



# Supporting information on the Consultation of significant plan amendments (SPAs) and replacement plans (RPs)

Background information on the proposed criteria for significant plan amendments (SPAs) and replacement plans (RPs)

## What you need to know

This document contains:

- › Frequently Asked Questions about the consultation
- › the key questions we'd like to hear from you about
- › a plain-language version of each criterion.

## How to submit feedback

Providers and their peak bodies are invited to provide feedback on the proposed SPA and RP criteria by **5pm Friday 1 November**.

Your feedback will help develop the criteria that works best for providers and TEC. Please send your feedback to [customerservice@tec.govt.nz](mailto:customerservice@tec.govt.nz). Use the subject line 'Submission on Significant Plan Amendments and Replacement Plans'.

We know you have many demands on your time, but we do hope you can provide feedback. Feel free to collaborate with others or provide feedback through your peak body.

## Frequently Asked Questions

### Why are we consulting on SPAs and RPs?

The Education and Training Act 2020 requires TEC to set the criteria for significant plan amendments (SPAs) and replacement plans (RPs).

It's normal for there to be changes to Investment Plans during an approved funding period.

The proposed criteria are intended to:

- › enable TEOs to make some changes without our approval
- › clarify when more significant changes must be approved by TEC.

This will:

- › create more certainty for providers
- › allow flexibility, and
- › reduce compliance.

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## Frequently Asked Questions (continued)

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### How do SPAs and RPs work?

If a proposed change:

- › meets the SPA or RP criteria, a tertiary provider must ask us to approve the change.
- › does not meet the criteria, a tertiary provider can make that change without our approval.

There are two ways an SPA or RP can progress using the draft criteria:

- › a provider satisfies the criteria for an SPA or RP and asks us to approve any changes, or
- › we are satisfied that a provider meets the criteria for an SPA or RP, and we require them to reassess their existing plan with a view to changing or replacing it.

### Does this include changes to Additional Funding Requests?

The draft SPA criteria only focus on changes a TEO wants to make within its approved allocation.

We already have a clear process in place for Additional Funding Requests. Tertiary providers are familiar with this and it's working well.

### Are there any other ways that SPAs and RPs can occur?

The TEC can also propose a SPA or RP if we are satisfied that it is reasonably necessary to ensure accountability for public funding. This is a separate process.

### Why do PTEs and TEIs have separate criteria?

Public institutions and private training establishments (PTEs) have different roles in the tertiary education system and network of provision, and we invest in them differently. This is reflected in the different criteria we have set for TEIs and PTEs.

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## Frequently Asked Questions (continued)

### **How are the changes to EFTS value or learner hours counted for the PTE threshold in paragraph 3 of the proposed SPA criteria?**

The changes to EFTS or learner hours are only counted once. For example, if a PTE changes three EFTS from one qualification to another qualification, that is counted as three EFTS not six.

### **What percentage of funding can I deliver up to without seeking TEC approval?**

TEOs can deliver up to 105% of their approved funding allocations for DQ3-7 and DQ7+.

Allowable over-delivery does not require a Plan amendment. This includes Flexible Funding delivery of up to 102% or 10 EFTS (whichever is larger) for eligible TEOs. Flexible Funding means that TEOs are funded for delivery up to 102%, provided they meet the Flexible Funding requirements. For some small PTEs, 10 EFTS of Flexible Funding is greater than 105%. Plan amendments are not required for allowable over-delivery so the criteria does not apply.

The criteria for SPAs relate to changes within a TEO's approved allocation. Any approval of financial changes to an investment plan follow a different process.

### **Where is TEC's priority list?**

The TEC priorities are included in our annual Plan Guidance. These refer to the priorities in the Tertiary Education Strategy, the broader priorities and the targeted priorities.

### **Is there anything else we need to know?**

We will also streamline our internal processes so decisions on SPAs are faster.

### **How does this relate to the Response Framework TEC is consulting on?**

The framework and criteria are tools the TEC uses when making investment and monitoring decisions.

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## Frequently Asked Questions (continued)

### How do we provide feedback?

TEC-funded providers and their peak bodies are invited to provide feedback on the SPA and RP criteria **by 5pm Friday 1 November**. Your feedback will help develop the criteria that works best for providers and TEC. Please send your feedback to [customerservice@tec.govt.nz](mailto:customerservice@tec.govt.nz).

Use the subject line 'Submission on Significant Plan Amendments and Replacement Plans'.

We know you have many demands on your time, so we do hope you can participate and provide feedback. Feel free to collaborate with others or provide feedback through your peak body.

