

Averill Manning

From: Averill Manning
Sent: Tuesday, 29 October 2019 3:33 p.m.
To: 'Joe Eccleton'
Cc: Vanessa Goodwin
Subject: FW: Cashmere High School Proposed Enrolment Scheme Home Zone Amendment
Attachments: CHS BoT Proposal Oct19.png; CHS BoT Proposal Oct19_local sec.png4.png; CHS BoT Proposal Oct19.png 2.png; CHS BoT Proposal Oct19_local int.png3.png; CHS BoT Proposal Oct19_local pri.png4.png; Secretarys-Guidelines-State-Schools-2017 (1).pdf; Proposed Enrolment Scheme Checklist for schools.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Kia ora Joe,

Attached is the enrolment scheme proposed by the Board to Land Parcels, please see the attached map.

From our analysts reading of the written description it appears that:

CHS has chosen to largely exclude the current primary school zones of Waltham and Opawa primary schools from the CHS zone, except for much of the portions of zone overlap with the Beckenham and St Martins school zones (so keeping the entire zones for Beckenham and St Martins).

It must be noted that the proposed amendment also:

- a) removes some (41) addresses from the zone that are solely within the Beckenham School zone (Eastern Terrace numbers 283-339)
- b) removes a small number of (5) addresses in the Beckenham/Waltham overlap (Eastern Terrace numbers 343-363),
- c) retains a large number of (256) addresses in a portion of the Waltham School zone that is outside the Beckenham overlap but within the Chch Sth Int zone (King St #2-86 even and #1-89 odd. Huxley St #2-104 even, #1-101 odd. Colombo St east side between Huxley and Brougham)

As they contain small numbers of addresses and even fewer students, areas a) and b) could be included in the proposed zone amendment with relatively little impact on the risk of overcrowding at CHS. It is likely that area c) is included in the amendment due to its proximity to CHS.

You wished to exclude the area of new residential development that lies between the school site and the Westmorland area. This is not apparent in the written description provided, nor would this be possible without also excluding Westmorland from the zone.

Previous legal advice received by this office has been that a zone cannot be drawn so that it forms a donut shape or has a bubble off to one side of the main zone. This would be the case if CHS were to exclude the growth area from their zone.

In analysing the zone proposed by the BoT, March 2019 student enrolment data has been used.

Please note that population growth is anticipated in the Cashmere area due to a combination of both residential growth (Greenfield growth as well as intensification) and the movement of a large population bubble from primary year levels into secondary over the early 2020s. Therefore local demand will increase from current levels in the short term.

At March 2019, there were 1751 Year 9-15 state co-ed school students residing within the current CHS zone. Of these, 95% attended CHS.

At March 2019, there were 157 Year 9-15 state co-ed school students residing within the retreat area proposed by the CHS BoT. Of these, 137 (87%) attended CHS.

This would result in a count of 1594 9-15 state co-ed school students residing within the proposed CHS zone. Of these, 96% attended CHS.

The following table shows the count of Year 9-15 state co-ed school students residing within the retreat and remaining areas of the CHS zone as per the BoT proposals.

	Y9	Y10	Y11	Y12	Y13+	Grand Total
BoT Proposed Zone Total	352	357	349	279	257	1594
Cashmere High School students	331	343	335	271	245	1525
Proposed Withdrawal area	45	30	29	27	26	157
Cashmere High School students	37	28	26	27	19	137
Total Current Zone	397	387	378	306	283	1751
CHS students within current zone	368	371	361	298	264	1662

Should grand-parenting of younger siblings of current students residing in the retreat area be sought/approved, this will delay the impact of the enrolment scheme amendment.

The proposed amendment should allow the BoT to reduce the in-zone Year 9 intake by around 30 students as opposed to if the current enrolment scheme were to be retained. However, due to growth in in-zone demand, this is likely to result in a reduction of in-zone Year 9 enrolments of less than 30 when compared to the 2019 intake.

Given the scale of the proposed reduction as compared to the potential for growth in local demand, further reductions in the home zone are likely to be required in future years. The Ministry will continue to monitor local demand to determine if further reductions in the home zone are required. A larger reduction in zone at this time would result in a lower likelihood of, or more extended timeframe for further zone reductions.

In regards to the consultation, I have attached the 'Secretary's Guidelines for the development and operation of enrolment schemes...' Please note on page 20 the range of groups that need to be consulted with. To help with this I have also included a checklist that you could refer to. This will help to ensure all the relevant groups are consulted.

Please don't hesitate to email or phone me if you have any other questions.

