



Education Report: **Flagswamp School (3739) Closure Final Decision**

To:	Hon Chris Hipkins, Minister of Education		
Date:	3 March 2020	Priority:	Medium
Security Level:	In Confidence	METIS No:	1219155
Drafter:	Mark Atkin	DDI:	s 9(2)(a)
Key Contact:	Julie Anderson, Director of Education for Otago-Southland	DDI:	
Messaging seen by Communications team:	Yes	Round Robin:	No

Purpose of Report

This report seeks your decision under section 154 of the Education Act 1989 (the Act) that Flagswamp School should close. The school's board of trustees opposes closure, but has advised it does not require the additional time offered beyond the statutory 28 days as it has no further arguments in favour of the school remaining open to provide.

We have taken the statutory 28 day period to have expired on 25 January 2020 (allowing for the days 25 December 2019 to 2 January 2020). ✓

Summary

- Flagswamp School is a rural Year 1-6 primary school situated on State Highway 1 in East Otago. Currently there are four students enrolled at Flagswamp.
- On 21 August 2019 you agreed to initiate consultation about possible closure [METIS 1198565 refers]. We met with the board on 26 August to discuss and commence the process. Consultation closed on 4 October.
- On 16 December 2019 you decided that the school should close. In light of the Christmas period you extended the statutory 28 day period for the board to provide any further arguments in favour of the school remaining open.
- On 24 January the board advised it had no further arguments to provide and asked that a decision be made as soon as possible (see Annex 1).
- Allowing for the period 25 December 2019 to 2 January 2020, the 28 day period expired on 25 January 2020. You may therefore now make a final decision.

6. Our view remains unchanged – that the school should close for the reasons set out in our last report [METIS 1213330 refers]. We recommend the school close at the end of Term 1, 2020. Those reasons are:
- there are currently four students enrolled at the school and no known new enrolments
 - there is little local community support for the school, as all but one student of Flagswamp School are from outside the local community. There was only one parent who engaged in consultation over the proposed closure ✓
 - there are other readily available options for schooling in the area, being larger, well-run schools
 - Karitane School offers an alternative to parents who prefer a small school environment for their children's education ✓
 - 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
 - we consider that the board does not have the capability to govern the school, noting there is an LSM in place (who has recommended the board be replaced by a commissioner), it has failed to implement the remedial action plan developed by the LSM, and ERO has raised concerns about governance, leadership, and performance, placing the school on two successive 1 – 2 year review cycles ✓
 - the costs associated with adequately addressing the identified issues that have arisen due to governance and management problems are very high.
7. If you agree to close the school the operational savings to the Crown are estimated at \$7,000 (excl GST) for the first year, with \$97,000 (excl GST) for following years. The estimated operational savings over the first six years is estimated to be \$492,000 (excl GST). ✓
8. Based on the July 2019 roll of seven students, closure would generate Education Development Initiative funding of \$70,000 (excl GST). This would be deployed between those primary schools current students enrol at in 2020, via agreements with those boards. ✓

Recommended Actions

The Ministry of Education recommends you:

- a. **note** that on 21 August 2019 you agreed to initiate consultation on the possible closure of Flagswamp School [METIS 1198565 refers], and this consultation was completed; **Noted**
- b. **note** that on 16 December 2019 you decided that the school should close, and invited the board of trustees to provide any further arguments in favour of the school remaining open; **Noted**

- c. **note** that on 24 January 2020 the board chairperson advised that the board had no further arguments to make and sought a decision as soon as possible, and that the statutory 28 day period for response has expired;

Noted

- d. **agree** to close Flagswamp School under section 154(2) of the Education Act 1989, and that the closure date be 9 April 2020 (the end of Term 1);

Agree / Disagree

- e. **sign** the attached letters to the chairperson of the board of trustees and local MPs advising them of your decision;

- f. **sign** the attached notice for the *New Zealand Gazette*;

- g. **note** that, if you do not agree the school should close we will provide alternative letters for your signature;

Noted

- h. **agree** that this report be proactively released in line with your expectations that information be released as soon as possible. Any information that might 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

