

# Regulatory Impact Statement: Watercare Charter

## Coversheet

Purpose of Document	
Decision sought:	Final Cabinet decisions
Advising agencies:	The Department of Internal Affairs
Proposing Ministers:	Hon Simeon Brown, Minister of Local Government
Date finalised:	22/11/2024
Problem Definition	
<p>Watercare will become financially separate from its owner, Auckland Council on 1 July 2025 <sup>9(2)(b)(ii)</sup> [REDACTED]</p> <p>[REDACTED] An interim economic regulatory regime has been enacted to ensure that Watercare has sufficient oversight and the right incentives over the next three years, before the permanent economic regulatory regime is expected to be in place.</p> <p>A Watercare Charter (the Charter) must be drafted and made via Order in Council to set controls and requirements that ensure high quality and efficiently delivered water services <sup>9(2)(b)(ii)</sup> [REDACTED]</p> <p>[REDACTED]</p>	
Executive Summary	
<p>The Charter must balance the Government's intention to provide additional oversight and price controls with Watercare's need to financially separate from Auckland Council.</p> <p>The Local Water Done Well (LWDW) programme aims to support councils to deliver water services in a financially sustainable manner. As part of this programme, the Local Government (Water Services Preliminary Arrangements) Act 2024 (the Act) provides for a new financially sustainable model for Watercare to be financially separate from Auckland Council, and for an interim economic regulation regime for Watercare, that is administered by a Crown monitor.</p> <p>Additional oversight and transparency will be provided through the implementation of the Charter.</p> <p>The Minister of Local Government (the Minister) has directed officials to seek Cabinet agreement on the Charter before the end of 2024.</p> <p>The interim regulatory regime must provide Watercare with the right incentives and appropriate oversight to address the challenges it faces, <sup>9(2)(b)(ii)</sup> [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	

Without interim regulatory arrangements, there will be a lack of oversight and price controls on Watercare as it separates from Auckland Council.

Under the Act, Watercare must repay any debt owed to Auckland Council by 30 June 2030. Furthermore, Auckland Council is prohibited from lending or providing credit to Watercare from 1 July 2025.

9(2)(b)(ii)

### **This RIS assess three options for the Charter**

The scope of the options that this RIS can assess are defined by Part 4 of the Act, which sets out mandatory and optional requirements. This has meant that while there is scope for including or excluding some elements within the Charter:

- there is no ability to consider new measures or requirements that have not been anticipated by the Act;
- options that have been considered are confined to the scope set out in the Act; and
- it has not been possible to entirely align what will be provided under the Charter with what is expected to be required under the enduring regime.

### **Three options have been assessed**

This RIS assesses three potential options for an interim economic regime (the Charter) as set out in Act.

- Option one – No Charter developed (counterfactual)
  - There is no economic regulation for Watercare until the permanent regime is in force and Watercare's existing standards and objectives are relied on to drive efficiency and quality.
- Option two – Transitional Charter
  - A Charter is made that is proportionate, given the interim nature of the regulatory regime, and introduces standards and objectives that are largely built off existing measures, to ease implementation effort, and do not put Watercare's financing raising at risk.
- Option three – Comprehensive Charter
  - A Charter is made that utilises all the features allowed under the Act, including a customer compensation scheme, an incentives regime and a stricter and more wide-ranging set of targets and requirements.

These three options are packages that sit across the four main areas of requirements set out for the Charter in the Act and focus on the scope of what is to be included. The four main areas are:

- minimum service standards;

- customer compensation scheme;
- financial performance objectives; and
- a price-quality path.

These options have purposely been assessed as packages, given there is significant overlap and choice across the bundles that means it makes more sense to consider them together. Due to time constraints consultation has been limited to Auckland Council, Watercare and the Commerce Commission (the Commission).

#### The Department recommends Option two

The Department recommends Option two as it is a fit for purpose approach that achieves the main objectives of improving efficiency and raising quality, while minimising disruption during the transition to the enduring regime.

The Minister has appointed the Commerce Commission to act as the Crown monitor to Watercare and will be responsible for monitoring Watercare's performance against the Charter once it has been made via an Order in Council process.

#### Limitations and Constraints on Analysis

The interim economic regulatory regime is intended to be a transitional measure ahead of the full economic regulatory regime.

As such the level of complexity contained in the Charter, and the resulting implementation costs, should be sensitive to this short lifespan. In addition, the requirements of the Charter should, as much as possible, anticipate the enduring regime to avoid unnecessary disruption to Watercare's operations.

The Act contains a definitive list of elements that can be included in the Charter, compared to the enduring regime which is expected to have a broader tool set. This has meant that it has not been possible to entirely align what will be provided under the Charter with what is expected to be required under the enduring regime.

9(2)(b)(ii)

This has shortened the amount of time available for policy development and analysis. However, this is considered necessary to ensure that Watercare can meet the financial separation requirements under the Act. In order to meet the timeline required, consultation has been limited to Auckland Council, Watercare and the Commerce Commission.

Policy development on the Charter is based on a range of information, including publicly available data and data provided by Watercare in response to information requests. The Department has relied on the quality assurance processes of Watercare in its provision of information. Further quality assurance checks on the information provided have not been undertaken.

We have made the following assumptions while developing this RIS:

- the structure of Watercare (a council-controlled organisation wholly owned by Auckland Council) will not change during the three-year period;
- the legislative provisions applying to Watercare that prohibit distributions and require financial separation from Auckland Council will not change during the three-year period;
- the Water Services Bill, which will contain the permanent economic regulatory regime, will be enacted by mid-2025, with the permanent regime fully in force by mid-2028; and
- the Commission will continue to act as the Crown monitor for the duration of the interim economic regulatory regime.

**Responsible Manager(s) (completed by relevant manager)**

Bex Sullivan  
 Deputy Executive Director  
 Water Services Reform Programme  
 Department of Internal Affairs



22 November 2024

**Quality Assurance (completed by QA panel)**

Reviewing Agency: DIA

Panel Assessment & Comment:

The Department's Regulatory Impact Analysis (RIA) panel (the panel) has reviewed the Local Water Done Well Watercare Charter RIA (the RIA) in accordance with the quality assurance criteria set out in the [CabGuide](#).

The panel members for this review were:

- James Stratford, Principal Information Analyst (Chair)
- Natalia Lu, Senior Policy Analyst (Member)
- Michael Daubs, Senior Policy Analyst (Member)
- Nick Law, Policy Manager (Shadow Member)
- Sophia Kalafatelis, Policy Analyst (Secretariat)

The panel considers that the information and analysis summarised in the RIA *meets* the quality assurance criteria. The RIS lays out the range of options clearly, recognising that the options are constrained by proposed legislation, and that the charter simply needs to proceed. The preferred option is convincing that it will give the Crown sufficient confidence in the performance of Watercare during the transition period. The panel also recognises that regular monitoring and reporting by the independent Crown Monitor to the Crown during the interim period will ensure that, if any changes are required, they can be implemented during the transition period to ensure the best outcomes for consumers.

