

**BEFORE AN INDEPENDENT HEARINGS COMMISSIONER  
IN THE KAIPARA DISTRICT**

**UNDER** the Resource Management Act 1991

**IN THE MATTER** of a Notice of Requirement to designate land for educational purposes at 9 Tawa Avenue, Kaiwaka by the Minister of Education

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**CLOSING LEGAL SUBMISSIONS ON BEHALF OF THE MINISTER OF EDUCATION**

**1 December 2023**

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## **MAY IT PLEASE THE HEARING PANEL**

### **INTRODUCTION**

1. These closing submissions are presented in support of the Notice of Requirement (“**NoR**”) that has been served on Kaipara District Council (“**KDC**”) by the Minister of Education (“**Minister**”) in respect of a proposed designation of a site at 9 Tawa Avenue, Kaiwaka (“**Site**”) for “*Educational Purposes*” to enable the relocation of an existing Kura Kaupapa Māori, Te Kura Kaupapa Māori o Ngāringaomatariki (“**Kura**”) to the Site.

### **KEY ISSUES**

2. The Minister would like to make the following concluding remarks, having heard from submitters and from the Reporting Planner.

#### ***Activities and built form anticipated within the Rural zone***

3. For context, the Minister considers it appropriate to reiterate the generally permissive nature of the Rural Zone in the KDP. Any activity can be established within the Rural Zone, provided it complies with relevant performance standards. As noted at the hearing, for example, commercial or Industrial Buildings can be established in the Rural Zone without resource consent, provided:
  - (a) The building can be serviced;
  - (b) The gross floor areas of the building does not exceed 5,000m<sup>2</sup> or 10% of net site area, whichever is the lesser;
  - (c) The building does not exceed 10m in height, or infringe a recession plane of 3m plus 45 degrees;
  - (d) Other standards including yard setbacks, noise generation, traffic intensity etc are complied with.
4. Notably, a commercial or industrial building that complies with relevant performance standards could be established without any requirements for mitigation of landscape or visual effects, such as through the provision of

planted buffers or specific consideration of the design and materiality of the building. Further, there would be no specific consideration of the nature or character of the noise generated by commercial or industrial activities on the site, provided that the KDP noise standards are complied with.

5. This context should be kept in mind when the Hearing Commissioner is considering the effects of allowing the requirement and formulating his recommendation to the Minister. In the Minister's submission, the effects of the proposed designation compare favourably to what could be anticipated to occur on the site as of right. Additional mitigation of those effects is then proposed by the Minister through conditions of designation, which could not be required or enforced in the case of a permitted development of the Site pursuant to the Rural Zone provisions.

### ***Visual Amenity***

#### *Design Review*

6. In his section 42A report, the Council reporting planner recommended a condition of designation requiring the preparation of a "design statement" from a suitably qualified and experienced architect, as part of the first outline plan and any subsequent outline plans to increase classrooms or classroom equivalents. At the hearing the Minister opposed this condition, for the reasons given in the evidence of Mr Ensor, and in reliance on the Minister's internal design review process undertaken by the Ministry of Education at the master plan, preliminary design and developed design stages of any School project.
7. Commissioner Smith asked whether consideration should be given to incorporating the outcomes of the internal design review into the outline plan process, which the Reporting Planner confirmed was consistent with the intent of his recommended design statement. The Minister has considered the issues raised at the hearing and suggests the following, amended condition of designation which would require the provision of a statement outlining the outcomes of the internal design review process. The Minister's proposed wording ensures that the Council has oversight over the measures proposed

to manage built form whilst avoiding the risks of requiring two parallel processes, or referring to an external document which may be superseded during the life of the designation (changes to the Council's proposed condition shown in ~~red strikethrough~~ and underline):

*9.1 As part of the first Outline Plan and any subsequent outline plan to increase classrooms or classroom equivalents, the Requiring Authority shall ~~provide a design statement from a suitably qualified and experienced architect that confirms the~~ provide in writing a statement summarising the outcomes of any internal design review process in relation to the layout and design of buildings, including any building design features to reduce the apparent bulk and scale ~~of the proposed building/s, including use of multiple small scale building units, and provides a suitable recessive colour palette for the finished building/s.~~*

8. The Council's reporting planner has confirmed his support for these amendments, which are set out in the set of conditions attached as **Annexure A** to these submissions.

#### *Landscape Plan*

9. Commissioner Smith asked whether the Landscape Plan Condition 8.1 should also specifically refer to two additional properties (40 Tawa Ave and the lot legally described as SEC2 SO 2191 which directly adjoins the Site, as identified in **Figure 1** below). These properties are located in relatively close proximity to the Site, but do not yet have dwellings constructed on them. As such they were not specifically considered as part of the Landscape Values Assessment.



