

**Nelson Marlborough Institute of Technology Limited**  
(the Company)

**Minutes of a meeting of the Board of Directors**  
(Board)

**3 April 2020 at 1.00pm**

## **Minutes**

These are the minutes of a meeting of the board of the Company held on 3 April 2020 by Zoom.

## **Present**

**Directors present:** Daryl Wehner, Tracy Johnston, Judene Edgar, Toni Grant, Patrick Smith, Charles Newton, Kathy Grant and Joanie Wilson.

**Daryl Wehner** acted as chairperson of the meeting.

**Other attendees present:** Liam Sloan (Chief Executive), Elizabeth Bean (minute secretary).

*Keri Takao welcomed the Board with a whakatauki and a karakia.*

*Patrick Smith opened the meeting with a karakia.*

## **Welcome**

D Wehner welcomed all incoming directors and acknowledged past Council Members who have handed NMIT over in a good state.

D Wehner noted that the meeting minutes from the previous Council meeting of 27 March were approved by previous Council and are available to view.

## **Apologies**

No apologies were received.

## **Quorum**

The Chairperson noted that a quorum of directors was present at the meeting and declared the meeting open.

## **Conflicts of interest**

No conflicts were declared in relation to the open agenda.

## **Items not on the Agenda**

01 - Board Minutes - 3 April 2020 - Open

There were no items arising other than those included on the agenda.

## **COVID-19 Response and Update**

L Sloan provided directors with an update on NMIT's response to COVID-19.

### Students and staff

Daily communications about COVID-19 are being provided; internal communications is being managed through Polly and external/student communications through the NMIT website.

Over past week, staff have prepared for academic online delivery and by 6 April, 100% of courses will be available online. Where there were gaps, NMIT is working with TANZ eCampus and other providers. The two-week Easter Break commences 10 April and will be used to address issues that have been identified and to ensure that online resources are available for as long as required. NMIT is advising NZIST, TEC and NZQA of any academic changes being made. Agencies are supportive. Pastoral care is being provided to students via tutors, social media and support staff, and hardship cases are being addressed.

Staff have been working from home and while it has gone well, some practical issues are emerging (e.g. suitable equipment) and potential hazards identified. These are being addressed. Communication with staff has been maintained via virtual staff meetings, and an increased number of virtual team meetings amongst staff.

### Financial

Overall, a loss of \$1.2m is forecast as a result of COVID-19. This forecast includes updated international student numbers and English Language Programme adjustments. NMIT had budgeted a deficit \$2.6m for 2020 financial year, and this is now forecast to be \$3.8m.

Scenario modelling is being done on the financial impact that includes: greater reduction in domestic/international student numbers for semester two, student withdrawals as some find they are unable to continue studying, a longer time in lock-down, and a gradual return to 'normal'. Modelling also includes scenarios for more teaching online to international students.

### **Resolved:**

That the Board receives the COVID-19 response and update report to 3 April 2020.

## **Items under "Noted" in First Board Meeting Resolutions**

The directors considered and discussed the items under "Noted" in the First Board Meeting Resolutions attached as a Schedule to these minutes.

In particular, the directors:

- each agreed that the First Board Meeting Resolutions and other documents approved in such First Board Meeting Resolutions which require signature by one or more directors (**Approved Documents**) may be signed through the application of an individual director's electronic signature; and

- each expressly authorised the use of his or her electronic signature (as previously provided by the director) for the purposes of signing the First Board Meeting Resolutions and the Approved Documents.

## **Resolved**

The directors resolved, as resolutions in writing, the matters set out in Resolutions 1 to 12 in the First Board Meeting Resolutions attached as a Schedule to these minutes.

*J Edgar left meeting at 1.59pm*

## **General Business**

### Meeting Dates

Directors sought clarification around 2020 meeting dates. A preference was expressed for meetings in 2020 to be monthly – and potentially to have conversations in between also – and for the next Board meeting to occur within the next two weeks. It was noted that 2020 was going to be a challenging year as the impact of COVID-19, and also RoVE, is embedded.

### Induction

Induction material has been made available to directors and arrangements will be made for directors to visit physical NMIT sites and meet staff once it is possible.

### Strategy

A Strategic Directions paper was included in the induction materials and directors requested an update on this strategy plus a revised SWOT. It was also noted that there was an ongoing opportunity to engage better with Māori students and focus on Māori education and that the new NZIST structure is a co-operative model, which will need to be reflected in thinking around strategy.