The panel acknowledges this RIS has been prepared in a short time frame. Given there are few directly affected parties involved, we believe consultation was adequate. Overall, the RIS does a

good job of presenting a technical issue that has been tightly constrained by legislation.

## Section 1: Diagnosing the policy problem

### What is the context behind the policy problem and how is the status quo expected to develop?

#### Watercare owns and operates the drinking water and wastewater networks in the Auckland region

2. Watercare is the largest water supplier in the country, supplying 1.7 million people across the Auckland region. It is a 100 percent Auckland Council owned Council Controlled Organisation (CCO).
3. In owning and operating drinking water and wastewater networks, Watercare charges its customers directly for its services, directly raises and manages debt to fund its services, and is governed by a competency-based board.
4. Watercare's income primarily derives from three streams of revenue:
5. Water supply – Watercare sets a volumetric charge per kilolitre (1,000 litres) of water used. The rate is the same for residential and business customers.
6. Wastewater – Watercare applies fixed and volumetric charges. The rates are different for residential and business customers.
7. Infrastructure growth charges (IGCs) – a schedule of fees charged to property developers to cover the cost of new infrastructure (pipes, treatment plants, dams etc).
8. Auckland's stormwater network is not operated by Watercare, and is directly owned, operated and funded by Auckland Council.

#### Watercare is regulated by a number of actors

9. Watercare operates within a complex regulatory system that includes a number of actors and a range of different regulatory requirements.
10. Watercare currently has an agreed set of performance measures and targets for delivering on Auckland Council's strategic direction, priorities, and targets. These are reported on a quarterly basis.
11. The Water Services Authority – Taumata Arowai (the Authority) is responsible for regulating water quality and for providing national oversight on the environmental performance of drinking water, wastewater, and stormwater networks through setting standards. They also have a role in monitoring the environmental performance of these networks, including:
  - drinking water quality standards and their enforcement;
  - waste and stormwater environmental network performance standards; and
  - administering and regulating compliance with the above standards.
12. Under the Local Government Act 2002 (LGA02), the Department of Internal Affairs (the Department) must make rules specifying non-financial performance measures for local authorities to use when reporting to their communities.
13. The measures provide information about the levels of service for five groups of activities carried out by local authorities – stormwater drainage, sewerage and the

disposal of sewage, flood protection and control works, water supply, and the provision of footpaths and roads. Local authorities are required to use a standard set of performance measures for these five activities when reporting to their communities.

14. Discharges and environmental impacts are monitored through resource consents and reported to the environmental regulators. For Watercare, this includes Auckland Council, Waikato Regional Council and Waikato District Council. The Authority also has responsibilities for monitoring and reporting on environmental performance of water services suppliers.

#### The LWDW programme will introduce economic regulation of water services

15. Economic regulation is intended to ensure that water services remain financial sustainable in the long term. While the enduring regime will be introduced in the Local Government (Water Services) Bill (the Water Services Bill), and will apply to all water service providers, Watercare will initially be subject to an interim regime, monitored and enforced by a Crown monitor.
16. The Minister for Local Government has appointed the Commission to the position of Crown monitor. The Crown monitor assesses Watercare's performance against a number of objectives, targets and measures set out in the Watercare Charter. If Watercare contravenes the Charter, the Crown monitor can take action including financial penalties, injunctions and Court orders to force compliance.

#### The programme provides for a new model for Watercare

17. As part of the preliminary arrangements, the Act provides for a new financially sustainable model for Watercare to be financially separate from Auckland Council.

18. <sup>9(2)(g)(i)</sup>

#### What is the policy problem or opportunity?

19. The interim regulatory regime must provide Watercare with the right incentives and appropriate oversight to address the challenges it faces, <sup>9(2)(b)(ii)</sup>

#### Watercare faces significant challenges

20. While one aspect of economic regulation focuses on prices charged and quality achieved, there is also a need to address the underlying causes and symptoms of inefficiency and poor performance. The Charter is expected to address the challenges that Watercare faces through the targets, measures and requirements it sets.

#### *Watercare customers are set to face significant charging increases*

21. Watercare's water charges have moved broadly in line with inflation between the 2018 financial year (FY18) and FY22. However, from 1 July 2023 charges began increasing at a significant rate, and this is projected to continue in Auckland Council's draft 2024 LTP. Watercare claims the high rates of price increase are necessary to meet cost increases, lift investment, and recover the costs of growth.
22. Watercare's financial projections show a price path of 7.2% for drinking water and wastewater charges, and 14.4% for IGCs for the period FY24-27. The 10-year

projections show further annual increases of 9.2% for drinking water and wastewater charges and 18.4% for IGCs for the period FY28-34.

23. IGCs in particular have not kept pace with capital goods price inflation, nor with projected growth-related capital expenditure in recent years. The 14.4% increases are likely to put upward pressure on development costs. These are required not just because IGC revenues have not kept pace with growth-related capital expenditure, but also because Watercare's capital delivery programme has not delivered the anticipated reductions in construction costs. Currently, water and wastewater tariffs are being used to meet the shortfall created by IGCs that are not recovering the full cost of growth infrastructure projects.
24. Watercare and Auckland Council proposed these steep increases, despite other options being available and being explored.

*Watercare faces significant operating cost increases*

25. Watercare's total operating expenses have increased by 10.1% per annum over the last five years, a cumulative increase of 62%.
26. The major contributors to these increases were:
  - asset maintenance costs (14% per annum);
  - asset operating and other costs (10% per annum); and
  - increase in total full-time equivalent employees, which increased by 29% over the last five years.
27. Watercare has not maximised its opportunities for improving its operational efficiency. For example, the total employee increase is higher than what would be expected for a regulated water company of a similar size and population density.

*There was limited evidence of benchmarking or formal assessments of capital efficiency*

28. Watercare's transition to an Enterprise Delivery model aims to drive cost efficiencies, but there is no reporting, at this stage, on the success of this approach. Local water network condition modelling shows that 63 km of pipes are in 'poor' or 'very poor' condition, suggesting likely failure in the short to medium-term if not renewed. This is predominantly due to pipelines that were built between 1960 and 1980 using asbestos cement.