Ngā mihi,

Averill

Averill Manning | Education Adviser | Sector Enablement and Support

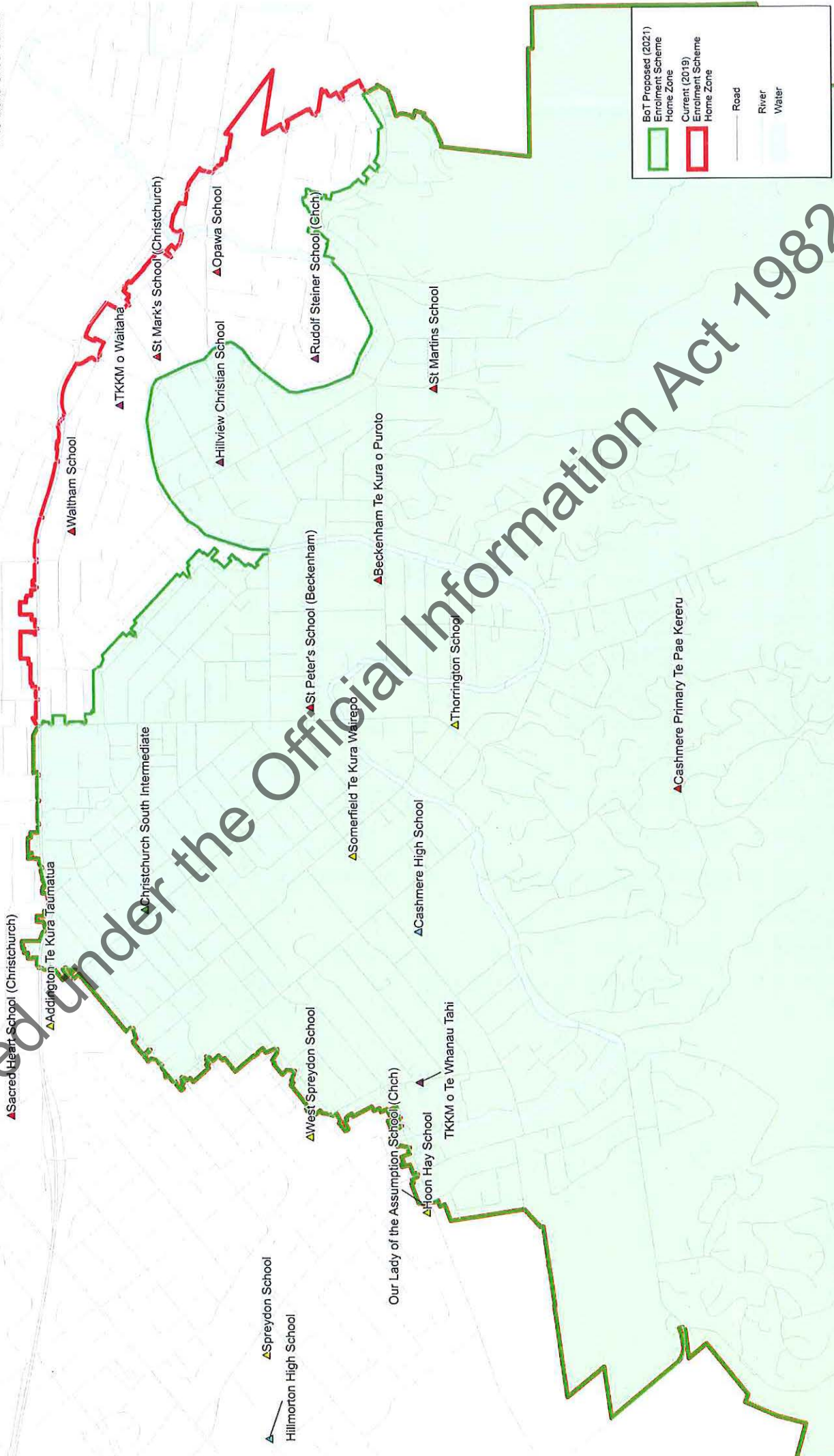
s 9(2)(a) OIA

Cashmere High School BoT proposed Enrolment Scheme Home Zone Amendment - October 2019

▲Linwood College

▲Marian College

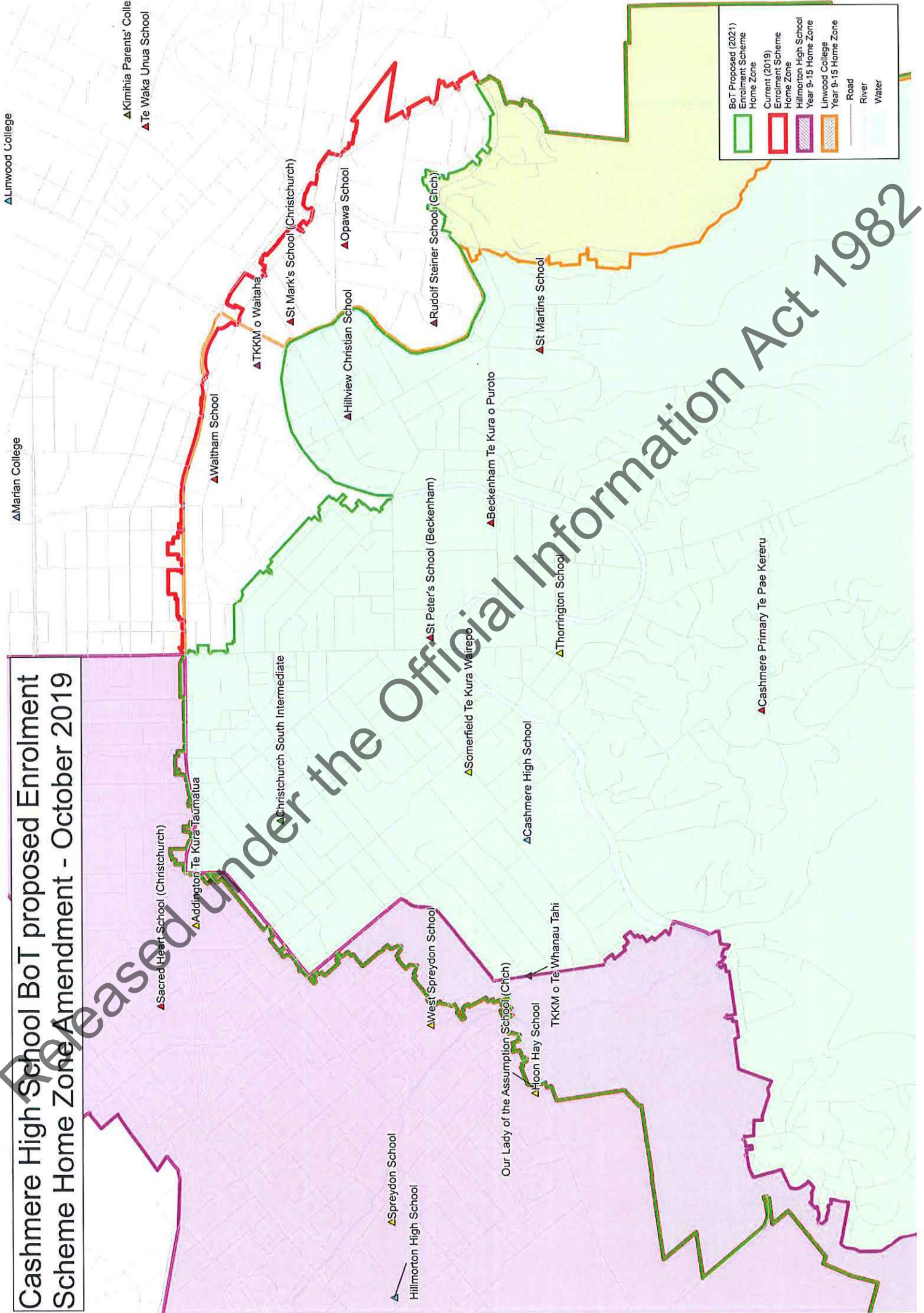
▲Kirimihia Parents' Colle
▲Te Waka Unua School



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Cashmere High School BoT proposed Enrolment Scheme Home Zone Amendment - October 2019



	BoT Proposed (2021) Enrolment Scheme Home Zone
	Current (2019) Enrolment Scheme Home Zone
	Hillmorton High School Year 9-15 Home Zone
	Linwood College Year 9-15 Home Zone
	Road
	River
	Water

▲ Hillmorton High School

▲ Sacred Heart School (Christchurch)

▲ Addington Te Kura Taumataua

▲ Christchurch South Intermediate

▲ West Spreydon School

▲ Our Lady of the Assumption School (Chch)

▲ Hoon Hay School

TKKM o Te Whanau Tahu

▲ Spreydon School

▲ Hillmorton High School

▲ Marian College

▲ Linwood College

▲ Waltham School

▲ TKKM o Waitaha

▲ St Mark's School (Christchurch)

▲ Hillview Christian School

▲ St Peter's School (Beckenham)

▲ Beckenham Te Kura o Puroto

▲ St Martins School

▲ Rudolf Steiner School (Chch)

