Education Report: Alternative Constitution for the Woodhill School (1577) Board of Trustees

To: Hon Chris Hipkins, Minister of Education
Date: 26 April 2018
Security Level: In Confidence
Drafter: Deborah Tennet
Key Contact: Isabel Evans, Director of Education for Auckland
Messaging seen by Communications team: No

Purpose of Report

The purpose of this paper is for you to:

Approve an alternative constitution for the Woodhill School Board of Trustees;

Agree that this Education Report is proactively released as part of the next publication; and

Sign the attached notice for publication in the New Zealand Gazette and the attached letters to the Commissioner and local members of Parliament notifying them of your decision.

The report provides background information about ending the Commissioner’s appointment in place of the Woodhill School Board of Trustees (Board) and returning the Board to self-governance. It also seeks your agreement to the Commissioner’s request to approve an alternative constitution for the Board as a transition from statutory intervention to self-governance.

Summary

1. Woodhill School, in rural Helensville, North West Auckland, is currently governed by a Commissioner. The statutory intervention is ready to end and the school returned to self-governance.

2. Following consultation with the Commissioner, the Ministry of Education (Ministry) has reviewed the school’s governance and intervention history with a view to strengthen elected representation with strong governance modelling from experienced appointees. The proposal is to limit the number of parent elected trustees to three, introduce a requirement to have up to two members appointed by the Director of Education for Auckland, whilst retaining a staff representative and the Principal on the Board.
3 The Ministry, on your behalf and in collaboration with the Commissioner, has engaged in consultation hui with whānau and parents of current students, community members including past students and ex-Board members, and te whānau o Whiti Te Ra Marae, to determine the future direction of the governance of the school. The outcome of the consultation was unanimous support for the proposed membership of the alternative constitution as a transition from the intervention to a self-governing board.

4 The alternative constitution decision will take effect immediately your signed notice is published in the New Zealand Gazette. However, a new Board will not take office until the Commissioner’s appointment ends (seven days after the date he sets for an election of trustees).

Recommended Actions

The Ministry of Education recommends you:

a. **approve** an alternative constitution for the Woodhill School Board of Trustees under section 98A of the Education Act 1989;  
   
   [Agree/Disagree]

b. **sign** the attached notice for publication in the New Zealand Gazette;

c. **sign** the attached letters to the Commissioner, and the school's local members of Parliament, Chris Penk and Hon Kelvin Davis, advising them of the alternative constitution; and

d. **Proactively release** this Education Report as part of the next publication.

[Release/Not release]

Katrina Casey  
Deputy Secretary  
Sector Enablement and Support  
26/12/18

Hon Chris Hipkins  
Minister of Education  
7/5/18
Background

1 Woodhill School is a decile 6, semi-rural, Years 1-8 primary school in the Helensville and Te Tai Tokerau electorates. The School has a confirmed staffing entitlement of 1.3 FTE. The school's July 2017 roll was 20 students, comprising 50% (10) Māori, 20% (4) European, 20% (4) Asian, 5% (1) Pasifika and 5% (1) other ethnicities. Over the last 5 years the roll has decreased from 108 students in 2013 (55% of whom were European and 36.1% Māori) to 19 students in July 2016 (31.6% of whom were European and 52.6% Māori).

2 The Education Review Office (ERO) last reviewed the school in 2015 and noted in its 2015 Report that since 2014, the school bus has become financially unviable and its service to and from the school has stopped. This has impacted significantly on the school roll and staffing.

3 The school is on a 3 year ERO review cycle and due for review this year.

4 The school is part of Te Kāhui Ako o Kaipara with Kaipara College and the Helensville, Parakai, Waimauku, Waioneke and Waitoki, Years 1-8 primary schools.

Statutory interventions and alternative constitution

5 Woodhill School has a history of statutory interventions dating from April 2010 when the Board was required to engage specialist help in in the areas of curriculum delivery, finance and governance. That intervention was revoked in June 2011. Between November 2012 and January 2015 a Limited Statutory Manager was appointed with the Board’s powers of employment, the management of health and safety of students and staff, communications, and to establish procedures and processes for school-wide self-review and the investigation and resolution of complaints.

6 A resignation announcement by the Principal in November 2016 triggered the resignation of the parent elected trustees. Consequently, there were so many vacancies on the Board that there was no longer any member of the Board eligible to preside at meetings. As a result, the Board was dissolved on 24 November 2016 and its membership replaced by a Commissioner.

7 During the intervention scoping period, matters initially of concern to the Ministry about the Board’s affairs were revealed as issues which gave grounds to believe there was increased risk to the operation of the school. As a result, it was not considered appropriate at that time for the Commissioner to go directly to an election of trustees.

