

## Education Report: Request approval of an alternative constitution for the Kerikeri High School (5) Board

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|---|--|---------------------|-------------|
| <b>To:</b>                                    | Hon Jan Tinetti, Associate Minister of Education (School Operations) |                     |             |
| <b>Cc:</b>                                    | Hon Chris Hipkins, Minister of Education                             |                     |             |
| <b>Date:</b>                                  | 16 January 2023  | <b>Priority:</b>    | High        |
| <b>Security Level:</b>                        | In Confidence  | <b>METIS No:</b>    | 1301772     |
| <b>Drafter:</b>                               | Lyndsay Whitehead, Education Advisor   Te Tai Raro Tai Tokerau       | <b>DDI:</b>         | 04 463 8036 |
| <b>Key Contact:</b>                           | Hira Gage, Director of Education   Te Tai Raro Tai Tokerau           | <b>DDI:</b>         | 09 632 9333 |
| <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 Kerikeri High School Board.

### Summary

1. Over the past nine years Kerikeri High School has had a representative of local iwi Ngāti Rēhia co-opted to the Board. The co-opted member of the Board has been consulted on all decisions made by the Board during this time.
2. The Board seeks your approval for an alternative constitution to provide a permanent position on the Board for Ngāti Rēhia. The request originated from the realisation that few parents that are Māori stand during board elections, leaving the Board to co-opt to maintain representation.
3. The Board believes its governance capability will be strengthened, and the school's unique identity and community involvement preserved and enhanced, through the proposed alternative constitution.
4. Kerikeri High School and Ngāti Rēhia signed a Memorandum of Understanding in 2021 for Ngāti Rēhia to have a permanent seat on the Board.

## Recommended Actions

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The Ministry of Education recommends you:

- a. **approve** an alternative constitution for the Kerikeri High School (5) Board, under clause 4 of schedule 22 to 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 the Kerikeri High School Board informing them of your decision (Annex 2); and

You are also asked to:

- d. **agree** to proactively release this Education Report as part of the next publication. Any information that might need to be withheld, will 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**

16/01/2023



Hon Jan Tinetti  
**Associate Minister of Education**  
**School Operations**

21/01 / 2023

## Background

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1. Kerikeri High School (5) is a decile 6, co-educational, state secondary school located in Te Tai Tokerau.
2. The roll in July 2022 was 1530 students comprising 899 (59%) European, 541 (35%) Māori, 20 (1.5%) Pacific, 37 (2.3%) Asian, 29 (2%) Other, and 4 (0.2%) International.
3. Over the past six years the Board has worked to strengthen its relationship with local iwi Ngāti Rēhia.
4. The Board currently operates with a standard constitution under Section 119 of the Education and Training Act 2020 (the Act).
5. In late 2019 the Board agreed to seek approval for an alternative constitution to provide a permanent position on the Board for Ngāti Rēhia. The decision originated from the realisation that few parents that are Māori stand for board election, leaving the Board to fill these positions through co-option.
6. The Board believes its governance capability will be strengthened through the proposed alternative constitution, and the school's unique identity and community involvement preserved and enhanced.

## Legislative requirements

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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. If you approve an alternative constitution, a notice must be published in the *New Zealand Gazette*, giving effect to your decision. The notice should 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
  - d. set out other formal and procedural provisions for the purposes of any election, appointment, or co-optation of board members.
10. 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).

11. An alternative constitution can allow formal recognition of a school community character or 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

12. The Kerikeri High School Board has been in consultation with its community and Ngāti Rēhia, its local iwi, for several years working towards ensuring the iwi has a voice on the Board as of right. Discussions began at a combined whānau and Matariki celebrations in June 2018.
13. In a letter to Hon Chris Hipkins, dated 8 March 2022 [METIS 1283531 refers], the Kerikeri High School Board sought his consideration and approval for an alternative constitution under Schedule 22 of the Education and Training Act 2020.
14. The Board proposes that the Kerikeri High School Board will be made up of the following members:
- six parent representatives;
  - the Principal;
  - one staff representative;
  - one student representative;
  - up to one member appointed by Ngāti Rēhia; and
  - up to three co-opted members.
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 below clauses apply to the alternative constitution:
- Clause 1 of Schedule 22 to the Act – Parent representatives
  - Clause 2 of Schedule 22 to the Act – Staff and student representatives
  - Clause 1 of Schedule 23 to the Act – Criteria for selecting co-opted and appointed board members
  - Clause 3 of Schedule 23 to the Act – Elections of board members
  - Clause 8 of Schedule 23 to the Act – Term of office
  - Clause 12 of Schedule 23 to the Act – When casual vacancies arise
  - Clause 13 of Schedule 23 to the Act – Filling casual vacancies of elected board members.
16. A standard constitution under section 119 has a number of elected parent representatives, the principal, an elected staff and student representative, and the ability to co-opt members. To minimise disruption to the board, the Board requests that, if you approve the proposed constitution:
- the current members elected at the triennial election in September 2022 stay in office through until after the elections in 2025, and
  - Ngāti Rēhia appoints its representative after the alternative constitution takes effect.