## **Closure**

There being no further business, the Chairperson declared the meeting closed at 2.14pm.

*P Smith closed the meeting with a karakia.*

Dated: 18 **May 2020**

Signed as a correct record



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**Chairperson**

# Nelson Marlborough Institute of Technology Limited

(the Company)

## Board Resolutions

Passed as written resolutions of the board of directors pursuant to the Companies Act 1993 (the **Act**)

### NOTED

#### Background

The Education (Vocational Education and Training Reform) Amendment Act 2020 (the **Amendment Act**) has been enacted as part of the Reform of Vocational Education (**RoVE**), one of the four major reviews in the Government's Education Work Programme. The Amendment Act amends the Education Act 1989 (**Education Act**). The purpose of RoVE is to create a cohesive vocational education system in New Zealand with employers, learners, regions and communities at its centre.

The Amendment Act establishes the New Zealand Institute of Skills and Technology (**NZIST**) as a tertiary education institution under the Education Act and as a Crown entity under the Crown Entities Act 2004 (**CE Act**). The Amendment Act also converts the 16 current Institutes of Technology and Polytechnics, including Nelson Marlborough Institute of Technology (an **Existing Polytechnic**) to wholly-owned Crown entity subsidiary companies of NZIST (each, an **NZIST Subsidiary**).

The Company was incorporated pursuant to the Education Act on 1 April 2020 (the **Commencement Date**) as an NZIST Subsidiary, and the Registrar of Companies issued a certificate of incorporation for the Company on 1 April 2020. The Company wishes to deal with certain preliminary matters in relation to its incorporation.

#### Incorporation and administrative matters

##### *Company details*

- A. The Company was incorporated pursuant to the Amendment Act on 1 April 2020. The Registrar of Companies issued a certificate of incorporation for the Company on 1 April 2020.
- B. The Company has notified the Registrar that the registered office and address for service of the Company is:  
  
322 Hardy Street, Nelson 7010  
  
Private Bag 19, Nelson 7042
- C. Pursuant to section 41(3) of the Financial Reporting Act 1993, the balance date of the Company is fixed as 31 December, the last day of the academic year, as defined in section 159(1) of the Education Act.

##### *Companies Act 1993 compliance obligations*

- D. The Company authorises Finance Manager (**Nominated Individual**) to update the Company's statutory records, as further described in these resolutions

##### *Shareholder*

- E. NZIST consented to act as sole shareholder (the **Shareholder**) of the Company in accordance with section 12(1)(d)(i) of the Companies Act 1993 (the **Companies Act**) and was named as Shareholder in the application for registration of the Company (the **Application**).
- F. Pursuant to section 41(a) of the Companies Act, the Company has issued to the Shareholder the number of shares specified in the Application, being the number of shares to be issued to the

Shareholder pursuant to clause 29(1)(c) of Part 10 of Schedule 1 of the Education Act (being 100 shares).

- G. In accordance with section 87 of the Companies Act, the name, the number of shares and the other required details of the Shareholder have been or will be entered in the share register of the Company.

#### *Constitution*

- H. Pursuant to section 12(1)(f) of the Companies Act, the Application included a constitution of the Company (the **Constitution**), which was accordingly adopted by the Company on incorporation. The provisions of the Constitution:

- (i) include a list of "Reserved Matters" in Schedule 2 which require approval by the Shareholder as the parent company; and
- (ii) allow the Shareholder as the parent company to issue Operational and Financial Parameters Directions (**OFP Directions**) from time to time, which the Company must comply with. The Company has received an OFP Direction dated 1 April 2020 from the Shareholder (the **Initial OFP Direction**).

#### *Directors*

- I. Pursuant to sections 152 and 153(1) of the Companies Act, the persons listed at Appendix A (the **Directors**, and each a **Director**):
- (i) have consented to act as Directors of the Company; and
  - (ii) were named as such in the Application and accordingly hold office as Directors of the Company.
- J. The Company has received the Shareholder's approval of the amount of director's fees payable to each Director of the Company for each financial year, which has been determined by the Shareholder in accordance with the Fees Framework (as defined in the Crown Entities Act 2004) (the **Directors' Fees Approval**). The Fees Framework also provides that each Director is entitled to be paid for all reasonable travel, accommodation and other expenses incurred by him or her in connection with his or her attendance at meetings, or otherwise in connection with the Company's business.
- K. In accordance with clause 12.5 of the Constitution, the Shareholder has appointed Daryl Wehner as Chairperson of the Board and Tracy Johnston as Deputy Chairperson of the Board.

