


Education Report: Findings of the Specialist Audit of Te Pūmanawa o te Wairua Partnership School

Executive Summary

1. Te Pūmanawa o te Wairua (formerly Kura Hourua ki Whangaruru) is one of the round one Partnership Schools, opening on 10 February 2014, sponsored by Ngā Parirau Mātauranga Trust (the Trust).
2. You approved the Ngatiwai Whangaruru Whenua Toopu Trust to enter the negotiation phase of the application process and on 16 September 2013 Ngā Parirau Mātauranga Trust, a new Trust (established by the Ngatiwai Whangaruru Whenua Toopu Trust for the purpose), was approved to open the school.
3. On 27 September 2013 the Ministry commissioned the ERO to conduct a readiness review on the school. An interim readiness review was provided in early December. The ERO advised that all indications were that the school would be a model school if the [then] property issues could be resolved, which they ultimately were.
4. In response, on Friday 6 December 2013 the Trust provided a plan of what it would do to ensure it was operational from 10 February 2014. On 10 February 2014 the school opened with 70 students, its Guaranteed Minimum Roll was 71.
5. Since opening successfully, the school has faced ongoing challenges to its performance, which have received a high public profile. The Ministry has closely monitored the school since its opening, and the school has received assistance from the Ministry and the ERO for the purpose of addressing those challenges.
6. Following receipt of the Trusts annual report, it was confirmed that the school had not met the Performance Standards for student attendance and enrolment variance. The Ministry also had concerns that, based on the provisional data on student achievement, the school would not meet the student achievement performance standard.
7. You issued the Trust with a Performance Notice and Intention to Audit on 20 February 2015. The Specialist Audit commenced on 21 March 2015, on-site work was completed by 1 April 2015, and the final report was provided to the Ministry on 20 May 2015 (attached as Appendix `1).
8. The audit concludes that the Sponsor:
 - a. has breached a number of the Agreements minimum requirements;
 - b. has not met a number of performance standards, including the student achievement performance standard;
 - c. has inadequate financial management practices;
 - d. administration staff lack the skills and capability to run the school in accordance with the Agreement without significant external support and further resources;

- e. has provided reports to the Ministry that contain information inconsistent with records maintained by the School, in breach of the good faith obligation of Clause 20.1(c)(ii) of the Agreement;
 - f. has completed only one of the required actions from the Performance Notice;
 - g. is technically solvent, however noted cash flow will be strained at times throughout 2015, and there is a risk that liquidity will deteriorate if careful financial management is not in place.
9. The Auditor certifies that the breaches and failings noted in the report are ongoing and a result of systemic process shortcomings with the school's governance, operational, and financial management practices.
 10. The Ministry considers that the breaches are not capable of remedy. Under clauses 21 to 25 of the Agreement, the grounds exist for you to issue a termination notice to the Trust.
 11. If, following the required process, you decide to issue a final termination notice, the notice must specify the school's closing date, which must be at least 20 school days after the date of that notice. The Ministry will immediately upon issue of the notice engage with the parents and whanau of students attending the school to identify alternate education arrangements and support the transition to those arrangements through a structured approach similar to that used in other situations where schools close and students are required to transition.
 12. 

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Recommendations

We recommend that the Minister of Education

- a. **note** that on 20 February 2015 you issued Ngā Parirau Mātauranga with a Performance Notice and Intention to Audit;
- b. **note** that the Specialist Audit commenced on 21 March 2015, on-site work began on 23 March 2015, and the final report was provided to the Ministry on 20 May 2015;
- c. **note** that the report of the specialist audit concludes that the school:
 - has breached of a number of the minimum requirements;
 - has failed to meet a number of the performance standards including student achievement;
 - records contain information inconsistent with the contents of reports to the Ministry, in breach of the good faith obligation of Clause 20.1(c)(ii) of the Agreement, invoking Clause 25.1(ix);has completed only one of the required actions from the Performance Notice;

