Education Report: Initiating consultation about the possible closure of Flagswamp School (3739)

To: Hon Chris Hipkins, Minister of Education

Date: 9 August 2019

Priority: High

Security Level: In Confidence

METIS No: 1198565

DDI: s 9(2)(a)

DDI: Julie Anderson, Director of Education, Otago Southland

Messaging seen by Communications team: No

Round Robin: No

Purpose of Report

This report seeks your agreement to initiate consultation about the possible closure of Flagswamp School (3739) under section 154 of the Education Act 1989 (the Act). The school’s Board of Trustees (the Board) does not wish to request closure itself.

Summary

1. This report seeks your agreement to initiate consultation about the possible closure of Flagswamp School under section 154 of the Education Act 1989. It follows an Education Weekly Update (EWU) item of 27 June 2019 about the school’s statutory intervention.

2. Flagswamp School is situated on State Highway 1, between Palmerston and Waikouaiti in East Otago. It is within 8.3 kilometres of two larger well-managed primary schools – Waikouaiti School and Palmerston School. Both of these schools are on three year Education Review Office (ERO) review cycles. A map of the area is provided in Annex 1.

3. In Term 2 of 2019 there were seven students enrolled at Flagswamp School. There are no known future enrolments. Of those students, only two live within the school’s natural catchment zone, which has nineteen eligible students. Five of the seven enrolled students travel past other schools to attend Flagswamp School. There is sufficient capacity within the existing network of schools to accommodate these seven students and any future growth in the area.

4. One student was excluded by the Board at the end of Term 2 of 2019. We are in the process of directing this student to another school. The current roll is therefore six students.
5. ERO reviewed Flagswamp School in June 2016 and September 2018, placing it on a 1-2 year review cycle both times. The report of June 2016 identified a significant number of next steps in a range of areas including governance, leadership, aspects of teaching and learning and internal evaluation. It also identified non-compliance in relation to appraisal of the Principal and ensuring a safe physical environment for students. The ERO review of August 2018 noted that the school had made limited progress in respect of these requirements.

6. A Limited Statutory Manager (LSM) was appointed on 28 January 2019, vested with the Board’s powers of employment and establishing policies and procedures, and also advising the Board on communications.

7. After a period of scoping, the LSM has reported that the overall sustainability and viability of the school needs serious consideration and that there are health and safety factors in need of urgent assessment and appropriate action.

8. In response to the LSM’s recommendations, the Ministry funded an independent audit of health and safety by Progressive Solutions Ltd, which identified a range of health and safety compliance issues, and actions for improvement (refer to Annex 2).

9. In April 2019 the LSM provided a special viability report outlining areas of concern in relation to the school’s viability and long term sustainability (refer to Annex 3). The LSM recommends that the Board and LSM be replaced by a Commissioner, and that closure of the school be seriously considered.

10. The teaching principal at Flagswamp School resigned in March 2019, and was on paid sick leave until the end of Term 2 (his resignation became effective on 7 July). An acting principal has been employed on a fixed term contract until 27 January 2020. We consider it would be challenging to attract and retain a suitable permanent appointee if the school were to remain open.

11. Two part-time teacher aides were employed to the end of Term 2, 2019. One part-time teacher aide is employed for Term 3, as the second teacher aide was employed to support the student that is now excluded. A fixed term release teacher has also been appointed until December 2019. Other staffing includes a part-time administration assistant. The incumbent left on 3 July 2019, and this position has been advertised as a fixed-term position (5-7 hours per week) until the end of the 2019 school year. Since 5 July 2019, the part-time cleaner has been the only permanent employee at the school.

12. The former Board Chair resigned in Term 1, 2019 and a new Board Chair was elected in Term 2 of 2019.

13. The Ministry and the LSM met with the Board on 13 May 2019 to discuss the possibility of a Commissioner being appointed to replace the Board and/or to consider whether the Board would initiate a request for school closure. The Trustees did not wish to resign and stated that they were committed to undertaking the improvement work required. The LSM has advised that the Board has not engaged with the action plan developed by the LSM, as part of his role, set in place to address matters raised in the ERO review and the independent health and safety audit.

14. On 19 May 2019 the Board Chair requested that the statutory intervention be funded by the Ministry due to financial concerns and limited working capital.
15. We consider that the significant issues facing the school mean that it is no longer viable, and we have informed the Board that we are going to ask you to consider initiating consultation about possible closure.

16. If you agree to begin this process we would support the Board to undertake consultation with families of all current and prospective students in the area. We would provide independent facilitation if the Board were unwilling or unable to do this. We would also engage with the community to determine views on the proposed closure, and consult with all schools whose roll might be affected should the school close.

17. If you agree to begin consultation and families wish to enrol at the school during this process, we would inform them that a process had been initiated that might result in the school's closure. We would then work with them to find suitable education provision if closure were to occur.

18. After considering the information in the independent reports, it is our view that, given the issues noted above, closure of Flagswamp School should be considered.

**Recommended Actions**

The Ministry of Education recommends you:

a. **agree** that consultation about the possible closure of Flagswamp School under sections 154 and 157 of the Education Act 1989 be initiated;

   Agree / Disagree

b. **sign** the attached letter to the Chairperson of the Board of Trustees informing her that you are initiating consultation under sections 154 and 157 of the Education Act 1989;

c. **note** that should you agree to the consultation being undertaken we will meet with the Chairperson to provide a copy of your letter and discuss the next steps in the process;

   Noted

d. **agree** that this report be provided to the Board of Trustees; and

   Agree / Disagree

e. **sign** the attached letters to the Board and local MPs advising them of your decision;

f. **agree** that this report be proactively released once a final decision has been made. Any information that might need to be withheld will be done so in line with the Official Information Act 1982.

   Release / Not Release

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Katrina Casey
Deputy Secretary
Sector Enablement and Support
9.9.2019

Hon Chris Hipkins
Minister of Education
21/3/19
Background

1. Flagswamp School is a small rural, decile 6, Year 1-6 primary school located in East Otago.

2. The school is situated beside State Highway 1 south of Palmerston and north of Waikouaiti. The nearest school to Flagswamp School is Waikouaiti School, which is 6.3 km away. Palmerston School is 8.3 km away. A map of the area is provided in Annex 1.