*The wastewater network has struggled following extreme rainfall events and has had significant asset failures*

29. Watercare met most of its Statement of Intent (SOI) targets for network performance in the past decade, however the wastewater network has struggled following extreme rainfall events and has experienced some significant asset failures.
30. Dry-weather and wet weather overflows have consistently operated within Watercare's service standards levels, except for FY17 and FY23 where wet weather sewerage overflows exceeded service standard levels due to extreme weather events. Based on current climate projections, Auckland is likely to see an increase in extreme wet weather events in the coming decades.<sup>1</sup>
31. There have also been recent examples of significant wastewater overflows associated with asset failure, including the Ōrākei main sewer collapse, which resulted in severe wastewater overflows (estimated at 8 million litres per day) into

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<sup>1</sup> [Climate change scenarios for New Zealand | NIWA](#)

Waitematā Harbour lasting several weeks, and resulting in more than 20 beach closures.

32. Watercare is compliant with most resource consent requirements but there is room for improvement, with some significant instances of breaches of wastewater discharge consents, especially following heavy rainfall events.

*Information gaps limit the ability to provide a robust assessment of the quality of Watercare's services*

33. There is limited granular reporting on network performance for Watercare. Compared with performance measures used for urban water companies in other jurisdictions, there are gaps in the coverage and quality of information reported by Watercare, including in relation to unplanned service disruptions and asset failure rates. The Network Environmental Performance Reports (NEPRs) produced by the Authority are expected to improve this over the coming years.
34. There is limited external reporting on the environmental impact of Watercare's activities, except for carbon emissions. Compared to water utilities internationally, there are gaps in the coverage and quality of information reported by Watercare, including in relation to the frequency and volume of wastewater overflows into waterways and overflows onto private property.
35. There are also gaps in reporting on capital delivery and prioritisation of capital expenditure. Watercare has developed a mature reporting system for its major capital works programmes, particularly the Central Interceptor project for which detailed reporting is available. Projects under \$50 million have less visibility and, based on a limited desk-review of available information, there is room for improvement in whole-of-project-life tracking against milestones for cost, time, and scope. A review of asset management planning documents indicates there is room to strengthen linkages between Watercare's capital investment programme and measurable outcomes.

*Watercare is struggling to provide water infrastructure that meets housing demand*

36. There are cases of Watercare struggling to ensure water infrastructure can meet housing growth – particularly in response to private plan changes. The Army Bay Wastewater Treatment Plant, which services the Milldale Development, is nearly at capacity, with only 2,000 additional dwellings able to be connected prior to its planned upgrade in 2031. This poses a risk to planned development, with 700 new residential consents per annum in the catchment area. Current capacity will likely be exhausted by 2027, which may limit development.

**Watercare must become financially separate from Auckland Council**

37. Under the Act, Watercare must repay any debt owed to Auckland Council by 30 June 2030. Furthermore, Auckland Council is prohibited from lending or providing credit to Watercare from 1 July 2025. This, combined with other restrictions imposed by the Act, has the effect of financially separating Watercare from Auckland Council.

38. 9(2)(b)(ii)

39.



40. The Charter must balance the Government's intention to provide additional oversight and price controls with Watercare's need to financially separate from Auckland Council.

#### **There is a lack of oversight and price controls for a financially separate Watercare**

41. Without interim arrangements, there will be a lack of oversight and price controls of Watercare as it separates from Auckland Council.
42. It has always been anticipated that Watercare will be regulated by the Commission, along with all other water organisations. However, this will not come into effect until after the provisions in the Water Services Bill take effect. As a result, there is a risk of price escalation for Watercare's consumers in the interim until economic regulation takes effect.

### **What objectives are sought in relation to the policy problem?**

#### **Legislative outcomes for the Charter**

43. The Charter outcomes are set out in the part 4 of the Act. The purpose of Part 4 is:
- to promote the long-term benefit of consumers of water services provided by Watercare;
  - to ensure that sufficient information is readily available to interested persons to assess whether the above purpose is being met; and
  - to ensure that Watercare manages its operations efficiently with a view to keeping the overall costs of delivering water services at the minimum levels consistent with the effective conduct of its undertakings and the maintenance of the long-term integrity of its assets.
44. To achieve this purpose, outcomes are sought that are consistent with outcomes produced in competitive markets, including that Watercare;
- has incentives to:
    - innovate and to invest in water services, including in replacement, upgraded, and new assets;
    - improve efficiency in providing water services;
    - provide water services at a quality that reflects consumer demands; and
  - share with consumers the benefits of efficiency gains in supplying water services, including through lower prices.
  - is limited in its ability to extract excessive profits.

#### **Ensuring a smooth transition to the enduring regulatory regime**

45. Given the preliminary nature of the Charter, and the incoming full economic regime that will be introduced under the Water Services Bill, there is a need for any response to be set up in a way so that it can smoothly transition into the longer-term regime.
46. Including elements or objectives in the Charter that are not expected to be reflected in the enduring regime could result in additional implementation costs for both the

regulators and Watercare and would make it harder for the interim regime to inform the enduring regime.

## Enabling Māori participation in decision-making

47. The LWDW policy recognises that iwi have rights and interests in water. The Charter will not have specific objectives in relation to the role of iwi/Māori decision-making for water services. Nevertheless, the Department considers the proposals should be consistent with the current LGA02 requirements, and do not reduce Māori participation in decision-making regarding water services.
48. The Crown requires local authorities to facilitate Māori participation in local government decision-making processes, to give effect to the Crown's Tiriti/Treaty obligations. Section 4 of the LGA02 gives explicit recognition to the Crown's obligations for local authorities in this respect.
49. The Department has relied on Auckland Council to engage with Māori through the relationships they hold with those communities. The Council has briefed Mana Whenua Kaitiaki Forums on the proposals and Houkura (formerly the Independent Māori Statutory Board) has been part of the group delegated authority to make formal comment back to the Department on the Charter proposals.

## What are the limitations and constraints of this RIS?

### The regime is preliminary in nature

50. The interim economic regulatory regime is intended to be a transition measure which constrains policy development in two ways:
  - the Charter is only expected to be in place for three years, and so the level of complexity and the resulting implementation costs should be sensitive to this short lifespan; and
  - Watercare will transition to the enduring economic regulation regime at the end of the Charter, and so, as much as possible, the requirements of the Charter should anticipate the enduring requirements under the Commerce Act 1986 (the Commerce Act), so as to avoid unnecessary disruption.

### Options assessed sit under a prescriptive legislative framework

51. The Act details an exhaustive set of elements that can be included in parts 1 and 2 of the Charter (these are outlined in **Appendix 1**). While there is scope for including or excluding some elements within the Charter, there is no ability to consider new measures or requirements that have not been anticipated by the Act. In comparison, the Commerce Act, where the enduring economic regulatory regime for water services will be enacted, contains a broader set of tools and objectives.
52. This has meant that:
  - options that have been considered are confined to the scope set out in the Act; and
  - it has not been possible to entirely align what will be provided under the Charter with what is expected to be required under the enduring regime.