#### *Rights, assets and liabilities of Existing Polytechnic*

- L. Pursuant to clause 36 of Part 10 of Schedule 1 of the Education Act, on and after 1 April 2020:
- (i) the rights, assets and liabilities of the Existing Polytechnic vest in the Company; and
  - (ii) unless the context requires otherwise, every reference to the Existing Polytechnic in any enactment (other than the Education Act), or instrument, agreement, deed, lease, application, notice or other document before 1 April 2020 must be read as a reference to the Company.

#### *Same person for purposes of Inland Revenue Acts*

- M. Pursuant to clause 37 of Part 10 of Schedule 1 of the Education Act, for the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), the Company must be treated as the same person as the Existing Polytechnic.

### *Employees of Existing Polytechnic*

- N. Pursuant to clause 38 of Part 10 of Schedule 1 of the Education Act, on and after 1 April 2020, every employee of the Existing Polytechnic becomes an employee of the Company on the same terms and conditions that applied to that person immediately before they became an employee of the Company.

### *Chief Executive*

- O. Pursuant to clause 38 of Part 10 of Schedule 1 of the Education Act, the Chief Executive of the Existing Polytechnic becomes the Chief Executive of the Company.

### *Existing Statutes and Regulations*

- P. Clause 44 of Part 10 of Schedule 1 of the Education Act provides that, unless the context requires, a reference to the Existing Polytechnic in any enactment (other than the Education Act) must be read as a reference to the Company.
- Q. All existing statutes and regulations enacted by the Existing Polytechnic pursuant to section 194 of the Education Act will therefore continue to apply (to the extent that such statutes and regulations are not inconsistent with the provisions of the Education Act as amended by the Amendment Act).

### *Existing delegations, rules, policies, procedures and other documents of Existing Polytechnic*

- R. The Company proposes to (and will procure that all and any Crown entity subsidiaries of the Company will) comply with, and confirm the continued application of, all existing delegations, rules, policies, procedures and any other documents of the Existing Polytechnic, to the extent they are not inconsistent with:
- (i) the Education Act and the CE Act (each as amended by the Amendment Act);
  - (ii) the Companies Act 1993; and
  - (iii) the Constitution (including, in particular, the Reserved Matters in Schedule 2) and any OFP Direction provided by NZIST to the Company as contemplated by the Constitution, including the Initial OFP Direction.
- S. The Company proposes to (and will procure that all and any Crown entity subsidiaries of the Company will) update and amend all existing delegations, rules, policies, procedures and any other documents of the Existing Polytechnic as required to reflect:
- (i) the Education Act and the CE Act (each as amended by the Amendment Act);
  - (ii) the Companies Act 1993; and
  - (iii) the Constitution (including, in particular, the Reserved Matters in Schedule 2) and any Operational and Financial Parameters Direction provided by NZIST to the Company as contemplated by the Constitution, including the Initial OFP Direction.

### *Academic Board and Academic Board Sub-Committees*

- T. The Company proposes that the former:
- (i) Academic Board of the Existing Polytechnic continues as the Academic Committee of the Board. The Company proposes that the former members of such Academic Board will continue as the members of the new Academic Committee; and
  - (ii) Academic Board Sub-Committees of the Existing Polytechnic continue as Academic Committee Sub-Committees of the Board. The Company proposes that the former members

of such Academic Board Sub-Committees will continue as the members of the new Academic Committee Sub-Committees.

#### *Existing Council Committees and Sub-Committees*

- U. The Company proposes that the following Audit Committee of the Council of the Existing Polytechnic continue as committees of the Board with the purposes set out below:
  - (i) Audit Committee
    - a. The Objective of the Committee is to assist the Council in discharging its responsibilities relating to financial reporting and regulatory compliance.
- V. The Board will appoint the new members of each committee and/or subcommittee (as the case may be) at the next Board meeting.

