

7 July 2016

IM60/104/52/3

**Education Report: Hato Petera – Consultation Extension
Sought from Proprietor**

Recommendations

We recommend that you:

- a) **agree** to extend the consultation timeframe on the future viability of Hato Petera College until 12 September 2016.


AGREE/DISAGREE

- b) **note** if you agree to this timeframe being extended, the Ministry will inform the Proprietor of your decision.

NOTED



Steve Stuart
Acting Deputy Secretary
Sector Enablement and Support

Encls

1



Hon Hekia Parata
Minister of Education

10.7.16

Education Report: Hato Petera – Consultation Extension Sought from Proprietor

Purpose of Report

- 1 The Proprietor of Hato Petera College wrote to you on 1 July 2016 requesting to extend the timeframe for consultation about the future viability of the College, from 5 August 2016 to 23 September 2016. This letter is attached as Appendix One.
- 2 This briefing provides you with information about the Proprietor's proposal and possible timelines for consultation. This is attached as Appendix Two.

Background

- 3 Earlier this year the Proprietor of Hato Petera College (College), the Bishop of Auckland, Patrick Dunn, wrote to you seeking your agreement to initiate consultation on the long-term viability of the College. The Proprietor raised concerns about:
 - the low roll, which is not sustainable longer term (the roll is 49 students as at 5 July 2016)
 - an inability to provide effective governance at the College
 - complaints made by the staff of the College concerning the leadership provided by the kaihautu of the College; and
 - breaches of the integration agreement, by failing to meet the correct number of tagged staffing positions and enrolling students over the agreed maximum non-preference roll of five per cent.
- 4 You wrote to the Proprietor on 9 June 2016 agreeing to his proposal to initiate consultation. As the College provides education for Māori students, you asked the Proprietor to also consider, and report back to you, on how he could ensure a strong future for Māori Catholic education in his Diocese. You asked the Proprietor to report the outcome of this consultation by 5 August 2016.
- 5 The Proprietor has sought an extension on this timeframe to 23 September 2016, because:
 - of the need to consider a plan for Māori Catholic education in his Diocese, and
 - his preferred facilitator is overseas.

Private Schools Conditional Integration Act 1975 (PSCI Act) – Process for Consultation

- 6 Under the PSCI Act, the Minister and the Proprietor enter into an integration agreement, which together with the PSCI Act sets out the terms and conditions of integration of a private school into the state system for both parties. Any change to an integration agreement must be mutually agreed to by both parties.

- 7 Section 11C of the PSCI Act provides for the cancellation of an integration agreement by mutual agreement between you and the Proprietor, following consultation with other interested persons or groups as both you and the Proprietor consider appropriate.
- 8 There is no provision under the PSCI Act that requires you to carry out a second round of consultation if you propose to cancel the integration agreement and close the school. However, section 80 of the PSCI Act states that it should be construed in a manner consistent with the Education Act 1989 where appropriate and reasonable to do so.
- 9 Section 154(2) of the Education Act 1989 provides for the Board of Trustees of a school to be given an opportunity to provide further argument against closure where closure of a school is proposed.
- 10 Accordingly if an agreement was reached to close the College, and the College Board of Trustees was opposed to the proposed closure of the school, our preference would be to provide the Board with a further opportunity to provide arguments against closure consistent with section 154(2) of the Education Act and section 80 of the PSCI Act.

Legal Comment (Privileged)

11

12

13

14

15

Option Analysis

- 16 Due to the factors outlined above, we have undertaken analysis of three options in relation to consultation timeframes (a detailed assessment of the risks and

benefits of each option and timelines for implementation is provided as Appendix Two). The options are:

Option A – Current timeframe (*Response due by 5 August 2016*)

- 17 The benefits of this option is that a decision on the future viability of the College would be made sooner, providing certainty for tamariki and whānau. However, this is not our preferred option because:
- the timelines for consultation would be so condensed, that it may not result in thorough and meaningful consultation
 - [REDACTED]
 - the Proprietor's preferred facilitator is overseas.

Option B – Proprietor's preferred timeframe (*Response due by 23 September 2016*)

- 18 The benefit of this option is that it would allow for what the Proprietor has requested. However, if the outcome of the consultation does lead to an agreement for closure, this option does not allow for sufficient time for the Ministry to undertake a second round of consultation should it be required.

Option C – Proposed middle-ground timeframe - Ministry's preferred option
(*Response due by 12 September 2016*)

- 19 This is our preferred option as it will allow the proprietor sufficient time to undertake consultation, and in part meet his request for an extension. It allows time for the Ministry to undertake a second round of consultation should it be required. There are some manageable risks associated with this. These are discussed in Appendix Two.

