



Education Report: Request to Dissolve the Te Kura Kaupapa Māori o Waiuku (3102) Board of Trustees and Direct the Secretary to Appoint a Commissioner

To:	Hon Chris Hipkins, Minister of Education		
Date:	31 July 2020	Priority:	High
Security Level:	In Confidence	METIS No:	1236259
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

The purpose of this paper is for you to:

- **Note** that under section 78N(1) of the Act, you have the power to dissolve the board of trustees of a school 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;
- **Agree** to dissolve the Board of Trustees for Te Kura Kaupapa Māori o Waiuku (3102) (the Board), under section 78N(1) of the Act, and direct the Secretary for Education or delegate to appoint a commissioner to replace the Board under section 78N(2) of the Act because of the risks to the operation of the school;
- **Sign** the attached *New Zealand Gazette* notice;
- **Agree** that this Education Report is proactively released as part of the next publication.

Summary

1. If you, as the Minister of Education (or delegate) have 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 you may apply an intervention under section 78I of the Education Act 1989 (the Act). When applying an intervention you must apply whichever intervention is considered reasonable to deal with the risk without intervening more than necessary in the affairs of the school.
2. Under section 78N(1) of the Act, you have the power to dissolve the board of a school 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.
3. The Ministry of Education (the Ministry) has significant concerns regarding the Board of Trustees of Te Kura Kaupapa Māori o Waiuku (3102) (the Board). These concerns are in relation to the financial management of the Kura, the Board's ability to effectively govern and the Board's lack of compliance with its financial obligations. Due to the significance of the presenting issues and the unwillingness of the Board to respond to concerns, the Ministry is now recommending that the Board be dissolved and a commissioner appointed under section 78N(1) and 78N(2) of the Act, to take over the governance of the Kura.
4. The Kura currently has no students and therefore the Ministry of Education will also be commencing investigation and consultation into the value of the Kura to the schooling network and the long-term viability of the Kura.
5. The Board of TKKM o Waiuku has not requested an intervention under section 78N. Therefore, we are requesting that you dissolve the Board and direct the Secretary for Education (or delegate) to appoint a commissioner.
6. A notice for the *New Zealand Gazette* addressing these matters is attached.

Recommended Actions

The Ministry of Education recommends you:

- a. **agree** to dissolve Te Kura Kaupapa Māori o Waiuku (3102) Board of Trustees, under section 78N(1) of the Education Act 1989 (the Act), and direct the Secretary for Education (or delegate) to appoint a commissioner to replace the Board under section 78N(2) of the Act because of the risks to the operation of the school;
- b. **(if you agree) sign** the attached *New Zealand Gazette* notice addressing these matters; and
- c. **note** that under section 78T of the Act, before appointing a Commissioner the Secretary must first consult with Te Runanga Nui o Nga Kura Kaupapa Māori o Aotearoa as te kaitiaki o Te Aho Matua;
- 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.

☒ Agree ☐ Disagree

☒ Proactively release ☐ Not release



Katrina Casey
Deputy Secretary
Sector Enablement and Support

31/7/2020



Hon Chris Hipkins
Minister of Education

08/08/2020

Background

1. Te Kura Kaupapa Māori o Waiuku (TKKM o Waiuku) (3102) is a decile 5, full primary school (year 1-8) located in Waiuku, Auckland region.
2. The Kura was established under sections 146 and 155 of the Education Act 1989 (the Act) on 2 June 2006.
3. The roll over the last five years has remained very low, with a general decline since 2014.

2013	2014	2015	2016	2017	2017	2019	2020
13	15	10	7	8	7	2	0

4. The current Board of Trustees is still the Establishment Board of Trustees appointed in 2006. The current Tumuaki, Riki Minhinnick has led the Kura since establishment.
5. In June 2009, the Ministry approved a capital injection to the Kura of \$160,000 to off-set a debt incurred as a result of staffing over entitlement from when the Kura was established. The capital injection agreement required the Board to accept statutory intervention support under section 78K (Specialist Help), and to follow a performance plan to assist the Board to strengthen its financial management systems and processes. The intervention was revoked in November 2010 once the outcomes of the intervention had been achieved.
6. The Board had agreed, at the time of accepting the capital injection, to conduct an election of trustees. This did not occur and the original Trustees have continued as an EBOT.
7. The Kura currently has a staffing entitlement of 1.3 FTTE, but the Board employs 2.0 FTTE teaching staff. The Board have agreed to fund the cost associated with additional 0.6 FTTE above entitlement. The Ministry understands that the staffing consists of the Tumuaki and his wife as a teacher.