3. In Term 2 the school had a roll of seven students from five families and there are no known future enrolments. For the past 15 years the roll has fluctuated between seven and 14 students, and the highest roll over the past five years has been 10 students.

4. Of the seven students enrolled, only two students live within the school's natural catchment zone, which has 19 eligible students. Five of the seven enrolled students travel past other schools to attend Flagswamp School.

5. s 9(2)(a)

6. There is sufficient capacity within the existing network of schools to accommodate the remaining six students and any future growth in the area if the school were to close.

7. The Board Chair resigned in Term 1, 2019 and the principal resigned effective 7 July 2019, having taken sick leave since Term 1 (an acting principal has been in place).

8. The Board does not wish to request closure of the school and at a meeting on 13 May trustees indicated they did not wish to resign, noting that they were committed to undertaking the improvement work required. The LSM reported to the Ministry on 23 July 2019 that the Board has not engaged with the the action plan developed by the LSM, as part of his role, set in place to address matters raised in the ERO review and the independent health and safety audit. We have previously informed the Board that we could ask you to consider initiating consultation about possible closure.

Staffing

9. The teaching principal at Flagswamp School took stress leave and resigned in Term 1 of 2019, effective 7 July 2019. An acting principal has been employed on a fixed term contract until 27 January 2020. Two part-time Teacher Aides were employed to the end of Term 2 of 2019, with one part-time teacher aide employed from Term 3. A fixed term release teacher has also been appointed until December 2019.

10. Other staffing includes a part-time administration assistant. The incumbent left on 3 July 2019, and this position has been advertised as a fixed-term position (6-7 hours per week) until the end of the 2019 school year.

11. The only remaining permanent staff member is a part-time cleaner.
Initial engagement with the Board

12. On 11 May 2018 Ministry staff met with the Board to discuss concerns relating to the capability of the Board and principal following submission of the school charter documents. We met with the Board again on 4 December 2018 to discuss the 2018 ERO Report and the future viability of the school. The LSM was appointed following this meeting.

13. On 13 May 2019, in response to the findings in the reports by the LSM and Progressive Solutions Ltd, the Ministry and the LSM met with the Board to discuss the possibility of a Commissioner being appointed to replace the Board and to consider whether the Board would initiate a request for school closure. The Trustees indicated that they did not wish to resign, and that they were committed to undertaking the compliance improvements required, in spite of the Board’s historic inability to adequately address these. We are concerned that this is still not occurring, and the LSM has advised us that the Board has not engaged with the proposed action plan.

Viability of the school

Education Review Office Findings

14. ERO reviewed Flagswamp School in June 2016 and September 2018, placing it on a 1-2 year review cycle both times. The 2018 report notes that since the previous ERO review, the school had made limited progress in the significant number of next steps identified in the 2016 report. The 2018 ERO report identified improvement was still required in a wide range of areas including governance, leadership, aspects of teaching and learning, and internal evaluation. ERO identified non-compliance in relation to appraisal of the principal and ensuring a safe physical environment for children. Below are some key points from the 2018 ERO review:

- Mid 2018 information shows that half of the students are reading and writing at the school’s expected levels. In mathematics most of the students are achieving at the school’s expected levels.
- Over the last two years there has been a pattern of boys not achieving as well as girls in literacy.

Appointment of an LSM to support the Board

15. An LSM was appointed on 28 January 2019, vested with the Board’s powers of employment and establishing policies and procedures, and advising the Board on communications.

16. In March 2019 the LSM reported that the overall sustainability and viability of the school needed serious consideration and confirmed that there were health and safety factors in need of urgent assessment and appropriate action. The LSM recommends that the Board and LSM be replaced by a Commissioner, and that closure of the school be seriously considered.

17. The Board Chair resigned from the school in Term 1, 2019. A new Board Chair has been elected alongside two other parent representatives. Three of the five families with children enrolled at Flagswamp School are represented on the Board.

18. Monthly reporting to the Ministry by the LSM notes slow and limited progress by the Board to address the health and safety and wider issues he had identified and discussed with them.
19. On 19 June 2019 the Board Chair requested that the Ministry consider funding the statutory intervention and reimbursing costs to date.

**Independent Report findings**

20. In March 2019, in response to the concerns raised by the LSM in his scoping report, the Ministry funded an independent audit of health and safety by Progressive Solutions Ltd which identified a range of health and safety compliance issues and actions for improvement. The intent of the audit process and report was to provide the Flagswamp School Board with a gap analysis as to its level of compliance or conformance with appropriate legislation. The report recommends 35 actions to be undertaken by the Board (refer to Annex 2).

21. In April 2019 the LSM provided a special viability report outlining areas of concern in relation to the school’s viability and long term sustainability: including student numbers, student supervision, teaching and learning, health and safety, property, personnel, finances and governance capacity and sustainability. He concluded the school can not adequately be sustained considering the range of serious issues it faces, the history of poor governance, and management position insecurity. The LSM requested consideration of school closure (refer to Annex 3).

- Students benefit from the positive relationships and family-like culture within the school. They enjoy the small school size and value the way everyone cares for each other. The principal and teacher know the students and their families very well.

- Student achievement targets have been redeveloped but need further refinement to focus specifically on those students needing to make accelerated progress. A curriculum plan has been developed collaboratively. The principal and teacher now need to use these tools as a basis for specific planning for the individual needs of each student.

- Aspects of leadership need to continue to develop and progress. While the principal’s focus is on the needs of students, there is a need for more cohesive and organised systems to effectively manage school operations.

- Students would benefit from knowing more about their learning; namely how well they are learning and progressing and what their next learning steps are.

- Several aspects of board of trustee operations need to be improved. Trustees need a much greater understanding of their roles and responsibilities, including review and implementation of policies and procedures.

- The board must ensure that the principal has a robust and meaningful appraisal that meets current requirements and is completed annually.

