



Education Report: Request for permission to consult on Alternative Constitutions

To:	Hon Chris Hipkins, Minister of Education		
Date:	16 March 2021	Priority:	High
Security Level:	In Confidence	METIS No:	1251707
Drafter:	Andrea Thomson – Senior Advisor	DDI:	04 463 8254
Key Contact:	Doug Ferry – Manager, School Governance	DDI:	04 463 8262
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

The purpose of this paper is for you to:

Agree that the Ministry undertake consultation on your behalf, regarding alternative constitutions for the following school boards:

- Kamo High School (13)
- Manukura (739)
- Tai Wānanga (632)
- Woodhill School (1577).

Note that under clause 4(3)(b) of Schedule 22 to the Education and Training Act 2020 (the Act), you may not approve an alternative constitution unless you have consulted with any persons or organisations as you think fit.

Note that the Ministry will report back to you on the outcome of consultation within the subsequent papers seeking approval for each board's alternative constitution.

Agree to proactively release this Education Report as part of the next publication.

Summary

1. Under section 119 of the Education and Training Act 2020, school boards have a standard constitution, unless you approve another form of constitution.
2. Under Clause 4 of Schedule 22 to the Education and Training Act 2020, you can approve an alternative constitution for a school board. This pathway is available to all state and state-integrated schools wanting to apply for an alternative constitution.
3. Clause 4 of Schedule 22 to the Act also states that 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, and you have consulted with any persons or organisations as you think fit.
4. The Boards of Manukura (739), Tai Wānanga (632) and Woodhill School (1577), and the Commissioner for Kamo High School (13) have requested an alternative constitution for their respective Boards. Information about each of the schools is noted in subsequent sections of this report.
5. The Ministry is working through the details and legislative requirements with each of the Boards and the Commissioner (in the case of Kamo High School), to prepare final proposals for your consideration.
6. While the final proposals are in development, the Ministry is seeking your permission to undertake consultation on your behalf, with parties such as:
 - a. Current students of each of the respective schools;
 - b. Parents, caregivers and whānau of current and prospective students each of the respective schools;
 - c. Staff of each of the respective schools;
 - d. The appropriate iwi and/or hapū for each of the respective schools;
 - e. The Education Review Office, about each of the respective schools;
 - f. The New Zealand School Trustees Association, about each of the respective schools.

Recommended Actions

The Ministry of Education recommends that you:

- a. **Agree** to the Ministry undertaking consultation on your behalf, regarding an alternative constitution for the Kamo High School (13) Board;

Agree / Disagree

- b. **Agree** to the Ministry undertaking consultation on your behalf, regarding an alternative constitution for the Manukura (739) Board;

Agree / Disagree

- c. **Agree** to the Ministry undertaking consultation on your behalf, regarding an alternative constitution for the Tai Wānanga (632) Board;

Agree / Disagree

- d. **Agree** to the Ministry undertaking consultation on your behalf, regarding an alternative constitution for the Woodhill School (1577) Board;

Agree / Disagree

- e. **Note** that under clause 4(3)(b) of Schedule 22 to the Education and Training Act 2020, you may not approve an alternative unless you have consulted with any persons or organisations as you think fit,

Noted

And if you agree,

- f. **Note** that the Ministry will report back to you on the outcome of consultation within the subsequent papers, seeking approval for each board's alternative constitution.

Noted


And

- g. **Agree** 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 Official Information Act 1982.

Release / Not release


Katrina Casey
Deputy Secretary
Sector Enablement and Support

15/3/2021


Hon Chris Hipkins
Minister of Education

25/3/21

Background

Kamo High School

1. Kamo High School (13) is a decile 4, co-educational, state, secondary school (year 9-13) situated in Whangarei. The current roll is 851 students comprising 477 (53.8%) Māori, 9 (1%) Pacific, 21 (2.4%) Asian, 438 (49.4%) European and 5 (0.6%) other ethnicities, and 5 (0.6%) International Students.
2. The Kamo High School Board has a history of statutory intervention. On 15 August 2019, a Limited Statutory Manager (LSM) was appointed under Section 78M of the Education Act 1989, because of risks to the educational performance of the School's students. The powers, functions and duties of the Board as an employer, to manage communications and curriculum management were vested with the LSM (*New Zealand Gazette* notice number 2019-go3735).
3. On 1 October 2019, the Board was dissolved under section 78N(3) of the Education Act 1989 as so many casual vacancies had arisen that there was no longer any member on the Board who was eligible to preside at meetings. A Commissioner was appointed and the notice of direction to appoint an LSM was revoked, upon the dissolution of the Board (*New Zealand Gazette* notice number 2019-go4752).
4. Prior to the appointment of the Commissioner, the Board membership was based on that of a standard constitution under section 119 of the Act. The Commissioner has requested an alternative constitution. It is his view that an alternative constitution will assist the school's return to self-governance, and that returning to an elected board under a standard constitution would not be appropriate.
5. The Ministry is currently working through the process with the Commissioner to clarify the proposed alternative constitution.

