



## Education Report: **Alternative Constitution for the Newton Central School (1392) Board**

<b>To:</b>	Hon Jan Tinetti, Minister of Education		
<b>Cc:</b>	Hon Kelvin Davis, Associate Minister of Education (Māori Education)		
<b>Date:</b>	10 August 2023	<b>Priority:</b>	High
<b>Security Level:</b>	In Confidence	<b>METIS No:</b>	1314044
<b>Drafter:</b>	Cynnelle Scully, Lead Advisor   Te Tai Raro   Tāmaki Herenga Manawa	<b>DDI:</b>	09 632 0372
<b>Drafter:</b>	Gavin Holland, Practitioner SAF   Te Tai Raro   Tāmaki Herenga Manawa	<b>DDI:</b>	09 632 9443
<b>Key Contact:</b>	Jason Swann, Director of Education   Te Tai Raro   Tāmaki Herenga Manawa	<b>DDI:</b>	09 632 0318
<b>Messaging seen by Communications team:</b>	No	<b>Round Robin:</b>	No

### Purpose of Report

This report asks that you approve an alternative constitution for the Newton Central School (1392) Board ('the Board').

### Summary

1. The Newton Central School Board currently operates with a standard constitution under Section 119 of the Education and Training Act 2020 (the Act).
2. The Board seeks your approval for an alternative constitution under clause 4 of Schedule 22 of the Education and Training Act 2020.
3. The Board believes that this will provide for a strengthened governance model for Newton Central School. It will enable the Board to reinforce its primary objectives in governing Newton Central School with a commitment to honouring Te Tiriti o Waitangi.
4. If you approve the recommendation, a *New Zealand Gazette* notice addressing this matter, and letter to the Newton Central School Board Presiding Members and local Members of Parliament notifying them of your decision, are attached.

## Recommended Actions

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The Ministry of Education recommends that you:

- a. **approve** an alternative constitution for the Newton Central School (1392) Board, under clause 4 of Schedule 22 of the Education and Training Act 2020.

☒ **Agree** ☐ **Disagree**

And if you agree:

- b. **sign** the attached notice for publication in the *New Zealand Gazette* (Annex 1);
- c. **sign** the attached letter to the Newton Central School Board Presiding Members, advising of your decision (Annex 2); and
- d. **sign** the attached letters to the local Members of Parliament, the Hon Tangi Utikere, and the Hon Peeni Henare, advising of your decision (Annex 3).

You are also asked to:

- e. **agree** to proactively release this Education Report as part of the next publication. Any information that might need to be withheld in line with the provisions of the Official Information Act 1982.

☒ **Proactively release** ☐ **Not release**

  
Isabel Evans  
**Hautū | Deputy Secretary**  
**Te Mahau | Te Tai Raro**

10/08/2023

  
Hon Jan Tinetti  
**Minister of Education**

17/08/2023

## Background

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1. Newton Central School (1392) is a state contributing co-educational (year 1-6) primary school in Grey Lynn, Auckland.
2. As of July 2022, the roll was 306 students. The ethnic breakdown of the 306 students comprised 36% Māori, 8% Pacific, 15% Asian, 38% European and 3% Other.
3. Newton Central School was founded in 1923 and is celebrating its Centenary in November 2023. The school includes a rumaki unit that offers two Māori medium education pathways. Te Whānau Rumaki o Te Uru Karaka offers level 1 immersion in years 1-6. Te Whānau Awahou o Te Uru Karaka offers level 2 immersion in years 1-2, and level 1 immersion in years 3-6. Te Whao Urutaki is the school's Māori governance partner and is comprised of Māori whānau representation from across the school.
4. The Board believes that an alternative constitution would provide for equal parent representation between the non-Māori medium pathway (Auraki) and the Māori medium pathway (Te Aka Pūkāea).
5. To ensure the school's plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori, the Board is providing an opportunity for up to one seat representing Ngāti Whātua, which will be appointed by Ngāti Whātua Ōrākei, who have a long-standing and historical connection with Newton Central School.
6. The Board now requests that you approve an alternative constitution under clause 4 of Schedule 22 of the Education and Training Act 2020.

## Legislative requirements

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### Alternative Constitution

7. Under clause 4(1) of Schedule 22 to the Education and Training Act 2020, you may approve an alternative constitution for the board of a state school.
8. You may not approve an alternative constitution for a board unless:
  - you have reasonable cause to believe that an alternative constitution is in the best interests of the school or schools governed by the board (clause 4(2) of Schedule 22 to the Act), and
  - one of the specified conditions under clause 4(3)(a) of Schedule 22 to the Act applies, and
  - you have consulted any persons or organisations as you think fit (clause 4(3)(b) of Schedule 22 to the Act).
9. The above three requirements have been satisfied:
  - This report recommends that an alternative constitution is in the best interests of the school.