Ministry Comment

- 20 We recommend that you do not agree to the Proprietor's proposed date of 23 September 2016 to report back on the outcome of the consultation. This would mean, that should both you and the Proprietor agree to cancel the integration agreement, it would not allow adequate time for the Board of Trustees to provide any further arguments, through a second round of consultation.
- 21 If a decision was reached by you and the Proprietor to cancel the integration agreement and close the College, the agreed date for all secondary school closures is 27 January each year. If a second round of consultation was to take place, it is likely that this would not end until mid-November, leaving a final decision being made in early December. We feel that this timing could be too close to the end of the Term for students.
- 22 Our preferred option would allow a "middle-ground" for both parties. This option sees the Proprietor report back on his consultation by 12 September 2016 (five extra weeks). We feel that this is adequate time for the Proprietor to carry out his consultation, and to provide a plan for Māori education in his Diocese.
- 23 Option C is the only proposed option which gives a minimum 8 weeks for consultation while still building in the opportunity to hear further arguments later if necessary in accordance with section 154(2) of the Education Act 1989.

Update on the current situation at Hato Petera College

- 24 On Friday 30 June 2016, the Manager Education Auckland, Leisa Maddix, at the request of both the Trust Board and the Board of Trustees, facilitated a meeting between members of the Hato Petera College Board of Trustees and the Trust Board. At this meeting it was evident to all parties that the relationship between both groups had deteriorated to a concerning level and statutory intervention is now required.
- 25 We are working to appoint a Limited Statutory Manager (LSM) to support the Board. The LSM is expected to be in place at the beginning of Term 3, 2016 and will support the Board in the following areas:
- Relationships with the school community
 - Financial management
 - Physical and emotional student safety
 - Board roles and responsibilities
 - Policies and procedures
 - Human resource compliance

Complaints received from whānau

- 26 Last week, we received a complaint from the Principal regarding safety concerns for students in the hostel. The Principal has noted that four families [REDACTED] have raised these concerns with the Principal. The hostel is the responsibility of the Proprietor and we will continue to support the whānau, College and Proprietor as we work through these concerns raised.

Risk Analysis of consultation timelines:

Risk	Option A (Current)	Option B (Proposed)	Option C (Ministry's preferred option)
<p><i>The Proprietor/Board of Trustees and other interested parties may feel that there is insufficient time for adequate consultation.</i></p>	<p>The Proprietor has indicated it does not consider that 5 August is sufficient time to undertake and report back on consultation. In his letter, he states <i>we realise this later date presents some complications but we feel the additional time is important so that a fairer consultation can be held.</i> Our preferred option would be to grant the Proprietor some extension.</p>	<p>The Proprietor's representative has informally advised us that if the initial consultation period was this length (23 September 2016), he would not request a second round. While the Proprietor may consider one round of consultation is adequate, if the College's Board of Trustees does not agree with the proposal, our preferred option would be to provide an opportunity for them to provide further arguments.</p>	<p>We consider this to be the best option of those presented in terms of this risk, as it allows the Proprietor five weeks of consultation (ending on 12 September instead of original timeframe of 5 August) and also allows time for us to undertake a second round of consultation, if this was required.</p>
<p>Date of announcement if school is closing may impact on student learning</p>	<p>Depending on if this option has one or two rounds of consultation it would see students hearing in either September or October if the decision was that the College would close. The Ministry would continue to support staff and students through this process.</p>	<p>This option would see students hearing in late October if the decision is that the College would close. The Ministry would continue to support staff and students through this process.</p>	<p>This option sees students hearing in late November if the decision is that the College would close. This late notice may be disruptive to students; the Ministry would continue to support staff and students through this process.</p>

Risk	Option A (Current)	Option B (Proposed)	Option C (Ministry's preferred option)
<p>Staffing implications <i>27 January is the agreed date for closures of secondary schools. The Collective Agreement states that a permanent Principal must be given three months notice, and permanent staff members two months notice. If the agreement was to close, then we would need to announce and gazette the closure by 20 October 2016.</i></p>	<p>If there was only one round of consultation then this would mitigate this risk and allow for gazetting on 20 October 2016. However, if there is a second round of consultation for this option, then we would miss the 20 October date.</p>	<p>This option mitigates this risk as it would allow gazetting by 20 October 2016 and the adequate notice periods.</p>	<p>If the gazette notice was published on 24 November, the Ministry would pay the Principal's salary after the January closure date, until 24 February 2017 (one month extra). We feel this risk is mitigated by the fact we are providing extra time for the Proprietor to undertake consultation.</p>