8 The Ministry considers that sufficient progress has been made towards reducing the risk that a Commissioner is no longer required and an election of trustees will produce a functioning Board. The Ministry is preparing to ask the Commissioner to set a date for an election of parent representatives for an incoming board. As part of these preparations, the Commissioner has requested that consideration be given to approving an alternative constitution as a transition from the intervention to a self-governing board.

Proposed alternative constitution for the Woodhill School Board of Trustees

9 The standard constitution of a primary school Board of Trustees is:

- no more than 7 and no fewer than 3 parent representatives (the usual number is 5); and
- the Principal; and
• a Staff representative (except where the Principal is the only member of the school staff); and

• a limited number of trustees either:
  i. co-opted by the Board; or
  ii. appointed by bodies corporate approved by the Board for the purpose.

10 The alternative constitution proposed by the Commissioner is:
• three parent representatives
• the Principal
• a Staff representative
• up to two trustees appointed by the Director of Education for Auckland.

11 We believe that this structure will provide a workable mix of parent-elected community trustees and appointed members with the necessary skills, knowledge and expertise to govern the school. Further details about the rationale for proposing the alternative membership is provided in paragraphs 13 to 15.

12 If you approve the alternative constitution it will take effect immediately your signed notice is published in the *New Zealand Gazette*. Once your notice has been published the Ministry will ask the Commissioner to set an election date and will also start an appointment process to complement the Commissioner's election timeframe. A new Board will take office in late June or early July, when we anticipate the Commissioner's appointment will end.

**Rationale for an alternative constitution**

13 The issues at Woodhill School are community and governance related. The community desires local governance of the school through parent representation but also recognises that there is a lack of governance experience in the community.

14 The intention of the alternative constitution is to support a cautious degree of elected community participation alongside strong governance modelling from a number of experienced appointees. The local Ministry office will convene and facilitate a selection panel for the Director of Education for Auckland (Director) appointed representatives. The panel will recommend candidates to the Director based on a skills and experience matrix agreed between the Director, the Commissioner and the selection panel members.

15 Board members appointed by the Director would aim to ensure the best possible support to newly elected trustees.

**Legislative requirements for an alternative constitution**

16 Under section 98A of the Act you have the authority to approve an alternative constitution if:

• you have reasonable cause to believe that an alternative constitution is in the best interests of the school (section 98A(2)), and

• the Board or Commissioner has requested an alternative constitution (section 98A(3)(a)(iii)), and

• consultation with such people or organisations as you consider appropriate has occurred (section 98A(3)(b)).
The Commissioner has requested an alternative constitution. The Ministry, on your behalf and in collaboration with the Commissioner, has engaged in consultation hui with whānau and parents of current students, community members including past students and ex-Board members, and te whānau o Whiti Te Ra Marae, to determine the future direction of the governance of the school. The school was established in 1877 and has a significant history with the local Māori community. The outcome of the consultation was unanimous support for the proposed membership of the alternative constitution.

The Ministry considers that supporting parent representation with strong governance modelling and direction from Directorial appointees will provide a smooth transition back from intervention.

The Requirements for Gazette notices
Sections 98A(1) and 98B(1) of the Act require that your approval for an alternative constitution is published in the New Zealand Gazette. The notice must establish a Board comprising one or more persons who are to be elected or appointed as trustees in the manner specified in the notice, and the notice may (without limitation):

- set out a procedure for any election, appointment, or co-option of trustees;
- set out the manner in which vacancies are to be filled;
- provide for the appointment of returning officers and set out their functions; and
- set out other formal and procedural provisions for the purposes of any election, appointment, or co-option of trustees.

A notice for the New Zealand Gazette addressing these matters is attached for your signature. Where an alternative constitution is in force, section 98B(2) provides that a number of listed sections of the Act will not apply to the Board or the School. However the attached notice reaps some of those sections and requires that the constitution will operate as if the following sections apply where relevant:

- s96 (Parent representative criteria)
- s97 (Staff and student representative criteria)
- s101 (Elections of Trustees)
- s102 (Term of office)
- s104 (When casual vacancies arise), and
- s105 (Filing casual vacancies of elected trustees).

Risks
Section 101(5) of the Act will prevent the incoming Board from holding parent and staff elections in next year’s triennial school board of trustee elections meaning the term of office for first elected representatives will extend until 2022. There is a small risk that the extended length of the first term of office for the elected trustees of the incoming board may put off some staff and community members from participating in the elections. This risk is mitigated by reapplying sections 104 and 105 to the constitution.
Other Relevant Information

22 The first term of office for the trustees appointed by the Director of Education for Auckland will be for a period of three years from the date of their appointment. Successive appointments will be for a period not exceeding three years but could be shorter to align the appointment process with future triennial Board elections.