### What happens after consultation?

We will review the feedback we have received and publish the final SPA and RP criteria in the Gazette notice.

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## Key questions for feedback

We are interested in your feedback on the proposed SPA and RP criteria. We would like to know whether:

- › the proposed criteria for SPAs and RPs are reasonable
  - › the EFTS and hours threshold for PTEs are reasonable (refer to paragraph 3 of the proposed criteria)
  - › the assessment criteria are clear.
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## Proposed SPA and RP criteria – legal version and plain-language explanation

The criteria will become secondary legislation, so we need to use legal language when we draft them. Below are the criteria as drafted alongside explanations

| Criteria for significant amendment to a plan  |   |
|---|---|
| Gazette criteria  | Explanation   |
| a) change any of the performance indicators that it is required (by its plan) to use to measure whether proposed outcomes for programmes or activities are being or have been achieved. For the avoidance of doubt, this includes changes to the milestones detailed in the TEO's Learner Success Plan; or  | A TEO needs TEC approval if it proposes to make changes to any programme or activities that change: <ul style="list-style-type: none"> <li>any of its Educational Performance Indicator Commitments</li> <li>any milestones in its Learner Success Plan.</li> </ul>   |
| b) make any change from any mode of learning to a work-based mode of learning.  | A TEO needs TEC approval if it proposes to make any change to any programme or activities from provider based or provider based - extramural mode of learning to work-based pathway to work; work-based or assessment and verification mode of learning.<br><br>We will review this once the redesign of vocational education has been implemented.   |
| <b>TEI specific changes</b>   |   |
| 2) For TEIs, in addition to paragraph 1 above, a significant amendment to a plan to: <ul style="list-style-type: none"> <li>a) introduce programmes or activities in a new faculty and/or field of study;</li> </ul>  | A TEI needs TEC approval if it proposes to introduce programmes or activities in a new faculty and/or field of study that it does not currently deliver in.   |
| <ul style="list-style-type: none"> <li>b) stop the provision of programmes or activities that are a TEC priority<sup>1</sup>;</li> </ul>  | A TEI needs TEC approval if it proposes to stop delivering programmes or activities that are a TEC priority. TEC's priorities are those listed in Plan Guidance available on TEC's website.   |
| <ul style="list-style-type: none"> <li>c) stop the provision of programmes or activities where the TEI is the only TEO in New Zealand providing those programmes or activities; or</li> </ul>   | A TEI needs TEC approval if it proposes to stop delivering programmes or activities where the TEI is the only provider of those programmes or activities.   |
| <ul style="list-style-type: none"> <li>d) introduce new programmes or activities in a region of New Zealand not currently provided for in its plan.</li> </ul>  | A TEI needs TEC approval if it proposes to introduce new programmes or activities in a region where it does not currently deliver any provision.  |
| <b>PTE specific changes</b>   |   |
| <ul style="list-style-type: none"> <li>a) For PTES, in addition to paragraph 1 above:</li> <li>b) where a PTE has between 1 and 100 EFTS in a fund, a significant amendment to a plan to change the qualification, region or delivery site, or the mode of delivery of its approved EFTS by more than 10% or more than 5 EFTS (if there are 10 or less EFTS in a fund). For example, a PTE that has funding approval for 100 EFTS in a fund may change the region of the programmes or activities detailed in its plan by 10 or less EFTS without that change requiring the TEC's approval;</li> <li>c) where a PTE has 101 or more EFTS in a fund, a significant amendment to change the qualification, region or delivery site, or the mode of delivery of its approved EFTS by more than 20 EFTS. For example, a PTE that has funding approval for 200 EFTS in a fund may change the qualification of the programmes or activities detailed in its plan by 20 or less EFTS without that change requiring the TEC's approval;</li> <li>d) a significant amendment to a plan to change the region or delivery site, or the mode of delivery of its approved hours by more than 5,000 hours;</li> </ul> | <p>A PTE needs TEC approval to make any change when that PTE:</p> <ul style="list-style-type: none"> <li>has between 1 and 100 EFTS in a fund and wants to change more than 10 EFTS from one qualification/region or delivery site/mode of delivery to another in the same fund, or</li> <li>has 101 or more EFTS in a fund and wants to change more than 20 EFTS from one qualification/region or delivery site/mode of delivery in the same fund</li> <li>changes the region or delivery site, or the mode of delivery of its approved hours by more than 5,000 hours.</li> </ul> <p><b>Examples</b></p> <p><i>Example 1</i></p> <p>A PTE has 50 EFTS in a fund. It can change 10 EFTS from one qualification to another in the same fund provided that the qualification does not meet any of the other criteria listed. For example, the qualification must be priority provision. It can also change the region where those EFTS are delivered for the same 10 EFTS.</p> <p><i>Example 2</i></p> |