- It is the board’s responsibility to ensure students are safe while at school. This includes eliminating or minimising hazards as they are identified. At the time of this review, ERO was not satisfied that student safety was being well managed on the school site.
Education in the local area

22. Should Flagswamp School close, there are two schools where local students could enrol - Waikouaiti School, which is 6.3 km away, and Palmerston School, which is 8.3 km away. Both schools are on 3 year ERO review cycles, and both have capacity for Flagswamp School's students.

Property

23. The School Property Guide teaching space entitlement for Flagswamp School is one classroom. The buildings and property are in fair condition but there has been a lack of adequate maintenance and care. Remedial work would require considerable effort and funds, beyond the school's resources. Remedial costs would be largely met by the Ministry if the school were to remain open. Details are provided in Annex 4.

24. The property at Flagswamp School is Crown-owned. If the school closes, as it is not required for educational purposes, it would be disposed of in accordance with section 40 of the Public Works Act 1981, related local authority legislation and the protection mechanisms in respect of Māori land claims.

Financial Considerations

25. Although the school has been in a reasonable financial position, the LSM had projected its working capital would be completely depleted by the end of Term 2. Now that the principal's resignation is effective, the additional cost of an acting principal has been removed. The exclusion of one ORS student has resulted in a reduction in teacher aide hours required, which the school has had to partially fund. The Board has reduced the level of additional staffing it was funding from 0.3 FTTE to 0.1 FTTE, and has requested financial support for cost of the LSM. With the latter support the school is expected to remain solvent for the remainder of the year.

26. Should you agree to initiate this consultation process, we would work to determine the estimated costs/savings to the Crown should the school close. Further information about the financial implications would be provided in the next report.

27. The table below details the costs of running Flagswamp School since 2013. This information is publicly available on the Education Counts website.

Table 1: Government funds provided to Flagswamp School (2013-2017)

<table>
<thead>
<tr>
<th>Year</th>
<th>School operations ($)</th>
<th>Teacher salaries ($)</th>
<th>Property funding ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>56,418</td>
<td>107,325</td>
<td>6,631</td>
</tr>
<tr>
<td>2014</td>
<td>53,095</td>
<td>109,477</td>
<td>38,530</td>
</tr>
<tr>
<td>2015</td>
<td>59,625</td>
<td>127,642</td>
<td>348</td>
</tr>
<tr>
<td>2016</td>
<td>57,581</td>
<td>108,909</td>
<td>3,369</td>
</tr>
<tr>
<td>2017</td>
<td>51,901</td>
<td>120,363</td>
<td>0</td>
</tr>
</tbody>
</table>
Notes:

School Operations – This is the total grant and has not had any manual adjustments removed for fees and levies, such as International Students and the Risk Management Scheme.

Teacher Salaries – Teacher salaries are paid directly from a centralised payroll system. The amount shown is the amount paid from the Teachers Entitlement.

Property Funding – This covers the Five Year Agreement (5YA) funding programme. This funding is allocated to boards for modernising and upgrading school buildings.

Closure Process for State Schools

28. Section 154 of the Act requires the Minister of Education to consult with the Board of a school that the Minister proposes to close, and section 157 of the Act requires the Minister to consult with the boards of all state and state integrated schools whose roll might be affected by the closure if it were to occur.

29. If you agree to initiate this consultation process, we will support the Board to undertake consultation with families of all current and prospective students in the area. If the Board is unwilling or unable to do this then we can provide independent facilitation. We would also undertake engagement with the community to determine views on the proposed closure and undertake s157 consultation with the schools whose rolls may be affected by the possible closure.

30. A letter to the Chairperson of the Flagswamp School Board of Trustees is attached for your signature (Annex 5).

31. We will then report back to you with the consultation feedback.

32. The Board does not support closure of the school. If you decide that the closure process should continue, the Act requires that the Board be then given at least 28 days to provide any arguments in favour of the school staying open.

33. If the Board changes its position and agrees with closure, you may then close the school at any time after receiving written notice from the Board.

34. Once this feedback has been received it would be provided to you for your final decision about whether the school should close.

Ministry Comment

35. Whilst we recognise there is interest in keeping the school open from the three parents on the Board, currently other families from the Flagswamp area with school-aged children are choosing to bypass the school to send their children to larger schools nearby.

36. We consider that the possibility of attracting more students and a suitably experienced principal to lead the school is low.

37. Should Flagswamp School close, any parents who move into the area would be able to enrol their children at Waikouaiti School or Palmerston School, and students who meet the eligibility criteria for transport assistance would receive this. Both of these schools are on a three year ERO cycle, and the reports indicate positive student achievement and school cultures.
Risks and Mitigations

38. The following outlines the possible risks associated with progressing, or not progressing, to formal consultation about the possible closure of the school. We also provide information about our proposed mitigations to address these risks.

**Risks of progressing to formal consultation**

39. Members of the community will be upset by the initiation of the proposed closure process.
   - We have already informed the Board of Flagswamp School that we might request your agreement to initiate a closure process.
   - We will undertake consultation in line with legal requirements and also engage with the wider community about the proposal.
   - If the Board needs assistance in consulting the community we will engage an independent facilitator to provide this.
   - We will stress that no decision has been made and that all feedback will be taken into consideration when the substantive and final decisions are made.

40. Other small schools might feel vulnerable to possible closure.
   - This case is different from other small schools in the region, in that the majority of students living in the Flagswamp School natural catchment zone attend other schools. This indicates that the local community no longer supports the school with enrolments, which will make it difficult for the school to become viable again.

41. The proposal might attract media attention.
   - We will work with media at local and national levels, to ensure clear and positive messaging.

42. Families might wish to enrol their children at the school during the closure process.
   - Should this occur, we would inform them that a process has been initiated that might result in the school’s closure. We would then work with them to find suitable education provision if closure were to occur.

**Risks of not progressing to formal consultation**

43. There is a reputational risk of keeping a school with no or minimal students, and no teaching principal, open.
   - We would develop key messages if needed in this case.

44. There is a financial risk of investing significant funding for compliance and improvement if the school does not attract more enrolments.