Figure 1 - Map showing 40 Tawa Ave (blue star), Kura Site (green star) and the lot legally described as SEC2 SO 2191 (yellow star)

10. There are inherent difficulties in assessing and mitigating landscape and visual effects of the project on sites without existing dwellings, given the mitigation response for a particular site will necessarily depend on matters such as the orientation and location of the dwelling. Further, in the event these dwelling are established *after* the Kura is constructed and operational, the landowner can consider that existing context when designing their proposed dwelling, thereby reducing potential adverse effects.
11. Given their proximity to the Site, and potential that dwellings may be established on them prior to the Kura being developed , the Minister proposes to amend Condition 8.1 to:
  - (a) Add reference to the two properties identified by Commissioner Smith; but

- (b) Specify that the landscape plan is only required to consider specific mitigation where a dwelling has been consented or established on the relevant property.
12. Consistent with the expert landscape evidence of Mr Scarles, there are no other properties within the vicinity of the site which are expected to experience adverse landscape or amenity effects (beyond those anticipated within the plan) to a level which requires specific mitigation. As such, it is not considered necessary to add any further properties into Condition 8.1.
13. The amendments proposed to Condition 8.1 are as follows (changes proposed in evidence are shown in black ~~strikethrough~~ and underline, changes proposed following the hearing are shown in red ~~strikethrough~~ and underline):

*As part of the first Outline Plan, the Requiring Authority shall prepare a Landscape Plan to be implemented to mitigate the landscape and visual effects of the project on any existing or consented dwellings at 148 Settlement Road, 178 Settlement Road, 4 Vista Lane, 15 Vista Lane, 22 Tawa Avenue, ~~40 Tawa Avenue,~~ and 50 Tawa Avenue and the lot legally described as SEC2 SO 2191. The Landscape Plan shall be prepared by a suitably qualified and experienced Landscape Architect and shall include:*

- a) A site layout plan showing areas to be planted to mitigate visual amenity effects ~~and buffers required to provide setbacks for noise attenuation.~~*
- b) A schedule of the species to be planted including botanical name, average plant size time of planting, plant density and average mature height of each.*
- c) Maintenance ~~and establishment~~ requirements for a three-year period following planting.*
- ~~d) Details regarding the timing of all plantings and intended time frame by which suitable mitigation will be achieved.~~*
14. The Council's reporting planner has confirmed his support for these amendments, which are set out in the set of conditions attached as **Annexure A** to these submissions.

## **Acoustics**

### *Noise effects on animals and children*

15. Submitters raised concerns regarding the acoustic impacts on animals, particularly at 163 and 191 Settlement Road and 22 Tawa Ave. These matters were addressed in Ms Leitch's primary statement of evidence at para 8.5 where she provided her expert opinion that the relatively low level of noise from site activities is unlikely to adversely impact livestock.
16. Concerns were also raised regarding the impacts of noise on children residing at 163 and 191 Settlement Road. These dwellings were identified in the original acoustic assessment but are not the closest nor worst-affected dwellings. The acoustic assessment did not identify these properties as being likely to experience noise above the KDP daytime noise limit. As such, it is submitted there is no basis to conclude that children residing in those properties would be inappropriately adversely affected by noise.
17. Further, the Minister submits there is no evidence that noise generated by the Kura, where that complies with KDP noise standards, could have any greater effect on livestock, children or any other person than noise generated by the range of other activities that could be undertaken on the Site as of right pursuant to the KDP Rural Zone provisions.

### *Noise effects on the directly adjoining site to the north (legally described as SEC 2 SO 2191)*

18. Commissioner Smith asked whether specific consideration needed to be given to noise effects on the semi-circle shaped site directly adjoining the Kura Site. This area is comprised of two titles (a rectangular site legally described as SEC2 SO 2191 and a semi-circle shaped site to the north of that which forms part of 163 Settlement Road).
19. In the absence of any development on the Site it is considered unnecessary and inefficient to provide a buffer area to reduce the possibility of acoustic effects on that property. In that regard:

- (a) Ms Leitch's expert view is that any potential exceedances of the KDP standards as a result of outdoor recreational activities are unlikely to be substantial, and will be a short-term noise event (see para 7.4 for example)
  - (b) Outdoor recreational activities (which is the noise which would be mitigated through any buffer) occurs during the least sensitive times of day and is of limited duration.
  - (c) Because no dwelling exists on this lot, there are no residential occupiers of this property that currently experience the existing ambient noise environment in this location. If a dwelling is established in the future, that will likely require resource consent and will occur in an environment which already includes noise generated by the Kura. As such, that noise will form part of the existing ambient noise environment and not represent a perceptible change in amenity.
20. It is submitted that considering the above matters, the acoustic benefits of requiring a buffer for a site which is not and may not ever be developed are not justified.

