

Education Report: Consultation on request for merger of Kelston Deaf Education Centre and van Asch Deaf Education Centre

To:	Hon Chris Hipkins, Minister of Education		
Date:	17 October 2018	Priority:	High
Security Level:	In Confidence	METIS No:	1153724
Drafter:	Philippa Pidd	DDI:	s 9(2)(a)
Key contact and number:	Katrina Casey	DDI:	
Messaging seen by Communications team:	Yes	Round Robin:	No

Purpose of Report

The purpose of this report is for you to:

Note that the Combined Board of Trustees of the Kelston Deaf Education Centre and the van Asch Deaf Education Centre (the combined board) seek to merge the schools to form one national school and provider of support for deaf and hard-of-hearing learners. The proposed merger is part of a process of change that the Board is implementing to strengthen education for deaf and hearing impaired students across the country.

Note that:

- the combined board engaged with its stakeholders in 2017 and developed seven strategic goals to improve its service, which include forming a single national school
- the next step in the merger process is for the combined board to undertake formal consultation on the proposed merger, as required by section 156A of the Education Act 1989 (the Act)
- there are no schools whose rolls might be affected by the proposed merger, which means there is no requirement for you to consult under section 157 of the Act. However, to ensure all recipients of the service have an opportunity to comment, the Ministry will use the *Education Gazette* to inform all schools of the proposed merger and invite comments. We will also consult with key sector groups such as Deaf Aotearoa. This will also help manage any aversion to change that stakeholders might have.

Note that following this consultation process we will provide you with a report outlining the feedback and requesting your decision on the merger under section 156A of the Act. This next report is likely to be provided in late term 1, 2019.

Summary

- 1 The Combined Board of Trustees for Kelston Deaf Education Centre (503) and van Asch Deaf Education Centre (519) have written to you (see Annex 1) requesting that the two schools merge to become one national school and service for deaf and hard-of-hearing learners.
- 2 Under section 156A of the Education Act 1989 (the Act) you may, by notice in the *New Zealand Gazette*, merge one or more state schools with another state school. You must first be satisfied:
 - a. that each board of a school concerned has made reasonable efforts to consult the parents of full-time students about the merger,
 - b. that the consultation that has taken place is adequate in the circumstances
 - c. that the creation of a single school by the proposed merger is appropriate in the circumstances.
- 3 The combined board engaged with its stakeholders in 2017, developing and adopting seven strategic goals to help improve its service. The goals include the formation of a single national school. The combined board will now undertake formal consultation with parents on the proposed merger, as required by section 156A of the Act.
- 4 Under section 157 of the Act you must also consult with the boards of any state schools whose rolls, in your opinion, might be affected by the proposed merger. The Ministry conducts this consultation on your behalf. In this instance there are no schools whose rolls might be affected as the two schools are unique in providing for deaf and hearing-impaired students, and the merger would only affect the management level of the schools.
- 5 However, to ensure all recipients of the service have an opportunity to comment, the Ministry will use the *Education Gazette* to inform all schools of the proposed merger and invite comments. We will also consult with key sector groups such as Deaf Aotearoa. This will also help manage any aversion to change that stakeholders might have.
- 6 Both Deaf Education Centre sites would continue to provide the same delivery as they do now, including residential schooling opportunities and provision of support to students enrolled in ordinary state schools. They also support children under five years old, but this does not impact on state school rolls. The only other technical difference for students is that those enrolled at the merging school would have their enrolments transferred to the continuing school, while continuing to attend at their current site.
- 7 s 9(2)(g)(i) [REDACTED] Although this proposed merger would not affect the delivery sites or level of delivery, there is likely to be anxiety over the proposal. We therefore propose to publicise the proposed merger and seek comment as widely as possible.