45. There is an educational risk to the students if quality applicants are not available for the teaching principal and release teaching positions when the current temporary staffing situation comes to an end.
   - We would continue to work alongside the LSM to source appropriate staffing for the school.
Conclusion

46. Our view is that you should initiate consultation about the possible closure of Flagswamp School. We have come to this view because:
   • there are currently six students enrolled at the school and no known new enrolments
   • there are other readily available options for schooling in the area, being larger, well-run, schools – families from the area are already choosing these other schooling options for their children
   • there is capacity in the local school network to accommodate these students and any other new students who might move into the area
   • the school does not have a permanent principal and it will be challenging to attract and retain a suitable appointee
   • the costs associated with adequately addressing the identified issues that have arisen due to poor governance and management are very high.

47. Our view is that Flagswamp School is not viable and that any students from the area would benefit educationally from the resources and greater opportunities for social interaction available in a larger well-managed school.

Next Steps

48. If you agree to initiate consultation on the possible closure of Flagswamp School, please sign the letter to the Chairperson of the school’s Board (attached as Annex 5) and return it to the Ministry. Please also sign the letters to local MPs (attached as Annex 6).

49. Staff from the Ministry’s Dunedin office would meet with the Board to hand deliver the letter and discuss the next steps in the process.

50. Following our consultation with the Board of Flagswamp School, neighbouring schools and the community, and the Board’s consultation with families of current and prospective students, we would develop a report for your consideration.

51. If at this stage of the process you were satisfied the school should close then the Board would be given at least 28 days to make any further arguments in favour of the school staying open.

52. Following receipt of these arguments, a further report would be developed for you to consider those arguments, and you would then be able to make a final decision.

Proactive Release

53. If you decide to initiate consultation, we recommend that this report be proactively released once a final decision is made. Any information that might need to be withheld will be done so in line with the provisions of the Official Information Act 1982.
Annexes

Annex 1: Map of Flagswamp and Surrounding Area
Annex 4: Property information
Annex 5: Letter to Board Chair
Annex 6: Letters to local Members of Parliament
Annex 1: Map of Flagswamp and Surrounding Area
(April 2019)
Inspection Report – Flag Swamp School

Date 8th April 2019  By: Malcolm Eadie

Background to the auditing process
Audits of this nature should be seen as a snap shot of safety in action in a particular workplace at a specified time. The material is based on observations on that day, documentation and information provided by the employees. Not all information has been independently verified.

An audit tool was used to provide a framework for the audit. The audit tool used was based on elements from; the ACC WSMP material, toolbox checklist in the MoE “HSWA 2015 - A practical guide for boards of trustees and school leaders”, (Aug 2017) and the DoL Health and Safety Management Audit (March 1999).

Scope of the audit
The intent of this audit process and subsequent report is to provide Flagswamp board with a gap analysis as to their level of compliance or conformance with appropriate legislation and as such appropriate action by the client will demonstrate the adoption of a continuous improvement process.

Disclaimer
1. Successfully completing this audit does not infer or imply that all of your duties under the Health and Safety at Work Act 2015 or its subsequent amendments or the associated Regulations have been fully met. It is the responsibility of the business to be satisfied that these legal and other obligations are met in a consistent manner.

2. Whilst every effort has been made to ensure the accuracy of this report, Progressive Solutions Ltd will not be held liable for the content and the consequences of its use. This audit should be seen as a pre-audit or an indicative assessment.

Background
One the day of the audit the following staff were present – Kate (Acting Principal – she had been in the role for about 3 weeks – prior to that she was employed as a support teacher for the Principal), Tabatha (recently appointed as a TA and member of the board for 3 year) and Molly (the office secretary and also works as the cleaner). The Acting Board Chair, Kimberly, dropped in at lunch time. The Principal is currently on extended sick leave and the Board Chair is on leave for personal reasons.

Flagswamp School is a small school and currently has eight students and one or two of these have behavioural issues. Although there have not been any serious accidents at the school or any school event there are incidents that give grounds for concern. I was told of one occasion where an upset child left the school grounds and proceeded to walk home down Highway One. Another child frequently hides around the school grounds when he becomes upset.

The audit was requested by Cleave Hay and is partially in response to an ERO report that, among other things, raised a concern about the level of health and safety compliance.

The school has a number of policies and procedures addressing a variety of NAGS but not all of these have been currently customised to this school. Guidance to ensure compliance with the Health and Safety at Work Act 2015 (HSWA) is also inadequate. I was informed that they plan to address these areas and they are waiting for Cleave to assist them in this work.

There is a system to review procedures etc. but this appears to have broken down in 2017.

It would appear the neither the Board nor the Principal appreciate their duties and obligations under the HSWA Act and Regulations, or if they are these have not been taken seriously.
The grounds are maintained by PD workers and/or with parent help.

1. **Active Management**
   a. **POLICY** - There is a current Health and Safety Policy – signed by the Board Chair and dated Term 1 2017. This is a copy of the sample supplied in the MoE “HSWA 2015 - A practical guide for boards of trustees and school leaders, 2017”
      ACTION – this needs to be reviewed signed and made available/displayed for all stakeholders
      ACTION – The Health and Safety Management System needs to be revised
      ACTION – The Board and Principal/head teacher would benefit from Board Training covering health and safety responsibilities. Self education could be achieved by reading the material on the MoE website https://www.education.govt.nz/school/running-a-school/health-and-safety/

