further whether there was a 'specific and discrete rationale for providing some assistance to the three existing wananga that [did] not create a precedent'.<sup>40</sup> He also advised Mr Royal that he had asked officials to provide him with more information on the capital situation of the three wananga and that this process was under way.

The officials commissioned PricewaterhouseCoopers to obtain the necessary information. PricewaterhouseCoopers was required to visit each institution in order to explore the issues and to assess the reasonableness of the 1998 budget and business plan. In addition, they were required to prepare a report for the Tertiary Ownership Monitoring Unit on the adequacy of the current level of capitalisation to support the business plans of the wananga and on the prospects of the wananga obtaining capital on commercial terms.

#### 4.14 THE REPORTS' FINDINGS

The reports carried out by PricewaterhouseCoopers were essentially to determine the financial state of wananga at that time. The reports revealed that the financial situations of Te Wananga o Aotearoa and Te Whare Wananga o Awanuiarangi were weak, and that they would be unable to generate sufficient cash flow to improve facilities or expand operations. The reports noted that, as a result of this, Aotearoa and Awanuiarangi were unlikely to secure funding on commercial terms. The report on Awanuiarangi found that the medium-term viability of the wananga was at risk. PricewaterhouseCoopers explained that the liabilities of Aotearoa exceeded its income and created a weak financial position. Owing to Aotearoa having to lease nearly all its facilities, the wananga was unable to build up any cash reserves that could be used for development.<sup>41</sup>

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39. Ibid, para 5

40. Document A9

41. Document A49, apps 2, 7

The financial situation of Raukawa was somewhat better than that of the other wananga. This was largely because Te Wananga o Raukawa was able to lease land and existing buildings owned by the Otaki and Porirua Trusts Board. Several additional teaching units had also been constructed on this land. The position of Te Wananga o Raukawa was reported as being sound, owing to a number of factors, including the generation of funds through entrepreneurial activities and, most significantly, the use of volunteer tutors, which resulted in a relatively low ratio of personnel costs to revenue. It was estimated that volunteers, or kaiawhina, had saved Raukawa at least \$750,000 from 1996 to 1998, giving Raukawa a strong working capital.<sup>42</sup> It was clear from the evidence presented to the Tribunal that the Ministry of Education expected Raukawa to continue to exploit this volunteer resource. Raukawa, however, is unwilling to do so.

The claimants agreed with the findings of the reports, since they were already aware of the situation, and believed it was confirmation of their need for capital injection from the Crown. In response to the reports, wananga engaged the services of McKenzie Podmore Limited to prepare a financial report examining the reasons why wananga were barely surviving as viable entities, and why they had little chance of viable growth in the future.

The McKenzie Podmore reports were brief but raised some interesting points for the Tribunal. Significantly, McKenzie Podmore found that the EFTS funding mechanism did not provide a sufficient capital component for wananga to operate on an equitable basis with other TEIS.<sup>43</sup> It is clear that, in order to survive, wananga have had to resort to utilising a combination of low-quality facilities, fewer or lower-paid tutors, a large pool of kaiawhina, and a benefactor prepared to make facilities available at low cost. The Ministry of Education suggested that another option is open to wananga – that of charging higher student fees. Wananga already charge significant student fees, albeit at the lower range of the TEIS with which they were compared.<sup>44</sup> The Tribunal believes that high fees can be a significant barrier to entry for Maori, a situation that wananga are attempting to avoid. We understand that many of the students already find it hard to meet the costs of their tuition programmes.

The Crown accepted that there was clear and compelling evidence from the claimants themselves and from the PricewaterhouseCoopers reports that two of the three wananga (Te Whare Wananga o Awanuiarangi and Te Wananga o Aotearoa) are in weak financial positions and not well placed to withstand any additional financial burdens. The Crown stated that Te Wananga o Raukawa did not appear to be in immediate financial difficulty, but noted that the claimants maintain that their operation and future development have been severely inhibited by lack of capital or establishment funding from the Crown.<sup>45</sup>

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42. Document A49, app 8

43. Document A38

44. Ibid, para 11.4

45. Document A75, para 4

#### 4.15 CAPITAL INJECTIONS

In addition to receiving funding under section 199 of the Education Act 1989, TEIS are also eligible to apply for capital injections under section 15 of the Public Finance Act 1989. The Government's capital injection policy applies to all Government departments and Crown entities. Capital injections are intended to be a 'last resort' source of capital funds. To receive one, organisations must present a sound business case and a strategic business plan, and demonstrate whether the Crown would receive net positive benefits within a reasonable period of time (being benefits equal to or greater than the capital contribution).