17. Under clause 8(8) of Schedule 23 to the Act, any appointed or co-opted members have a maximum term of office of up to three years and therefore the Board will need to ensure that the processes for the Ngāti Rēhia appointed member and or co-options is undertaken again in 2025.
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.
19. The Board believes that the proposed alternative constitution will formalise the current Memorandum of Understanding between the Board and Ngāti Rēhia, by ensuring the Board's constitution provides for local iwi representation.
20. The Te Tii community have also been involved and are supportive of this proposal. The Board's current strategic plan includes the goal of recognising the special relationship with Ngāti Rēhia and their aspirations.

## Consultation

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21. To fulfil the legislative requirement to undertake consultation, in July 2022 we sought your approval to undertake consultation on your behalf [METIS 1287176 refers] with relevant parties such as but not limited to:
  1. Current students at the school
  2. Parents, caregivers and whānau of current and prospective students at the school
  3. Staff employed by the school.

The consultation carried out by Kerikeri High School included the local iwi / hapū, Ngāti Rēhia.
22. Consultation undertaken by the Ministry on the proposed Kerikeri High School alternative constitution was run on the Ministry of Education Consultation Hub from 17 October to 14 November 2022. The target audience for this consultation was students, parents and staff of Kerikeri High School as determined by the Director of Education, Hira Gage. The Board was advised that the consultation was available on the Ministry of Education Consultation Hub. A single response was received which supported the proposed alternative constitution. The school has offered to support the Ministry of Education consultation in 2023 if it needs to be re-visited.
23. Due to the transparent practice of the Board having a co-opted member from Ngāti Rēhia for the last 9 years and the Memorandum of Understanding agreed in 2021 for Ngāti Rēhia to have a permanent seat on the Board, we are confident that the community is aware of the proposal and that consultation has been sufficient to confirm that the Board's request for an alternative constitution has community support.

## Risks

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24. We have conducted consultation on your behalf regarding this proposal, in addition to the engagement already undertaken by the Board with its community and Iwi. 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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25. There are no financial implications if you approve the proposed alternative constitution.

## Ministry comment and view

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26. We consider that the legislative requirements have been met, in that:
- you have reasonable cause to believe that an alternative constitution is in the best interests of the school or schools governed by the board, as the school has co-opted previously to meet this identified need.
  - the Board has applied for your consideration, meeting one of the specified conditions under clause 4(3)(a) of Schedule 22 to the Act, and
  - you have consulted any persons or organisations as you think fit, in this case, the whānau, students and staff, fulfilling (clause 4(3)(b) of Schedule 22 to the Act).
27. We recommend you approve the alternative constitution for the Board.

## Proactive Release

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28. 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 One: Notice for the *New Zealand Gazette*

Annex Two: Letter to the Presiding Member

Proactively Released



## NEW ZEALAND GAZETTE NOTICE

### Alternative Constitution for the Kerikeri High School (5) Board

1. Pursuant to clause 4 of Schedule 22 to the Education and Training Act 2020 ("the Act"), I hereby approve an alternative constitution for the **Kerikeri High School (5) Board**.
2. The **Kerikeri High School (5) Board** ("the board") will be made up of the following members:
  - a. six parent representatives;
  - b. the Principal;
  - c. one staff representative;
  - d. one student representative;
  - e. up to one member appointed by Ngāti Rēhia; and
  - f. up to three co-opted members.
3. Notwithstanding 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 Ngāti Rēhia

4. Ngāti Rēhia may appoint up to one eligible member for a term of office for up to three years.

### Transitional Arrangements

5. This alternative constitution will take effect on the date of publication.
6. Subject to clauses 1 and 2 of Schedule 22 to the Act, the next election for parent and staff elected representatives will occur during the 2025 election period set by the Minister of Education, and triennially thereafter. The next election for the student elected representative will occur in September 2023, and annually thereafter.
7. Ngāti Rēhia may appoint an eligible board member once this alternative constitution has taken effect.
8. 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*.

Dated at Wellington this 21<sup>st</sup> day of January 2023.

Hon Jan Tinetti  
**Associate Minister of Education (School Operations)**

Proactively Released

# Hon Jan Tinetti

Minister of Internal Affairs  
Minister for Women  
Associate Minister of Education



Mr Chris McLellan  
Presiding Member  
Kerikeri High School Board  
[board@kerikerihigh.ac.nz](mailto:board@kerikerihigh.ac.nz)

Tēnā koe Chris

Thank you for your application seeking my approval for an alternative constitution for the Kerikeri High School (5) Board. I am pleased to tell you that, after considering all the information available to me, I have approved your application.

The constitution will take effect from the date of its publication in the *New Zealand Gazette*. A notice announcing my decision will be published on the *New Zealand Gazette* website - <https://gazette.govt.nz/>.

The Kerikeri High School Board will be made up of the following members:

- six parent representatives;
- the Principal;
- one staff representative;
- one student representative;
- up to one member appointed by Ngāti Rēhia; and
- up to three co-opted members.

## Transitional arrangements

The current parent and staff elected board members, elected at the 2022 triennial elections will remain in office. The next election for parent and staff elected representatives will occur during the 2025 election period set by the Minister of Education, and triennially thereafter. The next election for the student elected representative will occur in September 2023, and annually thereafter.

Ngāti Rēhia may appoint an eligible board member once this alternative constitution has taken effect.

I also recommend that the Board continue to work with the Ministry's Tai Tokerau office and the New Zealand School Trustees Association.

I would like to congratulate your board on this initiative, which will ensure formal representation of your local iwi on the Board into the future.

Nāku noa, nā

Hon Jan Tinetti  
**Associate Minister of Education (School Operations)**