- The Board has requested an alternative constitution, which satisfies the requirements of clause 4(3)(a)(iii) of Schedule 22 to the Act.
  - On your behalf we have consulted persons and organisations on the proposed alternative constitution.
10. If you approve an alternative constitution, a notice must be published in the *New Zealand Gazette*, giving effect to your decision. The notice must specify the members who are to be elected or appointed in the manner specified in the notice, and may, without limitation:
- a. set out a procedure for any election, appointment, or co-optation of board members,
  - b. set out the manner in which vacancies are to be filled,
  - c. provide for the appointment of returning officers and set out their functions, and
  - d. set out other formal and procedural provisions for the purposes of any election, appointment, or co-optation of board members.
11. While a notice approving an alternative constitution is in force, certain sections and clauses of the Act do not apply unless specified in the notice (clause 5(2) of Schedule 22 to the Act).
12. An alternative constitution can allow formal recognition of a school community character/identity or formal recognition of a partnership between the school and another party. An alternative constitution can also be appropriate if a different mix or number of members is sought, outside the provisions of a standard board constitution.

### Proposed Alternative Constitution

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13. The Board currently operates with a standard constitution under Section 119 of the Education and Training Act 2020. The Board now requests an alternative constitution.
14. The Board proposes that the Newton Central School Board will be made up of the following members:
- a. the Principal of Newton Central School;
  - b. one staff representative;
  - c. four parent representatives appointed by parents from Te Aka Pūkāea (Māori Medium);
  - d. four parent representatives elected by parents from Auraki (non-Māori Medium); and
  - e. up to one Ngāti Whātua representative appointed by Ngāti Whātua Ōrākei.
15. With respect to the clauses set out under clause 5(2) of Schedule 22 to the Act, that do not apply unless specified, the Board is requesting that the following clauses apply to the alternative constitution:
- Clause 1, Schedule 22                      Parent representatives
  - Clause 2, Schedule 22                      Staff representative

- Clause 1, Schedule 23 Criteria for selecting co-opted and appointed members
- Clause 3, Schedule 23 Election of board members
- Clause 8, Schedule 23 Term of office
- Clause 12, Schedule 23 When casual vacancies arise
- Clause 13, Schedule 23 Filling casual vacancies of elected board Members

16. Under clause 8(8) of Schedule 23, any appointed members have a maximum term of office of up to three years and therefore the Board will need to ensure that the process for appointment by Te Aka Pūkāea and Ngāti Whātua Ōrākei are undertaken again at that time.
17. If you approve the alternative constitution, the Board will need to hold its next elections for board members under this constitution.
18. Attached is a notice for the *New Zealand Gazette* (Annex 1), reflecting the Board's proposed alternative constitution, with the relevant transitional arrangements and supporting terms and conditions.

## Consultation

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19. In August 2021, we obtained permission from the then Minister of Education, the Rt Hon Chris Hipkins, to undertake consultation with relevant parties [METIS 1266856 refers].
20. We undertook consultation on the proposed alternative constitution for the Board of Newton Central School using the Ministry of Education Consultation Hub from 15 May to 30 June 2023. Newton Central School notified its community of the consultation via email and the school Facebook page. In addition, the school held two community hui on 15 June 2023 with representatives from the Ministry attending.
21. On 16 May 2023, we consulted with the New Zealand School Trustees Association (NZSTA), the Education Review Office (ERO) and the New Zealand Educational Institute (NZEI) on the draft final membership of the alternative constitution. No responses were received.
22. On 16 May 2023, we also consulted with the principals from Te Kāhui Ako o Waitematā (Community of Learning) on the draft final membership of the alternative constitution. One response was received which was in support of the proposal.
23. The consultation hub received 28 responses. 27 of these responses were fully in support of the proposal.
  - The most common theme was that the proposal would formalise the successful Te Tiriti-based governance model that the school already operates.
  - The submission that did not express full support for the proposal questioned whether the proposal represented a co-governance model as there are eleven seats so there is not provision for an equal number of seats for Māori and non-Māori members. The Ministry response is that the proposal was not presented as co-governance, although there is provision for equal numbers of elected seats for Māori and non-Māori.

- The submission also questioned whether the role and responsibilities of the appointed representative of Ngāti Whātua Ōrakei were clear. The Ministry response is that Board members bring the lens to decision making of the people that put them there, but they are all there to act in the best interests of the school. A school board works in partnership with its school, its community, and the government to ensure the best possible outcome for all students and their whānau.
24. The Board of Newton Central School consulted with Ngāti Whātua Ōrakei Trust. They replied to them on 18 April 2023 confirming they were in support of the proposed constitution and of their proposed appointed representative. During our consultation we confirmed with Ngāti Whātua Ōrakei that the representative of the Trust who responded to the school had the authority to speak on behalf of the iwi.