Proactive Release

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

Alternative Constitution for the Woodhill School (1577) Board of Trustees

Under section 98A of the Education Act 1989, I hereby approve the following constitution for the Woodhill School (1577) Board of Trustees ("board"):

1. The board will be made up of the following members:
   a. three parent representatives; and
   b. up to two trustees appointed by the Director of Education for Auckland; and
   c. the Principal; and
   d. a Staff representative.

2. Notwithstanding section 98B of the Education Act 1989 the following sections of the Education Act will apply to the Board: sections 96, 97, 101, 102, 104 and 105.

3. For the first elections of parent representatives and the staff representative a returning officer will be appointed by the commissioner and will carry out the duties in accordance with the Education (School Trustees Elections) Regulations 2000.

4. All trustees for the first board under this constitution will take office when the current commissioner's appointment ends.

5. The first term of office for trustees elected under this constitution will end seven days after the next triennial election for boards of trustees in 2022.

6. The first term of office for trustees appointed under this constitution will be for 3 years from the date of their appointment.

Changes to the constitution of the board will be subject to the approval of the Minister of Education and must be notified in the New Zealand Gazette.

This notice shall come into effect on the date of publication in the New Zealand Gazette.

Dated at Wellington this 7th day of May 2018.

Chris Hipkins
Minister of Education
Wayne Sneddon  
Commissioner  
Woodhill School  
13 Red Oak Place  
Albany  
AUCKLAND 0632

Dear Wayne

Thank you for your request seeking my approval for an alternative constitution for the Woodhill School Board of Trustees.

I am pleased to be able to tell you that, after considering all the information available to me, I have approved the Board's alternative constitution. Once the approval notice is published in the New Zealand Gazette the alternative constitution will take immediate effect but a new Board of Trustees will not take office until seven days after your appointment as Commissioner ends.

The membership of the Board will be:
- three parent representatives; and
- up to two trustees appointed by the Director of Education for Auckland; and
- the Principal; and
- a Staff representative.

I understand that the Director of Education for the Auckland region, Isabel Evans, has discussed an appropriate timeframe for your appointment to end and an election of trustees to take place. The Ministry will also notify you when it intends to establish a panel and seek expressions of interest from the community for the Director of Education appointments to the Board.

The processes for addressing the election of trustees following your term of appointment, and other formal and procedural provisions are included in the attached New Zealand Gazette notice and laid out in the Education Act 1989 and the Education (School Trustee Elections) Regulations 2000. Once Isabel formally asks you to set an election date you should work towards appointing a returning officer who will have the responsibility for arranging the election. The community will also need to be advised of any concurrent process if the Director's appointments will not be achieved before the date you set for the Board election.

I encourage you to use the resources and support available from the New Zealand School Trustees Association (NZSTA) (http://www.trustee-election.co.nz or call 0800 353 284) for the election of the three parent trustees and getting the school and community ready to participate in the elections.
I would like to congratulate you and the school for the progress made since your appointment as the Commissioner in 2016 and the work that has been done to encourage and support the community’s interest in the governance of the school. I thank you for your commitment to the school and wish you and the Woodhill School community well for the future.

Yours sincerely

Chris Hipkins  
Minister of Education
Chris Penk  
MP for Helensville  
Parliament Buildings  
WELLINGTON  

Dear Mr Penk,

I am pleased to tell you that I have approved an alternative constitution for the Woodhill School Board of Trustees, Helensville. My approval is pursuant to section 98A of the Education Act 1989 and is in response to an application from the School's current Commissioner.

The membership of the Board will be:
- three parent representatives; and
- up to two trustees appointed by the Director of Education for Auckland; and
- the Principal; and
- a Staff representative.

The alternative constitution of the Board will take effect from a date to be notified in the New Zealand Gazette.

Yours sincerely,

Chris Hipkins  
Minister of Education
Hon Kelvin Davis  
MP for Te Tai Tokerau  
Parliament Buildings  
WELLINGTON

Dear Kelvin

I am pleased to tell you that I have approved an alternative constitution for the Woodhill School Board of Trustees, Helensville. My approval is pursuant to section 98A of the Education Act 1989 and is in response to an application from the School's current Commissioner.

The membership of the Board will be:
- three parent representatives; and
- up to two trustees appointed by the Director of Education for Auckland; and
- the Principal; and
- a Staff representative.

The alternative constitution of the Board will take effect from a date to be notified in the New Zealand Gazette.

Yours sincerely

Chris Hipkins  
Minister of Education