2. **Hazard identification and risk management.**
   a. **Hazard Identification** – There is a Hazard Register – last reviewed in 2016. The students had also created a poster showing hazards/risks and restrictions around these risks.
      ACTION – Add a risk matrix to the procedure and use this in the register when assessing risks
      ACTION – review the current Hazard Register and reassess the control measure required in light of a risk rating.
   b. **Main school risks**
      i. **Proximity to State Highway One and poor fencing** – This is a major risk. Risk being rated by looking at; consequences, frequency and likelihood. The consequences are very serious, the traffic volume down State Highway One is high, and the likelihood is also high as the fencing is not consistent and the behaviour of the children is not predictable. The majority of the perimeter is five wire stock fencing. There is high fencing on the side facing the highway, some chain-link fencing added to the fence adjacent to the car parking area and driveway to the school house. The gate is inadequate – it is secured using a standard farm gate system. Which I am sure every child would be familiar with. A self closing mechanism has been attached to one post but not functional. So in my assessment the fence is not high enough nor designed to stop children being able to climb through it. This risk has been noted on the Hazard Register but the risk control measure do not lower the noted risk nor do they follow the requirements of the hierarchy of controls in the HSWA Regulations (reg 6).
      ACTION – Design and construct a more suitable fence – it should be high enough that students cannot easily climb over and also not climb through. See http://www.education.govt.nz/school/property/state-schools/design-standards/fencing/ for some guidance. The gate should also be spring loaded to automatically close and the latch high enough to be opened by an adult and not a child.
      ii. **Swimming Pool** – well fenced and locked.
      iii. **Playing Equipment** – generally in good condition.
      ACTION – ensure springs on the trampoline are adequately protected.
      ACTION – look at covering the sandpit – I sighted a wild cat eating roadkill
outside the school.

**ACTION** – look at removing garden edging from under the climbing trees.

c. **Hazardous Substances** – Potential asbestos containing fibre board found at the base of the pool fence. There may also be asbestos in the lino. Hazardous chemicals were present in the lawnmower shed (this shed is locked. The cleaner’s cupboard was open – the padlock had not been re-applied. The off-site first aid kit was on the floor of the staff toilet. Drugs for students were left in an unlocked first aid box in the staff toilets.

**ACTION** – Obtain Safety Data Sheets for all hazardous substance kept on the school grounds.

**ACTION** – ensure the cleaner’s cupboard is kept locked.

**ACTION** – find a more secure place to keep student medication.

**ACTION** – find a more secure place to keep the off-site first aid kit.

**ACTION** – Create a hazardous substance register.

d. **Activities Outside the classroom** – RAM forms we sighted for 2015, no more resent forms could be located. I am not convinced this risk is treated with the attention it needs.

**ACTION** – Ensure RAMs are completed and given the attention they need.

e. **Health Hazards** – Some concerns were raised with me about the level of cleaning at the school and rats and mice being found in the kitchen area. Some attention could be paid to these issues. I saw no evidence of poisonous plants on the grounds although it would be good to add this to a routine inspection process.

f. **Facilities** – The supply of hot water in the school was inadequate. There is no hot water in the student toilets. The hot water in the staff toilet was from a ZIP and the temperature was so high it was dangerous.

**ACTION** – review water heating and ensure improvements.

g. **Drainage** – the drains from the toilet/drinking fountain area and the tennis court are blocked – this work is scheduled but with winter coming on, and an increased chance of frosts, it will become critical.

**ACTION** – review drainage and ensure improvements are completed.

h. **Medication for children** – Medication is provided for two children at the school. The Rabifen for one was not kept in a secure location. Records showing dates when medication was given are not being consistently recorded and nor is a second person present when this is done. A new child to the school is being given medication but a permission form for this could not be found.

**ACTION** – review the procedure around providing medication for students, ensure this meets the Ministry guidelines and monitor that this is being followed – (possibly add this to the monthly inspection?)

i. **Personal Protective Equipment** – there is a PPE policy, however this has not been customised to the school.

**ACTION** – review the PPE Policy/procedure.

3. **Information, training and supervision.**

a. **Induction** - The Acting Principal did not receive any induction when she joined the staff. It appears too much reliance is placed on the staff’s teaching experience. There is also no ‘on-boarding’ process for new board members.
b. **Information for Contractors, Visitors and Parents** – There is a sign-in sheet for contractors and visitors, however this has only one entry. The folder also had the emergency response information.
   **ACTION** – Review the sign-in procedure. Collect additional information, like cell phone number, police check status, date, whether they have received and induction. etc.
   **ACTION** – Enhance the Information in the folder which currently has the emergency response information to become an induction for visitors and contractors – e.g. school hazards, contractor expectations including such things as PPE use, complying with appropriate work standards etc.

c. **Safety Training** – There is a procedure under NAG 5 which identifies a range of training for which there is no detail or content and no evidence that training has been provided.
   **ACTION** – Review the minimum training requirements and ensure training is provided and a record of this training kept or signed off e.g. training in completingRAM sheet, inductions etc.

4. **Accident recording, reporting and investigation**
   a. **Procedure** – No procedure could be found. An old first aid book was located but this is not being used
   **ACTION** – a procedure needs to be written to guide this process, which details legislative requirement for reporting, guidance for the level of recording required and training for incident investigation.
   **ACTION** – reinstate the recording of first aid treatment.

5. **Worker Consultation, Participation and Representation**
   It is a small school with few staff and there appears to be a healthy level of conversations occurring. The area that needs a more structure approach is the relationship between Board and Principal. There is a review structure that according to the schedule is to be initiated from the Board Chair. I saw no evidence that this was being completed in a systematic manner.
   a. **ACTION** – re-instate the policy and procedure review cycle. Provide a structure for the Principal’s report that covers key health and safety metrics and other information.

6. **Emergency Response**
   A variety of potential emergencies have been identified and response to these emergencies have been documented. These responses need further customising to this school. Earthquake response needs to reinforce the ‘drop, cover and hold’ practice. There is a system to record trial evacuations and earthquake drill. One of each of these drill is scheduled for each school term. This schedule has not been maintained. No current staff have been trained in first aid although training has been booked. Fire extinguishers have been regularly serviced although one is out of the servicing date; signage compliant with the appropriate standards need to be displayed (this is correct for the one by the cleaner’s cupboard). In the light of the Christchurch Mosque attacked and associated school lockdowns a room was identified.
   a. **ACTION** – review all emergency response information.
   b. **ACTION** – have all fire extinguisher serviced and ensure correct signage is in place.
c. **ACTION** – Ensure the schedule for evacuation and earthquake drill occur.

d. **ACTION** – Ensure a route to the Foote Farm is planned and drilled.

e. **ACTION** – move the assembly point away from the school gate as this is where emergency services will want to enter.

f. Currently the main gate is not locked. This needs to be either locked or some other way to ensure students can’t open it or climb over. **ACTION** – Work out a process to ensure emergency services can enter if needed.

g. **ACTION** – ensure all keys are readily available to ensure a safe lockdown area can be secured. Establish a procedure and ensure all resources for a lockdown are identified and made available. Drill the procedure and add this to the monthly inspection sheet.