### The policy proposals were developed at pace due <sup>9(2)(b)(ii)</sup>

53. <sup>9(2)(b)(ii)</sup>, the Department has agreed

to seek substantive policy decisions on the contents of the Charter in December 2024.

54. This has shortened the amount of time available for policy development and analysis, however it is considered necessary to ensure that Watercare can meet the financial separation requirements under the act.
55. In addition, the Minister has directed the Department to have substantive Cabinet decisions on the Charter made before the end of the year and for the Charter to be in place by 1 April 2025.

### Availability of information

56. Policy development on the Charter has relied on a range of information, including publicly available data and data provided by Watercare's response to information requests.
57. The Report draws on financial and service quality measures reported in Watercare's historical annual reports, with forward-looking information drawn from its 2024-27 SOI, Auckland Council's 2024-34 Long Term Plan and other information supplied by Watercare to the Department relating to its planned investment and other financial projections.
58. Watercare's Asset Management Plan (AMP) covering the ten-year period from 2025 to 2034 was in the process of being prepared for publication and a finalised document was not available to inform analysis. Watercare supplied information that it expects will be included in the new AMP.
59. Analysis on service quality and network performance has relied heavily on information included in Watercare's Statement of Service performance. There has not been an assessment of whether the service standards have been appropriately set by Watercare or whether these are the right measures to evaluate service quality and network performance.
60. The Department has relied on the quality assurance processes of Watercare in its provision of information. Further quality assurance checks on the information provided have not been undertaken.

### Consultation and engagement

**There has been limited consultation and engagement with broader stakeholders on the development of policy options**

61. Due to the time constraints, stakeholder engagement focused on ensuring that Auckland Council and Watercare are involved in the development of the Charter through-out the process. This has been beneficial in ensuring that Auckland Council and Watercare have a clear understanding of what will be covered in the Charter, and that in turn the Department has been provided immediate warning of potential obstacles.
62. The Authority and the Commission have both been consulted throughout the process of preparing the Charter.
63. Wider engagement with consumers or interested community groups has not been possible. Instead, we have relied on Auckland Council to consult with their stakeholders, including iwi groups, as proposals are developed and feedback to the Department as required.

## Section 2: Deciding upon an option to address the policy problem

### What criteria will be used to compare options to the status quo?

65. This section outlines **four key criteria** for which the options will be assessed. These are summarised in the table below.
66. Across all of this, the criteria aim to pull out the key choices available to Ministers when considering the approach to the Charter. These criteria are equally weighted; no one criterion is more or less important than the others.

Criterion	Description	Rationale and links to the policy problem
Delivers benefits to consumers	The extent to which an option delivers direct and indirect benefits to consumers. These are primarily financial benefits and those relating to the reliability of the service.	The outcome goes to the heart of addressing the current challenges faced by Watercare, including customers facing significant cost raises.  Supports <a href="#">subsections 70(2)(a), (b) and (c)</a> of the Act.
Improves transparency	The extent to which an option provides for transparency of Watercare's operations.	Transparency is particularly important as Watercare progresses through financial separation and before enduring regulation comes into effect. For the price path in particular, transparency in price path assumptions, inputs or compliance requirements will make it easier for stakeholders, including Watercare's board and <a href="#">9(2)(b)(ii)</a> , to understand the implications of the price path.  Supports <a href="#">subsections 70(1)(a) and (b)</a> of the Act.
Is simple and pragmatic	The extent to which an option is simple and straightforward to implement in the timeframes. This includes the extent to which an option includes regulation that can be easily understood by stakeholders (including Auckland Council <a href="#">9(2)(b)(ii)</a> <a href="#">9(2)(b)</a> ), and builds on Watercare's current information systems, pricing and billing approaches (subject to comfort that these are reasonable).  Includes the extent to which options recognise the interim nature of the regulation, and avoiding approaches to regulation that may not be consistent with the future system.	Given the preliminary nature of the Charter and the condensed timeframe for development, a simple and pragmatic response is needed. This will reduce the likelihood of unintended consequences.  The Charter should be designed in a way so that it can smoothly transition into the longer-term regime.  This criterion directly links to the outcomes in the Act of promoting the long-term benefit of consumers, as well as the outcome for the Charter of the need to improve efficiency in providing water services.  Supports <a href="#">subsection 70(1)(c)</a> of the Act.

<p>Provides for successful financial separation</p>	<p>The extent to which an option provides for the successful separation of Watercare from Auckland Council. 9(2)(b)(ii)</p> <p>_____</p> <p>_____</p> <p>This includes the extent to which an option results in more predictable outcomes that help to provide greater certainty to 9(2)(b)(ii) and customers.</p>	<p>This is an overarching criterion that goes to the purpose and use of the Charter. 9(2)(b)(ii)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____ The Charter forms a key part of this.</p>
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### What scope will options be considered within?

The scope of these options is defined by Part 4 of the Act.

67. The Act states that the Charter is to be comprised of two parts as follows:
  - Part 1 must contain minimum service quality standards, financial performance objectives, and may contain a customer compensation scheme; and
  - Part 2 must contain a price-quality path and specify the duration of the Charter.
68. Within each of these Parts, the Act sets out mandatory requirements, along with optional requirements. These requirements are set out in **Appendix 1**.
69. As noted in the limitations section, given the prescriptive nature of the Act and the exhaustive set of elements that can be included in parts 1 and 2, the scope has been limited. This has meant that while there is scope for including or excluding some elements within the Charter:
  - there is no ability to consider new measures or requirements that have not been anticipated by the Act;
  - options that have been considered have been confined to the scope set out in the Act; and
  - it has not been possible to entirely align what will be provided under the Charter with what is expected to be required under the enduring regime

#### The counterfactual options include the Cabinet decisions on the Water Services Bill

70. As noted in the first section, Cabinet has made decisions on the design of the Water Services Bill, with the intent to introduce it by the end of the year. This will set the longer-term provisions of the enduring regime. This included policy decisions on the optionality for water organisations, minimum requirements for water service providers, and the introduction of economic regulation.

#### The time period of the Charter for options two and three

71. The Charter cannot apply earlier than the day after the Charter is made via Order in Council, but there is no limit on how long it can be effective for, although the price-

quality path can last for no more than five years. However, in practice there are two factors which means that any duration other than three years is undesirable.