*Need for Landscape Plan to incorporate a requirement for acoustic buffers*

21. At the hearing, the reporting planner outlined his view that Condition 8.1 should include a requirement for an acoustic buffer to be considered as part of the Landscape Plan.
22. As outlined in the evidence and submissions for the Minister, this is considered unnecessary because the vast majority of the identified 'buffer' area is located within the QEII covenanted forest area, with only a small area located outside of this.
23. As outlined by Ms Leitch (at para 7.5 of her evidence) the purpose of planting a buffer area is to discourage children from congregating within these zones.
24. Due to the location and limited extent of the remaining 'buffer' area, it is submitted that it is unlikely that children will congregate here to the extent



that noise levels exceed 50 dB LAeq (7 hour). If in fact it became an issue, then this could be managed by the Kura at the time (e.g.: by identifying it as an area that is 'out of bounds').

## ***Transportation***

### *Intersection Delays*

25. Submitters have asserted that the Proposal will add to traffic and delays, particularly at the SH1/Settlement Road intersection, and that the impacts of existing road users (e.g.: heavy vehicles, farm vehicles and livestock) has not been considered. They express doubts about Mr Shields's traffic analysis, particularly in terms of road safety:

(a) Mr Shields has undertaken an Integrated Transportation Assessment which demonstrates that:

(i) Re Tawa Ave / Settlement Rd - the existing intersection is a safe layout and that the intersection will operate well within capacity in the year 2042 with the Kura and hence will not cause any significant delays for Settlement Road through traffic. **NB:** As outlined by the reporting planner at the hearing, Northland Transportation Alliance has confirmed that a Safe System Assessment at the Tawa Ave / Settlement Rd intersection is not required. This recommendation is supported by the Minister.

(ii) Re SH1/Settlement Rd Intersection - Detailed SIDRA (an internationally recognised intersection modelling software) capacity assessment for the 2042 scenario at the SH1/Settlement Road intersection indicated that the Kura would have a negligible impact on the capacity of the intersection and would continue to operate well within capacity.

(b) These conclusions are supported by the Council's 42A report.

- (c) Mr Shields's evidence<sup>1</sup> did consider the impacts of existing use of Settlement Road (e.g.: trucks, livestock, pedestrians) and the increase in future traffic flows, and these matters were factored into his overall assessment.
- (d) It is acknowledged that submitters have expressed doubts regarding the conclusions reached by Mr Shields. However, Mr Shields is a qualified and experienced traffic expert who has provided his evidence in accordance with the Environment Court Code of Conduct for Expert Witnesses. There is no expert evidence to contradict the conclusions reached by Mr Shields, and the Minister says that you can and should rely on his evidence.

*Anecdotal evidence re accidents*

- 26. Submitters have provided anecdotal evidence of recent crashes at the SH1 / Settlement Rd intersection. These observations are in contrast to the road safety records contained within the Waka Kotahi Crash Analysis System ("**CAS**"), which records that no crashes have been recorded at the Tawa Ave / Settlement Rd or SH1 / Settlement Rd intersection in the 6 year period of 2017 to 2022, and that there was one minor crash along Settlement Rd in 2023 (para 4.8, Shields EIC). The following observations are made regarding the CAS:
  - (a) It is a system for processing storing and presenting data about crashes that have been reported to New Zealand Police (either electronically by a Police officer attending a crash, or on a form filled in at the front counter of a Police station). CAS advises the processing target is one working day for fatal crashes, within four weeks for injury crashes and three months or longer for non-injury crashes.

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<sup>1</sup> For example, see paragraphs 4.18, 5.4, 5.9, 5.10 and 5.11.

- (b) Crashes which do not involve injury or any major damage to a vehicle may not reported to the Police. As such there will be an element of unreported crashes on all sections of the NZ road network.
  - (c) It has been in existence since 1980 and is an industry accepted assessment tool for analysing crash records in New Zealand. As such, it is commonly used by transport experts when considering the potential transportation safety effects of a proposal, and it is reasonable for transportation experts to assume that this information is correct – certainly as it relates to serious crashes.
27. Following the hearing, Mr Shields’s re-checked the CAS database. His advice is that the data is the same as that reported in paragraph 4.8 of his evidence. However, by widening the search area within CAS he did find one minor injury crash in August 2023, which occurred near 1800 State Highway 1, approximately 500m south of the SH1/Settlement Road intersection. As such, he advises that his conclusions regarding the safety of the SH1/Settlement Road intersection remain unchanged.
28. While the Minister does not discount the observations provided by the submitters, it is submitted that the lack of formal record goes to the weight that can be accorded to such observations in coming to a conclusion regarding safety effects. It is further submitted that, even if there have been recent crashes, the fact that there were no recorded crashes in the 2017 – 2022 period supports Mr Shields’s conclusions regarding the overall safety of the intersection. This, combined with Mr Shields’s conclusion that the Kura will have a negligible impact on the capacity of the intersection, should provide sufficient comfort that his overall analysis can be relied upon.