7. **Contractor Management**

The following services are being supplied by contractors that need to be viewed as school ‘workers’ under HSWA 2015 – electrician providing test and tag services, the cleaner, plumbing and drainage contactor, Wormalds. Non-worker visitors to the school include; parents, PD workers, Ministerial appointments and services. Risks associated with outside work can be isolated from the Children and staff by being scheduled in the work in the school holidays or outside of school hours.

a. **ACTION** – update sign-in/induction material

b. **ACTION** – Establish the schools responsibility for work organised and controlled by School Support. (the school will still have responsibilities under section 37 of HSWA 2015 *(Duty of PCBU who manages or controls a place of work)*

c. **ACTION** – Put a sign up outside the building that instructs visitors to “report to the office or ensure you talk to the head teacher before commencing work”

d. **ACTION** – ensure the Board and the Head Teacher understand their obligations to non-employee workers.

Other areas worth looking at are:

a) Review the conditions of the trees on the school grounds. Some pruning may be required.

b) Improve the standard of document control – add identification numbers, version number and name the file name of the document or the directory path.

c) Review the standard of cleaning and rodent pest control.

Malcolm Eadie
Progressive Solutionz.biz
Choosing a fence design

When planning the fence design, we recommend:

- a robust and long-lasting tube or palisade-style fence
- 75 by 75mm steel posts (50 by 50mm is not strong enough)
- steel tube, which is stronger than rod.

Find out what is included in any price you get for fencing such as:

- mowing strips
- post size
- the finish, for example if it is galvanised.

You may use electric fencing for security reasons, such as along the top of a building, when other fencing solutions are not appropriate. Electric fences must be specifically designed for security purposes and professionally designed, built and installed.

Designing fencing with low visual impact

To reduce the visual impact of your security fencing:

- give the fence a dark powder-coat – light-coloured fences, such as unpainted galvanised steel, tend to stand out from their backgrounds
- select a well-finished look that is not hazardous – cut-steel arrow-heads are not suitable
- decorate the fence with artwork.

Do not use hazardous fencing

Under the Health and Safety at Work Act 2015, you must not have fencing that may harm people, even when trespassing. A hazardous fence has:

- cut-steel ‘arrow-heads’, sometimes called ‘spear-heads’
- single- and triple-pointed palisades, or a rod or tube cut on an angle to form a point – features normally associated with cheaper fences
- other deterrent features that could potentially harm people.

Hazardous fences do not stop people from trying to climb over them. Every year several children are injured from trying to climb them. These injuries can be serious and life threatening.

If your school has a hazardous fence, you should:

- have it altered so it is no longer hazardous, for example, replace cut-steel arrow-heads with rounded palisade tops
- isolate it, or
- replace it.

Fencing for students with special education needs

Sometimes students with special education needs are at risk of running away from school, and you may need to think about fencing. If you think a student is at risk, the first step is to get a Serious Risk Assessment done. This must be done by a Special Education Behaviour Practitioner, through the Ministry of Education. Contact your property advisor for advice. The practitioner will do an assessment and write a report. They will discuss any recommendations with you and

the Ministry advisors dealing with your school. Some things to think about are as follows.
• Fencing may not be the best or the only option.
• Safety of the students is the most important thing to consider.
• The school, the family and the wider team are responsible for managing the risk.

Give students every chance to learn to stay in the school grounds. We will consider funding for fencing only after looking at all other solutions.

**What the Serious Risk Assessment might recommend**
The assessment will identify the risk and make a recommendation based on that risk. There could be 4 outcomes.

1. **Serious risk**: will recommend immediate fencing and the development of a safety and behaviour management plan.
2. **Medium risk**: will recommend that a safety and behaviour management plan be developed with Special Education staff to review the need for fencing in the first 12 months of the student going to school.
3. **Low risk**: will not recommend fencing but may recommend that a safety and behaviour management plan be developed.
4. **No risk**: will not recommend any action

**Paying for fencing for students with special education needs**
If the practitioner recommends fencing, they will include it in the Property Modification Report.
The fence will be funded through special education property modification funding.
You need to contribute to the cost if:
• the fence was scheduled to be replaced in your 10 Year Property Plan
• the fence was going to be put up anyway (before the assessment was done).

If either of these are the case, we will meet the cost of any special features in the fence.
INTRODUCTION:
I, Cleave Hay, was appointed as Limited Statutory Manager (LSM) at Flagswamp School (\#3739) in East Otago on the 28th January 2019 and write this special report seeking urgent consideration of the school's overall viability; after a period of scoping and the implementation of the outcomes plan, the instigation of a health and safety audit, serious consideration of the school's financial position, and in having worked with the board of trustees and acting principal.

The school starts Term 2 with only 7 students and with no future enrolments, the principal is on stress related sick leave and has resigned, an acting principal is in place, the board chair has resigned due to personal reasons and, as outlined below, there are several areas of serious concern or risk. The school is situated on State Highway 1 and is within 8 kilometres of 2 larger and higher performing primary schools.

Areas of concern include:

**Student numbers:** There are 7 students at the school at the commencement of Term 2, 2019. Of these only 2 are living within the school’s natural catchment zone which has 19 eligible students, therefore indicating that 85% of potential students are enrolled at other schools. As such, of the 7 enrolled students, 5 travel past other schools to attend Flagswamp.

**Supervision of students:** An enrolment of a new student in Term 1 has led to the need for additional staffing cover at all times due to the student’s behaviours. This places considerable burden on the staff and is also proving detrimental and unsafe to the other students. As outlined below the school property is not adequately secure to safely manage this student, and others, without constant and close supervision. With the small numbers of staff this additional supervision denies the staff of adequate break times.