23/20



Hon Chris Hipkins
Minister of Education

10/3/20

Background

1. Flagswamp School is a small rural, decile 6, Year 1-6 primary school situated on State Highway 1 in East Otago, 8.3 km south of Palmerston School and 6.3 km north of Waikouaiti School.
2. On 21 August 2019 you agreed to initiate consultation about possible closure [METIS 1198565 refers]. We met with the board on 26 August to discuss and commence the process. Consultation closed on 4 October.
3. On 16 December 2019 you decided that the school should close. Notification was sent to the board on 19 December 2019. In light of the Christmas period you extended the statutory 28 day period for the board to provide any further arguments in favour of the school remaining open to 28 February 2020.
4. Although the board does not support closure of the school, on 24 January 2020 the board chairperson advised it had no further arguments to make in favour of the school remaining open and asked that a decision be made as soon as possible (see Annex 1).

Closure Process for State Schools

5. Before reaching a decision on closure of a school, section 154 of the Act requires the Minister of Education to consult with the board of the school, and section 157 of the Act requires the Minister to have consulted with the boards of all state and state integrated schools whose rolls might be affected by the closure if it were to occur. This has been completed.
6. Having taken into account the consultation feedback and decided the school should close, section 154 of the Act requires that the board be invited to provide any further arguments in favour of the school's staying open. The board had 28 days to provide you with any further arguments (although you extended the time to 28 February 2020 due to the Christmas period).
7. The board was given notice on 19 December 2019. If we allow for the nine days from 25 December 2019 to 2 January 2020 (inclusive), this brings us to 25 January 2020. Now that the 28 days have expired and the board has advised it has no further arguments to make, you may make a final decision.

Consultation under sections 154 and 157 of the Education Act 1989

8. The Ministry consulted with the board of Flagswamp School. A written response was received, opposing closure.
9. The Ministry also consulted with the boards of Karitane School, Waikouaiti School and Palmerston School. One response was received, from Karitane School. The board considers that Flagswamp School has provided an alternative for parents whose children do not fit easily into the mainstream system of a larger school, and has created a community of learners and whānau in the wider area who seek this option. For that reason the board considers Flagswamp School should be retained.
10. The Flagswamp School Board of Trustees consulted with parents and community, assisted by the LSM. One response was received from a parent of a student at the school. She reflected the sentiments of the Karitane School Board of Trustees, and was particularly concerned that the school should not close before the end of the 2019 year.

Network and community

11. The school is not essential to the network. 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 three year ERO review cycles, and both have capacity for Flagswamp School's students. Karitane School offers an alternative small school option in the area (addressing the board's and the parent's submissions). All three of these schools are well managed, supported by their local community and received favourable ERO reports in 2018.
12. The school does not have local community support. The majority of students living in the school's natural catchment have attended the other available schools, and community engagement with the consultation process about possible closure was minimal. The four current students come from outside the local community.
13. Overall, although some parents choose Flagswamp School over others, the large majority of parents choose other, larger, schools for their children's education.

The school's current position

Financial viability

14. The school roll is too small to be financially viable. The small roll size has continued for many years with no indication of significant change in the foreseeable future.
15. The school had a deficit budget of \$17,561 for year ended 31 December 2018, after two years of small losses. Notwithstanding the LSM financial assistance, and considering the low roll, it is difficult for small schools like this to be sustainable in the long term. ✓
16. There has been considerable underspend in fixed assets, with current accumulated depreciation of \$90,000 and building cyclical maintenance of \$10,000. In total \$100,000 needs to be spent on the school in the medium term. With only \$8,800 of working capital it would be a significant challenge to the managers of the school to meet these commitments. ✓
17. There are additional urgent requirements for significant remedial work if the school should remain open.

Health and Safety

18. An independent Health and Safety Audit by Progressive Solutions Ltd identified a range of health and safety compliance issues and actions for improvement, including water heating and inadequate hot water supply, drainage, fencing and materials potentially containing asbestos. Board management of contractors and procedures such as safe storage of chemicals is also mentioned. s 9(2)(g)(i)
19. The location of the school at the side of State Highway 1 poses a health and safety risk which would continue even if fencing was improved.