- Trustees and administration staff lack the skills and capability to run the school in accordance with the Agreement without significant external support and further resources.
- d. **note** that, based on the audit findings, the Ministry considers that the performance failings are not capable of remedy, and together with the breaches supports the grounds for termination of the Agreement;
- e. **agree** to issue, under clause 25 of the Agreement, the Sponsor with the attached notice proposing termination of its Partnership School Agreement;

AGREE / DISAGREE

- f. **note** that the Sponsor has 10 business days to advise you in writing as to any reasons why the Sponsor does not consider that the Agreement should be terminated, and that you must then decide whether the Sponsor has provided sufficient grounds for you not to proceed with a termination notice;
- g. **note** that, if you issue a final termination notice, the notice must specify the school's closing date, which must be at least 20 school days after the date of that notice;

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h.



AGREE / DISAGREE

- i. **agree** to proactively release the following documents, with appropriate redactions, at a time to be agreed with your office:
 - i. This Education Report
 - ii. The Specialist Audit report
 - iii. The proposed termination notice

A
AGREE / DISAGREE

Katrina Casey
Katrina Casey
Deputy Secretary
Sector Enablement and Support

Encl

NOTED

Hekia Parata
Hon Hekia Parata
Minister of Education

David Seymour
Under-Secretary to the
Minister of Education

2/6/15

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*I would like further
opinions please on
other contractual
opinions that are available
and the impact on students,
while keeping alive the option
presented here of a potential
closure. Tx *A**

Education Report: Findings of the Specialist Audit at Te Pūmanawa o te Wairua Partnership School

Purpose of Report

1. This report provides you with advice following the specialist audit of Te Pūmanawa o te Wairua after a Performance Notice was issued to the school's Sponsor, Ngā Parirau Mātauranga, on 20 February 2015.

Background

2. In 2013 the Ministry of Education ran an application process for the establishment of the first round of Partnership Schools, in accordance with the requirements of whole of government procurement policies.
3. The Authorisation Board, supported by a cross-Ministry evaluation team carried out extensive analysis and due diligence based on the written applications.
4. The evaluation summaries included due diligence relating to each application, and ERO or NZQA reports where they were available for the existing work of the applicant organisation. The assessments focused on:
 - the quality of the proposed educational offering
 - the ability of the proposal to provide value-add to priority learners
 - governance
 - property
 - teaching and management capability
 - financial feasibility, and
 - network and risk analysis.
5. The Authorisation Board provided you with a report on 28 June 2013 setting out its recommendations. In response to a request for further information from you, the Board also provided supplementary material to clarify their recommendations and the process they followed to reach them, on 5 July 2013.
6. The Authorisation Board recommended six applicants be considered for opening a Partnership School in 2014, including the Ngatiwai Whangaruru Whenua Toopu Trust (the Trust).
7. The Ministry was of the view that the proposal itself was good, but that this applicant required more time than was available to do the work required to implement the proposal successfully. The Ministry recommended that the Trust not open its proposed school in 2014, but be encouraged to strengthen its proposal and reapply for 2015 if Cabinet were to approve another application round.
8. The Authorisation Board reviewed its initial assessment, and confirmed that it saw no reason to change its recommendation. Following your consideration of the advice provided to you, you approved the Ngatiwai Whangaruru Whenua Toopu Trust to enter the negotiation phase of the application process.