Factors considered in deciding whether to grant a capital injection include the net financial benefits test, whether the capital injection would further the Government's objectives, and the overall financial position of the Government. If the net financial benefits test returns a negative result, the application is not necessarily declined, since Ministers can exercise discretionary approval.

#### 4.16 THE APPLICATION FOR CAPITAL INJECTION BY TE WANANGA O AOTEAROA

On 5 March 1997, Te Wananga o Aotearoa submitted an application (excluding financial information) for a capital injection of \$8.78 million (excluding GST). Aotearoa asked for funding to assist with the implementation of eight separate projects, together with a contingency provision. The proposed capital expenditure for these projects was for, among other things, the acquisition of land, construction of buildings, and purchase of office equipment for seven of Aotearoa's eight campuses.

Aotearoa did not provide the required business case or strategic plan with their initial application. After receiving advice from the Ministry of Education, Aotearoa appointed a consultant to develop a business case so that the capital injection proposal could be analysed. The consultant (Fred Grace and Associates) submitted financial information in stages, the final report being received in June 1997. The wananga also provided a copy of its strategic plan. The Crown, however, was not satisfied that the information presented to the Ministry met the Cabinet guidelines for capital injections. In early 1998, a decision was made to present the information at hand to the Minister of Education, so that an assessment could be made as to whether it was worth Aotearoa proceeding with developing its case. This was done in order that consideration could be given to Aotearoa's proposal as part of the 1998 budget round.<sup>46</sup>

Owing to budget constraints (in particular the coalition agreement, which placed a limit of \$900 million over three years on all capital spending by the Government), the Minister of Education declined to include a capital injection for Aotearoa as part of the 1998 budget. The Minister did not discount the possibility of considering the

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46. Document A47, para 66

application again for the 1999 budget. This decision was communicated to Aotearoa at a meeting in May 1998, and was formally confirmed in a letter dated 18 May 1998.<sup>47</sup>

#### 4.17 CAPITAL INJECTIONS FOR OTHER TEIS

The claimants submitted that some TEIS had received capital injections since 1990. The Tribunal believes that this allegation has significance for this claim, and accordingly, it sought to investigate the matter further. Some senior officials of the Ministry of Education were not prepared to acknowledge that a few TEIS had received capital establishment funding after the passing of the Education Amendment Act 1990. Mr Catherwood was the manager responsible for processing the applications for capital injections from those TEIS that have received capital grants under the capital injection policy. Both in his evidence-in-chief and when questioned by claimant counsel and the Tribunal, he sought to distinguish between capital funding and ‘capital grants under the capital injection policy’.<sup>48</sup> One of the four cases raised before the Tribunal concerned the Manawatu Polytechnic and the Manawatu College of Education, which shared a site at Hokowhitu in Palmerston North. Mr Catherwood told the Tribunal that Cabinet had ‘agreed to make a net contribution of \$18 million . . . to enable the Polytechnic to move from a site it had previously shared with the College of Education’.<sup>49</sup>

The Tribunal finds it difficult to distinguish that arrangement from one of capital establishment funding. The polytechnic now had new, much larger, and fully serviced facilities and the college of education, which took over the land and buildings previously housing the polytechnic, had acquired those most significant additional capital assets without cost.

Mr Catherwood explained that other TEIS had received capital injections in the past, but he went on to stress that these injections had been for specific purposes and were considered on a case-by-case basis prior to the coalition funding constraints. His evidence gave examples where other TEIS had been granted capital injections since the change of policy that brought capital funding to an end. They included the following:

- (a) *Northland Polytechnic*: In October 1996, Cabinet agreed to make a capital injection of \$578,000 to Northland Polytechnic. In addition, \$587,000 from the current Vote Education (property) was expended to purchase classrooms for the polytechnic. The purpose of both these grants was to enable Northland Polytechnic to leave its Kerikeri site and to accommodate the growth of the local high school with which it shared the site.
- (b) *Wairarapa Community Polytechnic*: In 1994, a capital injection of \$419,671 and a loan of \$629,560 were provided to Wairarapa Polytechnic as part of an overall financial rescue package.