▲ Opawa School

▲ Thorrington School

▲ Somerfield Te Kura Waitapu

▲ Cashmere High School

▲ Cashmere Primary Te Pee Kereru

▲ Kimihia Parents' Coile
▲ Te Waka Unua School

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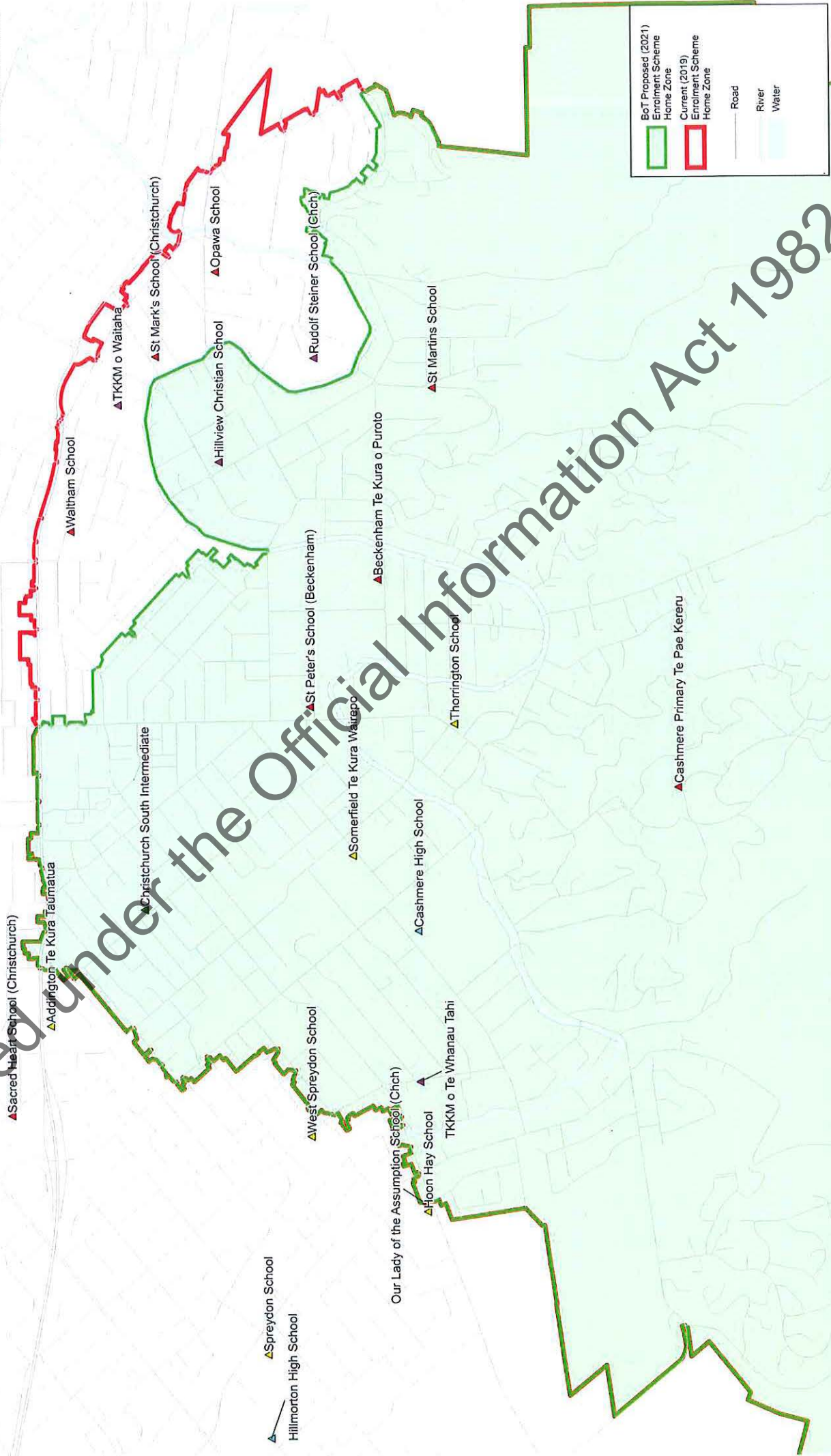
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▲Linwood College

▲Merian College

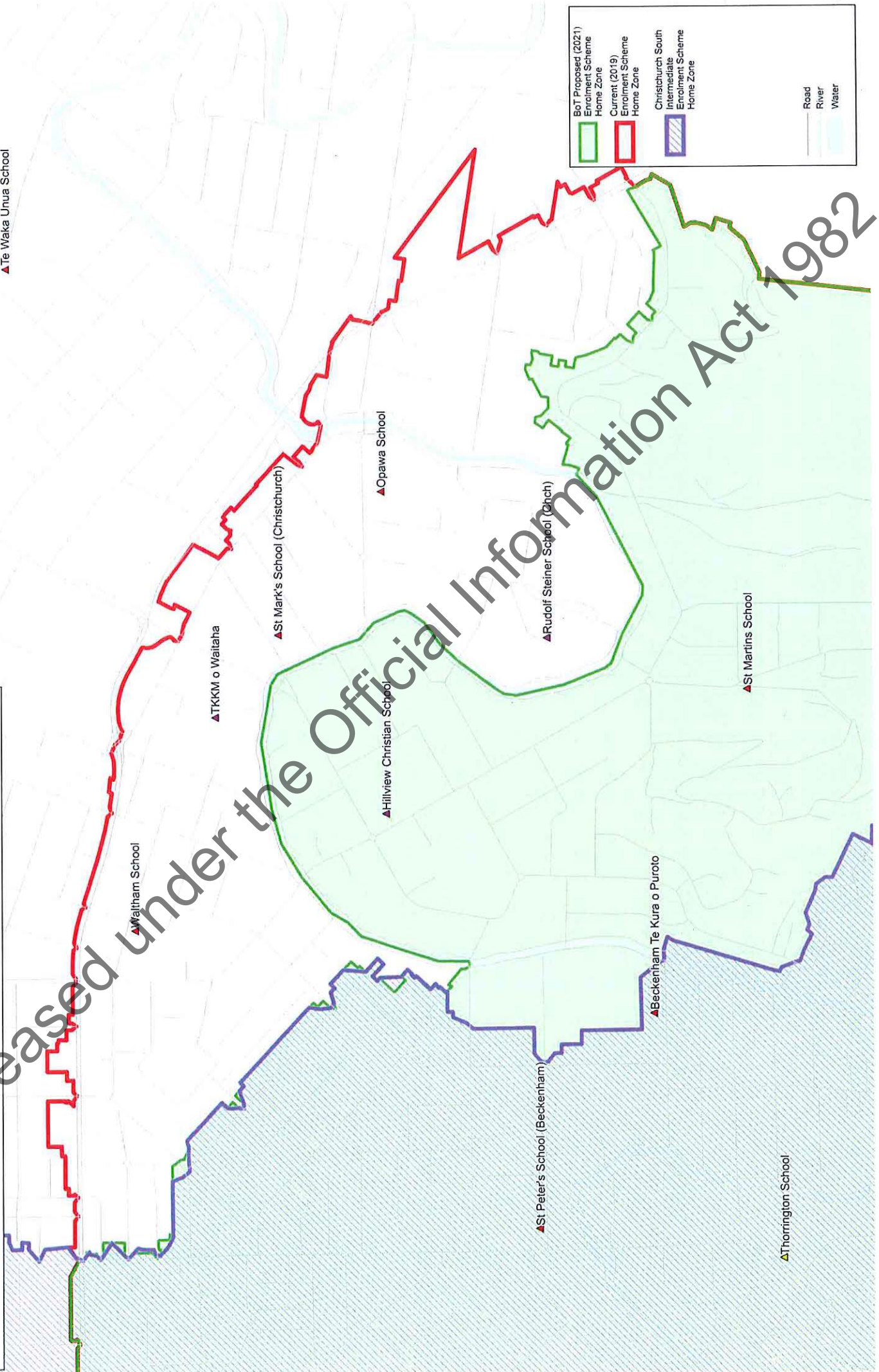
▲Kimihiia Parents' Colle
▲Te Waka Unua School