9. On 16 September 2013 Ngā Parirau Mātauranga Trust (a new Trust established to take over sponsorship from the original applicant, Ngatiwai Whangaruru Whenua Toopu Trust) was approved to open a Partnership School.
10. Following the execution of the Agreement, the Ministry:
 - a. appointed Chris Saunders as Governance Facilitator to support the Trust and school.
 - b. commissioned ERO to conduct a readiness review on the school.
11. An interim readiness report was provided in early December (METIS 830938 refers). ERO advised that the Trust "presents an outstanding model and is progressing well in getting its school up and running". The Trust had contracted six teachers at that point. ERO advised that all indications were that the school would be a model school if the property issues could be resolved, which they ultimately were.
12. On Friday 6 December 2013 the Trust provided a plan of what it would do to ensure it was operational from 10 February 2014. On 10 February 2014 the school opened with 70 students. Its Guaranteed Minimum Roll was 71.
13. In April 2014, at the scheduled completion of the readiness review, the ERO advised the school was not ready to operate without substantial support. You approved an extension to the readiness review period to allow time for the school to address some of these well-publicised issues.
14. The key issues identified by ERO were poor leadership, lack of governance capacity, lack of suitably qualified teachers, dysfunctional relationships amongst staff, and inadequate curriculum documentation.
15. The sponsor, in response to ERO's interim feedback, developed its own plan, which sought to address issues noted by ERO and a number of other related challenges faced by the Sponsor. This process was supported by the appointed Governance Facilitator and the Ministry.
16. Development of this plan resulted in a number of actions, including the resignation of the Business Director, which allowed for a restructure of the school management team and appointment of an interim CEO.
17. During the interim CEO's tenure, between May and June 2014, a significant number of improvements were observed at the school, including:
 - a. restoring effective working relationships between staff and governance;
 - b. ensuring student attendance was closely monitored, and associated issues addressed;
 - c. implementing a regular timetable for staff and students;
 - d. clarifying employment matters;
 - e. enabling students and staff to have appropriate access to ICT;
 - f. regular and clear reporting to the Sponsor.

18. All these things were considered critical to the success of the school, and provided the Ministry with the necessary confidence that the key challenges the school had faced had been overcome, or were being effectively managed toward resolution.
19. The interim CEO recommended to the Trust that the Education Director needed to be replaced for the school to be a success. The Trust did not accept this advice, and the interim CEO resigned in June 2014. The Governance Facilitator's role also concluded in June 2014.
20. On 31 July 2014 the Trust submitted its second quarter report to the Ministry. The Trust reported it was operationally compliant with the Agreement, and had achieved all applicable performance standards for that quarter.
21. On 2 September 2014 members of the Authorisation Board visited the school and observed areas of concern. They provided advice to the Ministry and the Trust.
22. The ERO's final readiness review report was provided on 17 September 2014. It identified that, while the school had made progress in a number of areas, it was still not able to operate effectively without substantial support. The key areas identified were:
 - a. the quality of teaching and learning;
 - b. the quality of school management;
 - c. the variable implementation of leadership (governance) roles;
 - d. disengaged students;
 - e. difficulty in recruiting suitable staff;
 - f. lack of business expertise.
23. The ERO noted that the Board's vision for the school was attractive and powerfully articulated, but it had been unable to realise this vision in practice. The school was given an opportunity to respond to the report. The school developed a further remedial plan to address the ERO's concerns.
24. Following this review, the Ministry provided the Sponsor with support on crisis intervention, access to Student Achievement Practitioners and direct access to a relationship manager who has provided advice and ongoing support.
25. On 1 October 2014 Ministry staff met with the Trust to discuss the issues arising from the ERO review.
26. On 31 October the Trust submitted its third quarter report to the Ministry. The Trust reported it was operationally compliant with the Agreement, and had achieved almost all of the applicable performance standards for that quarter. The two performance standards reported as not met, as at that time, were "Unjustified Absence" and "Enrolment Variance".
27. You raised concerns about the school with the Ministry in the second half of 2014. The Ministry advised you that there was insufficient evidence at that time to undertake formal action through an intervention under the Agreement. [REDACTED]

