



## Education Report: Request to Dissolve the Richmond School (Napier) (2665) Board and Direct the Secretary to Appoint a Commissioner

<b>To:</b>	Hon Chris Hipkins, Minister of Education		
<b>Date:</b>	10 August 2020	<b>Priority:</b>	High
<b>Security Level:</b>	In Confidence	<b>METIS No:</b>	1234436
<b>Drafter:</b>	Andrea Thomson – Senior Advisor, National Office	<b>DDI:</b>	s 9(2)(a)
<b>Key Contact:</b>	Vivienne Mulligan – Director of Education, Hawkes Bay Tairāwhiti	<b>DDI:</b>	
<b>Messaging seen by Communications team:</b>	No	<b>Round Robin:</b>	No

### Purpose of Report

The purpose of this paper is for you to:

- **Note** that under section 181(1) of the Education and Training Act 2020 (the Act), you have the power to dissolve a school board by notice in the *New Zealand Gazette*, and that you have not delegated this power in instances where the board has not requested this level of intervention;
- **Note** that the Richmond School (Napier) (2665) Board currently has an intervention which was approved under section 78M of the Education Act 1989 (now section 180 of the Education and Training Act 2020), with all powers, functions and duties of the Board vested with a Limited Statutory Manager (LSM);
- **Agree** to dissolve the Richmond School (Napier) (2665) Board, under section 181(1) of the Act, and direct the Secretary for Education to appoint a commissioner to replace the Board under section 181(2) of the Act, because of the risks to the operation of the school;
- **Note** that dissolving the Board necessitates revoking the direction to appoint a LSM under section 180(8) of the Act;
- **Sign** the attached *New Zealand Gazette* notice;
- **Agree** this Education Report is proactively released as part of the next publication.

## Summary

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1. If the Minister of Education (or delegate) has reasonable grounds to believe that there is risk to the operation of a school, or to the welfare or educational performance of its students then the Minister may apply an intervention in accordance with section 171 of the Education and Training Act 2020 (the Act). When applying an intervention the Minister (or delegate) must apply whichever intervention is considered reasonable to deal with the risk without intervening more than necessary in the affairs of the school.
2. The Ministry of Education (Ministry) has attended a number of meetings with the Richmond School (Napier) (2665) Board and found multiple examples of significant breakdown in relationships between the Board Chair and the Principal, Board Chair and other trustees, and the Board Chair's unwillingness to accept the advice and guidance of the Limited Statutory Manager (LSM). The Board is no longer a united body which compromises the effective governance and operations of the school.
3. In December 2019, the Deputy Secretary, Sector Enablement and Support, acting with delegated authority, applied an intervention under section 78M of the Education Act 1989 (now section 180 of the Act ) directing the appointment of a Limited Statutory Manager (LSM) to the Board to hold specified powers. In April 2020, the Deputy Secretary approved an amendment to the intervention to vest all the powers, functions and duties of the Board in the LSM.
4. Little progress has been made to address the risks to the operation of the school since appointment of the LSM. The Ministry is now recommending that the Board be dissolved and a commissioner appointed under section 181(1) and 181(2) of the Act.
5. Under section 181(1) of the Act, as Minister of Education, you have the power to dissolve a school board by notice in the *New Zealand Gazette*. You have not delegated this power in instances where a board has not requested this level of intervention.
6. The Richmond School Board has not requested an intervention under section 181 of the Act. Therefore, we are requesting that you dissolve the Board and direct the Secretary for Education (or delegate) to appoint a commissioner.
7. Dissolving the Board and directing the appointment of a commissioner necessitates the revocation of the direction to appoint a LSM under section 180(8) of the Act, as a LSM can only be in place when there is a board.
8. A notice for the *New Zealand Gazette* addressing these matters is attached.

## Recommended Actions

The Ministry of Education recommends you:

- a. **agree** to dissolve Richmond School (Napier) (2665) Board, under section 181(1) of the Education and Training Act 2020 (the Act), and direct the Secretary for Education (or delegate) to appoint a commissioner to replace the Board under section 181(2) of the Act because of the risks to the operation of the school;

☒ Agree ☐ Disagree

- b. **agree** to revoke the direction to appoint a LSM under section 180(8) of the Act, as published in the *New Zealand Gazette* on 18 December 2019;

☒ Agree ☐ Disagree

- c. **(if you agree) sign** the attached *New Zealand Gazette* notice addressing these matters;

- d. **note** that the proactive release of this report may generate media attention, which may impact the board members and the community; and

- e. **agree** this Education Report is proactively released as part of the next publication;