Recommended Actions

The Ministry of Education recommends you:

- a. **note** that the Combined Board of Trustees of the Kelston Deaf Education Centre and the van Asch Deaf Education Centre (the combined board) seeks to merge the schools;
Noted
- b. **note** that the combined board engaged with its stakeholders in 2017, developing seven strategic goals to improve its service, which included forming a single national school;
Noted
- c. **note** that the combined board will now undertake formal consultation with parents on the proposed merger, as required by section 156A of the Education Act 1989 (the Act);
Noted
- d. **note** there are no schools whose rolls might be affected by the proposed merger, hence there is no requirement for you to consult such schools under section 157 of the Act;
Noted
- e. **note** that the Ministry will, however, consult widely with stakeholders about the proposed merger as it will help inform them and manage any aversion to change that might be experienced in the wider deaf community;
Noted
- f. **sign** the attached letter to the Chair of the combined board, acknowledging receipt of their merger proposal and inviting the board to undertake its consultation; and
- g. **agree** that this report be proactively released as per your expectation 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.

Agree / Disagree



Katrina Casey
Deputy Secretary
Sector Enablement and Support

17/10/2018



Hon Chris Hipkins
Minister of Education

31/10/18

Background

1. The two schools, the Kelston Deaf Education Centre (Kelston) and van Asch Deaf Education Centre (van Asch) provide services for the deaf and hard-of-hearing across New Zealand. As well as enrolling students at their day schools, they provide some residential services, operate satellite units at ordinary state schools, provide for pre-schoolers, and offer a range of courses and services for parents/caregivers, schools and other professionals.
2. Kelston provides services across the upper North Island, including metropolitan Auckland while van Asch covers the lower North Island and South Island. Since 2012 a combined board of trustees has governed both schools.
3. The combined board is currently supported by two Limited Statutory Managers (LSMs) Terri Johnstone and Michael Rondel, appointed in July 2017 and May 2018. The powers vested in the LSMs are Policy and Employment in one, and Finance and Property in the other. The combined board retains all other powers including Health and Safety, and Curriculum.
4. The Ministry has been working closely with the board and the two schools over the past 12 to 15 months, supporting them to address the issues raised in the LSM Scoping Report. The Ministry has also been working the combined board on a new model for a national network of supports for deaf education. This work continues.
5. The combined board wrote to you on 21 September 2018 requesting that the two schools merge and become one school/service provider aiding deaf and hard-of-hearing learners across New Zealand (see Annex 1).
6. The combined board has developed a plan for the future of deaf education and support, which includes strengthening curriculum provision, the structure of the schools, governance, resourcing and property. It has engaged with its community about the proposed changes and has started implementing them in the area of teaching and learning. It sees that the next step is to bring the schools together through the mechanism of a merger.

Rationale for Merger

Combined board

7. There were six key drivers behind the move in 2012 to bring the two schools under the governance of a combined board. These were to:
 - a) increase opportunities for communication, and sharing knowledge and skills between the two centres
 - b) allow for flexible use of resourcing to meet demographic changes in the deaf and hearing-impaired student population
 - c) maximise the Review of Special Education Initiative for sensory schools to provide more flexible services for ORS-verified students
 - d) set a national approach to service provision
 - e) ensure perspectives of the key stakeholders are represented well
 - f) assure governance arrangements best suit the service provider centres' roles.

8. The combined board considers that there has not been significant progress in realising these objectives. Despite effort, the two schools have retained separate cultures, staffing structures, and ways of working. This has resulted in a continued inequity of resources and educational outcomes for deaf and hard-of-hearing students.
9. The (policy and employment) LSM's scoping report of September 2017 confirms the continued inability of the board to make progress against these goals, for a range of reasons and despite best intentions.
10. The LSM report also notes:

“Currently, the combined board governs the two schools as separate entities. This has advantages, as it allows a comparison between the two facilities, but it also brings challenges, as the board is not governing a nation-wide service model. Although the board is working hard to align the reporting structures between the schools, this alignment (other than Student Achievement Function (SAF)) is in relation to reporting, as opposed to promoting consistent New Zealand-wide service delivery.”
11. The board considers that merging the two schools will allow them to make better progress on achieving their objectives.