28. The only reason for immediate intervention would have been if there were significant health and safety issues at the school.
29. There was no evidence of urgent or immediate risk to the health and safety of the children at the school. The evidence required to take further action could only realistically be gathered through a specialist audit. Under the contract, this could only be undertaken following a lower level intervention. Action occurred as soon as the information to assess the annual performance against targets was received.
30. The Ministry advised the Sponsor in October 2014 (and further again in early December 2014) that it needed to address the following areas immediately to generate confidence that it could overcome the challenges and operate effectively in 2015 (METIS 907699 refers):
 - a. addition of Trust member(s) with current schooling experience;
 - b. appointment of a suitably qualified CEO to manage the school;
 - c. replacement of the Education Director;
 - d. rebuilding the confidence of the schooling community to ensure that it is able to attract and retain students from 2015 onwards.
31. The Sponsor appointed a new member to the Trust with broad educational experience, but as at 5 February 2015 had failed to address the other areas identified by the Ministry.
32. The Sponsor has sought to bolster the management team for the 2015 school year, with a trust member taking on an active operational role on a part time basis. However, it was not clear that the individual had the required skills to effectively manage the Education Director or the school's operations.
33. The school's Education Director had proven incapable of transferring strategic planning into practice to deliver an effective operational school. The Sponsor advised that it did not intend to replace the Education Director, and that it continued to have confidence in her ability. The Sponsor continued to demonstrate a lack of necessary educational expertise to ensure effective leadership of the academic aspects of the school.
34. There was no evidence to demonstrate the Sponsor had managed to rebuild the confidence of the schooling community. As a result, the Ministry sought your approval to reduce the Guaranteed Minimum Roll for the school in 2015 to 40 from 71 in 2014 [METIS 901532 refers]. This reduction was effected.
35. As at 5 February 2015 it was not evident that the Sponsor had addressed the key issues identified by ERO. The Sponsor had prepared a remedial plan in response to ERO's findings, but had not provided the Ministry with confidence that it would be able to effectively implement the plan.
36. The Sponsor had also failed to address a number of areas identified by the Ministry that would generate the confidence that it could overcome the challenges and operate effectively in 2015.
37. At this point there were not grounds under the Agreement to terminate the Agreement (METIS 907699 refers).

38. Following meetings with the Ministry, the Sponsor developed two plans to address the issues identified: a Professional Learning and Development plan, and an Action Plan that focussed on the issues relating to the broader development of the school. These were provided to you (appended to METIS 907699).
39. The Ministry's assessment of the plans was that they needed further refinement in terms of being SMART¹, but if the plans were implemented well, they could resolve, or go a long way to resolving, the issues identified. The Ministry was also concerned about the length of time it would take for the plan to be implemented and improvements realised.
40. The Ministry advised that while the then current leadership structure remained, the Ministry's confidence in the Sponsor to implement the plan and address the issues was very low.
41. Notwithstanding the issues identified by ERO and the Sponsor's response to those issues, *it is performance against the Agreement* that sets the Sponsor's obligations, and forms the basis for intervention in the current circumstances. Failure to meet the standard of the ERO review is relevant to your assessment of the Sponsor's overall performance.
42. Clause 20.2 of the Agreement requires that the Minister assess the performance of the school against the objectives and performance standards set out in the Agreement, and assign one of the following categories of performance:
 - a. Exceeds the Objectives/Performance Standard;
 - b. Meets the Objective/Performance Standard;
 - c. Almost meets the Objective/Performance Standard;
 - d. Does not meet the Objective/Performance Standard but is capable of remedy; or
 - e. Does not meet the Objective/Performance Standard and is incapable of remedy.
43. Based on the then available data the school failed to meet two of the 2014 Performance Standards:
 - a. Unjustified Absence – Performance Standard = 2.8%, Achievement = 11-17%;
 - b. Enrolment Variance – Performance Standard = 71, Achievement = 46.
44. Whilst the performance had been assessed against the standards and it had been concluded that the above two standards had not been met, you were yet to determine if these failings were capable or incapable of remedy.
45. There was also concern that, based on the provisional data on student achievement, the school would not meet the achievement performance standard.

¹ SMART stands for Simple, Measurable, Achievable, Realistic and Timely goals.

46. On 20 Feb 2015 you issued the Sponsor with a Performance Notice and Intention to Audit, which outlined the failings of the school. You specifically advised the Sponsor as follows:
"I expect you as sponsor of Te Pūmanawa o te Wairua to immediately rectify the issues noted by the ERO and to urgently recruit and engage suitably qualified and experienced persons into the governance and management teams, and to demonstrate material improvement of the school's performance by the time of the Specialist Audit."