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Cashmere High School BoT proposed Enrolment Scheme Home Zone Amendment - October 2019

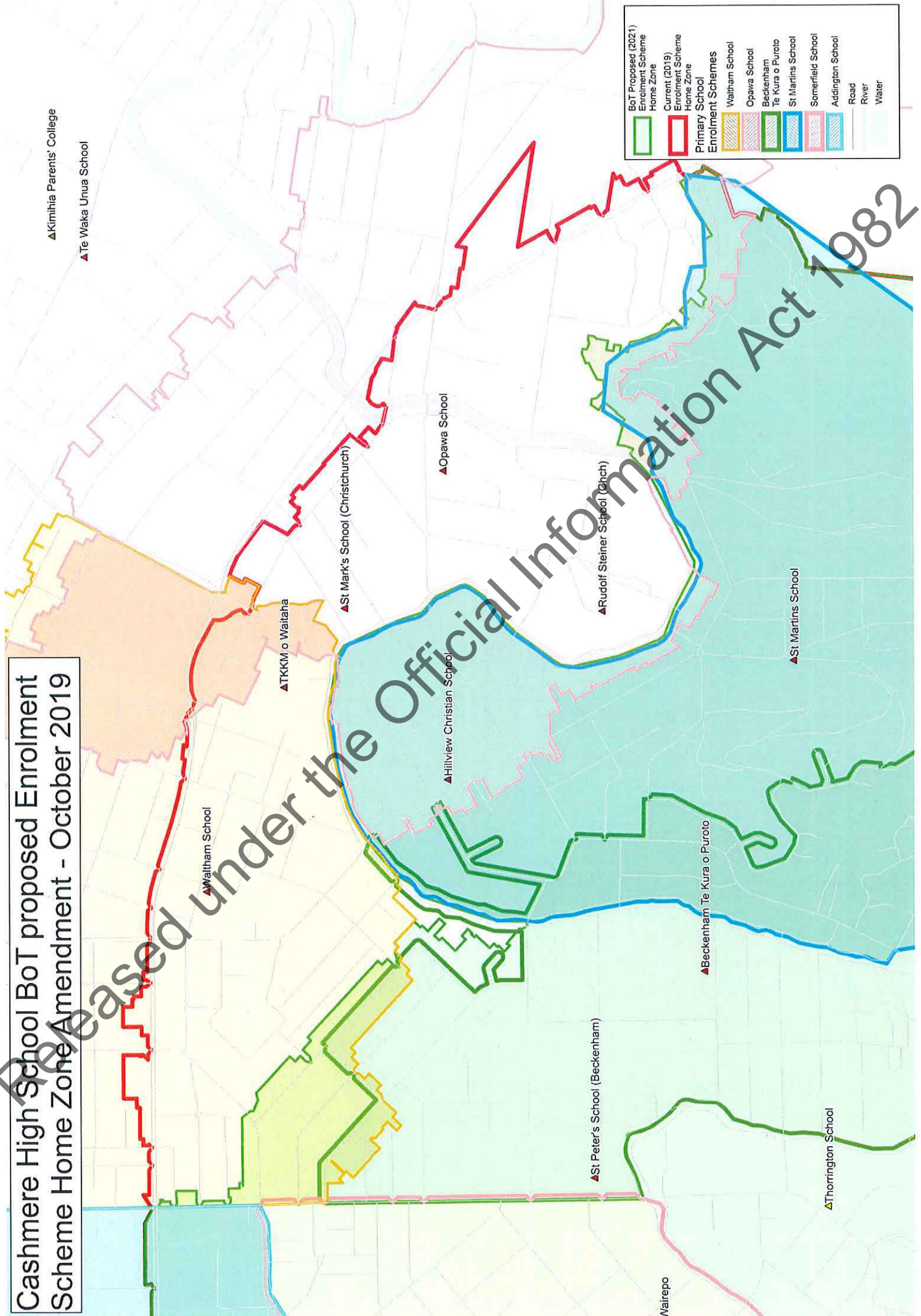


	BoT Proposed (2021) Enrolment Scheme Home Zone
	Current (2019) Enrolment Scheme Home Zone
	Christchurch South Intermediate Enrolment Scheme Home Zone
	Road
	River
	Water

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Cashmere High School BoT proposed Enrolment Scheme Home Zone Amendment - October 2019



BoT Proposed (2021) Enrolment Scheme	Home Zone	Current (2019) Enrolment Scheme	Home Zone
Primary School	Waltham School	Opawa School	Beckenham
Enrolment Schemes	Te Kura o Puroto	St Martin's School	Somerfield School
	Addingdon School	Road	River
		Water	

▲Kirimia Parents' College
▲Te Waka Unua School

▲Opawa School

▲St Mark's School (Christchurch)

▲TKKM o Waitaha

▲Waltham School

▲Hillview Christian School

▲Rudolf Steiner School (Ohch)

▲St Martin's School

▲St Peter's School (Beckenham)

▲Beckenham Te Kura o Puroto

▲Thornton School

Mairepo

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Guidelines for the development and operation of enrolment schemes for State Schools

Issued by Secretary for Education

September 2017

Released under the Official Information Act 1982

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Introduction

These guidelines are issued under section 11G(3) of the Education Act 1989 for the purpose of describing the basis on which the Secretary's powers will be exercised in relation to enrolment schemes. These Guidelines are for state schools other than state integrated schools, designated character schools, kura kaupapa Māori, special schools and state schools that are accredited as enrolling Communities of Online Learning (which have particular student profiles and catchments).

The legislation itself provides clear guidance to boards on the development of enrolment schemes. As well as setting out the purpose and principles the Government sees as important, the legislation specifies a number of non-negotiable requirements that must form part of every enrolment scheme.

It is useful to summarise these before providing guidance on matters the Secretary will take into account when approving schemes or exercising other powers granted to the Secretary under legislation.

The Secretary has delegated the power to approve schemes and arbitrate on other matters to relevant managers in the Ministry of Education's Area Offices.

Purpose and principles

These are set out in Section 11A. The purpose of an enrolment scheme is:

- (a) to avoid overcrowding or the likelihood of overcrowding at the school;
- (b) to ensure that the selection of applicants for enrolment at the school is carried out in a fair and transparent manner; and
- (c) to enable the Secretary to make the best use of existing networks of State schools.

In achieving its purpose, an enrolment scheme must, as far as possible, ensure that:

- (a) the scheme does not exclude local students; and
- (b) no more students are excluded from the school than is necessary to avoid overcrowding at the school.

Requirements

To ensure that each scheme gives effect to the purpose and the principles, the legislation specifies the following requirements relating to content in Sections 11C, 11D, 11E and 11I.

1. Each scheme must contain a home zone with clearly defined geographic boundaries described in such a way that any given address is either within or outside the home zone. See 11E(1).
2. Students who live in the home zone have an absolute entitlement to enrol at the school. See 11D(1).
3. The boundaries of the zone must touch or overlap the boundaries of the home zone of any adjacent State school that has an enrolment scheme. See 11I(1)(c). Note that this requirement is meant to be read in conjunction with requirement 5 below. It is not meant to apply to a situation where School A, which does not operate an enrolment scheme, lies between Schools B and C that do operate enrolment schemes. The home zone boundaries of Schools B and C do not have to touch.
4. A student living in the home zone must find it reasonably convenient to attend the school. See 11E(2)(a).
5. The home zone must be drawn in such a way that every student can attend a reasonably convenient school. See 11I(1)(b).