*Other – offsite learning*

29. Various submitters made reference to 80% of learning activities being offsite, and the implications of this for traffic flow. The Minister considers that these submitters may have misread or misunderstood the Minister’s notice of requirement and supporting technical reports. A number of learning activities at the current site in Ōruawharo have to be taken offsite due to existing site

constraints, and that is one of the key reasons why the Kura is seeking to move. The Minister's intention in relocating the Kura to the Site is that sufficient facilities and space will be provided, reducing or removing the need for regular learning activities to be undertaken offsite.

***Lapse Dates***

30. Commissioner Smith asked questions regarding the rationale for and implications of the 15 year lapse date. Mr Ensor responded to these questions, and outlined the benefits of the flexibility provided by this length of lapse period. In particular, he noted that this was intended to ensure that unforeseen circumstances leading to short to medium-term delays in implementing the designation could be accommodated. He also noted that uncertainty in terms of timing of implementation of the designation would not have any substantial influence over what neighbouring property owners choose to do with their own properties.
31. In addition, it is submitted that the implication of a designation with a longer lapse period is much less significant where the requiring authority owns the land subject to the designation. In contrast, the default 5 year lapse period may be appropriate where a requiring authority designates land owned by others for a public work, thereby giving rise to what is commonly referred to as a "planning blight" on that land. A shorter lapse period in those circumstances is also appropriate given the process for acquisition and compensation under the Public Works Act does not typically begin until approximately three years prior to works starting, meaning a landowners use of his or her land may be significantly constrained for lengthy periods of time without compensation. In this case, the presence of the designation will not impact the extent to which others can use their site and it is therefore submitted that a 15 year lapse period is appropriate.
32. While a longer lapse period is considered appropriate, in this instance the Minister suggests a reduction to a 10 year lapse period, which is supported by Council's reporting planner.

### ***Ecological Management Plan***

33. Based on his comments at the hearing and subsequent discussions between Mr Ensor and Mr Hartstone, it is understood that the Council's reporting planner (Mr Hartstone) agrees that, provided ecologically sensitive areas are avoided, there is no need for a condition requiring the provision of an ecological management plan at the outline plan stage. This recommendation is supported by the Minister for the reasons outlined in the evidence and submissions.

### ***Other matters***

#### *Scope of the designation - ability to build marae under designation conditions.*

34. Various submitters made reference to the development of a marae on site, and large functions on weekends. This is not part of the current proposal for the Kura. This confusion may have arisen from the reference to "marae style buildings" by Mr Scarles. This reference was intended to refer to the architectural style of Kura buildings that might be established, such as a Wharekura building, and not to suggest that the site may include a marae activity.
35. In terms of what may happen in future, Condition 1.1 provides clarity on the scope of the designation purpose (i.e.: the uses of land which are permissible under the designation). This includes activities related to education more generally. Whether or not a particular proposal or function fits within that purpose cannot be assessed in the absence of specifics (i.e.: it would need to be assessed at the time of any proposal or function, when the details of that proposal or function are known). However, it is submitted that the establishment of a marae complex (wharenuī, marae ātea, wharekai etc) is likely to fall outside the scope of Educational Purposes as defined.

#### *There are other sites better suited to accommodating a Kura*

36. Various submitters purported to identify alternative sites (or existing schools) which they considered would be better suited to accommodating a Kura.

37. As noted in opening submissions, the Minister is not obliged in terms of s171(1)(b) of the Resource Management Act 1991 (“**RMA**”) to establish that the site proposed to be designated is the best site for the activity.
38. In some circumstances, a requiring authority may be required to give adequate consideration to alternative sites. However, this obligation only arises where the requiring authority does not have an interest in the land sufficient for undertaking the work or it is likely that the work will have significant adverse environmental effects. In this case, neither of those situations apply and therefore no assessment of alternative sites was required. Notwithstanding this, the Minister did identify and consider a number of sites, before deciding to designate 9 Tawa Ave. Mr Huggins summarised the site selection and acquisition process in his evidence.

*Independence of Minister’s experts*

39. Various submitters made assertions regarding the independence or otherwise of the Minister’s expert witnesses, given they were retained by the Minister.
40. The Minister strongly rejects these assertions. Each expert witness called in support of the Minister’s notice of requirement confirmed in their statement of evidence that they agreed to comply with the Code of Conduct for Expert Witnesses set out in the Environment Court Practice Note 2023 in preparing and presenting their evidence. As outlined at section 9.3 of that document, expert witnesses who agree to comply with the Code of Conduct:
  - (a) have an overriding duty to impartially assist the Commissioner on matters within the expert’s area of expertise. This duty to the Commissioner overrides any duty to a party to the proceeding or other person engaging the expert.
  - (b) are not and must not behave as an advocate for the party who engages them.
  - (c) must declare to the Commissioner any relationship with the party calling them or any interest they may have in the outcome of the

proceeding including under any conditional fee agreement which depends on the outcome of the proceeding.