☒ Proactively release ☐ Not release

  
Katrina Casey  
Deputy Secretary  
Sector Enablement and Support

10/8/2020



Hon Chris Hipkins  
Minister of Education

23/8/2020

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## Background

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1. Richmond School (Napier) (2665) is a decile 1, contributing primary school (year 1-6) located in Napier. As of March 2019, Richmond School had a roll of 107 students, comprising 83.2% (n=94) identifying as Māori, 13.3% (n=15) as Pasifika, and 3.5% (n=4) as European. The roll dropped in 2020 to 92 students (ethnicity breakdown not available).
2. In December 2019, Annie King was appointed as Limited Statutory Manager (LSM) for the Richmond School Board with the Board's functions, powers and duties to manage financial operations and property; and to advise the Board on policies and procedures. This intervention was put in place to manage risks to the operation of the School because of concerns about the Board's capability and management of the School's finances and property.
3. During the scoping period, the LSM identified further significant issues with the way that the Board operated, including a breakdown in relationships between Board members. The LSM believes that the Chairperson does not follow policies and procedures for governance, property management, and financial accountabilities. Additionally, actions taken by the Chairperson could put the Board at risk of a personal grievance by the Principal and the Staff representative on the Board.
4. The Board Chair is often absent from meetings, and has not contributed positively at meetings. The Chair has also not made himself available and refuses to meet with the LSM to discuss Board matters.
5. In March 2020, the Principal and most Board members (excluding the Chairperson) indicated that they supported a Commissioner being appointed to replace the Board, as they believed the Board was no longer able to operate effectively. Those Board members (parent and staff elected), excluding the Chairperson and Principal, indicated their intent to resign as of 19 March 2020. However, the Chair was determined that the Board should remain in place.
6. In April 2020 the Deputy Secretary, Sector Enablement and Support, acting with delegated authority, amended the powers of the LSM to encompass all functions, powers and duties of the Board.
7. To date, the issues that triggered the original intervention, approved under section 78M of the Education Act 1989, are still outstanding. The LSM has not been able to resolve the relationship breakdown or make progress to address the issues. The risks to the operation of the school continue to be significant.

### **Consideration of other levels of interventions**

8. The Ministry has considered lower levels of intervention; including continuing the intervention originally approved under section 78M (LSM) of the Education Act 1989 (now section 180 (LSM) of the Education and Training Act 2020 (the Act)). However little progress has been made to date despite the LSM holding all the powers, functions and duties of the Board. Therefore lower levels or maintaining the current level of intervention would not be appropriate.
9. Under section 181(1) of the Act, as Minister of Education, you have the power to dissolve the board of a school by notice in the *New Zealand Gazette*. You have not delegated this power under section 181(1) of the Act, in instances where the board has not requested this level of intervention.

10. The Board has not requested an intervention under section 181 of the Act. Therefore, we are requesting that you dissolve the Board and direct the Secretary for Education (or delegate) to appoint a commissioner due to the risks to the operation of the school.
11. Dissolving the Board and directing the appointment of a commissioner, necessitates the revocation of the direction to appoint a LSM, as a LSM can only be in place if there is an operational board. This matter is addressed within the attached *New Zealand Gazette* notice.

## Consultation

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12. On 7 July 2020, the Ministry met with the Board to discuss progress under the current intervention. During the meeting, we advised of our intent to recommend that the Board be dissolved and commissioner be appointed. Individual trustees expressed support for the recommendation. However, the Board did not reach a consensus and therefore did not request a commissioner be appointed.
13. On 25 June 2020, both the Education Review Office (ERO) and the New Zealand School Trustees Association (NZSTA) confirmed that they had no information to indicate that an escalation to commissioner was not appropriate.

## Risks

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14. We have identified that negative media attention could be an issue if the board is dissolved and a commissioner is appointed. To mitigate this issue, the commissioner will ensure a communications plan is in place and that the school community is well informed.

## Other Relevant Information

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15. If you agree to dissolve the Board under section 181(1) of the Act and direct the Secretary for Education (or delegate) to appoint a commissioner to replace the Board, the appointed commissioner will scope the issues in greater depth and develop a scoping report within the first four to six weeks of appointment.
16. We will finalise the set of expected outcomes for this intervention based on the facts collated in the scoping report, and then the commissioner will develop a planned approach to achieve these outcomes. The commissioner will then continue to report monthly to us on progress towards achieving these outcomes.
17. The Secretary for Education (or delegate) will review the intervention within twelve months of the intervention taking effect. When the Secretary (or delegate) considers that the commissioner is no longer required, they will ask the commissioner to prepare for a new Board to take office.

## Financial Implications

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18. A funding agreement is in place for the Ministry to meet the costs of the current statutory intervention.
19. It is unlikely that Richmond School will be able to cover the costs of a commissioner and will therefore will continue to require financial support.



## Conclusion

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20. The risks to the operation of the school are significant, and the relationships within the Board and between the Board Chair and Principal, Board Chair and other Board members, and between the Board Chair and LSM have deteriorated to a point where other levels of intervention will not be effective. It is therefore recommended that the Board be dissolved and a commissioner appointed.

## Proactive Release

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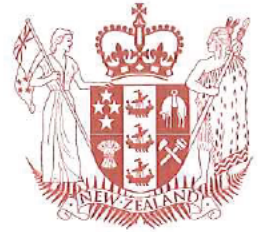
21. It is intended that this Education Report be proactively released as per your expectation that information be released as soon as possible. Any information that may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.

## Annex

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Annex 1: Notice for the *New Zealand Gazette* – Commissioner

Proactively Released



## Notice for New Zealand Gazette

### Notice of Dissolution of the Richmond School (Napier) (2665) Board and Direction to Appoint a Commissioner; and Revocation of the Notice of Direction to Appoint a Limited Statutory Manager

Under section 181(1) of the Education and Training Act 2020, I hereby dissolve the **Richmond School (Napier) (2665)** Board and direct the Secretary for Education or delegate to appoint a commissioner to replace that Board.

Under section 180(8) of the Education and Training Act 2020, I hereby revoke the notice of direction to Appoint a Limited Statutory Manager for the Richmond School (Napier) (2665) Board (as published in the *New Zealand Gazette*, 18 December 2019, Notice No. 2019-go5913 and 7 April 2020 Amendment Notice No. 2020-go1534).

This notice takes effect on date of publication

Dated at Wellington this **23rd** day of **August** 2020.

A handwritten signature in blue ink, appearing to be 'Chris Hipkins'.

**Hon Chris Hipkins**  
**Minister of Education**