Issues

8. The Ministry has significant concerns regarding the Board. These concerns are in relation to the financial management of the Kura, the Board's ability to effectively govern the Kura and the lack of compliance with its financial obligations.
9. The Ministry has found it challenging to engage with Kura leadership, particularly over the past 12 months. It has been difficult to arrange meetings with the Board Chair and Principal, and requests for information are ignored. We have corresponded with the Principal and the Board Chair seeking confirmation of the upcoming timetable of board meetings, confirmation of the remaining board membership and copies of the meeting minutes to determine frequency of these meetings. To date, these documents have not been provided to the Ministry. Additionally, it is our understanding that one of the original trustees appointed to the EBOT passed away in 2017.
10. The Board has provided no information to the Ministry addressing the declining roll or plans to enrol students. The Ministry understands that the school is not physically open and therefore no one is regularly on site, and the phone is no longer connected. Because of this, we do not anticipate any new enrolments are able to be received.
11. Ngāti Te Ata Iwi has a puna reo early learning centre on marae property, established to provide a pathway into the Kura. However whānau have chosen not to enrol at TKKM o Waiuku. The Ministry believes the declining roll may reflect a very low level of community support for the Kura and we are not aware of whether there is enough support in the area to bring the Kura back to be a quality education provider with a viable school roll. Ministry staff have engaged with Iwi representatives in discussions about the future viability of the Kura. Iwi representatives are interested in supporting the Kura.
12. There have been a number of financial and compliance issues identified including:
 - The Board has not submitted a school charter, annual reports (including financial statements) or analysis of variance to the Ministry for at least the past 5 years.
 - The Board has been operating at a deficit since 2014, and has had no engagement with its Financial Service Provider.
 - The Board has a history of Banking Staffing overuse since 2017, and is currently paying 0.6 FTTE over its 1.4 FTTE entitlement. Usage exceeded entitlement by 29% at the end of the 2019, and the 2019 Operational Grant was largely offset by banking staffing overuse recovery. This model of over-employment is unsustainable and the Kura does not have sufficient resources available to meet the cost of recovery from the Operational Grant.
 - The Office of the Auditor General has concerns about the Kura's viability due to lack of financial compliance.

Rationale for intervening at this level

13. Under Part 7A of the Education Act 1989 (the Act) the Minister of Education may apply an intervention if there are reasonable grounds to believe that there is risk to the operation of a school, or to the welfare or educational performance of its students. When applying an intervention the Minister must apply whichever intervention is considered reasonable to deal with the risk without intervening more than necessary in the affairs of the school.
14. Due to the significance of the presenting issues and the lack of willingness to engage or respond to concerns, the Ministry is now recommending that the Board be dissolved under section 78N(1) of the Act, and a commissioner appointed under section 78N(2) of the Act, to take over the governance of the Kura.
15. The Ministry has considered non-statutory intervention or lower levels of intervention. However, as the Board has been unwilling to engage with the Ministry, and has not responded to requests for information or concerns raised by the Ministry, a lower level of intervention would not be sufficient.

Consultation

16. Ministry regional staff met with the Board Chair and Tumuaki on 17 December 2019 to communicate our concerns about the sustainability of the Kura and advised the intent to recommend that the Board be dissolved and commissioner be appointed. At that time, the Chair and Tumuaki strongly opposed the dissolution of the Board and the appointment of a commissioner. The Tumuaki attributed blame for the decline in enrolments to the Ministry for not building new facilities.
17. Regional staff have also engaged with representatives of Ngāti Te Ata Iwi to support the Kura. The Iwi has indicated a desire to retain the Kura for the future growth and development of te reo Māori o Ngāti Te Ata.
18. Under section 78T of the Act, before appointing a Commissioner the Secretary must first consult with Te Runanga Nui o Nga Kura Kaupapa Māori o Aotearoa (TRN) as te kaitiaki o Te Aho Matua. We have consulted with TRN both about the proposed intervention and possible Commissioners.

Risks

19. 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

20. Under section 78N(1) of the Act, you have the power to dissolve the board of a school by notice in the *New Zealand Gazette*. You have not delegated this power in instances where the board has not requested this level of intervention.
21. The Board has not requested an intervention under section 78N. 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.
22. If you agree to dissolve the Board under section 78N(1) of the Act and direct the Secretary for Education (or delegate) to appoint a commissioner to replace the Board, the Secretary must consult with Te Runanga Nui o Nga Kura Kaupapa Māori o Aotearoa as te kaitiaki o Te Aho Matua before making an appointment. The appointed commissioner will then scope the issues in greater depth and develop a scoping report within the first four to six weeks of appointment.
23. 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.
24. The Secretary for Education will review the intervention within twelve months of the intervention taking effect. When the Secretary considers that the commissioner is no longer required, they will ask the commissioner to prepare for a new Board to take office.
25. As the Kura currently has no students, the Ministry of Education is investigating and will consult on the value of the Kura to the schooling network and the long-term viability of the Kura.

Financial Implications

26. It is unlikely that the Kura will be able to cover the costs of a commissioner and will therefore require financial support.

Conclusion

27. The risks to the operation of the school are significant, due to the Board's failure to comply with its financial obligations under the Act. The Board is not willing to engage with the Ministry and has not responded to the concerns raised by the Ministry and therefore lower levels of intervention will not be effective. It is therefore, recommended that the Board be dissolved and a commissioner appointed.

Proactive Release

28. 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.

Annexes

Annex 1

Notice for the *New Zealand Gazette* – Commissioner

Proactively Released

Proactively Released

NOTICE FOR NEW ZEALAND GAZETTE

Notice of Dissolution of the Te Kura Kaupapa Māori o Waiuku (3102) Board of Trustees and Direction to Appoint a Commissioner

Under section 78N(1) of the Education Act 1989, I hereby dissolve the **Te Kura Kaupapa Māori o Waiuku (3102)** Board of Trustees and direct the Secretary for Education or delegate to appoint a commissioner to replace that Board.

This notice takes effect on date of publication

Dated at Wellington this 8th day of August 2020.

HON CHRIS HIPKINS, Minister of Education