**Teaching and Learning:** The students at the school were identified by ERO, and through discussion with the acting principal, as to have been underserved by the previous principal in structured teaching and learning and assessment, and have been seriously deprived of up to date resources and equipment. There was very little planning or self-review across the school, management and governance with no evident desire to seek assistance and support.

The present acting principal and staff are working very hard to remedy these areas and ensure the students are far better served but are having to work from a deficit position.
The matters in this report, however, will see the school’s present working capital depleted completely by the end of Term 2 through the costs of the acting principal, teacher aides, health and safety and property issues remedying, and the ongoing costs of the LSM intervention. They will potentially not be solvent beyond that point, and certainly unable to fund the extreme costs associated with adequately securing the property, drainage and provision of hot water to the student and staff facilities.

**Governance capacity and sustainability:** The present parent representative makeup on the board of trustees resembles the majority of the school’s parent community due to the very small student and family numbers. The constitution of the board requires 3 parent-elected trustees and the present trustees have all indicated they will stand at the June elections apart from the present chair who, as mentioned above, is on approved leave of absence. Although this would sustain a board at the school, the membership is the same as those who have not performed well in maintaining basic governance, health and safety and particularly any accountability of the principal and themselves. Due to the present situation at the school, as per this report, a Commissioner may be a better suited intervention role.

**CONCLUSION:**

From my viewpoint I do not believe this school can adequately be sustained considering the range of serious issues it faces and the immediate need to remedy these, due to a history of poor governance, management position insecurity, and particularly the very high costs in doing so.

I would therefore request urgent consideration of the appointment of a Commissioner to replace the board of trustees and LSM and particular consideration of a school closure.

I would be happy to discuss this report.

Cleave Hay
LSM Flagswamp School
027 230 4480
cleaveshay@gmail.com
Annex 4: Property information

School Property Guide teaching space entitlement is one. The Board has limited property management capabilities.

The school has:

- A site of 4.0469 ha, of which about half is unused swampy pastureland. The school is located slightly below road level, and is generally a damp site.
- One main teaching building with two teaching spaces, admin, toilets etc. The building is 60 years old, 176.5m² net, built predominantly of Oamaru stone construction with an iron roof. It is in fair condition.
- An outdoor swimming pool not in use (except as a fire reservoir).
- A house immediately adjacent to the school, in fair condition.
- Two ancillary buildings – one a garage in good condition, and the other a store in average condition.
- A carpark providing entry to the house, and drop off /carpark for the school.
- All improvements are Ministry-owned.

The school requires:

- Upgrading of boundary fencing, at least partially required for a special needs student currently enrolled. There is a creek at the rear protected only by 5-strand post and wire fence.
- Provision of noise-reducing fencing along the SH1 frontage. Currently the fence is painted corrugated steel (erected by the Board last year).
- Reconfiguration of the carpark/drop-off zone.
- Substantial improvement of the toilet spaces to provide fully modern unisex cubicles with a good level of hygiene
- Upgrading/replacement of problematic drainage.
- Reconfiguration of the teaching spaces to enable the creation of breakout areas, small group learning capability, library etc.
- Replacement of external windows and doors for transparency and transitioning (i.e. sliding doors and deck extension along the building frontage).
- Upgrading of fire egress and signage.
- Reconfiguration and upgrading (within the current footprint) of the entry and administration areas, resource areas, and cleaning materials storage.
- Assessment of the condition of the exterior Oamaru Stone cladding and if needed, remediation.
- Investigation of the need for retaining the swimming pool. It is only retained for fire reservoir purposes currently.
- Investigation of disposal of the school house with any proceeds going into other property improvements at the school.

The 5YA funding for this school is only $45K. The assessment for the urgent drainage/toilet refurbishment is currently estimated at $70K. At this stage we don’t have estimates for any of the other property work required.
21 AUG 2019

Kimberley Saunderson
Chairperson
Board of Trustees
Flagswamp School
R D 2
WAIKOUAITI 9472

Dear Kimberley,

I have received a report from the Ministry of Education summarising the current situation at Flagswamp School.

Education Review Office reports of 2016 and 2018, your Board’s Limited Statutory Manager’s scoping and special viability reports, and an independent Health and Safety Audit by Progressive Solutions Ltd identify multiple areas of concern requiring action. I am advised that these are likely to be beyond the Board’s ability to manage.

I note that because of Flagswamp School’s location, the roll has been low for more than a decade and that currently there are only six students enrolled at the school with no known future enrolments. I also note that there are two other schools in nearby townships that have capacity to enrol your current students and that of the 19 eligible students in the area only two choose to attend Flagswamp School.

I am also concerned that the school does not have a permanent principal and it would appear challenging to attract and retain a suitable appointee.

For these reasons, I am considering closing Flagswamp School.

Before I make a decision about whether or not to close the school, I would like to hear and consider your Board’s views. The Ministry of Education will manage this consultation process on my behalf and will provide me with any feedback that you provide. I will take this into account before reaching a decision. If you wish, the Ministry will arrange for an independent facilitator to assist with community consultation.

At the same time I will also be engaging with the wider community and consulting with the Boards of all schools whose rolls might be affected if Flagswamp School were to close. I will also be taking any feedback received into account in reaching my decision.

I have attached information on the closure process for your reference.

Please provide your Board’s feedback to Julie Anderson, Director of Education, Private Bag 1971, Dunedin 9054. Ministry staff will let you know when this is due. It can be posted to this address and/or emailed to julie.anderson@education.govt.nz. You can also call her on 03 471 5217 or 027 836 4846.
During the consultation process the Board should be aware that it should:
- not make permanent appointments (teaching or non-teaching)
- undertake only health and safety related property projects
- be particularly prudent with expenditure of operational / school funding.

I know it is not easy for a community to consider the closing of a school, but it is important to consider what might be in the longer-term best interests of the children and young people in the area.

I would like to thank your Board for meeting with staff from the Ministry of Education to discuss the future of Flagswamp School. If you have any questions or would like further information please contact Julie Anderson or her team at the Ministry's regional office.