#### **Indemnities and insurance**

- W. The Company proposes to enter into a deed of indemnity in respect of its Directors. Clause 14 of the Constitution provides for the Company to indemnify its directors for any costs referred to in section 162(3) of the Companies Act and any liability or costs referred to in section 162(4) of the Companies Act, subject to the Company obtaining the approval of its Shareholder and the directors of the Company (the **Indemnity Approval**).
- X. Pursuant to a meeting of the NZIST Council of 1 April 2020, the Shareholder has approved the form of deed of indemnity the Company proposes to enter into (the **Deed of Indemnity**), a copy of which has been circulated to the Directors.
- Y. Pursuant to a meeting of the NZIST Council of 1 April 2020, the Shareholder resolved to effect directors' and officers' insurance cover for the board of the Company under a group insurance policy, with effect from 1 April 2020. A summary of the terms of that cover is set out in the letter from Marsh dated 31 March 2020, which has been circulated to the Directors.

#### **Disclosure of interests**

- Z. The Directors have declared their interests (for the purposes of sections 139 and 140 of the Companies Act) to the Board in relation to the above matters (including the grant of the indemnity and the effecting of insurance referred to in paragraphs X to Z above) and generally in respect of other relationships that give rise to an interest (the **Directors' Interests**) and have directed that the nature and extent of their interests be entered into the Company's interests register.

#### **Execution of written resolutions and approved documents by counterpart and electronic signature**

- AA. It is proposed that these Board Resolutions and any other documents approved in such Board Resolutions which require signature by one or more directors (**Approved Documents**) may be signed:
  - (i) through the application of an individual signatory's electronic signature, where the individual has expressly authorised such use of his or her electronic signature; and/or
  - (ii) in any number of counterparts, including by PDF copy, each of which is be deemed to be an original and, when taken together, constitutes the same document.

**RESOLVED** (as a resolution in writing) that:

**Incorporation and administrative matters**

*Company administration matters*

1. The Nominated Individual is authorised to update the Company's statutory records, as further described in these resolutions.

*Directors' matters*

2. In accordance with section 161(1) of the Companies Act, the Board is satisfied that the payment by the Company of the Directors' fees as set out in the Directors' Fees Approval is fair to the Company.
3. The Directors are authorised to sign a certificate for the purposes of section 161(4) of the Companies Act, in the form attached as Appendix B.
4. The Company will pay the Directors' fees as set out in the Directors' Fees Approval and any reasonable travel, accommodation and other expenses incurred by each Director in connection with their attendance at meetings, or otherwise in connection with the Company's business, and the Nominated Individual be authorised to enter the particulars of such payments into the interests register of the Company.
5. The Company enter into, execute, deliver and perform its obligations under the Deed of Indemnity, and any two or more members of the board be authorised to execute the Deed of Indemnity.
6. The Nominated Individual be authorised to enter particulars of the Deed of Indemnity in the interests register in accordance with section 162(7) of the Companies Act and report this to the Shareholder for the purposes of section 152(1)(E) of the CE Act.
7. The Nominated Individual be authorised to enter in the Company's interests register any interests declared by the Directors in writing to the Board in relation to the matters the subject of this meeting.

*Existing Statutes and Regulations*

8. The Company will (and will procure that all and any Crown entity subsidiaries of the Company will) comply with, and confirms the continued application of, all existing delegations, rules, policies, procedures and any other documents of the Existing Polytechnic, to the extent they are not inconsistent with:
  - (iii) the Education Act and the CE Act (each as amended by the Amendment Act);
  - (iv) the Companies Act 1993; and
  - (v) the Constitution (including, in particular, the Reserved Matters in Schedule 2) and any OFP Direction provided by NZIST to the Company as contemplated by the Constitution.

*Existing delegations, policies, etc.*

9. The Company will (and will procure that all and any Crown entity subsidiaries of the Company will) update and amend all existing delegations, rules, policies, procedures and any other documents of the Existing Polytechnic as required to reflect:
  - (i) the Education Act and the CE Act (each as amended by the Amendment Act);
  - (ii) the Companies Act 1993; and

- (iii) the Constitution (including, in particular, the Reserved Matters in Schedule 2) and any OFP Direction provided by NZIST to the Company as contemplated by the Constitution.

*Academic Committee and Academic Board Sub-Committees*

10. The former:

- (i) Academic Board of the Existing Polytechnic will continue as the Academic Committee of the Board, and the former members of such Academic Board will continue as the members of the new Academic Committee; and
- (ii) Academic Board Sub-Committees of the Existing Polytechnic will continue as Academic Committee Sub-Committees of the Board. The Company proposes that the former members of such Academic Board Sub-Committees will continue as the members of the new Academic Committee Sub-Committees.