<sup>1</sup> See definition (i) in the draft Gazette notice: 'TEC priority' means programmes or activities in priority areas as set out in the Tertiary Education Commission Plan Guidance – available on the TEC's website. These include the Tertiary Education Strategy priorities, the broader priorities and the targeted priorities. <https://www.tec.govt.nz/assets/Forms-templates-and-guides/Plan-guidance-and-toolkit-2024/2025/Plan-Guidance-2025.pdf>

| Criteria for significant amendment to a plan  |  |
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|   | <p>A PTE has 200 EFTS in a fund. It can change 20 EFTS from one region to another. It has another 150 EFTS in another fund. It can change 20 EFTS from one qualification to another priority qualification for that fund.</p> <p>It has 30 EFTS in another fund. It can change 10 EFTS from provider based to provider based - extramural mode of learning in that fund.</p> |
| c) decrease or stop the provision of programmes or activities that are a TEC priority;                            | A PTE needs TEC approval if it proposes to decrease or stop priority provision. <sup>2</sup>   |
| d) decrease or stop the provision where the PTE is the only TEO in New Zealand of those programmes or activities; | A PTE needs TEC approval if it proposes to decrease or stop provision where the PTE is the only TEO in New Zealand offering that provision.  |
| e) increase provision of programmes or activities that are not a TEC priority;                                    | A PTE needs TEC approval if it proposes an increase to the volume of existing provision where that provision is not a TEC priority   |
| f) introduce new programmes and activities that are not provided for in its plan.                                 | A PTE needs TEC approval if it proposes to introduce new programmes and activities that are not included in its plan.  |

| Criteria for replacement plan  |  |
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| Gazette criteria   | Explanation  |
| Pursuant to clause 20(3)(b) of Schedule 18 of the Act, the TEC sets the criteria for replacement of a plan for which TEOs must ask the TEC to approve as follows:            | The criteria for a replacement plan are as follows:  |
| 2) For all TEOs, a replacement of its plan is required:  | For all TEOs, TEC requires a replacement plan when a TEO wants to changes its role and mission in its plan in a way that is not consistent with the role and mission in its approved plan.   |
| a) to change the TEO's role and mission detailed in its plan that is not consistent with the role and mission in its approved plan;  | For example, if a TEO's role and mission is predominantly focused on supporting learners to study health care and it wants to move into horticulture, this changes its role in the network of provision and what its overall mission might be. |
| b) to make a change of any kind (including changes to the qualification, region or delivery site, or mode of delivery) to 50% or more of the TEO's programmes or activities; | For all TEOs, TEC requires a replacement plan when a TEO wants to make a change of any kind (including changes to the qualification, region or delivery site, or mode of delivery) to 50% or more of the TEO's programmes or activities;       |
|  | For example, if a TEO only delivers hairdressing qualifications in Wellington and it wants to shift 60% of that provision to Nelson, the TEO would need to submit a replacement plan.  |
| c) if there has been a significant change to the TEO's governance, management, or academic leadership;   | For all TEOs, TEC requires a replacement plan if there has been a significant change to the TEO's governance, management, or academic leadership.  |
| d) if the TEO is a PTE:  | If the TEO is a PTE, TEC requires a replacement plan if it has established a new legal entity.   |
| (i) if it has established a new legal entity;  |  |
| (ii) if there have been any changes to its ownership;  | If the TEO is a PTE, TEC requires a replacement plan if there have been any changes to its ownership.  |
| (iii) if it had an insolvency event; or  | If the TEO is a PTE, TEC requires a replacement plan if a PTE had an insolvency event. For example, a PTE has gone into liquidation or receivership.   |
| e) if the TEO is a TEI, if it has:   | If the TEO is a TEI, TEC requires a replacement plan if it has:  |
| i) merged all or part of its functions with another TEO that provides tertiary education; or   | <ul style="list-style-type: none"> <li>merged all or part of its functions with another TEO that provides tertiary education; or</li> </ul>  |
| ii) been part of the establishment of a new Crown entity.  | <ul style="list-style-type: none"> <li>been part of the establishment of a new Crown entity.</li> </ul>  |

<sup>2</sup> As listed in the Tertiary Education Commission Plan Guidance publication.