Board capability

20. There is a statutory intervention in place due to an accumulation of issues arising out of a lack of governance capability over a number of years. The LSM has reported concerns regarding the board's lack of engagement with the action plan which was developed to address the issues, and with the consultation identified. We consider that the issues facing the school, if it were to continue to operate, are beyond the board's ability to address.
21. The continuing small roll with lack of indication of future enrolments, in combination with the fact that the current board includes only parents of existing students, suggests that board succession would be problematic.
22. Given the magnitude of the issues needing to be addressed, it is unlikely that a quality applicant could be found to take up the permanent position of teaching principal.

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.
24. The property at Flagswamp School is Crown-owned. If your final decision is to close the school, 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.
25. The school buildings would not be economically salvageable for use in other schools, and would remain on site to be disposed of with the land.
26. The school house would be included in the disposal, and responsibility for it would transfer to Land Information New Zealand in terms of the existing tenancy.

Financial Considerations

27. The operational savings to the Crown are estimated at \$7,000 (excl GST) for the first year, with \$97,000 (excl GST) for following years. The estimated operational savings over the first six years is \$492,000 (excl GST).
28. Based on the July 2019 roll of seven students, closure would generate Education Development Initiative funding of \$70,000 (excl GST). This would be deployed between those primary schools current students enrol at in 2020, via agreements with those boards.

Transport

29. Flagswamp School currently has no students receiving Ministry funded school transport assistance, either on a bus route or allowance. There would be no substantial cost savings for School Transport on closure.
30. Students may be supported to travel to their next nearest school if they meet all Ministry's school transport eligibility criteria.

31. Due to the close proximity of Flagswamp School to neighbouring schools, we expect any transport expenditure to support the students who need to relocate to be minimal.

Staffing

32. An acting principal and a 0.3 relief teacher are employed on a fixed term basis until the end of Term 1, 2020.
33. A cleaner is permanently employed for 1 hour a day and a caretaker is employed on a casual basis.

Risks and Mitigations

34. There is likely to be media attention to a decision that the school should close. In preparation for this a draft media statement has been developed for release (see Annex 5).
35. A decision that the school should not close would continue the existing health and safety risks to students, and incur significant costs to the Crown to remedy. The capability of the board would pose an ongoing risk to the school and students.

Conclusion

36. Our recommendation is that Flagswamp School should close. We have come to this view because:
- there are currently four students enrolled at the school and no known new enrolments
 - there is little local community support for the school, as the remaining student of Flagswamp School are from outside the local community. There was only one parent who engaged in consultation over the proposed closure
 - there are other readily available options for schooling in the area, being larger, well-run schools
 - Karitane School offers an alternative to parents who prefer a small school environment for their children's education
 - 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
 - we consider that the board does not have the capability to govern the school, noting there is an LSM in place (who has recommended the board be replaced by a commissioner), it has failed to implement the remedial action plan developed by the LSM, and ERO has raised concerns about governance, leadership, and performance, placing the school on two successive 1 – 2 year review cycles
 - the costs associated with adequately addressing the identified issues that have arisen due to governance and management problems are very high.

37. 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

38. If your decision is that Flagswamp School should close, you are asked to sign the attached letters to the board chairperson (Annex 2) and local Members of Parliament (Annex 3).
39. You are also asked to sign the attached notice for the *New Zealand Gazette* (Annex 4).
40. If you agree to closure, Memoranda of Agreement that itemise the Educational Development Initiative funds and the process for accessing them, as well as details of the distribution of assets from Flagswamp School, will be negotiated with the relevant boards.

Proactive Release

41. We recommend that this report be proactively released in line with your expectations that information be released as soon as possible. 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: Letter from board chairperson re final arguments
- Annex 2: Letter to board chairperson
- Annex 3: Letters to local Members of Parliament
- Annex 4: Closure notice for the *New Zealand Gazette*
- [REDACTED]

Annex 1: Letter from board chairperson re final arguments

Audit

24 January 2020

Julie Anderson
Director of Education
Otago/Southland
Ministry of Education
Dunedin

Tēnā koe Julie

I write on behalf of the board of trustees of Flagswamp School in relation to the proposed closure letter from the Minister of Education received 19 December 2019.