41. It is submitted that there is no basis for the assertions that the experts are not independent.

*Effects on the Kura from rural activities*

42. Submitters also raised concerns regarding the use of the occasional plane or helicopter on the adjoining site. As outlined at para 7.9 of Ms Leitch's evidence, learning spaces are required to comply with the Minister's Designing Quality Learning Spaces requirements, meaning noise is unlikely to be an issue in practice. To the extent that aerial spraying will be undertaken on occasion, this can be managed by the Kura at the time (e.g.: by keeping children indoors).
43. Further, such effects are transitory in nature and anticipated in the Rural Zone. The Minister therefore disagrees with submitters who suggest that the establishment of the Kura at the Site may lead to restrictions on farming operations (i.e.: reverse sensitivity). The Minister says that the Kura is no more likely to result in such effects than the existing, progressive establishment of dwellings on rural residential lots in the vicinity of the Site.

*Productivity of Land*

44. Various submitters raised concerns that the Minister's evidence had characterised their land as un-productive.
45. To clarify, Mr Ensor's evidence simply referred to the fact that the Manaaki Whenua online GIS categorises the Site as being land use capability class 4, which means the National Policy Statement for Highly Productive Land does not apply to it.

*Access to private property*

46. Some submitters raised concerns that children from the Kura may enter their properties, and in some cases may put themselves at risk from various hazards which exist in rural areas.

47. Firstly, there is no evidence before you which supports the submitters' assertions that children will enter private property. Secondly, when assessing the effects of a proposal under the RMA, you cannot assume that people will break the law and trespass onto private property.

*Wastewater*

48. Submitters raised various concerns regarding wastewater, including concerns that they may be required to connect to the public system at some point in the future.
49. As outlined in Mr Ensor's evidence, there are various feasible wastewater management options available to the Minister. No option has been decided on. Further, and as noted by Mr Ensor at the hearing, any proposal for onsite disposal will require resource consent meaning water quality concerns would be addressed through a separate consent process.
50. Finally, whether or not landowners may be required to connect to the public system in the future is a matter for the Council, and not influenced by the Minister.

*Private road – issues with maintenance and use.*

51. One submitter raised concerns regarding maintenance and use of the part of Tawa Ave which is a private road.
52. This part of Tawa Ave is beyond the Site, is a no-exit road and will not be a thoroughfare for Kura traffic. The Kura will provide onsite carparking, and it is highly unlikely that people would choose to travel beyond the site and along the private part of Tawa Ave to park their cars or for any other purpose.
53. Matters of maintenance and use of the private road are matters for the owners and users of the private road.

*Lack of Consultation*

54. As acknowledged by the reporting planner in his section 42A report, a requiring authority is not required to consult any person in relation to a notice



of requirement. However, in the present case the Minister did choose to engage with the community in relation to the proposal to relocate the Kura to the site. This engagement took place after the site was acquired by the Minister. Mr Huggins describes the reasons for the timing of engagement with the community in his evidence.

*Insufficient time to consider the Minister's evidence*

55. With respect to submitters concerns regarding the time available to them to consider the Minister's submissions and evidence, the Minister submits that the submitters misunderstand the distinction between the notice of requirement (and supporting documents) and the submissions and evidence prepared for the hearing.
56. The notice of requirement, AEE and supporting technical documents were publicly available to submitters when they prepared their submissions on the notice of requirement. The later provision of the archaeological report in support of the notice of requirement was addressed by the Hearing Commissioner, who has confirmed that the conclusion reached in that report was accurately recorded in the AEE supporting the notice of requirement, and therefore no issue of prejudice to potential submitters arises.
57. The preparation and circulation of evidence and legal submissions for the Minister to be presented to the hearing was governed by the requirements of the RMA (Section 41B – 10 working days prior to the hearing for expert evidence), and the Hearing Commissioner's direction (in the case of the request for pre-circulation of the Minister's legal submissions).

**CONCLUDING COMMENTS**

58. While these submissions have canvassed the many issues raised by submitters in opposition, it is important to consider the numerous submitters who outlined the positive benefits that designating the Site would have in terms of the Kura's ability to deliver much needed Māori medium education in a more accessible manner, and the importance of the Kura for not just students, but for wider whanau and the community. Submitters also clearly outlined the

need for a new kura site, and endorsed the Site as being appropriately located for the Kura's needs.

59. For the reasons outlined in the information and evidence previously presented, and as further addressed above, the Minister asks that you recommend that the NoR be upheld subject to the conditions set out in **Annexure A** to these submissions.