The Specialist Audit

47. Deloitte was appointed to conduct the audit, with ERO supporting Deloitte by focussing specifically on the educational aspects of the audit. The ERO findings are incorporated into the final report submitted by Deloitte. The audit commenced on-site on 23 March 2015. Deloitte reported the key audit findings to the Ministry on 10 April 2015. The final report was provided to the Ministry on 20 May 2015.
48. In summary, the audit found:
- a. Failure to meet the performance standards in relation to student achievement and financial performance. The performance standard of targeting priority learners appears to have been met;
 - b. Breach of the following minimum requirements - 16.1(c), 16.1(h), 16.1(i), and 16.1(k) through 16.1(n) of the Agreement;
 - c. Breach of the good faith obligations of Clause 20.1(c)(ii) of the Agreement;
 - d. The breaches and failings noted in the report are ongoing and a result of systemic process shortcomings with the school's governance, operational, and financial management practices;
 - e. It is not clear that the Trust is, or can provide a safe physical and emotional environment for staff and students at all times;
 - f. Although the school is not insolvent, cash flow will be strained at times throughout 2015, and there is a risk that liquidity will deteriorate if careful financial management is not in place;
 - g. The Trustees acknowledged that they and the current staff do not have the experience and capability to govern and operate the school to the standard required under the Agreement without further significant support and resources.
49. Key findings in relation to each of the performance standards are as follows.

Student achievement

- a. The ERO assessment found that the proficiency and knowledge of staff to develop and implement the proposed project-based learning curriculum model to be ineffective, resulting in the school being unable to comply with the requirements under sections 9 and 13 in the Agreement, and all three of the Student Achievement Performance standards (Schedule 6, paragraph 2.1).

- b. Staff do not have adequate knowledge of the standardised assessment tools used to build baseline data and monitor student progress. Professional development provided by the ERO following its concerns on this in March 2014 has not remedied the situation. Similarly, the support and access to professional development provided by the Ministry has not had a lasting impact on teaching capability.
- c. NZQA data indicated that while 49 students were entered for NCEA credits, only one school-leaver gained a formal qualification at the school.
- d. The school maintained incomplete performance data, such that the achievement data published in its annual report cannot be relied on. Assessment practices at the school are inconsistent with what was outlined and agreed with NZQA for Consent to Assess Against Standards (CAAS) accreditation.
- e. Where records were available, it appears that teachers have appropriate academic qualifications for the courses they are teaching. However, it is not clear that staff have the experience in educational management, quality management, or assessment and moderation stipulated in the CAAS agreement.

Student Engagement

- f. The assessment is that the school has failed to meet almost all of the student engagement requirements under sections 7, 8, 10, and 13 of the Agreement, and the performance standards (Schedule 6, para 2.2).
- g. A trained social worker who is at the school three days a week believes the highly unsafe behaviour exhibited by students in 2014 has been significantly reduced. However, there is no provision for access to trained counsellors, and there is insufficient provision for the privacy needed for this.
- h. The school's isolation and lack of easy access to support and emergency services remain a concern.
- i. The school had a Year 8 student on its roll, and provided for single sex classes, in breach of the December 2013 *Gazette Notice*. It was not possible to determine whether the school had complied with the school hours and term dates, due to poor record-keeping. However it appeared that students did not remain at the school until 4pm – the specified end of the school day.

Financial Performance

- j. Due to incomplete and inaccurate financial information provided, Deloitte advises that its assessment should be taken as indicative only, and the true situation could differ from its assessment.
- k. Deloitte found poor financial controls, and the school was unable to provide key financial information such as operational budgets, forecasts, and management reports. Management accounts since the last audited financial statements, prepared in December 2013, were unreliable. Deloitte had to reconstruct accounts, based on some assumptions and estimates, to obtain any sense of the school's financial position.
- l. A list of current staff and their salaries was not available. Consequently, the projected salary costs in the school's 2015 budget could not be verified.