72. First, the Charter is intended to be an interim measure until such time as the Commission is ready to take up the full regulation of Watercare under the Commerce Act. The Commission is of the view that they will be in such a position by 1 July 2028.
73. Second, economic regulation tends to take place in three yearly cycles. This provides for a reasonable length of time where targets and measures remain constant, but still allows for periodic reviews and refinements as the environment changes. Having a shorter period than three years would mean that the Commission, when taking over full responsibility for Watercare, wouldn't have the normal amount of data to inform the next cycle of regulation; having a longer period would risk the targets and measures becoming out of date.
74. For those reasons we have set the duration of the Charter for both option two and three at three years and have not considered other durations in the options analysis.

### Assumptions made

75. For the purposes of this analysis we have made the following assumptions:
  - the structure of Watercare (a council-controlled organisation wholly owned by Auckland Council) will not change during the three-year period;
  - the legislative provisions applying to Watercare that prohibit distributions and require financial separation from Auckland Council will not change during the three-year period;
  - the Water Services Bill, which will contain the permanent economic regulatory regime, will be enacted by mid-2025, with the permanent regime fully in force by mid-2028; and
  - the Commission will continue to act as the Crown monitor for the duration of the interim economic regulatory regime.

### What options are being considered?

76. In this section we assess three potential options for the interim economic regime:
77. Option one – No Charter developed (counterfactual)
78. Option two – Transitional Charter
79. Option three – Comprehensive Charter
80. These three options are packages that sit across the four main areas of requirements set out for the Charter in the Act and focus on the scope of what is to be included. The four main areas are:
  - **Minimum service standards** which are baseline levels of performance that must be met across different areas of operation;
  - **A customer compensation scheme** which can set out what Watercare must pay to a customer if it fails to meet a minimum service quality standard set out in part one;
  - **Financial performance objectives** which can include revenue maximums, cost recover approaches, efficiency targets and minimum credit ratings; and
  - **Price quality path** which can set the minimum or maximum price or prices that can be charged, the minimum or maximum revenue that can be recovered, any incentives that may apply, as well as standards, targets, performance objectives and requirements.

81. We have purposely kept these options as packages, as opposed to separating out across the requirement areas. There is significant overlap and choice across the bundles that means it makes more sense to consider them together. However, we acknowledge that within each of these requirements, there are sub-options and sub-choices across these areas of requirement. Therefore, within the options we have drawn out the different requirements in the description of these options and the assessment tables where necessary.

#### Option one – No Charter developed (counterfactual)

82. Under this option, no Charter would be developed and there would be no interim economic regulatory regime. Watercare would become financially separate from Auckland Council on 1 July 2025 and be an unregulated natural monopoly without additional oversight until the passing of the Water Services Bill. At this point, economic regulation would begin to phase in for Watercare, alongside other water service providers, and a price-quality path could be set.

##### *Minimum service standards*

83. For **minimum service standards**, no enforceable standards would be set. Instead Watercare would rely on existing transparency and reporting mechanisms to provide assurance of its service quality.
84. Under this option, Watercare would continue to monitor and report on these measures and would also continue to set its own targets for many of these measures.

##### *Customer compensation scheme*

85. There would be no **customer compensation scheme**, however Watercare would continue to rely on its customer contracts. When a household connects to the water supply they are deemed to have entered into a contract with Watercare. This contract outlines the terms under which Watercare provide water and wastewater services, and the customers responsibility to pay for these services.

##### *Financial performance objectives*

86. There would be no **financial performance objectives**, with Watercare and Auckland Council continuing to set their own SOI target and report against it.

##### *Price quality path*

87. For the **price-quality path**, this would continue to be determined through the long-term planning and annual planning processes.

#### Option Two – Transitional Charter

88. Under this option a Charter would be produced in a proportionate way that is fit for purpose as an interim regime. This means that not all the optionality provided for in the Act will be used, instead the focus would primarily be on the mandatory requirements. This option responds to the needs of Watercare as it transitions into being financially separation from Auckland Council, and reflects the transitional nature of the interim regime.

##### *Minimum service standards*

89. For **minimum service quality standards**, a proportionate option would involve setting standards that are underpinned by existing measures that Watercare already reports against.
90. These standards would be set at a conservative level where there is a high degree of confidence that they can be achieved. The standards would represent a minimum level of acceptable service quality.
91. This approach would establish a relatively narrow set of standards, these are outlined in the table below:

Domain	Measure and minimum target	Minimum standard
Drinking Water Network Performance -	Median response time for resolution at urgent water callouts is $\leq 5$ hours	All drinking water network performance measures are met each financial year.
	Median response time for resolution at non-urgent water callouts is $\leq 6$ days	
	Unplanned water interruptions per 1000 connections is $\leq 10$	
Performance of wastewater network	Dry-weather sewerage overflows per 1,000 connections is $\leq 5$	All wastewater network performance measures are met each financial year.
	Median sewer overflow resolution time is $\leq 5$ hours	

92. These have been identified during two workshops (including representatives from Auckland Council, the Commission, the Authority and the Department) as standards that are enforceable, practical, cost effective, and create the right incentives to encourage good service performance.
93. This narrower set of minimum service quality standards would be complemented by a broader set of measures that Watercare will need to report on and monitor. This would include all existing measures covered under option one and a smaller set of new measures focusing on areas where there may be room for improvement in service quality. This includes wastewater overflows, capital delivery, and providing services for growth.
94. This would support the Crown monitor in understanding Watercare's service quality and building its information base for the enduring economic regulation regime. It could also assist Watercare in developing more robust systems for identifying service improvements, prioritisation of capital expenditure, and potentially efficiency improvements.

#### Customer compensation scheme

95. As with option one, there would be no **customer compensation scheme**, however Watercare would continue to rely on its customer contracts.

#### *Financial performance objectives*



96. **Financial performance objectives** would be set including in relation to efficiency targets and minimum credit rating, and associated reporting requirements.
97. This would provide a basis for the Crown monitor to monitor and report on Watercare's progress against efficiency improvement targets, without explicitly baking these into the price path.