**DATED** this 1<sup>st</sup> day of December 2023

Daniel Sadlier / Alex Devine – Counsel for the Minister of Education

**ANNEXURE A – THE MINISTER’S PROPOSED CONDITIONS**

		Condition as recommended by the S42A officer	Minister's final condition	Comment
Designation purpose	1.1	<p>Educational Purposes" for the purposes of this designation shall, in the absence of specific conditions to the contrary:</p> <ul style="list-style-type: none"> <li>a) Enable the use of the facilities on the designated site by and for the educational benefit of any pre-school and school age students (i.e.: years 0 to 13) regardless of whether they are enrolled at an institution located on that designated site;</li> <li>b) Enable the provision of supervised care and study opportunities for students outside school hours in school facilities;</li> <li>c) Enable the provision of community education (e.g.: night classes for adults) outside school hours in school facilities;</li> <li>d) Include but not be limited to the provision of academic, sporting, social and cultural education including through: <ul style="list-style-type: none"> <li>i. Formal and informal recreational, sporting, and outdoor activities and competitions whether carried out during or outside school hours;</li> <li>ii. Formal and informal cultural activities and competitions whether carried out during or outside school hours; and</li> <li>iii. The provision of specialist hubs and units (including language immersion units and teen parenting units) for students with particular educational requirements or special needs;</li> </ul> </li> <li>e) Enable the use of facilities for purposes associated with the education of students including school assemblies, functions, fairs and other gatherings whether carried out during or outside school hours.</li> <li>f) Enable the provision of associated administrative services; car-parking and vehicle manoeuvring; and health, social service and medical services (including dental clinics and sick bays); and</li> </ul> <p>Enable housing on site for staff members whose responsibilities require them to live on site (e.g. school caretaker) and their families.</p>	<p>"Educational Purposes" for the purposes of this designation shall, in the absence of specific conditions to the contrary:</p> <ul style="list-style-type: none"> <li>a) Enable the use of the facilities on the designated site by and for the educational benefit of any pre-school and school age students (i.e.: years 0 to 13) regardless of whether they are enrolled at an institution located on that designated site;</li> <li>b) Enable the provision of supervised care and study opportunities for students outside school hours in school facilities;</li> <li>c) Enable the provision of community education (e.g.: night classes for adults) outside school hours in school facilities;</li> <li>d) Include but not be limited to the provision of academic, sporting, social and cultural education including through: <ul style="list-style-type: none"> <li>iv. Formal and informal recreational, sporting, and outdoor activities and competitions whether carried out during or outside school hours;</li> <li>v. Formal and informal cultural activities and competitions whether carried out during or outside school hours; and</li> <li>vi. The provision of specialist hubs and units (including language immersion units and teen parenting units) for students with particular educational requirements or special needs;</li> </ul> </li> <li>e) Enable the use of facilities for purposes associated with the education of students including school assemblies, functions, fairs and other gatherings whether carried out during or outside school hours.</li> <li>f) Enable the provision of associated administrative services; car-parking and vehicle manoeuvring; and health, social service and medical services (including dental clinics and sick bays); and</li> </ul> <p>Enable housing on site for staff members whose responsibilities require them to live on site (e.g. school caretaker) and their families.</p>	Full agreement between S42A Officer and MoE.
Designation Lapse Period	2.1		The designation shall lapse on the expiry of 10 years from the date on which it is included in the District Plan if it has not been given effect to before the end of that period.	Full agreement between S42A Officer and MoE.
Definitions	3.1	<p>In these conditions the following terms are used, as defined:</p> <p>"District Council" means the Chief Operating Officer, Kaipara District Council or their delegate.</p> <p>"Requiring Authority" means the Minister of Education or their nominee.</p>	<p>In these conditions the following terms are used, as defined:</p> <p>"District Council" means the Chief Operating Officer, Kaipara District Council or their delegate.</p> <p>"Requiring Authority" means the Minister of Education or their nominee.</p>	Full agreement between S42A Officer and MoE.
General	4.1	The Requiring Authority shall give notice in writing to the District Council of the intention to commence works at least two months prior to the start of any construction activities on site.	The Requiring Authority shall give notice in writing to the District Council of the intention to commence works at least two months prior to the start of any construction activities on site.	Full agreement between S42A Officer and MoE.
	4.2	The Requiring Authority shall ensure that all contractors working within the site have been provided with a copy of these conditions and are aware of their requirements.	The Requiring Authority shall ensure that all contractors working within the site have been provided with a copy of these conditions and are aware of their requirements.	Full agreement between S42A Officer and MoE.
Outline Plan	5.1	That an outline plan of works shall not be required for:	That an outline plan of works shall not be required for:	Full agreement between S42A Officer and MoE.