Tai Wānanga

6. Tai Wānanga (632) is a decile 4 co-educational, state, designated character secondary school (year 9-13). Tai Wānanga was established in 2010, with the main Campus, Tai Wānanga ki Ruakura, situated in Hamilton and secondary campus, Tai Wānanga Tū Toa situated in Palmerston North.
7. The founders of Tai Wānanga had previously established a private school called Tu Toa in Palmerston North in 2005.
8. The current roll for Tai Wānanga is 141 students comprising 133 (94.3%) Māori, 7 (4.7%) Pacific and 1 (0.7%) Asian students.

9. In 2013, the then Minister of Education approved an alternative constitution for the Board. This decision was published on 29 August 2013 (*New Zealand Gazette* notice number 2013-go5470). The approved constitution is as follows:
 - up to three trustees appointed by the Minister of Education;
 - up to two trustees appointed by the Council of Te Wānanga o Aotearoa;
 - two parent representatives;
 - the Principal / Tumuaki; and
 - up to two trustees co-opted by the board.
10. The Board has requested changes to the current alternative constitution.
11. The Ministry understands that the Board is considering requesting the removal of the board members appointed by the Minister of Education. In addition, the Board has indicated the desire for Iwi to appoint members to the Board.
12. The Ministry is working through the process with the Board to clarify the proposed alternative constitution. It is possible that report requesting your approval of the new alternative constitution, may also include a request under section 205(5)(b)(ii) of the Act, to name a body that has a special affiliation with or has responsibility for the different character of the school.

Manukura

13. Manukura (739) is a decile 5, co-educational, state, designated character secondary school (year 9-13) situated in Palmerston North. Manukura was established in 2015 by one of the founders of Tai Wānanga, on a site previously occupied by Tu Toa (a former private school) on the Massey University grounds.
14. The current roll is 195 students comprising 184 (94.3%) Māori, 5 (2.56%) Pacific, and 5 (2.56%) European students.
15. The Board currently operates with a standard constitution under Section 119 of the Act. The Board has requested an alternative constitution.
16. The kura was founded by members of, and maintains a strong affiliation to the Ngāti Tahuriwakanui hapū of the Ngāti Kauwhata iwi. The Board's view is that an alternative constitution will formally recognise the affiliation of the hapū to the school, will allow the hapū to maintain an active role in the education of its tamariki and governance of the kura, and that members of the hapū will ensure that the school is governed in such a way that Tahuriwakanuitanga is maintained.
17. Under section 205(5)(b)(ii) of the Act, you are able to name a body that has a special affiliation with or has responsibility for the different character of the school. The Board also intends to apply to have Ngāti Tahuriwakanui hapū named as body under this section.
18. The Ministry is currently working through the process with the Board to clarify the proposed alternative constitution.

Woodhill School

19. Woodhill School is a decile 6 primary (year 1-8) school located northwest of Auckland City, and approximately 10km from Helensville. The current roll is 49 students, comprising 26 (53%) Māori, 1 (2%) Asian, 15 (30.6%) European and 7 students (14.2%) of other ethnicity.
20. Woodhill School has a history of statutory intervention. A Limited Statutory Manager (LSM) was appointed in 2012 because of the risks to the operation of the school and welfare of its students (*New Zealand Gazette*, notice number 2012-go7504). The intervention was revoked in 2015 and the powers vested with the LSM were returned to the Board (*New Zealand Gazette*, notice number 2015-go369).
21. In late 2016, the Board was dissolved and a Commissioner was appointed due to constitutional issues with the Board (*New Zealand Gazette*, notice number 2016-go6641).
22. The Commissioner subsequently requested an alternative constitution for the Board, as it was the Commissioner's opinion that an alternative constitution for the Board would assist the Board's return to self-governance and that remaining with a standard constitution for the Board would not be appropriate.
23. You approved an alternative constitution for the Board, and your decision was published on 16 May 2018 (*New Zealand Gazette*, notice number 2018-go2351).
24. The approved constitution is as follows:
 - three parent representatives;
 - up to two trustees appointed by the Director of Education for Auckland;
 - the principal; and
 - a staff representative.
25. The Ministry understands that the Board is considering requesting the removal of the board members appointed by the Director of Education. In addition, the Board has indicated the desire for Iwi to appoint members to the Board.
26. The Ministry is currently working through the process with the Board to clarify the proposed alternative constitution.

Risks

27. The Ministry have identified no risks with either your approval for consultation, or for the Ministry to conduct consultation on your behalf.

Financial Implications

28. The Ministry has not identified any significant or explicit costs associated with the approval of proceeding to, or conducting, consultation on your behalf.

Proactive Release

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

Proactively Released