*Board committees/sub-committees*

11. The Audit Committee of the Council of the Existing Polytechnic listed in paragraph U above will continue as committees of the Board with the name(s) and purposes set out in that paragraph, on the basis that the Board will appoint the new members of each committee and/or subcommittee (as the case may be) at the next Board meeting.

*Execution of written resolutions and Approved Documents by counterpart and electronic signature*

12. These resolutions and the Approved Documents may be signed:

- (i) through the application of an individual signatory's electronic signature, where the individual has expressly authorised such use of his or her electronic signature; and/or
- (ii) in any number of counterparts, including by PDF copy, each of which is be deemed to be an original and, when taken together, constitutes the same document.

DATED 3 APRIL 2020

Signed by

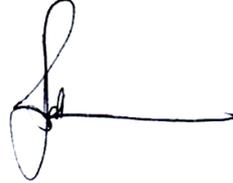
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Chairperson (Daryl Wehner)



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Deputy Chairperson (Tracy Johnston)



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Director (Charles Newton)



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Director (Kathy Grant)



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Director (Patrick Smith)



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Director (Antonina Grant)



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Director (Judene Edgar)



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Director (Joanie Wilson)



## Appendix A - Directors of the Company

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	<b>Name of Director</b>
1.	<b><i>Daryl Wehner</i></b>
2.	<b><i>Tracy Johnston</i></b>
3.	<b><i>Charles Newton</i></b>
4.	<b><i>Kathy Grant</i></b>
5.	<b><i>Patrick Smith</i></b>
6.	<b><i>Antonina Grant</i></b>
7.	<b><i>Judene Edgar</i></b>
8.	<b><i>Joanie Wilson</i></b>

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## Nelson Marlborough Institute of Technology Limited

(the Company)

### Directors' certificate relating to payment of remuneration or benefits to directors insurance

(Sections 161(4) Companies Act 1993)

#### *Payment of remuneration or benefits to directors*

The persons named below, being all of the directors of the Company who voted in favour of resolutions dated on or about the date of this certificate (the **Board Resolutions**) authorising, amongst other things, the Company to pay directors fees as follows (with effect from 1 April 2020 for each financial year):

	Name of Director	Remuneration
1.	<i>Daryl Wehner</i>	<b>\$33,490</b>
2.	<i>Tracy Johnston</i>	<b>\$20,931</b>
3.	<i>Charles Newton</i>	<b>\$16,745</b>
4.	<i>Kathy Grant</i>	<b>\$16,745</b>
5.	<i>Patrick Smith</i>	<b>\$16,745</b>
6.	<i>Antonina Grant</i>	<b>\$16,745</b>
7.	<i>Judene Edgar</i>	<b>\$16,745</b>
8.	<i>Joanie Wilson</i>	<b>\$16,745</b>

certify that, in their opinion the provision of such remuneration is fair to the Company, upon the following grounds:

- (a) the remuneration has been determined by the Shareholder in accordance with the Fees Framework (as defined in the Crown Entities Act 2004) and has been approved by the Shareholder;
- (b) the remuneration is reasonable and fair to the Company and is appropriate;
- (c) the fees appropriately reflect the time and effort devoted to the Company by the directors, taking into account their role on the board;
- (d) the directors have extensive expertise and experience in the industry in which the Company operates, or otherwise relevant to the industry in which the Company operates; and
- (e) it is beneficial to the Company and its shareholders to remunerate and incentivise directors to encourage and motivate performance by the directors, and align individual director goals with Company goals.

#### *Execution of certificate by counterpart and electronic signature*

This certificate may be signed:

- (a) through the application of an individual signatory's electronic signature, where the individual has expressly authorised such use of his or her electronic signature; and/or

(b) in any number of counterparts, including by PDF copy, each of which is be deemed to be an original and, when taken together, constitutes the same document.

**DATED 3 APRIL 2020**

**Signed by**

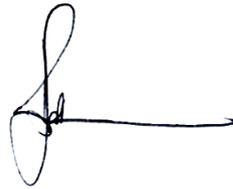
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**Chairperson (Daryl Wehner)**



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**Deputy Chairperson (Tracy Johnston)**



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**Director (Charles Newton)**



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**Director (Kathy Grant)**



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**Director (Patrick Smith)**



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**Director (Antonina Grant)**



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**Director (Judene Edgar)**



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**Director (Joanie Wilson)**



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(being all the directors of the Company)