#### *Price-quality path*

98. For the **price-quality path**, this would focus on setting:
  - maximum tariff revenue for water and wastewater; and
  - minimum prices for IGCs.
99. For water and wastewater services, this will mean setting an upper limit on the total revenue Watercare can recover from consumers for these services. This revenue cap will be supplemented by a washup mechanism which will mean Watercare will not breach the cap if water usage is higher than forecast, for example if the summer is dry and hot. Under the proposal, Watercare has flexibility to aim to recover less than the maximum revenue. For example, Watercare may choose to reduce the amount that is currently being collected through water and wastewater charges but used to fund growth infrastructure. It may not recover more than the specified cap.
100. Watercare would be required to demonstrate before the start of the next pricing year that the average combined water and/or wastewater bill across all households is not expected to exceed the pre-specified limit for that year of the Charter. This means Watercare has flexibility to restructure its tariffs if it chooses to. Watercare will also be required to continue to publish what prices consumers can expect to pay for water and wastewater services.
101. For growth infrastructure services, the price-quality path will set lower limits on infrastructure growth charges so that Watercare must recover at least that amount from new connections. This will entail setting a single, minimum rate of change that IGCs must increase by each financial year.
102. IGCs are currently not recovering the full cost of growth infrastructure. Water and wastewater tariffs are being used to subsidise growth infrastructure costs. Over time, price-quality path settings should rebalance IGCs and tariffs to make them more cost reflective.
103. This option would also include the setting of performance requirements. This would be in relation to efficiency and capital delivery and include requirements such as improvement plans and the publishing of a road map.

#### **Option three – Comprehensive Charter**

104. Option three would see the development of a comprehensive Charter. This would go above the minimum requirements set out in the Act and include a lot more of the optionality including incentives, penalties, and a consumer compensation scheme

#### *Minimum service standards*

105. For **minimum service standards**, under this option a more comprehensive set of standards would be set for Watercare. As well as any standards included under option two, additional standards would be set that would be underpinned by new measures. These would aim to address areas of Watercare's services where it may

be underperforming, such as wastewater overflows and asset failures, capital delivery, and ensuring housing growth and development.

106. Given the limited information reported on in these areas, setting the standards at an appropriate level would be the main policy challenge. It would also likely require Watercare to implement new data collection, analysis and reporting processes.

#### *Consumer compensation scheme*

107. Under this option a **consumer compensation scheme** would be implemented, as enabled under the Act. The scheme would specify the compensation that Watercare must pay to a customer if Watercare fails to meet a minimum service quality standard set out in the Charter.

#### *Financial performance objectives*

108. For the **financial performance objectives**, this option would build on option two, and include more challenging efficiency targets would be set, and there would be more upfront scrutiny of costs, including benchmarking.

#### *Price-quality path*

109. For the **price-quality path**, financial incentives that are directly linked to Watercare's performance would be introduced into the Charter. These would include both penalties (for failing to meet a target) and rewards (either for meeting a target or potentially exceeding a target by an agreed threshold).

110. Additional performance requirements would be set so that Watercare must:

- consult and engage with consumers to a certain standard;
- consult the Crown monitor about certain kinds of investments and investment decisions;
- adopt a particular approach to risk management;
- to undertake cost-benefit analysis before Watercare begins any specified projects; and
- ringfence a minimum amount of revenue for investment purposes and not spend those funds without approval from the Crown monitor.

How do the options compare to the status quo/counterfactual?

	Option One – No Charter (counterfactual)	Option Two – Transitional Charter	Option three – Comprehensive Charter
<b>Delivers benefits to consumers</b>	<p style="text-align: center;">-</p> <p>Consumers will receive the same level of service at the same expected prices under the status quo. No additional benefits would be expected resulting in a lost opportunity to improve Watercare’s financial and service performance.</p>	<p style="text-align: center;">+</p> <p>Consumers will benefit from Watercare being subjected to a narrow set of enforceable standards by improving the priority given to the services covered. A broader range of reportable measures will provide transparency on Watercare’s performance and help identify problem areas.</p> <p>Financial performance objectives and the price-quality path put downwards pressure on prices through efficiency targets and more effective use of debt to fund capital improvements. Increasing IGC rates, so that developers are paying a more cost reflective rate, will mean water consumers do not need to subsidise infrastructure projects as much, resulting in downwards pressure on water charges.</p> <p>While there will be no consumer compensation scheme, so consumers suffering from breaches will not receive payments, other consumers will also not have to bear the cost of those payments through higher water prices.</p>	<p style="text-align: center;">+</p> <p>Consumers would likely benefit from having Watercare subjected to a higher level of minimum standards and financial objectives as the quality of the service would improve, compared to options 1 and 2, and Watercare would be required to meet higher efficiency targets.</p> <p>However, these benefits, as well as benefits from the incentives scheme, are offset somewhat as Watercare is not a commercial operation that pays dividends to its shareholders out of profit. Any penalties imposed will put upwards pressure on prices, instead of reducing profits paid out to shareholders. The same applies to any additional implementation or operational costs arising from the higher standards.</p> <p>Consumers affected by service standard breaches would benefit from a customer compensation scheme, but again this would put upwards pressure on prices. Any funds used to compensate consumers can only come from money that would otherwise be used to provide water services.</p>
	Option One – No Charter (counterfactual)	Option Two – Transitional Charter	Option three – Comprehensive Charter
<b>Improves transparency</b>	<p style="text-align: center;">0</p> <p>For minimum service standards, transparency will remain with the current measures and reporting. However, there will be no scrutiny on whether these are focusing on the ‘right’ things.</p> <p>There would be no customer compensation scheme, so transparency relies on the service standards above and individual contracts.</p> <p>There would be no financial objectives, and rather there would be a reliance on Watercare and Auckland Council setting and reporting against their SOI targets.</p> <p>The price path for Watercare would be set by their long-term plan and annual planning process which currently require limited scrutiny.</p>	<p style="text-align: center;">+</p> <p>For minimum service standards, there would be an increase in transparency as there would be a focus on measures that require greater scrutiny – across both service standards and broader performance measures.</p> <p>As with option one, there would be no customer compensation scheme.</p> <p>For the financial objectives and the price-quality path, transparency would be improved by setting clear efficiency targets.</p>	<p style="text-align: center;">++</p> <p>For minimum service standards, there would be a greater level of transparency as there would be a larger set of standards that must be reported on, both internally and externally.</p> <p>A compensation scheme would improve transparency in relation to individual customer service standards.</p> <p>More challenging and detailed efficiency targets would be set as part of the financial objectives and the price-quality path, further improving transparency.</p>