6. The scheme must promote the best use of the network of State schools in the area. See 11I(1)(d).
7. Out-of-zone students who apply for enrolment at the school must be offered places at the school in the following order of priority:
 - (a) students accepted for enrolment in a special programme run by the school;
 - (b) siblings of current students;
 - (c) siblings of former students;
 - (d) child of a former student;
 - (e) children of board employees or a child of a board member;
 - (f) all other students.
8. If there are more applicants in priority groups (b)-(f) than there are places available, places must be allocated in priority order until a category is reached where the number of spaces available in that category is insufficient to accommodate the number of eligible students. Selection within that priority group must be by ballot. Selection of applicants for priority (a) may be on other criteria, but may be by ballot, at the Board's discretion.

Because these requirements cover so many of the aspects of the content of enrolment schemes, all enrolment schemes will look very similar. To assist schools, the Ministry has therefore developed a pro forma enrolment scheme. This is given as [Appendix 1](#).

Overcrowding

Either the Ministry or the board might become concerned about potential overcrowding at the school and may initiate discussions with the other party.

When the Ministry believes that there is or is likely to be overcrowding at a school, the appropriate delegated official (Deputy Secretary, Associate Deputy Secretary, Group Manager or Director of Education) will notify the board of this in writing. The board must then develop an enrolment scheme to avoid overcrowding (s11H(1)). If a school or kura has received a notice under section 11H(1) to develop an enrolment scheme, and does not do so within a reasonable period of time, then the Secretary for Education has the authority to develop an enrolment scheme and the Board must implement it (s11IA).

A board cannot develop an enrolment scheme unless it has received notice from the Ministry under s11H(2).

It is important to understand, however, that the need to avoid overcrowding does not take precedence over the rights of enrolment that are guaranteed to in-zone students. This means that the board must determine a roll figure around which it can manage overcrowding while at the same time providing for the enrolment of all students who apply for enrolment from within the home zone. When the board draws up a home zone, it must do so with the capacity of the school in mind. Any board that is at all in doubt about the Ministry's assessment of its school's capacity should contact the Ministry's Property (EIS) Staff in the area.

The Ministry will not approve the use of the term "maximum roll" in a scheme because that implies that nobody will be enrolled above the stated figure, including in-zone students who have an absolute right to enrol under the legislation. For the same reason, the Ministry will not approve any attempt to specify maximum class sizes at certain levels, though schools, of course, may develop administrative practices relating to school organisation that are appropriate for them, so long as they accommodate the right of home zone students to enrol at the school.

An enrolment scheme is meant to be a tool that enables a board to prevent overcrowding at

its school. The board has to remember that students living within the home zone have an absolute right to be enrolled. The board should not, therefore, enrol so many out of zone students that the capacity of the school is exceeded if, at a later date, students living in the home zone claim their right to be enrolled. The Ministry of Education will not look favourably on a request for additional classroom accommodation in such a situation. Given the purposes of an enrolment scheme, it is illogical to automatically increase capacity to satisfy demand. If, however, there is a sudden roll surge that could not reasonably have been predicted, an application may be viewed more favourably. In all cases the Ministry will assess the situation on a case by case basis.

Offering places to out of zone students

In some areas, schools have found that a late surge in applications from in-zone students has seriously taxed the capacity of the school. This has mainly occurred in secondary schools. The Ministry recommends that boards should be cautious and prudent in offering places to out-of-zone students and points out that:

- although parents have to be informed of the outcome of the ballot within three school days, this does not mean that all out of zone places have to be offered at this point;
- in secondary schools in particular it might be prudent to offer only a restricted number of places immediately after the ballot and to hold off allocating others until the in-zone picture is clear;
- in situations where experience has shown that the in-zone environment is especially volatile, it might be necessary to create only a waiting list of out of zone students as a result of the ballot and offer places at a later date, possibly as late as January, in some cases.

The Ministry would want to assist schools that have experienced unforeseen roll growth, but would expect to see evidence that schools have adopted a policy of restraint similar to those suggested above.

The home zone

The approval process

Before approving a home zone the Ministry will need to be satisfied that:

- the zone meets requirements 1-6, set out on pages 2 and 3 of these Guidelines;
- there has been adequate consultation, as required under Section 11H(3);
- the enrolment scheme complies, as far as possible, with the purposes and principles set out in Section 11A.

Ministry comment

When drawing up a home zone, a board cannot work in isolation. This is because the legislation says that a board has to be able to ensure that all students have a reasonably convenient school that they can attend, and at the same time the scheme must promote best use of the network of State schools in the area. The location and capacity of all schools in the network have to be considered – including those of schools without enrolment schemes.

The term “reasonably convenient” is defined as follows in Section 11B.

Reasonably convenient school means a state school that a reasonable person living in the area in which the school is situated would judge to be reasonably convenient for a particular student, taking into account such factors as the age of the student, the distance to be travelled, the time likely to be spent in travel, the reasonably

available modes of travel, common public transport routes, and relevant traffic hazards. The meaning may vary as between different schools depending on such matters as –

- (a) whether the school is a single sex or co-educational school;
- (b) whether the school is an ordinary state school, a Kura Kaupapa Māori, a designated character school, or a special school;
- (c) whether the school is a primary, intermediate, secondary, composite, or area school.

For any school, the “network” will include at least the school’s immediate neighbours catering for the same range of students, but it may also include other, more distant schools whose rolls might be affected by the school’s enrolment scheme.

In the rare situation where it is judged to be appropriate to implement an enrolment scheme at a composite school, the school may clearly be operating as part of more than one network of local schools eg a network of Year 1-8 schools and a network of Year 9-13 schools. It might therefore be appropriate to consider the possibility of a home zone with multiple components. Special approval for this rare situation will be required and such approval must be sought prior to consultation on a proposed enrolment scheme.

The Ministry will not approve schemes unless there is evidence of consultation between the board and the boards of other schools likely to be affected by the operation of the scheme. (See also the section on Consultation.) Consultation is even more important when a neighbouring school also has an enrolment scheme, because of the requirement that every student must be able to attend a reasonably convenient school.

The legislation makes it clear that a home zone may exclude any area for which another school is also a reasonably convenient school for a student living in that area to attend. The consultation record (see the section on consultation below) should provide evidence that neighbouring schools accept the boundaries of the zone. If the board of the enrolment scheme school is unable to resolve any dispute that arises with the board of a neighbouring school, the Ministry might need to resolve the matter. If necessary, the Ministry may use its powers under Section 11(2) to require a board to amend its proposed enrolment scheme in a particular way.

The home zone may also exclude any area that it is desirable to exclude for the purpose of allowing the Secretary to make best use of the existing network of State schools in the area. The Ministry will alert the board to any issues that it thinks need to be taken note of when the home zone is being developed. Boards should discuss this matter with the Ministry at an early stage of the development of the scheme.

