

5 February 2021

Re: NZIOB Submission on the Construction and Infrastructure WDC Order in Council

COMMENTARY

The New Zealand Institute of Building (NZIOB) wishes the Construction and Infrastructure Workforce Development Council (CIWDC) to be successful and welcomes the opportunity to provide feedback on the Order in Council proposal.

Within parts of the construction and infrastructure industry, there is a sense of disengagement with government on the CIWDC development process. This is a consequence of industry being asked by government to develop its own Workforce Development Council (WDC) governance model, which it did, only to later discover that there are Te Tiriti o Waitangi principles that needed to be adhered to, which the industry developed structure did not allow for. That process was unfortunate, through now that the Te Tiriti o Waitangi requirements are well understood, we have an opportunity through this current round of consultation, for industry to shape its WDC through the process of providing feedback that is designed to strengthen the proposed CIWDC without compromising the required legislative framework.

1. NAME OF WORKFORCE DEVELOPMENT COUNCIL

The proposed name, 'Waihanga Ara Rau Construction and Infrastructure Workforce Development Council', is supported.

2. PURPOSE AND ACCOUNTABILITY ARRANGEMENTS

2.1. Infuse a sense of industry ownership

The Order in Council document feels generic in nature. The NZIOB suggests that industry specific:

- 2.1.1. Replace the seventeen references throughout the document to 'specified industries' to 'construction and infrastructure industry'.
- 2.1.2. Refer to the construction and infrastructure industries specifically as the entity we are looking to improve or enhance, rather than the generic Aotearoa New Zealand (bullet-point 1 and 4 under Purpose), and 'for all' or 'for all people' (bullet-points 2 and 3 under Purpose).

2.2. Be bolder

Under Purpose, instead of 'contributing' the CIWDC should be 'leading'. Language is important; as written, the new entity appears to be striving for mediocrity, not excellence.



3. GOVERNANCE ARRANGEMENTS

3.1. Council size and make-up

The NZIOB supports the proposal that Council members should be appointed based on their knowledge, skills, and experience rather than being a representative Council. The NZIOB makes the following comments.

3.1.1. The lower end of the Council size range spectrum of 6, 7 or 8 members (i.e. a six-person Board) is considered too small. Eight is considered the ideal number of Board appointees to provide the broad industry representation that is required for an industry as large and diverse as construction and infrastructure. The NZIOB suggests also that the Council can co-opt a ninth Council member to fill any perceived knowledge, skills, experience gaps that the Council may have. Therefore: a Council of between six and eight members, with a preference for eight, along with the ability for Council to co-opt to nine if required.

3.1.2. Two only employer (or association as per 3.5.) representatives (one of whom is nominated by Māori employers) is considered inadequate representation. Suggest increasing to four employer or association representatives (one to two of whom are nominated by Māori employers). The breakdown of up to eight Council members would become:

- Four employer or association representatives (one to two of whom are nominated by Māori employers).
- One member nominated by trade unions.
- Up to three members appointed by a selection committee, not by Council (see 3.4).

It is acknowledged that the overall composition of the Council would need to fit the principles of Te Tiriti o Waitangi.

3.1.3. Not all unions that represent construction industry workers are members of the Council of Trade Unions (CTU). The NZIOB proposes that the requirement for a trade union nomination to be endorsed by the CTU be removed, so that nominations from unions that are not CTU members are not disadvantaged.

3.2. A Māori employer definition is required

A Māori employer definition is required i.e. is it a business whose majority shareholding is in the hands of individuals who are Māori? Is it a business that is 100% Māori owned such as an Iwi? It is unspoken on whether the person nominated by the Maori business has to themselves be Māori, though this is covered to some extent by the requirement that three Council members be Māori.



3.3. Council Terms

As written, terms between two and five years (Appointment of the First Council section) is considered too vague, and the upper limit of five years is deemed too long a term, with terms of between two and three years being recommended. It is acknowledged that it is wise to have varying length terms for the foundation Council to avoid the entire Council coming to the end of their respective terms at the same time. There are ways to manage that, which should be detailed.

3.4. Council Selection Committee (for ongoing Council)

An Independent (of Council) Chair for the Council Selection Committee has been provided for. This is considered very positive and demonstrates good governance practice.

The optics of Council appointing people to the Council Selection Committee, which is a group who in turn appoint the Council, could be construed negatively. It is suggested that an alternative model be developed, potentially one that mirrors the process in which the first Council Selection Committee is selected, which is by the WDC Chief Executive, ideally following an EOI process with industry.

It is recommended that there only be one Selection Committee member who is also a Council member (though that person cannot be the Chair of the Council Selection Committee), therefore satisfying the desirability that there is some connection between Council and the Selection Committee, though not too much connection.

3.5. Industry Associations need to be included as a source of nominees

Giving the construction and infrastructure associations a voice has not been provided for. Given the influence the associations have within the construction and infrastructure industries, and their commitment to the training of their members and construction and infrastructure practitioners more broadly, this oversight may become an impediment to the Construction and Infrastructure Workforce Development Council receiving full industry support. It is suggested that nominees not be limited to being nominated by employers. Rather, nominations can be made by construction & infrastructure industry employers, and construction & infrastructure industry associations.

Yours faithfully,

Malcolm Fleming
Chief Executive