

Education Report: Amendment to the Alternative Constitution for the Northland College (9) Board

To:	Hon Jan Tinetti, Minister of Education		
Cc	Hon Kelvin Davis, Associate Minister of Education (Māori Education)		
Date:	10 August 2023	Priority:	High
Security Level:	In Confidence	METIS No:	1307167
Drafter:	Helen Greaney Senior Advisor- School Governance Practice and Pathways, Te Pae Aronui	DDI:	9(2)(a)
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

This report seeks your approval to amend the constitution for the Northland College (9) Board ('the Board').

Summary

1. The Northland College Board currently operates with an alternative constitution under clause 4 of Schedule 22 of the Education and Training Act 2020.
2. The Board seeks your approval to amend this alternative constitution.
3. By amending its alternative constitution, the Board is proposing a governance structure that better reflects its community and provides for its local iwi, Te Rūnanga o Ngāpuhi, to have representation on the Board.
4. If you approve the recommendation, a *New Zealand Gazette* notice with the amended alternative constitution, and letters to the Northland College Board Presiding Member and local Members of Parliament notifying them of your decision, are attached.

Recommended Actions

The Ministry of Education recommends you:

- a. **approve** an amended alternative constitution for Northland College School (9) 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); and
- c. **sign** the attached letter to the Presiding Member of Northland College School Board advising them of your decision (Annex 2); and
- d. **sign** the attached letters to the local members of Parliament, Emily Henderson and Shane Reti, advising of your decision (Annex 3) and

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
Te Hautū | Deputy Secretary
Te Mahau | Te Tai Raro

11/08/2023



Hon Jan Tinetti
Minister of Education

17/08/2023

Background

1. Northland College is a state secondary school (year 9 – 15) situated in Kaikohe, Te Tai Tokerau.
2. As of July 2022, the roll was 247 students. The ethnic breakdown of the 247 students comprised of 96% Māori, 2% Pacific, 1% Asian, and 1% European.
3. In June 2012, due to risks to the operation of the school, the Board was dissolved and a Commissioner was appointed under section 78N(1) of the Education Act (1989) (now Section 181(1) and (2) of the Education and Training Act 2020) (the *New Zealand Gazette*, Notice number 2012-go3671).
4. On 28 April 2015, an alternative constitution was approved for the Northland College Board (the *New Zealand Gazette*, Notice number 2015-go2474). The alternative constitution came into effect on 8 May 2015, with all board members to take office when the Commissioner's appointment ended.
5. On 4 June 2015, a Limited Statutory Manager (LSM) was appointed under 78M of the Education Act 1989 (now Section 180 of the Education and Training Act 2020) to the Board (the *New Zealand Gazette*, notice 2015-go3245) due to risks to the operation of the school and the educational performance of its students.
6. This intervention was revoked on 18 November 2019, (the *New Zealand Gazette*, notice 2019-go5322) and the Board was returned to self-governance.
7. The alternative constitution consisted of the following members;
 - a) one parent representative;
 - b) the principal.
 - c) one staff representative;
 - d) one student representative;
 - e) up to one co-opted trustee;
 - f) up to one trustee appointed by Te Rūnanga o Ngāpuhi; and
 - g) up to three Ministerial appointed trustees.
8. The Ministerial appointed board members were included in the alternative constitution to provide continuity on the board while it considered constitution changes.
9. The Board is now at the point where it wishes to remove the Ministerial appointments from the alternative constitution because the school and the community wish to have elected board members and co-opted members to govern the school moving forward.
10. A key influence in the development of the strong governance since the Alternative Constitution has been in place has been the presence of a representative of Te Rūnanga o Ngāpuhi and the connection to local Iwi.
11. Te Rūnanga o Ngāpuhi, local Iwi will continue to have the ability to appoint up to one board member to the Northland College School board. This important relationship is valued by both the Rūnanga and the school and continues to strengthen the collaboration between the school and Iwi.

Legislative requirements

Alternative Constitution

12. 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.
13. 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)
14. 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.
15. 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.
16. 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).
17. 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

18. The current alternative constitution for the Northland College Board consists of the following members;
 - a) one parent representative;
 - b) the principal;
 - c) one staff representative;
 - d) one student representative;

- e) up to one co-opted trustee;
- f) up to one trustee appointed by Te Rūnanga o Ngāpuhi; and
- g) up to three Ministerial appointed trustees.

19. The Board proposes that the Northland College Board will be made up of the following members:

- a) the Principal of Northland College;
- b) one staff representative.
- c) one student representative;
- d) five parent elected members,
- e) up to one member appointed by Te Rūnanga o Ngāpuhi, and
- f) up to three co-opted members.