## Risks

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25. We have consulted on your behalf regarding this proposal, in addition to the engagement undertaken by the Board with its community and Ngāti Whātua Ōrakei. We do not consider there to be any significant risks to approving this alternative constitution. If in the future, the Board or members of the parent community wish to change the constitution, they can request an amendment.

## Financial Implications

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26. There are no financial implications if you approve the proposed alternative constitution.

## Ministry comment and view

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27. We consider that the legislative requirements have been met as the proposed alternative constitution is in the best interests of the school and its students, the Board has requested an alternative constitution, and all appropriate persons and organisations have been consulted.
28. We recommend you approve the alternative constitution for the Newton Central School Board.

## Proactive Release

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29. We recommend that this Education Report is proactively released at this time and any information that may need to be withheld be redacted in line with the provisions of the Official Information Act 1982.

## Annexes

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- Annex 1: Notice for the *New Zealand Gazette*  
Annex 2: Letter to the Board Presiding Members  
Annex 3: Letters to the local Members of Parliament

**NOTICE FOR NEW ZEALAND GAZETTE**

**Alternative Constitution for the Newton Central School (1392) Board**

1. Pursuant to clause 4 of Schedule 22 of the Education and Training Act 2020 ('the Act'), I hereby approve an alternative constitution for the **Newton Central School (1392) Board**.
2. The **Newton Central School (1392) Board** ('Board') shall be made up of the following members:
  - a. The Principal of Newton Central School;
  - b. One staff representative;
  - c. Four parent representatives appointed by parents from Te Aka Pūkāea;
  - d. Four parent representatives elected by parents from Auraki; and
  - e. Up to one Ngāti Whātua representative appointed by Ngāti Whātua Ōrākei.
3. Despite clause 5 of Schedule 22 to the Education and Training Act 2020, the following sections of the Education and Training Act will apply where relevant:

Schedule 22 - Clauses 1 and 2  
Schedule 23 - Clauses 1, 3, 8, 12 and 13

**Election of Auraki parent representatives and staff representatives for the board**

4. Elections required under this notice for representatives, will be carried out under the Education (Board Election) Regulations 2022 ("election regulations"). A returning officer will be appointed by the board for each election and will carry out the duties of the role in accordance with the election regulations.

**Te Aka Pūkāea appointed Parent Representatives**

5. The parent representatives from Te Aka Pūkāea will be appointed in accordance with the process set out by Te Whao Urutaki. Any parent or guardian of a child enrolled in Te Aka Pūkāea may participate in this appointment process.

**Ngāti Whātua Ōrākei Appointed Representative**

6. Ngāti Whātua Ōrākei may appoint up to one member to ensure the school plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori.

**Participation not permitted in more than one electoral process**

7. Any parent or guardian who has children enrolled in both Auraki and Te Aka Pūkāea can elect whether to participate in the Te Aka Pūkāea Representative appointment process or the Auraki Representative election but may not participate in both.
8. Any parent or guardian who is eligible to participate in both a Auraki parent election and a Te Aka Pūkāea appointment process, may opt to participate in either the Auraki parent election or the Te Aka Pūkāea appointment process but cannot participate in both. Parents or guardians must make this decision known, in writing, to the returning officer before the main roll closes for earliest election in an election year. If no preferred option is made, parents or guardians shall participate only in the Auraki parent election. Parents or guardians may participate in only an election or appointment process between the main election in election years unless their eligibility status changes.
9. If a staff member is eligible to participate in either the Te Aka Pūkāea appointment process or the Auraki parent elections, they may opt to participate in one of those processes instead of the staff election. Staff members who have opted to participate as above are not eligible to be elected as the staff representative. Staff members must make this decision known, in writing, to the returning officer before the main roll closes for earliest election in an election year. If no preferred option is made, staff shall participate only in the staff election. Staff members may

participate in only one type of election or appointment between the main election in election years unless their eligibility status changes.

### Transitional Arrangements

10. This alternative constitution will take effect on the date of publication.
11. Subject to clauses 1 and 2 of Schedule 22 to the Act, the next election for Auraki parent and staff elected representatives will occur during the 2025 election period set by the Minister of Education, and triennially thereafter.
12. No parent representative is to go out of office, and no casual vacancy for a parent representative position may be filled unless the vacancy has reduced the number of parent representatives to fewer than the number under the alternative constitution.
13. Te Whao Urutaki may appoint up to four representatives once this alternative constitution has taken effect.
14. Ngāti Whātua Orākei may appoint up to one representative once this alternative constitution has taken effect.
15. Changes to the constitution of the Board will be subject to the approval of the Minister of Education and must be notified in the *New Zealand Gazette*.