The purposes and principles set out in Section 11A are given more specific expression in the requirements set out on page 3 of these Guidelines. In addition to checking that these requirements have been met, the Ministry will also consider more generally whether the home zone addresses the principles that, as far as possible, the scheme ensures that it does not exclude local students and does not exclude more students than necessary to avoid overcrowding at the school. In that regard, the Ministry will not approve home zones that deliver an unnecessarily small percentage of the total intake.

Living in the home zone

On the face of it, the wording of Section 11D(1) is quite straightforward when it says that a person who lives in the home zone of a school is entitled at any time to enrol at that school.

Boards will know, however, that multiple shades of meaning may apply to the word “lives” and boards have become used to making decisions about boarding arrangements, families with more than one address and temporary living situations in a common sense way. Even so, in recent years parents have developed ploys that make it difficult for schools to determine

whether a given in-zone address is genuine or not.

Under Section 11P(2)(a) the Secretary has the authority to direct a board to enrol a student who the board has previously declined to enrol on the grounds the student does not live within the school's home zone, but the Secretary makes the finding the student is in fact living in the home zone.

It is the Ministry's view that any decision on whether or not a student lives within a home zone should be based on whether or not the student's given address is his or her usual place of residence.

A student is considered to be living in the home zone when the student currently (at those times when the school is open for instruction) has his or her place of residence at an address within the home zone and intends to remain within the zone.

The intention of remaining within the home zone is shown by any of the following:

1. The student lives with his or her parent(s)/guardian(s) in a house in the home zone owned, leased or rented by the parent(s)/guardian(s).
2. The student lives with a family member or some other responsible adult who has been given a **primary** duty of care by the student's parent(s)/guardian(s) in a house in the home zone owned, leased or rented by that adult. Students accepted for a school hostel are also covered by this description.
3. A student over 16 lives independently and owns, leases, rents or occupies a house in the home zone either with the agreement of the student's parent(s)/guardian(s) or in situations where the student has been granted an Independent Living Allowance.

The board will periodically have to make a decision on difficult situations, such as shared custody or temporary living arrangements when people are recent arrivals to an area. In the case of shared custody it may be that the student's usual place of residence can only be defined in terms of two addresses. In the case of new arrivals to an area, the board should remember that "usual place of residence" is not the same as "permanent place of residence" and this may mean that somebody who is genuinely, but temporarily, living in the home zone has to be enrolled.

Schools must consider each application on its own merits and may not have blanket rules requiring students to display a minimum period of residency within a home zone.

Issues associated with temporary residence are explored in more detail in [a later section](#).

Determining genuineness

The onus is on the parent to provide evidence that will enable the board to judge whether the given address will be the student's usual place of residence when the school is open for instruction. If, at the time of application, the parent is not able to provide the board with such evidence, the board may decide to decline the application. In cases where an applicant then requests a directed enrolment under Section 11P(2)(a), the Ministry will ask the board to explain the basis for its conclusion that the student is not living in the school's home zone.

The difficulty for the board is the issue of determining "genuineness".

At the time of application, boards may seek proof of residence from applicants. Schools have found documents such as power bills, bank statements, rates demands, leases or tenancy agreements and statutory declarations to be useful in the past. Experience has shown, however, that not even these documents will necessarily provide evidence of "genuineness".

The appendices to these Guidelines contain two documents that could assist schools at the time of application.

Appendix 2 includes a draft statement that parents can be asked to sign at the time of application. The purpose of this statement is two-fold. It lets parents know the seriousness of attempting to subvert the intent of the legislation and it should help as a reference point if a board subsequently feels it has reasonable grounds for reviewing an enrolment.

The questionnaire on page 36 reinforces the message about genuineness and assists a board to discover information that might point to an attempt by the parents to defeat the intent of the legislation.

Note that the term “primary duty of care”, which is used in both of these documents, indicates that the person with whom the student is boarding will take a high level of responsibility for the student’s welfare. A board might doubt the genuineness of the boarding arrangement if the parents insist on being the first point of contact for all matters relating to the student’s progress and behaviour at school.

The following situations are likely to raise suspicions and point to a possible non-genuine in-zone living arrangement.

- A check with the student’s current intermediate or full-primary school reveals a different address from that given at the time of application for enrolment at the secondary school.
- The in-zone family address given at the time of application is a recent acquisition and there is no suggestion that this is a new family home resulting from a recent move, or that it is admitted to be a rental address occupied by the family while it is attempting to find permanent accommodation.
- The student will be boarding at an in-zone address while the family home is out of zone but not too far away.
- After an unsuccessful application from an out-of-zone address, the parents make a new application based on an in-zone address – either as a new family home or as a boarding address for the student.

If a non-genuine in-zone living arrangement comes to light before enrolment takes place (ie before attendance begins) the board would be able to simply withdraw any offer of a place that it might have made on the basis of the information provided in the application. If, however, the matter does not surface until attendance has begun, the board would have to follow the enrolment review procedures set out in Section 110A of the Education Act 1989. Information about this process is provided later in these Guidelines, in the section headed Temporary Residence.

It is not possible to designate certain situations as “genuine” and others as “non-genuine”, but boards should feel able to act responsibly on the basis of reasonable belief.

In the event of a complaint by the parents against the board’s judgement, the Ministry would expect to find that the board has made a reasonable attempt to ascertain the genuineness of the situation and has not simply declined the application (and effectively passed the matter on to the Ministry) because it initially appears suspicious. The scenarios discussed in the examples below may give a helpful guide to boards about how the issue might be tackled.

Practical examples for determining genuineness

Ministry staff are frequently asked for hard and fast answers as to whether a particular situation is legitimate or not. Unfortunately, it is rarely possible to give a ruling without examining the facts of the particular case.

The following are some common enrolment scenarios that schools have brought to the Ministry’s attention. These are not intended to provide answers that will be applicable in all similar situations, but rather to provide a guide as to how genuineness might be determined.

Example one

A family has moved into the zone just prior to the application for enrolment.

This is a very common scenario in which genuineness can be very difficult to establish. To assist with this, it could be helpful to ascertain the following:

- Assess the suitability of the dwelling, particularly as compared with their previous dwelling, if possible (eg if the family claims to have shifted from a five-bedroom house into a two-bedroom unit, the genuineness of the application is suspect).
- If the parents own the in-zone dwelling, can they provide proof of ownership and proof of sale of their previous home?
- If the in-zone dwelling is rented, assess the length of the rental agreement. It might even be appropriate to contact or request a letter from the landlord to help establish the genuineness of the arrangement. Does the family own an out of zone home?
- Investigate whether the student had previously made an unsuccessful out-of-zone application.

Example two

A student is boarding at an in-zone address. His family lives just outside the school zone.

If the parents insist that they have retained the primary duty of care, then the genuineness of the in-zone living arrangement begins to look very suspect. Even if the parents say that they have handed over the primary duty of care, the situation is still highly suspicious given that the parents live nearby. However, the applicants should be given the opportunity to provide evidence to support the genuineness of their application. Such evidence might include:

- that the boarding arrangement has been in place for a reasonable period prior to the application;
- that special family circumstances have meant that the boarding arrangement is preferable for non-schooling-related reasons.

Example three

A student lives with her grandmother inside the school zone.

Whilst it is more credible that parents might grant a primary duty of care to their daughter's grandmother than to a non-family member, it is not clear whether this is actually the case. To ascertain genuineness, it could be helpful to know:

- how far away the student's parents live;
- how long the student has lived with her grandmother;
- the suitability of the grandmother's residence;
- whether there are any special family circumstances making this arrangement necessary or preferable.