20. 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

21. 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 Rūnanga o Ngāpuhi is undertaken again at that time.

22. If you approve the alternative constitution, the Board will need to hold its next elections for board members under this constitution.

23. 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

24. In May 2023, Leisa Maddix, (Hautū (Acting) Te Mahau | Te Tai Raro (North)) signed approval for the local office of the Ministry of Education to undertake consultation on your behalf regarding these constitution changes for Northland College.

25. Consultation was conducted via the Ministry of Education's Consultation Hub. There were 13 responses received, with respondents including parents, staff, students and interested members of the community. All were fundamentally supportive of the changes, expressing pleasure at the move to a more independent governance body with spaces for more parent elected board members. Respondents also highlighted the

importance they saw in ensuring the continuance of Te Rūnanga o Ngāpuhi representation.

26. Some questions were asked regarding selection of co-opted board members, and the appointment of the representative from Te Runanga o Ngāpuhi. It has been arranged for either a Board member or a member of the Ministry (in accordance with the submissions' requests) to contact those who raised these questions to explain the processes being followed and to ensure any suggestions made can be noted and considered in the future.
27. We also ensured the College consulted with its community through its normal communication channels. This was done via a panui in which the principal informed readers of what was being proposed and invited response. No responses were received.
28. Currently there is one member appointed by the Hautū for Te Tai Raro. The school supports the removal of the Ministry appointed member. The Ministry supports the schools request to form an alternative constitution with elected co-opted members as effective governance for the school.

Risks

29. The risk of taking out the Ministerial appointment is the lack of people willing to be on the school board. The consultation responses indicate sufficient interest from the community and will support the school board election.
30. We have consulted on your behalf regarding this proposal, in addition to the engagement undertaken by the board with its community and Te Runanga o Ngāpuhi. We do not consider there to be any significant risks to the Board's request to amend the Alternative Constitution. If in the future, the Board or members of the parent community wish to change the constitution, they can request a further amendment.

Financial Implications

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

Conclusion

32. The Ministry considers that the proposed amendments to the constitution are in the best interests of Northland College and recommends that you approve this proposal.

Proactive Release

33. It is intended that this Education Report is proactively released as per your expectation that information be released as soon as possible. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.

Annexes

The following are annexed to this paper:

- Annex 1: Notice for the New Zealand Gazette: Amendment to the Alternative Constitution for Northland College Board (9)
- Annex 2: Letter to the Presiding Member of Northland College School Board
- Annex 3 Letters to local Members of Parliament

Proactively Released

Proactively Released

NEW ZEALAND GAZETTE NOTICE

Amendment to the Alternative Constitution for Northland College (9) Board

1. Pursuant to clause 4 of schedule 22 of the Education and Training Act 2020 ("Act"), I hereby approve an alternative constitution for the **Northland College (9) Board**.
2. The **Northland College (9) Board** ('Board') shall be made up of the following members:
 - a. the Principal;
 - b. one staff representative;
 - c. one student representative;
 - d. 5 parent elected members,
 - e. up to one board member appointed Te Runanga o Ngāpuhi; and
 - f. up to 3 co-opted members
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

Members appointed by Te Runanga o Ngāpuhi

4. Te Runanga o Ngāpuhi may appoint up to one member.
5. Casual vacancies for appointed members must be notified promptly by the board to the appointing bodies and such vacancies will be filled by appointment in the same manner as the vacating member was appointed for the residue of the term of the vacating member.

Transitional arrangements

As the result of board elections the Ministerial appointment will cease.

This notice shall come into effect on the date of publication in the *New Zealand Gazette*.

Dated at Wellington this 17th day of August 2023.



Hon Jan Tinetti
Minister of Education

Proactively Released

Kohi Woodman
Presiding Member
Northland College School Board

9(2)(a)

Tēnā koe Kohi

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 Northland College School Board.

The Northland College School Board shall be made up of the following members:

- the Principal of Northland College;
- one staff representative;
- one student representative;
- 5 parent elected representatives;
- up to one member appointed by Te Runanga o Ngāpuhi, and
- up to 3 co-opted members to provide identified skills in a timely manner.

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.

Nakū noa, nā



Hon Jan Tinetti
Minister of Education

Proactively Released

Letter head and footer to be added

Member of Parliament –
Parliament Buildings
WELLINGTON

Tēnā koe

I am pleased to advise that following a request from the Northland College 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 Northland College School Board shall be made up of the following members:

- the Principal of Northland College;
- one staff representative;
- one student representative;
- 5 parent elected representatives;
- up to one member appointed by Te Runanga o Ngāpuhi, and
- up to 3 co-opted members to provide identified skills in a timely manner.

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