		Condition as recommended by the S42A officer	Minister's final condition	Comment							
		<ul style="list-style-type: none"> <li>a. Any internal building works other than those that result in a net increase in the number of classrooms or classroom equivalents;</li> <li>b. General building maintenance and repair including but not limited to re-painting, recladding, and re-roofing;</li> <li>c. Installing, modifying, and removing playground furniture and sports structures (e.g. goal posts), and shade canopies;</li> <li>d. Amending any internal pedestrian circulation routes/pathways;</li> <li>e. Installing, maintaining or repairing any in ground infrastructure services such as stormwater, sewerage and water lines and connections, including any ancillary earthworks;</li> <li>f. Provision of landscaping and gardens, provided that it does not conflict with any designation condition or alter landscaping required as mitigation as part of an outline plan for other works;</li> <li>g. General site maintenance and repair work, or boundary fencing otherwise permitted by the Kaipara District Plan;</li> <li>h. Installing, modifying, or removing minor ancillary buildings and structures (e.g. garden / storage sheds, temporary construction buildings / offices); or</li> <li>i. Any temporary mobile facilities or structures (e.g. oral health clinic, life education class, emergency generator).</li> </ul>	<ul style="list-style-type: none"> <li>a. Any internal building works other than those that result in a net increase in the number of classrooms or classroom equivalents;</li> <li>b. General building maintenance and repair including but not limited to re-painting, recladding, and re-roofing;</li> <li>c. Installing, modifying, and removing playground furniture and sports structures (e.g. goal posts), and shade canopies;</li> <li>d. Amending any internal pedestrian circulation routes/pathways;</li> <li>e. Installing, maintaining or repairing any in ground infrastructure services such as stormwater, sewerage and water lines and connections, including any ancillary earthworks;</li> <li>f. Provision of landscaping and gardens, provided that it does not conflict with any designation condition or alter landscaping required as mitigation as part of an outline plan for other works;</li> <li>g. General site maintenance and repair work, or boundary fencing otherwise permitted by the Kaipara District Plan;</li> <li>h. Installing, modifying, or removing minor ancillary buildings and structures (e.g. garden / storage sheds, temporary construction buildings / offices); or</li> <li>i. Any temporary mobile facilities or structures (e.g. oral health clinic, life education class, emergency generator).</li> </ul>								
Noise	6.1		<p>The noise level arising from the operation of the school must comply with the following noise levels when measured within the boundary of any residentially zoned site, or within the notional boundary 20 m from any dwelling on any site in any rural zone:</p> <table border="1"> <thead> <tr> <th>Time</th> <th>Noise Level (Leq) dBA</th> </tr> </thead> <tbody> <tr> <td>Monday to Saturday 7am to 10 pm</td> <td rowspan="2">55 dB LAeq (15 min)</td> </tr> <tr> <td>Sunday 9am to 6pm</td> </tr> <tr> <td>All other times</td> <td>45 dB LAeq (15 min) 75 dB L AF max</td> </tr> </tbody> </table> <p>These noise levels shall not apply to noise from standard school outdoor recreational activities occurring between 8am and 6pm Monday to Saturday.</p> <p>Noise levels shall be measured and assessed in accordance with NZS 6801: 2008 "Measurement of Environmental Sound" and NZS 6802:2008 "Environmental Noise".</p> <p>Noise from construction shall not exceed the limits recommended in, and shall be measured in accordance with, New Zealand Standard NZS 6803:1999 "Acoustics – Construction Noise".</p>	Time	Noise Level (Leq) dBA	Monday to Saturday 7am to 10 pm	55 dB LAeq (15 min)	Sunday 9am to 6pm	All other times	45 dB LAeq (15 min) 75 dB L AF max	
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Monday to Saturday 7am to 10 pm	55 dB LAeq (15 min)										
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Setbacks	7.1	<p>The minimum building setback from boundaries shall be:</p> <ul style="list-style-type: none"> <li>a) 10 m from road boundaries</li> </ul>	<p>The minimum building setback from boundaries shall be:</p> <ul style="list-style-type: none"> <li>a) 10 m from road boundaries</li> </ul>	Full agreement between S42A Officer and MoE.							