- m. It appears the school is and will remain solvent over 2015 and is likely to run into liquidity issues in 2016. However, the school's 2015 budget, which allows for higher expenditure than Deloitte's projections, would result in cash shortfalls in 2015. There is a risk that liquidity will deteriorate if careful financial management is not in place.
- n. Because of the poor financial records, Deloitte was not able to validate two of the five performance standards against Schedule 6 of the Agreement.
- o. The Trustees and administration staff appear to have little understanding of the importance of accurate financial accounting.

Operational funding

- p. It appears that funding has largely been used for the purpose for which it was provided, especially in establishing the school. However, 57.6% of General Ledger expenses investigated could not be supported by invoices, and approximately \$4,000 of cash withdrawals from the school's debit card could not be supported by corresponding invoices. Analysis raised concerns as to whether some expenses would be considered normal operational expenses at any other school. Deloitte was unable to determine if all the operational funds received by the school were used for the purpose for which they were granted.

Governance

- q. Since being served with the Performance Notice, the Trustees have acknowledged they do not have the capability to govern the school to the level required. They have consequently engaged a lawyer and Te Puni Kokiri to provide immediate and long term support and training aimed at equipping the Trustees with the skills and knowledge required to meet their obligations under the Agreement.
- r. Deloitte is not confident that the Trustees understand how to develop plans to address the Performance Notice issues, how to address the performance requirements under the Agreement, or what systems need to be put in place to ensure long term compliance and operational effectiveness of the school.
- s. The Trustees and administration staff lack the governance and business experience required to effectively oversee and manage the strategic and day-to-day activities required to run a kura.
- t. The Trustees had yet to formally agree to any plans to address the issues raised in the Performance Notice, outside the changes made to the Curriculum Director and Chief Executive.
- u. Three Trustees do not understand their role in the school, believing it to be overseeing the day-to-day operations, rather than overseeing the effective delivery of education to students as defined in the Agreement.

- v. The school's operational, administrative, and financial management practices do not appear to enable effective compilation or processing of information into its financial management or student management systems. Deloitte was therefore unable to validate or verify the majority of information reported to the Ministry as being accurate or complete. Deloitte did identify inconsistencies between the information in the school's records and what was reported to the Ministry in quarterly and annual reports. These inconsistencies could not be explained by any of the Trustees or management, as the reports were prepared in isolation by the (former) Curriculum Director. This is in breach of the good faith obligation of Clause 20.1(c)(ii) of the Agreement, invoking Clause 25.1(ix).
- w. The school lacks any system to gather information about the needs of its stakeholders.

Conclusion

50. Specifically the audit found failure to meet the following minimum requirements, resulting in a breach of the Agreement:
- a. 16.1 (c) the Sponsor operates the School in accordance with the requirements set out in the Gazette Notice.
 - b. 16.1(h) the Sponsor complies with the requirements in relation to standing down, suspending, excluding or expelling.
 - c. 16.1(i) the Sponsor complies with every direction given under the Act or this Agreement.
 - d. 16.1(k) the Sponsor has a person appointed as the person responsible for teaching and learning at all times.
 - e. 16.1(l) the number or percentage of Teaching Positions filled by Registered Teachers and Holders of Limited Authority to Teach does not fall below the minimum number or percentage set out in Schedule 4, clause 2.
 - f. 16.1(m) the percentage of the Curriculum time taught by Registered Teachers and Holders of Limited Authority to Teach as compared with the total Curriculum time taught by any person holding a Teaching Position does not fall below the minimum percentage set out in Schedule 4, clause 3.
 - g. 16.1(n) the Sponsor has complied with all requirements in relation to Police vetting under clauses 78C to 78CD of the Act (as applied by section 158U of the Act) and reporting on Police vetting under this Agreement.
 - h. 20.1 Good faith obligation invoking 25.1(ix) – provision of misleading or incorrect information

Comment

51. These students presented the greatest challenge out of all the Partnership Schools' student populations, having been largely disengaged and unable to make educational progress in multiple schools before attending the Kura. The commitment of some students to travelling up to three hours a day to attend the Kura, when this deprived them of normal social activities, and the progress some of them made in achieving NCEA credits (which were not always processed by administration staff in a timely manner), are testimony to the model's potential to turn around these students' lives, were the vision to have been realised.