Development of strategic goals

12. Following the LSM's report and engagement with the school community, the combined board ratified seven strategic goals in December 2017. These were as follows:
 - a) Develop a holistic progressive service for deaf and hard of hearing learners that maximises educational, social and emotional outcomes and is accessible, equitable and efficient in its delivery.
 - b) Develop one new national organisation structure that enables excellent educational outcomes for deaf and hard of hearing learners New Zealand wide.
 - c) Inform decisions, priorities, and resourcing by utilising data, evidence-based best practice and research that underpin child-centred values of Excel, Choose, Grow, and Belong.
 - d) Build and maintain strong, collaborative relationships with the deaf community, including external stakeholders.
 - e) Use and manage financial resources to provide the maximum educational benefit for our learners within budget and contractual frameworks.
 - f) To lift student achievement through effective pedagogy for all of our deaf and hard of hearing students.
 - g) To align property and infrastructure to support a nationwide service delivery model.
13. In pursuit of the second goal – developing a single national organisational structure – the combined board considers that, while some progress has been made, duplication of resources is ineffective. The combined board therefore considers it needs to address the organisational structure of the two schools if it is to make tangible progress against the seven goals.

14. The May 2018 LSM report notes:

“The greatest risk relates to the two Centres operating without a single CEO, and without a nationwide organisational structure. Without this, communication is complex, energy is expended where it does not need to be, and the children are not receiving a consistent service that is accessible, equitable, and excellent in all areas of New Zealand.”

Resourcing

15. Under the current resourcing model, merging the two schools will result in a reduction in teaching staff entitlement by 3.4 FTTE, and a reduction of 15 management units compared with the current setup of two schools. This resourcing is based on the number of students enrolled at the two schools.
16. Only a proportion of students assisted by the schools are enrolled at either Kelston or van Asch. The majority of students receive assistance while enrolled at and attending ordinary state schools.
17. The Ministry has been working and will continue to work with the schools to support them with a number of changes and funding supports. Alongside the merger proposal the Ministry will re-examine the funding basis for the schools’ delivery to students enrolled at other schools. Additional funding provided in Budget 2018 has also assisted the schools financially.
18. Based on the roll of the smaller school (van Asch, 29 students) the merger would generate Education Development Initiative (EDI) funding of \$176,500, which would go to the merged school. EDI funding is generated whenever there is one fewer school in the network. This funding is to be used for projects that raise student achievement.

Legislative requirements

19. Under section 156A of the Act the Minister of Education can merge state schools if satisfied that:
- a. each board of a school concerned has made reasonable efforts to consult the parents of students (other than adult students) enrolled full-time at the school about the proposed merger; and
 - b. the consultation that has taken place has been adequate in all the circumstances; and
 - c. the creation of a single school by the proposed merger is appropriate in the circumstances.
20. Under section 157 of the Act you must first consult with the boards of all state schools whose rolls might, in your opinion, be affected if the merger takes place.
21. The two schools are unique in New Zealand, and no change in the scope of delivery or number of enrolled students is proposed, including residential schooling opportunities. Therefore, there are no schools whose rolls might be affected by the proposed merger and consultation under section 157 is not required.

Risks

22. s 9(2)(g)(i) [REDACTED] We expect a significant level of anxiety to occur over the proposed merger, and possibly high levels of publicity that may result in difficulty in progressing the proposal.
23. To mitigate this we will advertise the proposed merger widely, including publication in the *Education Gazette*, and seek comment from schools and key sector groups like Deaf Aotearoa. We note that this is not required by legislation. We are planning to do this in parallel with the combined board's consultation with its staff and parents.
24. We have prepared Q&As and key messages, should the media request additional information. We have shared these with the combined board and they are attached as Annex 3.

Next Steps and Timeline

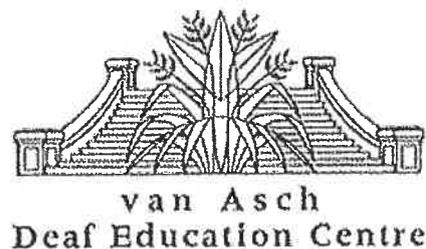
25. Consultation will begin in early Term 4, 2018. This could continue into early 2019.
26. We expect to provide you with a report and recommendations on the proposed merger for you decision, in the first half of 2019.
27. This will enable the combined board to manage staffing and other changes for implementation in Term 1, 2020, should you approve the merger.