Example four

A student has recently moved in with his father who lives in the school zone, having previously lived with his mother, outside the school zone.

In the case of shared custody, it is entirely legitimate for a student to move in with either parent for the purposes of enrolling at a particular school. The question, of course, is whether the student is genuinely living there. Questions that might assist in ascertaining the

genuineness of such a situation could include:

- the suitability of the father's dwelling (eg, if it is a one bedroom flat, this may be less credible as a genuine living arrangement than a larger dwelling);
- how long the father has lived at the in-zone address;
- whether there are any other reasons for the student shifting to live with his father.

Example five

A family has recently arrived in New Zealand. They are living in a rented flat whilst they look for more permanent accommodation.

This is a common and very difficult situation to assess. It is, of course, entirely reasonable for a family to rent a flat after just arriving in the country. Equally it is possible that the family has done this specifically in order to gain enrolment at a particular school. Investigations that might assist in ascertaining the genuineness of such a situation could include focus on:

- the suitability of the dwelling;
- whether this is the family's first address in New Zealand (this could be confirmed through cross-referencing rental agreements with entry permits);
- if it is not their first address, why they have shifted address so quickly?

Example six

A family is sharing a house with another family.

The following kind of information might be helpful in establishing the genuineness of such situations:

- If the student's family claim that they aren't the family that pays the power/phone bills, it may be appropriate to ask for some other evidence that they actually live there (eg, a bank statement or other mail addressed to them);
- The length of time the arrangement has been place: (if the two families have been living together for years, it is more likely to be genuine);
- The suitability of the house for two families;
- Evidence that the student's family is paying rent in some form.

Example seven

A family gives a motel as their in-zone address.

Under normal circumstances, a motel would not be considered a usual place of residence. However, the family might be able to show that they have recently relocated from another part of the country for work-related reasons. In such a case the child has to go to school somewhere and it is sensible if the school is the one whose zone includes the motel. If the parents were able to provide strong evidence (such as unconditional sale and purchase agreements) that they would be relocating to a permanent, in-zone address, the board might feel that it is appropriate to enrol the student. If, however, the parents provide evidence of only a short-term rental agreement at an in-zone address, the situation begins to look suspicious and the school would be wise to warn the parents of the law relating to temporary residence. If there is no evidence that the parents have recently shifted from another part of the country or are new arrivals from overseas, the in-zone motel address is even more suspicious as a genuine in-zone living arrangement.

Conclusion

In most cases, no individual piece of evidence will be conclusive on its own. But, collectively different factors can give a good indication as to the likely genuineness of the situation. Importantly, asking such questions of applicants will give the opportunity for genuine applicants to prove they are genuine, despite their unusual circumstances.

Although seeking additional information can be time-consuming for a board, it is far more efficient to be thorough at the point of application, rather than having to effect an annulment at a later point.

In some situations, however, suspicions will remain despite there being no reasonable ground to decline an application. The Ministry recommends that schools compile a list of such students for further investigation at a later date, after attendance has commenced.

The Ministry also recommends that schools should keep full and accurate records and notes on all applications that are declined and enrolments that are annulled. These will be valuable to the Ministry if the parent later makes an application for directed enrolment under Section 11P. In some cases, it can be difficult for the Ministry to uphold a board's decision if proper records have not been kept.

Released under the Official Information Act 1982

Special programmes

A special programme is defined in Section 11B as one that has been approved by the Secretary and

- (a) that provides –
 - (i) special education; or
 - (ii) Māori language immersion classes; or
 - (iii) any other type of specialised education to overcome educational disadvantage; or

- (b) that is a programme –
 - (i) that takes a significantly different approach in order to address particular student needs; and
 - (ii) that would not be viable unless it could draw from a catchment area beyond the school's home zone; and
 - (iii) to which entry is determined by an organisation or process that is independent of the school.

The Secretary's approval is given by notice in the *New Zealand Gazette (Gazette)*.

The Secretary has previously published a *Gazette* notice, dated 17 August 2000, that approves Māori language programmes and defines Māori immersion classes as those programmes that are resourced by the Ministry of Education at level 1, level 2 or level 3.

The Secretary's *Gazette* notice also approves special education classes and units, and defines special education as any class or unit established by the school for which students are accepted on the basis of special educational needs arising from learning and behaviour difficulties, sensory, intellectual, communication or physical disabilities, or any combination of these.

The notice further approves any class that delivers a Pacific language immersion programme and/or offers a bilingual education programme where at least one Pacific language makes up 30% of the language of instruction. For the purposes of the approval a Pacific language is Cook Island Maori, Samoan, Tongan, Niuean, Fijian, Tokelauan or Tuvaluan.

Finally the Notice also approves any class providing a programme of study to students who have a letter from Auckland University of Technology Mangere Refugee Education Centre identifying them as being part of the Government's official refugee programme or from Immigration New Zealand establishing the student's refugee status.

When developing its enrolment scheme, the board should inform the Ministry of any special programme it runs and that it thinks complies with the meaning given in section 11B. The Ministry will indicate to the board whether the programme qualifies under section 11B. Boards would be wise to seek this approval before beginning the consultation process required under section 11H(3). If the board's proposed scheme is subsequently approved, the Secretary will, if necessary, insert a notice in the *Gazette* amending the list of programmes or types of programmes that he or she has already approved.

In determining whether a special programme meets the criteria set out in section 11B, the Ministry will differentiate between a programme in which students seek to be enrolled and a programme that is devised to meet the needs of enrolled students. For example, a Reading Recovery programme or a remedial Maths programme is not a special programme in terms of the definition given in section 11B.

The Ministry will also differentiate between an “integrated programme” and a “subject” or “activity”. For example, an immersion language unit in an otherwise English-medium school might be considered differently than a language class that is offered as a ‘subject’ in a school.

The Ministry will be vigilant in ensuring that a special programme is not crafted in such a way that it attempts to create a loop-hole to circumvent the purposes and principles of the legislation – particularly the principle that the selection of applicants should be fair and transparent.

Within its proposed scheme the board must set out the criteria on which students will be accepted into the special programme, including procedures that will be used to determine which students will be enrolled if there are more applicants than places available. Students who meet the criteria for enrolment and live within the home zone must be enrolled ahead of out of zone students.

Out of zone students who meet the criteria for enrolment in the special programme have priority in enrolment above all other out of zone students while special programme places are available.

Out-of-zone enrolments

Section 11F gives clear instructions for the selection of students who apply for enrolment from outside the school’s home zone.

Section 11F(1) sets out six priority categories that must govern selection. The Ministry has no authority to allow boards to increase the number of priority categories. Nor does the Ministry have authority to allow boards to delete any of the priority categories. Parliament has laid out the categories and they must be adhered to.

Once special programme places have been filled, if there are more applicants in the second, third, fourth, fifth or sixth priority groups (including any students eligible to enrol in a special programme who were not successful in gaining a place, if they so wish) than there are places available, selection within the priority group must be by ballot. As provided for under Section 11G(1), the Secretary has issued instructions concerning matters connected with balloting. A copy of these instructions is provided separately.