### Explanatory Note

This explanatory note is not part of the notice, but it is intended to indicate its general effect.

This constitution reinforces the primary objectives in governing Newton Central Primary School with a commitment to honouring Te Tiriti o Waitangi.

This constitution gives effect to Te Tiriti o Waitangi and the principles of partnership, good faith and tino rangatiratanga of Māori, through this unique, co-governance model.

The board positions provide for equal parent representation between Auraki and Te Aka Pūkāea.

### Definitions:

- i. **Auraki** means the pathway of the school that is not Te Aka Pūkāea.
- ii. **Te Aka Pūkāea** means the pathway of the school under which:
  - a. ākonga and their whānau undergo a tono process to be accepted;
  - b. ākonga are taught either fully in Te Reo Māori, or a mixture of Te Reo Māori and te reo Pākehā;
  - c. ākonga are taught mātauranga Māori;
  - d. ākonga are taught in accordance with local tikanga and kawa; and
  - e. whānau of ākonga endorse a Te Ao Māori worldview and commit to supporting ākonga in their exploration Te Reo Māori, tikanga and kawa.

Dated at Wellington this                      day of xx 2023.

Hon Jan Tinetti  
Minister of Education



Proactively Released

**Hon Jan Tinetti**

Minister of Education  
Minister for Women  
Minister for Child Poverty Reduction



Ms Margaret Tukerangi and Ms Hannah Andrews  
Presiding Members  
Newton Central School Board

Tēnā kōrua

I am pleased to advise, that following your request, and after considering the information available to me, I have approved an alternative constitution for the Newton Central School Board.

The Newton Central School Board shall be made up of the following members:

- the Principal of Newton Central School;
- one staff representative;
- four parent representatives appointed by parents from Te Aka Pūkāea (Māori Medium);
- four parent representatives elected by parents from Auraki (non-Māori Medium); and
- up to one Ngāti Whātua representative appointed by Ngāti Whātua Ōrākei.

A notice will soon be published in the *New Zealand Gazette*, upon which this constitution will take effect. A copy of the notice, which includes the transitional arrangements, is attached in Appendix 1.

I would like to take this opportunity to thank you and the Board for your ongoing contribution to the governance of Newton Central School. Your service to the school and its community has made a difference for students and their whānau. I wish you and your school community well for the future.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'J. Tinetti'.

Hon Jan Tinetti  
Minister of Education

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## Appendix 1 – New Zealand Gazette Notice

### NOTICE FOR NEW ZEALAND GAZETTE

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#### Ngāti Whātua Ōrākei Appointed Representative

6. Ngāti Whātua Ōrākei may appoint up to one member to ensure the school plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori.

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### **Transitional Arrangements**

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15. Changes to the constitution of the Board will be subject to the approval of the Minister of Education and must be notified in the *New Zealand Gazette*.

### **Explanatory Note**

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The board positions provide for equal parent representation between Auraki and Te Aka Pūkāea.

### **Definitions:**

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Proactively Released

**Hon Jan Tinetti**

Minister of Education  
Minister for Women  
Minister for Child Poverty Reduction



Hon Tangi Utikere  
Caretaker Member of Parliament – Mt Albert  
Parliament Buildings  
WELLINGTON

Tēnā koe Tangi

I am pleased to advise that following a request from the Newton Central School Board, and after considering the information available to me, I have given my approval for an alternative constitution for this Board, under clause 4 of Schedule 22 of the Education and Training Act 2020.

The Newton Central School Board shall be made up of the following members:

- the Principal of Newton Central School;
- one staff representative;
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- up to one Ngāti Whātua representative appointed by Ngāti Whātua Ōrākei.

The alternative constitution will take effect from the date of publication in the *New Zealand Gazette*.

Nāku noa, nā

Hon Jan Tinetti  
Minister of Education

**Hon Jan Tinetti**

Minister of Education  
Minister for Women  
Minister for Child Poverty Reduction



Hon Peeni Henare  
Member of Parliament – Te Tai Tokerau  
Parliament Buildings  
WELLINGTON

Tēnā koe Peeni

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- up to one Ngāti Whātua representative appointed by Ngāti Whātua Ōrākei.

The alternative constitution will take effect from the date of publication in the *New Zealand Gazette*.

Nāku noa, nā

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Hon Jan Tinetti  
Minister of Education