Annexes

- Annex 1: Application for Merger
- Annex 2: Letter to the Combined Board of Trustees
- Annex 3: s 9(2)(g)(i) [REDACTED]

Annex 1: Application for Merger by the Combined Board of Trustees

Proactively Released



Kelston Deaf Education Centre
3 Archibald Road
Kelston
Auckland, 0602

van Asch Deaf Education Centre
38 Truro Street
Sumner
Christchurch 8081

21 September, 2018

Dear Minister Hipkins,

RE: Request for Kelston Deaf Education Centre and van Asch Deaf Education Centre to Merge

The Combined Board of Trustees for Kelston Deaf Education Centre and van Asch Deaf Education Centre is writing to request that the two schools, Kelston (#503) and van Asch (#519) merge to become one national school and service for children and students with hearing impairment.

Background

The Combined Board of Trustees for Kelston Deaf Education Centre and van Asch Deaf Education Centre was established in 2012. The 6 key drivers behind this change of constitution, as outlined by Minister Anne Tolley, were as follows:

1. Increase opportunities for communication and sharing knowledge and skills between the Deaf Education Centres (DECs)
2. Allow for flexible use of resourcing to meet demographic changes in the deaf and hearing impaired student population
3. Maximise the Review of Special Education initiative for sensory schools to provide more flexible services for ORS verified students
4. Set a national approach to service provision
5. Ensure perspectives of the key stakeholders are represented well
6. Assure governance arrangements best suit the service provider roles of the Deaf Education Centres

Deaf Education differs from other schools, in that the Board is expected to govern a nationwide service with students ranging in age from 2 years to 21 years. The combined schools have a regional roll of 2,475 students, 722 of which receive a direct service (RTD) and 1,754 that receive an indirect service (Assist). In addition to the above, 128 students are enrolled in one of ten satellite provisions in Christchurch and Auckland. The Deaf Education Centres also provide preschool education and transition services for 18 to 21 year olds. There are two residences for live in students, one in Christchurch and one in Auckland. The Board oversees a staff of 365 and a budget of \$40 million.

Governance

The Combined Board of Trustees for Kelston Deaf Education Centre and van Asch Deaf Education Centre is currently supported by two Limited Statutory Managers (LSMs). The portfolios that the Limited Statutory Managers hold include: Policy, Employment, Finance, and Property. The Board retain powers for Health and Safety and Curriculum. The Board has been receptive to this intervention (the two LSMs), as they were aware that Kelston Deaf Education Centre was in a financial crisis, the schools were working as separate entities, and the child at Kaitaia was getting a different service to the child in Invercargill.

The current board is aware that at some point it will need to work with the Ministry of Education to address the constitution of the Combined Board. It is unrealistic that a Board made up of volunteers will have the experience and skills to govern a school within such a complex environment. The Limited Statutory Managers have stabilised the issues that were being faced by both Deaf Education Centres and have set a clear strategic direction, but in doing so this has only highlighted the shortcomings of a traditional board constitution.

The parallel school structure has put considerable pressure on the Board, as without a pivotal position such as a CEO, the Board by default end up filling this void. This results in the blurring of governance and management rolls.

As part of this proposal, the Board asks that there be an opportunity to re-examine the constitution and explore the possibility of supporting the Board of Trustees through Ministerial Appointees that bring strategic, financial and employment acumen to the table. As with all Schools, the Board of Trustees will be holding elections as per the triennial cycle in May/June 2019. If a merger was to be agreed to, a review of the constitution is timely.

Resourcing

We understand that a merger of the two schools will result in the loss of teaching staff entitlement, reduction of management units, and a decrease in the operational budget as it would be resourced as one school rather than two.

Given the considerable change that is necessary to lift student achievement and equity across the deaf student community of New Zealand, we ask for the Ministry of Education to be flexible and to support our request to retain the number of positions and management units, as well as the existing operational funding. This is especially pertinent considering the work around the service delivery model that will take time to implement. This piece of work spans Resource Teachers of the Deaf working differently within the regions and core schools to meet the needs of more children, as opposed to just focussing on the ORS funded students. It requires a structural, cultural, and pedagogical shift which will take considerable focus and time to achieve.