Hato Petera College - Proposed Timeline Option A
Current Timeline

Date	Action	Action – if two rounds of consultation
Week of 11 July 2016	Announcement by the Proprietor of the consultation Ministry also undertakes consultation	
Friday 5 August 2016	Deadline for Proprietor to let Ministry know outcome of consultation	
Monday 8 August 2016	Ministry develops report	
Monday 22 August 2016	Ministry provides report to the Minister	
Monday 5 September 2016	Minister makes a decision and announcement of decision	OR Announcement of second round of consultation (5 September – 3 October) Report would be developed and provided to the Minister by 12 October and final decision by 26 October ¹
If the decision is to close the College:		
Prior to 20 October 2016	Board of Trustees and community informed of decision	
20 October 2016	Deadline to gazette closure Proprietor makes media release	
By 27 October 2016	Last date for Principal to receive letter of notice	
By 27 November 2016	Last date for permanent staff to receive letter of notice	
November/December/January	Ministry supports students/whānau to enrol at schools elsewhere Change manager and residual agent appointed	
27 January 2017	School closes	

¹ If Board of Trustees and the Proprietor have not come to the same conclusion then the Minister may announce a second round of consultation

Hato Petera College - Proposed Timeline Option B2
Proprietor's Proposed Timeline

Date	Action
Week of 11 July 2016	Announcement by the Proprietor of the consultation Ministry also undertakes consultation
Friday 23 September 2016	Deadline for Proprietor to let Ministry know outcome of consultation
Monday 26 September 2016	Ministry develops report
Friday 7 October 2016	Ministry provides report to Minister for consideration
Monday 17 October 2016	Minister makes a final decision
Tuesday 18 October 2016	Announcement of final decision ²
If the decision is to close the College:	
Prior to 20 October 2016	Board of Trustees and community informed of decision
20 October 2016	Deadline to gazette closure Proprietor makes media release
By 27 October 2016	Last date for Principal to receive letter of notice
By 27 November 2016	Last date for permanent staff to receive letter of notice
November/December/January	Ministry supports students/whānau to enrol at schools elsewhere Change manager and residual agent appointed
27 January 2017	School closes

² Note this timeline does not allow for a second round of consultation to be undertaken.

Hato Petera College - Proposed Timeline Option C (Ministry's preferred option)

Date	Action
Week of 11 July 2016	Announcement by the Proprietor of the consultation Ministry also undertakes consultation
Monday 12 September 2016	Deadline for Proprietor to let Ministry know outcome of its consultation
Tuesday 26 September 2016	Ministry develops and provides report to the Minister
Monday 3 October 2016	Minister has until Monday 3 October to consider the report and make an interim decision
If interim decision is to close the College	
Wednesday 5 October 2016	Second round of consultation begins (28 days) – Ministry led process
Tuesday 1 November 2016	End of consultation period
Monday 14 November 2016	Ministry develops and provides report to the Minister
Monday 21 November 2016	Minister has until Monday 21 November 2016 to consider report and make a final decision
If the decision is to close the College:	
Prior to 24 November 2016	Board of Trustees and community informed of decision
Thursday 24 November 2016	Gazette closure Proprietor makes media release
Thursday 24 November 2016	Principal and staff to receive letter of notice
December/January	Ministry supports students/whānau to enrol at schools elsewhere Change manager and residual agent appointed
27 January 2017	School closes



CATHOLIC DIOCESE OF AUCKLAND

Bishop's Office - Te Taumata o te Pihopa Katorika

Pompallier Diocesan Centre, 30 New Street, Saint Marys Bay, Auckland 1011
Private Bag 47904, Ponsonby, Auckland 1144
Telephone +64-9-360 3002, Fax +64-9-360 3016
Email: bishop@cda.org.nz Website: www.aucklandcatholic.org.nz

1 July 2016

07 JUL 2016
E161116

Hon Hekia Parata
Minister of Education
Parliament Office
Private Bag 18888
Parliament Buildings
WELLINGTON 6160

Dear Minister

Tena koe.

Thank you for your letter dated 9 June 2016 giving your consent for consultation to begin concerning the future of Hato Petera College in particular but, in addition, concerning the best options for Catholic Maori education within the Diocese of Auckland. Your letter was delivered to my office by Leisa Maddix from the Ministry's Auckland office.

I note your request to receive the results of this consultation by **Friday, 5 August 2016**.

We have already conveyed to Leisa Maddix that we believe we may need more time so that interested parties can feel they are being given the opportunity to express their views. With this in mind, we would like to propose that we try to get to Leisa in Auckland the results of our consultation by the end of the third term, i.e. by **Friday, 23 September 2016**.

We realise this later date presents some complications but we feel the additional time is important so that a fairer consultation can be held. I do hope this is acceptable to you, and unless we hear otherwise we will presume we do have your support to proceed in this way.

I do hope and pray that we can reach some consensus among stakeholders on the options that will provide the best educational outcomes for the young students most involved.

Yours sincerely

✉ Patrick Dunn
Bishop of Auckland

c.c. Paul Ferris, Chief Executive Officer, Association of Proprietors of Integrated Schools, PO Box 12307, Thorndon, Wellington 6144
Leisa Maddix, Manager – Education Curriculum and Performance, Auckland City District Office, Ministry of Education, Private Bag 92644, Symonds Street, Auckland 1150 (leisa.maddix@education.govt.nz)