52. As the audit report shows, and as noted by the ERO, it was ultimately the lack of capability of the governance and management at the school that failed to realise this potential in practice.

Letter from Sponsor to Ministry

53. Since the audit the Sponsor has written to The Deputy Secretary (on 11 May 2015) outlining the changes that have been made at the school, particularly in governance and management, and confirming its commitment to the school.
54. The Ministry has two key concerns about the actions proposed within the letter:
- a. The Sponsor does not appear to have sufficient funds to meet the additional cost to deliver on the proposed actions;
 - b. The Sponsor has previously made similar undertakings, in relation to performance issues, but has failed to carry these out. The Ministry considers that the lack of governance and management capability remains a significant barrier to the school meeting aspirations.

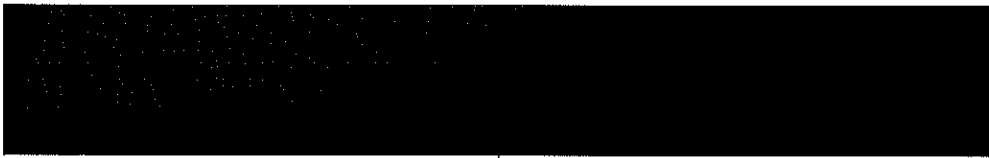
Next Steps

55. The consequences of failing to meet an Objective, or Performance Standard, in the Performance Management System are detailed in clauses 24 and 25 of the Partnership Schools | Kura Hourua Agreement. The grounds for invoking the available actions are identified in clauses 21 and 22 of that Agreement.
56. Clause 24.3(e) empowers you to invoke any intervention you consider appropriate if the Sponsor fails to satisfactorily implement a Remedial Plan approved by you after issuing written direction to prepare such a Remedial Plan.
57. Clauses 25.1(a)(i) and (ii) empower you to terminate the Agreement if, on reasonable grounds, you consider this warranted by the Sponsor's level of non-performance against the Objectives or Performance Standards, by the Sponsor's repeated breach of a term or terms in the Agreement (including any minimum requirements) or by failing to take action to address the requirements specified in the Performance Notice.
58. Clause 22 gives you the general power of intervention if the actions/inaction of the Trustees or staff pose a risk to the operation of the school or to educational performance of students.
59. Clause 25.1(b) sets out the process for terminating the Agreement:
- a. Such a notice must be given within three months of the termination event;
 - b. You must first provide the Sponsor with written notice setting out the reasons for the proposed termination, and the date from which termination will take effect if you decide to proceed with it;
 - c. The Sponsor then has 10 business days to advise you in writing as to any reasons why the Sponsor does not consider that the Agreement should be terminated;
 - d. If you are not satisfied with the reasons given by the Sponsor, you must then issue written notice to the Sponsor terminating the Agreement and

confirming the date of termination. That date must be at least twenty school days from the date of that notice.