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	Option One – No Charter (counterfactual)	Option Two – Transitional Charter	Option three – Comprehensive Charter
<b>Is simple and pragmatic</b>	- Under this option, there would be no change to the counterfactual, however there will be the introduction of full economic regulation under the Water Services Bill. As such there will be no impact on Watercare’s business, making it simpler and more feasible. However, the lack of economic regulation, which the Charter seeks to address, will remain until the Water Services Bill passes, meaning it is not a proportionate response. This option provides for no transition to economic regulation under the Water Services Bill. Watercare would remain unregulated with no additional oversight provided until the enactment of the Water Services Bill, despite being financial separate from Auckland Council and hence losing that level of supervision	++ Minimum standards have been designed to build on the current set of measures that Watercare reports against, reducing the amount of implementation effort required. A mix of a few enforceable standards and a wider set of reportable measures provides clear prioritisation and accountability. There is no consumer compensation scheme, reducing complexity for Watercare and the Crown monitor. Financial objectives and the price-quality path would not require additional benchmarking and scrutiny. The approach under option two is specifically designed to mirror (as much as possible given the tools available under the Act) the enduring regulatory regime. This will mean that any systems Watercare needs to invest in to respond to the Charter should largely be able to be used in response to the demands of the Commission’s regulation under the Commerce Act.	-- A new set of enforceable minimum standards would be created including measures that Watercare does not report on. Watercare would then need to invest in systems to report on those standards. A new customer compensation scheme would need to be designed and implemented, including establishing what constitutes a breach, what is appropriate compensation, a notification and disputes system, and the necessary data collection and reporting requirements. Financial objectives and the price-quality path would need to be benchmarked against suitable comparable and additional scrutiny, and audit resources would be needed to meet the higher evidential standards. An incentives scheme would be implemented, requiring its own reporting and disputes systems. As this option is not aligned with the expected enduring regime under the Water Services Bill there will be a risk that Watercare will face additional costs transitioning from the Charter to regulation under the Commerce Act
	Option One – No Charter (counterfactual)	Option Two – Transitional Charter	Option three – Comprehensive Charter
<b>Provides for successful financial separation</b>	-- 9(2)(b)(ii) . It would also mean that Watercare would not be subject to any additional oversight, as it would now be financially separate from Auckland Council, which may lead to concerns around cost-discipline and incentives to become more efficient.	+ 9(2)(b)(ii) By focusing on a proportionate response that seeks to reuse minimum standards Watercare already monitors, this option reduces the risk of implementation issues and unintended consequences. The financial performance objectives and price path are set to improve efficiency and make tariffs and IGCs more cost reflective, but without an incentives regime that could impose penalties on Watercare 9(2)(b)(ii) .	- A more comprehensive set of minimum standards, more rigorous financial performance objectives and price-quality path, and an incentives scheme that could penalise Watercare for failing to meet targets, 9(2)(b)(ii) . This option introduces a compulsory consumer compensation scheme which imposes costs on Watercare without a clear link to improved services. 9(2)(b)(ii) . As this option is not aligned with the expected enduring regime under the Water Services Bill there will be a long-term risk that Watercare will face additional costs transitioning from the Charter to regulation under the Commerce Act. This option introduces regulatory uncertainty and risk, given the significance of the departure from the status quo. 9(2)(b)(ii) .
<b>Overall assessment</b>	-	++	0

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**What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

111. The Department recommends option two, the development of a transitional Charter. This means that not all the optionality provided for in the Act will be used.
112. Option two is recommended because it:
- provides for more transparency and accountability;
  - is the most simple and pragmatic approach;
  - enables a smooth transition to enduring regulation; and
  - best provides for a successful financial separation.
113. The Department has engaged with Auckland Council and Watercare on the development of this option and they support this approach.

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## What are the marginal costs and benefits of the option?

<b>Affected groups</b> <i>(identify)</i>	<b>Comment</b> <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	<b>Impact</b> <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	<b>Evidence Certainty</b> <i>High, medium, or low, and explain reasoning in comment column.</i>
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups	<p>Watercare will need to resource some kind of regulatory response team.</p> <p>Change pricing methodologies, respond to new reporting requirements.</p> <p>New communications to consumer about the Charter.</p> <p>Note - while Watercare has been involved in discussion on the makeup of the Charter, they have not shared cost of implementation data with us, hence low certainty.</p> <p>The expenses incurred by the Crown monitor will be recovered from Watercare. These costs have been estimated by the Commerce Commission.</p>	<p>Low</p> <p>Medium</p> <p>Low</p> <p>\$1.4 million per annum</p>	<p>Low</p> <p>Low</p> <p>Medium</p> <p>High</p>
Regulators	<p>The Commerce Commission will stand up a new team to act as the Crown monitor. However, the costs associated with this will be recovered from Watercare.</p> <p>The Department will incur minor costs in acting as the Crown to recover expenses</p>	<p>None</p> <p>Low</p>	<p>High</p> <p>High</p>

	from Watercare and supporting the Minister in his engagements with the Crown monitor.		
Others (eg, wider govt, consumers, etc.)	<p>The Department will have to support the Charter with some communication material and will act as the Crown when recovering costs from Watercare.</p> <p>Consumers will ultimately bear the cost of the Crown monitors expenses as these will be passed on, however these are minimal.</p> <p>Consumer will also likely bear the costs of Watercare's ongoing compliance with the Charter, however these will be offset by the benefits of lower water charges.</p> <p>Developers will likely pay marginal higher IGC costs in time as prices are rebalanced so that they are more cost reflective.</p>	<p>Low</p> <p>\$1.4million per annum, or \$3.20 per account each year</p> <p>Low</p> <p>On average, we estimate developers will pay an additional \$910 per Development Unit Equivalent (DUE) in 2026/27 and \$8 per DUE in 2027/28 compared to Auckland Council's and Watercare's planned IGC increases.</p>	<p>High</p> <p>High</p> <p>Low</p> <p>Medium</p>
<b>Total monetised costs</b>		NA	NA
<b>Non-monetised costs</b>		(High, medium or low)	Medium
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups	<p>9(2)(b)(ii)</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>Watercare will face interim regulation that is, to the extent</p>	<p>High</p> <p>Medium</p>	<p>High</p> <p>Medium</p>

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	<p>possible, similar to the settings expected in the enduring regime.</p> <p>Watercare will not be asked to build new monitoring systems as minimum service quality standards are largely based on existing reported measures.</p>	Medium	High
Regulators	<p>Watercare is subject to enhanced oversight and price controls ahead of the enduring regime.</p> <p>The Commerce Commission will be able to gain experience in regulating water services ahead of the enduring regime.</p>	High  Medium	High  High
Others (eg, wider govt, consumers, etc.)	<p>Consumers will have reduced price increases and more transparency over Watercare's service quality.</p> <p>Consumers will benefit from infrastructure investment and asset management being subject to more accountability which will ensure more efficient delivery and better outcomes.</p>	<p>Approximately \$65 million in reduced water charges for consumers from the 2027/28 financial year, or \$130 per annum per customer</p> <p>Medium</p>	High  High
<b>Total monetised benefits</b>		NA	NA
<b>Non-monetised benefits</b>		<i>(High, medium or low)</i>	High