Another aspect for consideration is the remuneration of the proposed 'Executive Principal'. Currently the Board is topping up the two Principals' salaries through concurrence. The Board would appreciate the Ministry giving consideration to re-scoping of the role and remuneration package. This would ensure the Board can attract the highest calibre of applicant. A possible way forward may be setting a notional roll for the Deaf Education, similar to that in place for the Health Schools. This would reflect the size and scope of the position, which is well in excess of that determined by the number of enrolled students (which is what it is based on currently).

The Board believes that a merger would allow a genuine national approach for DEC operations. We believe there will be opportunities to achieve more efficient and effective use of resources, including board funded staffing. Currently there is duplication of support and other services across both DEC's and rationalisation of those activities will achieve a more effective service delivery and budget savings.

We also believe there will be opportunities for coordinating the more effective use of the DEC's property resources including regional facilities and rationalisation options. However, any benefits in this area are more likely to be achieved in the longer term.

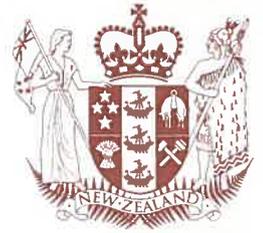
Costs

Van Asch and Kelston Deaf Education Centres have staff who have been working for the organisation for 30 to 40 years. Should the merger proposal be approved it is highly likely that some of these staff will opt for the voluntary redundancy option. We estimate that approximately four longstanding teachers fall within this category.

There will also be affected board funded staff within the support services across both DEC's and any costs associated with this will need to be met by the Board. We anticipate that monetary gains made from streamlining positions will offset any redundancy costs long term.

Proactively Released

Office of Hon Chris Hipkins



MP for Rimutaka

Minister of Education
Minister of State Services

Leader of the House
Minister Responsible for Ministerial Services

Rachel Douglas
Chair
Kelston and van Asch Deaf Education Centres
Combined Board of Trustees
3 Archibald Road
Kelston
Auckland

Dear Rachel

Thank you for your letter of 21 September 2018 requesting the merger of the Kelston and van Asch Deaf Education Centres.

Before I can approve a merger of schools there are two requirements that must be met under the Education Act 1989.

The first of these is that I must be satisfied that the schools have made reasonable efforts to consult, and adequately consulted with, the parents of students (other than adult students) enrolled full-time at the schools, and that the proposed merger is appropriate in the circumstances.

I note that forming one national organisational structure was one of seven strategic goals adopted by the board as a result of engagement with staff, parents and stakeholders in 2017. Now that there is a formal proposal to merge the two schools the board must formally consult over this proposal.

The second requirement is that I must consult with the boards of state schools whose roll might, in my opinion, be affected by the proposed merger. In normal circumstances in a merger one or more school sites would physically close, with students being redeployed to other schools, and the Ministry of Education would undertake such consultation on my behalf.

In this situation however it is my opinion that no other state schools' rolls would be affected. This is due to the unique nature of the two schools, the fact that neither site is proposing to close, and that all currently enrolled students would continue be provided for as they are presently. The only technical difference for students is that those enrolled at the merging school would have their enrolments transferred to the continuing school, while continuing to attend at their current site.

However, due to the widespread nature of the schools' delivery, the Ministry will consult widely with schools and stakeholders about the proposed merger. This will help inform them of the proposal, and as feedback will be provided to me in a further reports, it will give me a clear picture of any issues and concerns about the proposal that might be experienced in the wider deaf community. The Ministry will do this in parallel with the board's consultation.

I therefore invite the board to begin the formal consultation process in collaboration with the Ministry. Once this is complete, and your Board has considered its feedback, the Board should report this to the Ministry, then Ministry will prepare a final report, which also includes feedback from their process, for my consideration on the merger.

I understand that the Ministry has informed you that as your schools are now formally in a school reorganisation process, no permanent staff appointments should be made without the approval of the Ministry.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'CH', is positioned above the printed name of the sender.

Chris Hipkins
Minister of Education

cc Terri Johnstone
Michael Rondel

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