60. The key issue identified with the school's performance has been with the Sponsor and administration staff, and the need to address this in relation to taking corrective action following issuance of the Performance Notice was considered as essential for the school to avoid having its Agreement terminated (METIS 907699 refers).
61. The admission by the Trustees that "they and the current staff do not have the experience and capability to govern and operate the school to the standard required under the Agreement without further significant support and resources" confirms that the breaches of the Agreement are not capable of being remedied by the Sponsor, without provision of further extensive external resources.
62. The lack of financial management and student management present an ongoing risk to the operation of the school and, in particular, to student educational achievement.
63. The Sponsor has failed to address a number of requirements of the Performance Notice issued on 20 February 2015.
64. The school's isolation continues to present a number of challenges: in ICT, in attracting qualified teaching staff and academic leadership, in health and safety, and in travel time for students, and prospective students, to attend the school on a daily basis (1 - 1½ hours travel each way).
65. If the Sponsor responds to the notice within 10 business days advising you in writing as to any reasons why the Sponsor does not consider that the Agreement should be terminated, you must then decide whether the Sponsor has provided grounds for you not to proceed with a termination notice.
66. If you decide to issue a final termination notice, the notice must specify the school's closing date, which must be at least 20 school days after the date of that notice.

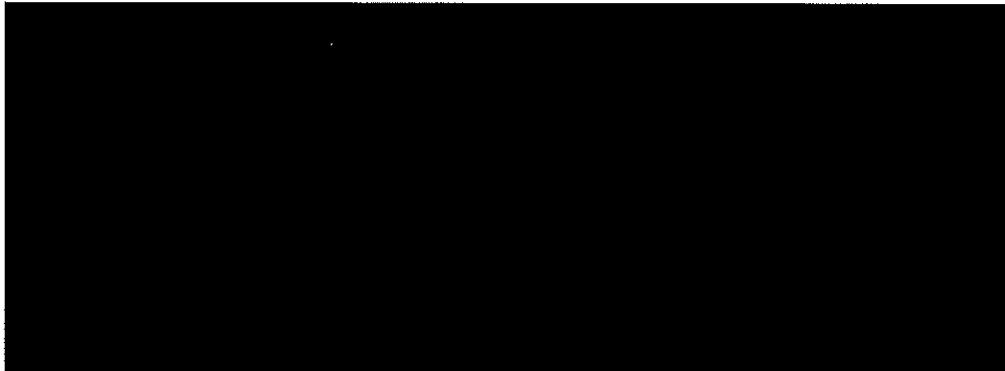
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Risks

68.



69.

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Release of Information

70. Due to the high level of public interest, you have previously released the following documents in relation to this matter, in addition to the original application and associated documentation and advice:
- The Ministry's advice leading up to issuance of the Performance Notice
 - The ERO readiness review
 - The Performance Notice
 - The Sponsor's PLD and Curriculum Action Plan.
71. Under the principle of transparency and public openness in relation to Partnership Schools, and in light of inevitable official information requests this outcome will attract, it is recommended that you agree to further proactively release the following documents, with appropriate redactions, at a time to be agreed with your office:
- This Education Report
 - The Specialist Audit report
 - The proposed termination notice

Financial Implications

72. The Crown is not liable for any costs incurred by the Sponsor as a result of termination under the relevant clause of the Agreement (Clause 25.1), and is only required to make due operational payments applicable up to the date of termination.
73. The Sponsor must indemnify and keep indemnified both you and the Ministry against any loss, damage, cost or expense suffered or incurred, arising directly or indirectly as a result of the Sponsor's breach of the Agreement.

74.

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Consultation

76. The Ministry has consulted with its Legal Services team and Crown Law in preparing this report.

Conclusion

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77. As at 5 February 2015 [REDACTED] refers). A Performance Notice and Intent to Audit was issued to the Sponsor.
78. At the time of issuing the Performance Notice the live issues were:
- a. Were the identified breaches of the Agreement continuing?
 - b. If so, whether the breaches were capable of being remedied or not capable of being remedied?
79. The Sponsor prepared two remedial action plans in response to the Performance Notice.
80. The Specialist Audit has confirmed that:
- a. there are more, and ongoing, breaches of the Agreement than originally identified;
 - b. the current Trustees and administration staff do not have the capability to remedy the breaches without substantial external help and additional resources;
 - c. The remedial action plans have not been effected, other than one point, and the current Trustees and administration staff do not have the capability to do so.
81. These findings establish the grounds for termination of the Agreement. The Ministry has drafted a notice of proposed termination for your consideration, attached as Appendix 2.