The only other means by which out of zone students may be enrolled are:

- as part of a school’s special programme;
- following a direction by the Secretary under sections 11P, 16, 17D or 18A;
- if the principal agrees to accept a student excluded or expelled from another school and the Secretary endorses the proposal.

Scholarships

Some schools offer scholarships to out-of-zone students. A scholarship, however, does not create an entitlement to enrol, and scholarship students are not provided for in the priority groupings relating to out of zone students. The award of scholarships, therefore, should be held over until the balloting process has been completed. Schools must not describe a scholarship as an “entrance scholarship”.

Siblings

The enrolment of siblings of current and former students is provided for in the second and third priority groups of out of zone students. (Siblings who live within the home zone, of course, have an absolute right of enrolment.) The onus is on parents to provide proof of a sibling relationship, which is defined in Section 11F(3) as follows:

For the purposes of this section, child A is the sibling of child B if –

- (a) both children share a common parent; or
- (b) a parent of child A is married to, or in a civil union with, a parent of child B; or
- (c) a parent of child A was married to, or in a civil union with, a parent of child B at the time when child B's parent died; or
- (d) a parent of child A is the de facto partner of a parent of child B; or
- (e) both children live in the same household and, in recognition of family obligations, are treated by the adults of that household as if they were siblings; or
- (f) the Secretary, by written notice to the school, advises that child A is to be treated as the sibling of child B.

If two or more siblings apply for places at a school at the same level, the applications of those siblings must be dealt with as a single application for the purposes of the ballot. (i.e. either all siblings are successful or none is).

Pre-enrolment Processes

The Act distinguishes between pre-enrolment processes and enrolment.

Pre-enrolment processes include the process of applying for entry to the school and, potentially, being accepted for enrolment. "Enrolment", on the other hand, occurs when attendance at the school commences and the student is first marked as present on the school roll. No legal charge can be made to parents to access forms for pre-enrolment processes, and neither can they be charged to get into the ballot. This includes soliciting donations in respect of any application for out-of-zone enrolment (for those schools subject to the Instructions).

Out-of-zone students

Section 11C(1)(b) states that an enrolment scheme must set out pre-enrolment procedures for selecting applicants who live outside the home zone. The matter of deadlines for receipt of applications is covered in the Secretary's Instructions, provided separately. Boards would be wise, however, not to include specific dates in their schemes because the scheme would require amendment if at a later time they wanted to simply change the date by which pre-enrolment applications must be received. The pro forma enrolment scheme, attached as [Appendix 1](#), includes a general reference to pre-enrolment procedures that boards might find useful.

Boards may wish to state that proof of a sibling relationship will be required and specify the type of proof necessary.

When an out-of-zone application is received, the board is required under section 11N(2) to provide the applicant with certain basic information about the balloting process. Attached as part of [Appendix 2](#) is a statement that boards might find helpful in communicating with parents

In-zone students

A board cannot require applications for enrolment from in-zone students to be made by a certain date, because the legislation gives an absolute right of enrolment to any student who lives within the home zone.

Almost certainly, however, boards will wish to receive such applications by the same date set for receipt of out-of-zone applications, because boards have to quantify the number of places likely to be available for out-of-zone students before proceeding to a ballot. Therefore the board may include indicative dates for pre-enrolment of home zone students in the same notice as that giving information to out-of-zone applicants.

In their scheme, a board may indicate that proof of residence may be required in support of an application for enrolment in respect of a student living within the home zone.

Declining applications

The legislation specifies that students living in the home zone have an absolute right to enrol at the school, and it sets out the criteria for the selection of out-of-zone students. There are, however, a number of other situations that need to be considered.

A board might decide to decline an application because, for example:

- it is an application that does not meet the criteria for acceptance in an approved special programme run by the school and provided for in the enrolment scheme;
- the application is made on the basis of living in the home zone but the board does not accept that the given address is the student's usual place of residence;
- the application is made on the basis of a sibling relationship, but the board does not accept that the relationship is consistent with the interpretation provided in the legislation.

In each of these situations the board must write to the parents explaining why the application has been declined and informing the parents of the Secretary's discretionary powers under Section 11P(2) in exceptional circumstances only

If an application is declined for one of these reasons, the principal should offer to place the student's name in the general ballot for out-of-zone places.

Annulment of enrolment

Retention of entitlement to enrolment

The determination of validity of an enrolment of an in-zone student, or enrolment of an out-of-zone student subsequent to a pre-enrolment selection process, is determined at the date of enrolment, which is the first day of attendance consequent on the pre-enrolment process. Once enrolled, the student is entitled to remain enrolled at the school until the end of the student's schooling (for the year levels provided by the school), unless the enrolment is annulled under section 11O, terminated under another provision of the Act, or the student enrolls at another school.

This means, for example, that if a student was living in-zone at the time of enrolment, but the student and family later move to an out-of-zone address in circumstances where there is no ground for annulment under s11O (i.e. it is not a case of a temporary residence being used for the purpose of gaining enrolment) then the student is entitled to remain enrolled until completion of their schooling.

The same would apply, for example, if an out-of-zone student was enrolled on the basis that their older sibling was attending the school but the older sibling then leaves the school prior to the student in question (the younger sibling) completing his or her schooling. The younger sibling is entitled to remain enrolled until completion of their schooling.

Reasons for Annulment

Once attendance has commenced, section 11O provides for the annulment of enrolment if the board has reasonable grounds for believing that, at the time of application, the parents falsely claimed the student was living in the home zone or was entitled to a particular priority in the ballot. **The importance and implications of “reasonable grounds” are explored in some detail in the next section, headed “Temporary residence”.**

Reasons for annulment fall into three broad categories.

Supplying false information

Annulment is via Section 11O(1) for the following reasons:

- (a) the student had never lived at the in-zone address given at the time of application; or
- (b) a claim was falsely made that the student was entitled to a particular priority in the ballot; or
- (c) the board determines that a student has used a temporary residence for the purpose of gaining enrolment at the school.

In these situations, if the board has reasonable grounds for believing that the information given at the time of application was false, and the parents have been unable to provide a satisfactory explanation, then the board may annul the enrolment. No review of an enrolment is required in such cases.

Use of a temporary residence

Annulment is via section 11O(1A) if a student was enrolled on the grounds that he or she lived within the home zone, and since enrolling the student has moved out of the home zone and the Board believes on reasonable grounds that the student has used a temporary residence for the purpose of gaining enrolment at the school.

Before annulling an enrolment on this ground a review of enrolment is required under section 11OA. This involves giving parents written notice that the board is considering annulment and giving the parents a reasonable opportunity to explain the situation.

These matters are covered in detail in the section, headed “Temporary residence”.

Annulment procedures

The annulment will take effect one month from the date on which the board decided to annul the enrolment.

Immediately after annulling an enrolment, the board must

- (a) advise the student’s parents, in writing, of the date of the annulment decision and the date on which it takes effect; and
- (b) advise the Secretary (by contacting the relevant Ministry office) of the name of the student and the date of the annulment.

If parents continue to dispute the board’s ruling, they should be advised that they can apply to the Secretary for directed enrolment under Section 11P(1).

Temporary residence

Reference has already been made to the fact that a student who is genuinely, but temporarily, living in the home zone has to be enrolled. The problem is “How can genuineness be determined?”