		<b>Condition as recommended by the S42A officer</b>	<b>Minister's final condition</b>	<b>Comment</b>
		<p>b) 3 m from all other boundaries</p> <p>"Building" in the context of this condition means a permanent structure intended for occupation by people or chattels.</p>	<p>b) 3 m from all other boundaries</p> <p>"Building" in the context of this condition means a permanent structure intended for occupation by people or chattels.</p>	
Landscape plan	8.1		<p>As part of the first Outline Plan, the Requiring Authority shall prepare a Landscape Plan to be implemented to mitigate the landscape and visual effects of the project on any existing or consented dwellings at 148 Settlement Road, 178 Settlement Road, 4 Vista Lane, 15 Vista Lane, 22 Tawa Avenue, 40 Tawa Avenue, 50 Tawa Avenue and the lot legally described as SEC2 SO 21917. The Landscape Plan shall be prepared by a suitably qualified and experienced Landscape Architect and shall include:</p> <p>a) A site layout plan showing areas to be planted to mitigate visual amenity effects.</p> <p>b) A schedule of the species to be planted including botanical name, average plant size time of planting, plant density and average mature height of each.</p> <p>c) Maintenance requirements for a three-year period following planting.</p> <p>d) Details regarding the timing of all plantings and intended time frame by which suitable mitigation will be achieved.</p>	Full agreement between S42A Officer and MoE.
Design statement	9.1	<p>As part of the first Outline Plan and any subsequent outline plan to increase classrooms or classroom equivalents, the Requiring Authority shall provide a design statement from a suitable qualified and experienced architect that confirms the building design features to reduce the apparent bulk and scale of the proposed building/s, including use of multiple small scale building units, and provides a suitable recessive colour palette for the finished building/s.</p>	<p>As part of the first Outline Plan and any subsequent outline plan to increase classrooms or classroom equivalents, the Requiring Authority shall provide in writing a statement summarising the outcomes of any internal design review process in relation to the layout and design of buildings, including any building design features to reduce the apparent bulk and scale of the proposed building/s</p>	Full agreement between S42A Officer and MoE.
Stormwater Management Plan	10.1	<p>As part of the first Outline Plan and any subsequent outline plan to increase classrooms or classroom equivalents, the Requiring Authority shall provide a Stormwater Management Plan prepared by a suitably qualified and experienced engineer. That Plan shall address the collection, diversion, and disposal of stormwater generated on the site from any / all buildings and impervious surfaces. Where any specific stormwater management (such as attenuation) or treatment is required, that shall be identified and installed at the appropriate time. Any upgrading of existing Council drainage channels identified in the Plan (including any new discharge structures) shall be undertaken subject to approval of the Council's appropriate asset manager.</p>	<p>As part of the first Outline Plan and any subsequent outline plan to increase classrooms or classroom equivalents, the Requiring Authority shall provide a Stormwater Management Plan prepared by a suitably qualified and experienced engineer. That Plan shall address the collection, diversion, and disposal of stormwater generated on the site from any / all buildings and impervious surfaces. Where any specific stormwater management (such as attenuation) or treatment is required, that shall be identified and installed at the appropriate time. Any upgrading of existing Council drainage channels identified in the Plan (including any new discharge structures) shall be undertaken subject to approval of the Council's appropriate asset manager.</p>	Full agreement between S42A Officer and MoE.
Ecological Management Plan		<p>As part of the first Outline Plan, the Requiring Authority shall prepare and provide an Ecological Management Plan to be implemented following completion of a complete ecological survey of flora and fauna on the site. That Ecological Management Plan shall be prepared by a suitably qualified and experience ecologist that identifies the relevant ecological values on the site, assesses the potential effects of the proposed activity on those values, and provides a suitable framework by way of a Management Plan to avoid and mitigate effects on the ecological values on the site, and to identify suitable enhancement where appropriate.</p>	Not proposed	There is full agreement between S42A Officer and MoE that this condition is not required on the basis that ecologically sensitive areas will be avoided.
On-Site Car Parking	11.1	<p>As part of the first Outline Plan and any subsequent outline plan to increase classrooms or classroom equivalents, the Requiring Authority shall undertake a parking study. The parking study shall be done by an appropriately qualified engineer and/or transportation planner to determine the appropriate amount of staff and visitor car parking. Any recommendations made in the parking study are to be incorporated into the Outline Plan.</p>	<p>As part of the first Outline Plan and any subsequent outline plan to increase classrooms or classroom equivalents, the Requiring Authority shall undertake a parking study. The parking study shall be done by an appropriately qualified engineer and/or transportation planner to determine the appropriate amount of staff and visitor car parking. Any recommendations made in the parking study are to be incorporated into the Outline Plan.</p>	Full agreement between S42A Officer and MoE.

		<b>Condition as recommended by the S42A officer</b>	<b>Minister's final condition</b>	<b>Comment</b>
<i>Pick-Up/Drop-Off Facility</i>	12.1		<i>An on-site pick-up and drop-off facility designed to accommodate buses and private vehicles shall be provided. The number and design of pick up and drop off bays shall be determined by an assessment of the peak demand, to be demonstrated by a transport assessment by an appropriately qualified engineer and/or transportation planner. This assessment is to be submitted as part of the first outline plan and any subsequent outline plan to increase classrooms or classroom equivalents.</i>	
<i>Travel Plan</i>	13.1	<i>Prior to opening of the school, the Requiring Authority shall, either directly or through the School Board of Trustees, develop a Travel Plan which provides specifically for measures to reduce private motor vehicle dependence. The Travel plan shall be maintained and regularly updated to respond to changes to the school and transport system while the school is operating under this designation.</i>	<i>Prior to opening of the school, the Requiring Authority shall, either directly or through the School Board of Trustees, develop a Travel Plan which provides specifically for measures to reduce private motor vehicle dependence. The Travel plan shall be maintained and regularly updated to respond to changes to the school and transport system while the school is operating under this designation.</i>	Full agreement between S42A Officer and MoE.