



Hon Trevor Mallard
Minister of Education
Minister of State Services
Minister of Energy
Minister for Sport and Recreation
Co-ordinating Minister, Race Relations
Associate Minister of Finance

20 June 2005

Mr C Coxhead
Chair of Council
Te Wānanga o Aotearoa
P O Box 151
Te Awamutu

FAX No. (07) 872 0390

Dear Mr Coxhead

Notice of preliminary decision to appoint a Commissioner

Following consultation through my notice to you dated 9 May 2005 and your response dated 16 May, I have, under section 195D(4)(b) of the Education Act 1989, formed the preliminary view that the Council of Te Wānanga o Aotearoa (TWOA) should be dissolved and a commissioner appointed in its place.

Based on –

- the criteria stated in my letter of 9 May;
- information I have received from the Crown Observer since that date;
- information I have received from the Crown Manager since that date;
- information I have received from the Ministry of Education since that date [particularly a risk assessment dated 29 April which is attached];
- information from the council since that date;
- careful consideration of your response of 16 May;
- information I have received from the Crown Observer dated 16 June;

I believe, on reasonable grounds, that there is a serious risk to the operation and long-term viability of Te Wānanga o Aotearoa. I also believe that the intervention method of appointing a Crown Observer, as well as the agreed appointment of a Crown Manager with financial delegations from your council, appears likely to fail.

In relation to the risk criteria published in the NZ Gazette by the Secretary for Education under section 195A of the Education Act 1989, the information I have received is –

Criterion 21 is satisfied. The last audited financial statements are for the year ended 31 December 2003.

Criterion 22 is satisfied. The time period for submitting the 2004 audited financial statements has expired with no financial statements. It is not known when the financial statements will be completed. Draft 2004 financial statements have been prepared on the basis that TSWA is a going concern. There is a strong likelihood that the auditors will be required to qualify their audit report – in view of:

- short term funding issues,
- the need to achieve projected student volume,
- the need to constrain costs,
- the need to achieve assets sales and the repayment of the advance to Aotearoa Institute,
- uncertain restructuring costs,
- fundamental uncertainty around the shape of the institution beyond this academic year,
- uncertainty around prices and potential volume caps,
- considering the above, the consequential difficulty in preparation of a viable business plan.

Criterion 25 is satisfied as the institution approved an unauthorised loan to the Aotearoa Institute.

Criterion 33 is satisfied because there has been no business plan for the 2004 and 2005 financial years.

Criterion 34 is satisfied because changes by government to funding priorities will likely expose the Institution to a material reduction in income, or a material increase in outgoings, or a material liability or a material increase in outgoings.

Criterion 35 is satisfied because, from May onwards, the cash flow indicated that (without assistance from the Crown in the form of the short term advance of \$12 million on 16 May 2005) the institution is not likely to pay some or all of its debts as they become due in the ordinary course of business.

Of these, I wish to make it very clear that it is the viability of the institution as a going concern that I consider to be the main serious risk.

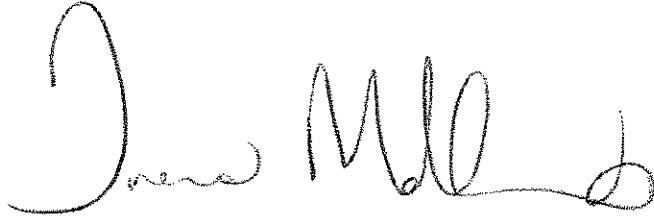
In relation to whether appointing a Crown Observer, and the involvement of the Crown Manager, with financial delegations from your council, appears likely to fail, the information I have received is that, overall, there is doubt that the Council have the appropriate mix of governance skills essential to ensure the recovery of the institution to long-term viability.

In order to assist me whether or not to confirm this preliminary decision I invite you to respond by **12pm on Monday 11 July**.

If you require further information in order to more fully inform your response, then please obtain that from the Secretary for Education.

I look forward to receiving your response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Trevor Mallard'. The signature is written in a cursive style with a large initial 'T' and 'M'.

Trevor Mallard
MINISTER OF EDUCATION