Yours sincerely

Chris Hipkins
Minister of Education

Encl
### Directed school closure process

#### Information for boards

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<tr>
<th>Phase</th>
<th>Action</th>
<th>Who is involved</th>
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<td><strong>Discussion</strong></td>
<td>Before a report to the Minister on a proposal for closure is developed the Ministry will ideally have been in contact with the board (or commissioner).</td>
<td>Ministry, Board</td>
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| **First report to the Minister** | The Ministry develops a report for the Minister proposing consultation on a proposal to close the school. The report should include the current situation at the school, the issues and risks that are specific to the situation as well as the supports that have been provided and how effective they have been.  
If the Minister agrees to begin consultation on the proposal, they will sign the report, and send a letter to the board (or provide a letter for the Ministry to hand deliver to the board). | Ministry, Minister       |
<p>| <strong>First letter to the board / commissioner</strong> | The letter invites the board / commissioner to consult with the Minister about the possible closure of the school. It will also advise the board that it may wish to consult with its community. The letter includes a date when the consultation period will finish and describes where the board or commissioner should send any feedback. | Ministry, Minister       |
| <strong>Consultation</strong>           | After the letter is sent:                                                                                                                                                                           | Ministry, Board          |
|                            | - the board / commissioner may consult with the school staff and the parent and wider communities                                                                                                   |
|                            | - the Ministry consults with the board on the Minister's behalf.                                                                                                                                     |</p>
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<td>the Ministry also consults with the boards of all state schools whose rolls might be affected by the possible closure of the school. There is no set timeframe for this consultation – it is usually about six to eight weeks. Depending on the issues at the school, the Ministry may engage an independent facilitator to undertake the Ministry’s consultation. It may be undertaken through meetings, letters or email, or a mixture of methods.</td>
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<td>Second report to the Minister</td>
<td>When the consultation feedback is received from the board, the Ministry develops a second report for the Minister providing all the consultation feedback, and the Ministry’s analysis and view based on the feedback received. The Minister considers the report and the consultation feedback and makes a decision on if the school should close.</td>
<td>Ministry / Minister</td>
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<td>Second letter to the board / commissioner</td>
<td>The Minister writes a letter to the board to inform them of the decision. The letter will detail the decision that either:</td>
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<td></td>
<td>• The Minister is satisfied the school should close – the letter will inform the board / commissioner of this and give the board / commissioner 28 days to let the Minister know any final reasons why the school should remain open.</td>
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<td><strong>OR</strong></td>
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<td>• The school should not close – the letter will inform the board / commissioner of this and formally end the process and ask the board/commissioner to continue to govern the school.</td>
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<td>If the Minister’s decision is that the school should close the letter should state a specific date by which any further arguments against closure must be received. This date must be a minimum of 28 days from when the Minister made his or her decision.</td>
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<td>28 day period</td>
<td>If they wish to do so, the board / commissioner develops a response. Note: there is not usually additional community consultation at this stage – the board / commissioner respond. However, this is up to the board. The board has a maximum of 28 days to provide feedback.</td>
<td>Board / commissioner</td>
</tr>
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<td>Phase</td>
<td>Action</td>
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| Third and final report to the Minister | Once consultation feedback is received, a final report is developed for the Minister. This includes:  
  - the information that the board / commissioner has provided in response to the 28 day letter  
  - information about any changes that may have taken place at the school since the last report (especially any changes in matters that the Minister based the decision to close on)  
  - the Ministry’s recommendation. | Ministry / Minister                     |
| Final letter sent to the board / commissioner | The Minister considers the report and makes a final decision on whether the school should close. They write a letter to the board informing them of their decision.  
If the decision is that the school should close, a notice will also be signed for the *New Zealand Gazette*. | Ministry / Minister                     |
| Closure gazetted            | The closure notice is published in the *New Zealand Gazette*. This includes the date the school will officially close.                                                                                   | Ministry                               |
| Implementation of the closure | Implementation of the school closure is discussed with the board or commissioner. This includes distribution of the school’s assets, wrap-up of the school’s finances and support for any students to enrol in another school. The details are recorded in the Education Development Initiative (EDI) memorandum of agreement. | Ministry / board / commissioner        |
21 AUG 2019

Hon Dr David Clark
MP for Dunedin North
Parliament Buildings
WELLINGTON

Dear David

Initiation of consultation on proposed closure of Flagswamp School

I am writing to inform you that I am considering closing Flagswamp School on the Waikouaiti Coast.

I am considering closure because of issues raised in Education Review Office reports of 2016 and 2018, the Limited Statutory Manager’s scoping and special viability reports, and an independent Health and Safety Audit by Progressive Solutions Ltd, all of which identified multiple areas of concern requiring action that is likely to be beyond the Board’s ability to manage.

I also note that the school has only six students with no future enrolments seeming likely, there are two schools in nearby townships who could enrol the students, and that of the 19 eligible students in the area only two choose to attend Flagswamp School. I am also concerned that the school does not have a permanent principal and it would appear challenging to attract and retain a suitable appointee.

Before I make a decision as to whether or not Flagswamp School should close, I will be engaging with the community, consulting with the school’s Board of Trustees and with the boards of any schools where the rolls might be affected if Flagswamp School were to close.

Once this consultation has been completed I will consider all feedback received alongside a report from the Ministry of Education. At that time I will make a decision about whether the school should close.

In the meantime, the Ministry will continue to support the board during the consultation.

Yours sincerely

Chris Hipkins
Minister of Education
21 AUG 2019

Rino Tirikatene
MP for Te Tai Tonga
Parliament Buildings
WELLINGTON

Dear Rino

Initiation of consultation on proposed closure of Flagswamp School

I am writing to inform you that I am considering closing Flagswamp School on the Waikouaiti Coast.

I am considering closure because of issues raised in Education Review Office reports of 2016 and 2018, the Limited Statutory Manager’s scoping and special viability reports, and an independent Health and Safety Audit by Progressive Solutions Ltd, all of which identified multiple areas of concern requiring action that is likely to be beyond the Board’s ability to manage.

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Yours sincerely

Chris Hipkins
Minister of Education