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47. Document A47, para 67

48. Ibid, para 69

49. Ibid, para 70

- (c) *Wanganui Regional Community Polytechnic*: In mid-1997, a loan of \$2.8 million was made to Wanganui Polytechnic to cover a three-month period to address financial concerns. This loan was repaid when the polytechnic obtained a loan from a commercial source. Crown counsel argued that this was not a ‘capital injection’ as such but a separate appropriation.<sup>50</sup>
- (d) *The New Zealand School of Dance and the New Zealand Drama School*: The New Zealand School of Dance and the New Zealand Drama School are PTEs, funded under section 321 of the Education Act 1989, which provides for resourcing of ‘other education services’. In 1993, Cabinet agreed to provide a capital injection of \$1.913 million in the form of a suspensory loan (to be written off after five years) to a joint trust, representing both schools, to assist in the development of purpose-built accommodation. This development followed the formal transfer of administration of these national schools from the former Queen Elizabeth II Arts Council to Vote Education in 1990.

These examples demonstrate that, since 1990, the Government has approved the allocation of Government funds for TEIS (or similar institutions) to be used for capital establishment purposes, and to assist financially troubled institutions.

#### 4.18 CONCLUSION

The 1990 amendments to the Education Act 1989 implemented major policy changes in the area of tertiary education and revolutionised the funding of TEIS. Most importantly, for the purposes of this claim, it introduced two new policies that have a direct bearing on this report.

First, the 1990 amendments introduced the wananga class of TEI. This was a forward-thinking educational step by the Government towards recognising that all New Zealanders had a right to choose to be educated, at a tertiary level, in a Maori context. This allowed an organisation already providing educational services as a PTE, such as Te Wananga o Raukawa, Te Wananga o Aotearoa, and, later, Te Whare Wananga o Awanuiarangi, the opportunity to apply for statutory recognition as a TEI and to accrue all the rights and obligations of such an institution.

At the same time as the 1990 amendments introduced the wananga class of TEI, they also abolished the policy granting capital establishment funding. This meant that, although wananga could be statutorily established, the Crown no longer provided funds to establish a TEI with any land, buildings, plant, and equipment that it may require to begin operations. As a result of this far-reaching amendment to the recently enacted Education Act 1989, the three wananga were not eligible for establishment funding, despite a policy outlined in *Learning For Life: Two* that could have made seeding funding available for wananga.

In being denied establishment or seeding funding, wananga were placed at a distinct disadvantage in comparison to other TEIS, all of which had received pre-1990

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50. Ibid, para 74

establishment funding. As the financial reports of both parties clearly showed, the absence of a capital base has had a negative impact on the operation of all three wananga, particularly Te Whare Wananga o Awanuiarangi, and Te Wananga o Aotearoa. The operation and development of Te Wananga o Raukawa have also been severely inhibited by a lack of capital or establishment funding. The evidence of this is clear.

A key plank of the 1990 tertiary reforms was the decentralisation of control to the institutions themselves, thereby encouraging their autonomous and independent development. In terms of capital funding, it was envisaged that if TEIS wanted or needed to invest in capital assets, they would do so by utilising their EFTS grants, raising other sources of operating revenue, selling property, or borrowing on a commercial basis. Although special capital injections could be made, these would be made only in exceptional circumstances and would be contingent on overall funding for tertiary education and training.

It is clear that the EFTS funding system does not adequately protect smaller institutions such as wananga. Evidence clearly shows that wananga are currently unable to accumulate sufficient revenue to undertake major capital works, because it is estimated that at least 1000 students are required for TEIS to be self-sufficient under the EFTS system. The evidence is also clear that the Crown has been aware of this fact since at least 1994. Wananga were therefore established as TEIS under policy that denied them establishment funding and that did not recognise their ongoing specific needs as small institutions.

The financial needs of Te Wananga o Aotearoa became so desperate that it applied for a capital injection in 1997. Despite significant capital injections to other TEIS in the past, the Minister of Education declined Aotearoa's application because of budget restraints.

In passing the Education Amendment Act 1990, the Government gave to Maori with one hand and took away with the other. It enabled the statutory establishment of Maori-based TEIS, yet it denied the essential funding necessary for the physical establishment and development of such institutions. We believe that the Crown's failure to provide capital establishment funding to the three TEIS known as wananga has clearly prejudiced them in their efforts to provide tertiary education in a Maori context. Thus, the most significant, and almost certainly the only realistic, means by which wananga can obtain funding for their capital development is by a capital injection from the Crown. The Tribunal, therefore, supports such an immediate capital injection for wananga.