The board has met together and with Ministry staff on Monday 20 January and would hereby formally advise that there are no additional arguments in favour of the school remaining open, beyond those submitted last year.

We would appreciate a final decision as promptly as possible in order that families and staff can plan for their future, whether in Flagswamp School or elsewhere.

Yours faithfully
For the Flagswamp School Board of Trustees

Kimberley Saunderson
Chairperson

Cc: Lynn McKinney, Cleave Hay

Audit



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

Dear Kimberley

Closure of Flagswamp School

Thank you for your letter of 24 January 2020 regarding the proposed closure of Flagswamp School, advising that the board has no further arguments to make in favour of the school remaining open and seeking a final decision as soon as possible.

I have carefully examined the arguments you have previously presented in favour of the school staying open.

After considering all the information provided to me, I am still satisfied that Flagswamp School should close under section 154 of the Education Act 1989. This is because

- there is little local community support for the school, as all students of Flagswamp School are from outside the local community, and only one local student was enrolled in 2019
- there are other readily available options for schooling in the area, being larger, well-run schools
- Karitane School offers an alternative to parents who prefer a small school environment for their children's education
- 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
- I am concerned that the board does not have the capability to govern the school, noting, it has failed to implement the remedial action plan developed by the LSM, and ERO has raised concerns about governance, leadership, and performance, placing the school on two successive 1 – 2 year review cycles
- the costs associated with adequately addressing the identified issues that have arisen are very high.

The closure will be gazetted to take effect on 9 April 2020 (the end of Term 1).

Lynn McKinney, Education Advisor from the Ministry's Dunedin office will contact you to discuss the details of the closure process.

I realise that it is not an easy matter for a board and a school community to be involved in the closure of their school. I would like to take this opportunity to record my appreciation of the service that successive board members and school staff have given to Flagswamp School and its community.

Yours sincerely

Chris Hipkins
Minister of Education

Audit

Hon Chris Hipkins

MP for Rimutaka

Minister of Education

Minister of State Services

Leader of the House

Minister Responsible for Ministerial Services



Hon Dr David Clark
MP for Dunedin North
Parliament Buildings
WELLINGTON

Dear David

Closure of Flagswamp School

The board of Flagswamp School has advised me that it has no further arguments to make in favour of Flagswamp School remaining open, following previous consultation on its proposed closure.

After considering all the information provided to me, I am still satisfied that Flagswamp School should close under section 154 of the Education Act 1989. The closure will be gazetted to take effect on 9 April 2020.

I have expressed my appreciation for the service that successive board members and school staff have given to Flagswamp School and its community. The Ministry will continue to support the board during this time of transition.

Yours sincerely

Chris Hipkins
Minister of Education

Hon Chris Hipkins

MP for Rimutaka

Minister of Education

Minister of State Services

Leader of the House

Minister Responsible for Ministerial Services



Rino Tirikatene
MP for Te Tai Tonga
Parliament Buildings
WELLINGTON

Dear Rino

Closure of Flagswamp School

The board of Flagswamp School has advised me that it has no further arguments to make in favour of Flagswamp School remaining open, following previous consultation on its proposed closure.

After considering all the information provided to me, I am still satisfied that Flagswamp School should close under section 154 of the Education Act 1989. The closure will be gazetted to take effect on 9 April 2020.

I have expressed my appreciation for the service that successive board members and school staff have given to Flagswamp School and its community. The Ministry will continue to support the board during this time of transition.

Yours sincerely

Chris Hipkins
Minister of Education

Annex 4: Closure notice for the *New Zealand Gazette*

Audio



Education Act 1989

Flagswamp School (3739) Closure Notice

Pursuant to section 154(2) of the Education Act 1989, I hereby declare that Flagswamp School (3739) will close on 9 April 2020 and will cease to be established on that day.

Dated at Wellington on this day of 2020.

Hon Chris Hipkins
Minister of Education