## Section 3: Delivering an option

### How will the new arrangements be implemented?

114. This section assumes that Option two will be implemented.

#### The Crown monitor will implement the preferred option

115. Option two will be implemented by the Crown monitor to Watercare as set out in the Act. The Minister appointed the Commission to the role of Crown monitor on 3 September 2024, under part 4 of the Act. They are expected to remain in place until the permanent economic regulatory regime is fully in force, at which time Watercare will transition from the Charter to regulation under the Commerce Act. This is expected to occur in later 2028.
116. The Crown monitor is responsible for monitoring and reporting on Watercare's performance against the Charter once it comes into effect on 1 April 2025.
117. For the Crown monitor to monitor Watercare's performance against the Charter, the Crown monitor is entitled to attend any meeting of the board of Watercare if it is necessary for the Crown monitor to perform or exercise its functions, duties or powers provided by the Act. The Crown monitor can also request any information from Watercare that it needs to undertake its functions, duties and powers.
118. To ensure Watercare acts in accordance with its Charter, the Crown monitor will take action to address any failure by Watercare to comply with the Charter. This also includes the performance of any service or network that Watercare manages through a contract with a third-party provider. The Crown monitor can also take action to address any failure by Watercare to comply with the Charter or its obligations to provide information.
119. If the Crown monitor assesses that Watercare has contravened, or attempted to contravene the Charter, or has failed to disclose necessary information, it may apply to the High Court to make one or more orders to address the issue.
120. The Commission has estimated that it will require approximately 6 FTE to perform the Crown monitor's functions and duties. These staff will be housed within the Commission, and oversight will be provided by a new Water committee comprising senior members of the Commission, the Authority, Crown Infrastructure Partners and the Department.

#### The Crown monitor will be funded by Watercare

121. Under the Act, the Crown monitor's expenses can be recovered by the Crown from Watercare. Following consultation with Auckland Council and Watercare, the Minister has set terms and conditions which detail the amounts that can be recovered from Watercare each year and how payments will be managed.
122. The Department will act for Crown and send Watercare quarterly invoices, in arrears, based on actual expenditure. Once Watercare has paid the invoice, due on the 20<sup>th</sup> of the following month, the money is paid on to the Commission in accordance with a Funding Agreement between the Department and the Commission.

### How will the new arrangements be monitored, evaluated, and reviewed?

#### The Crown monitor has reporting obligations on its functions, duties and powers

123. The Crown monitor must report annually on Watercare's performance in the previous year against the following outlined in the Charter:
- minimum service quality standards or performance targets;
  - financial performance objectives; and

- the price-quality path.
124. The Crown monitor must provide its annual report to Auckland Council, the Minister, and the Minister of Commerce and Consumer Affairs.
  125. In addition to the annual report, the Crown monitor must also make quarterly reports to the Minister on its own performance or exercise of its functions, duties and powers under the Act.
  126. In the event that an error or shortcoming is identified in the Charter as originally made the Act provides for the Charter to be remade (amended) at the Minister's discretion.

#### **Funding Agreement provides monitoring mechanism for Crown monitor**

127. The Department will have a Funding Agreement in place with the Commission that will set out how the Crown will recover Crown monitor expenses from Watercare and pay them to the Commission. This document is expected to contain certain key performance measures for the Crown monitor, such as:
  - meeting its obligations under the Act to make annual and quarterly reports;
  - keeping its expenditure within the limits set by the Minister in the terms and conditions; and
  - adhering to the terms of reference set by the Minister.

#### **Interim economic regulatory regime will provide insights informing permanent regime**

128. Appointing a Crown monitor to monitor Watercare's performance against the Charter is a transitional measure, before the full economic regulation system for water services is implemented.
129. The Commission has been appointed as the Crown monitor for the interim regime under the Act and will be responsible for the enduring regime under the part 4 of Commerce Act. This arrangement will allow the Commission to easily make use of the insights and learnings from the interim regime to inform the enduring regime. The Commission will be able to evaluate the interim regime and implement any improvements required into the permanent regime, providing a natural flow of evaluation built into these new arrangements.

#### **Mandatory review of the water services system in five years' time**

130. As outlined in the second [Regulatory Impact Statement](#) on the Water Services Bill, that Bill will contain provisions for a mandatory system-wide review of water services to be undertaken five years after enactment. The timeframe and matters to be covered in the review would be specified in the legislation.
131. Further, a performance and evaluation framework will likely be developed to aide in both this review, but also ongoing monitoring of how the policy programme is performing.
132. It is expected that this review will consider, among other things, the implementation of the new regulatory requirements, including the interim regulatory regime for Watercare.

# Appendix 1: Charter requirements as set out in the Act

## Part 1 requirements

For Part 1 of the Charter, the Act states that it:

- **must** contain minimum service quality standards for Watercare (which may include the time frame during which Watercare must meet the standards);
- **must** contain financial performance objectives for Watercare; and
- **may** contain a customer compensation scheme for Watercare.

The minimum quality standards **may include 1 or more** of the following:

- services provided by Watercare to consumers;
- the performance of Watercare's water supply network;
- the performance of Watercare's wastewater network; or
- the delivery of Watercare's capital investment.

Financial performance objectives **may include 1 or more** of the following:

- the maximum amount of revenue that Watercare may earn on water supply services and wastewater services;
- the approach that Watercare must use to recover the cost of its infrastructure through infrastructure growth charges;
- efficiency targets that Watercare must achieve; or
- the minimum credit rating that Watercare must maintain.

## Part 2 requirements

A price-quality path for Watercare **must include 1 or more** of the following:

- the period to which it applies (which must not be more than 5 years);
- the minimum or maximum price or prices that Watercare may charge;
- the minimum or maximum revenue that Watercare may recover; or
- the minimum service quality standards, performance targets, or financial performance objectives that Watercare must meet.

A price-quality path may include incentives for Watercare to maintain or improve its services, including any of the following:

- penalties by way of a reduction in Watercare's maximum prices or revenues based on whether, or by what amount, Watercare fails to meet the minimum service quality standards, performance targets, or financial performance objectives specified in Part 1 of the Charter; or
- rewards by way of an increase in Watercare's maximum prices or revenue based on whether, or by what amount, Watercare meets or exceeds the minimum service quality standards, performance targets, or financial performance objectives specified in Part 1 of the Charter.

A price-quality path **may include any of the following** performance requirements:

- requirements to adopt a particular approach to risk management;
- requirements in relation to the condition of assets and remaining asset life;

- requirements to make particular types of investment;
- requirements to provide information about any investments planned for a particular period;
- requirements to consult the Crown monitor about certain kinds of investments and investment decisions;
- requirements to adopt asset management policies and practice;
- requirements to ring-fence minimum amounts of revenue for investment purposes;
- reporting requirements, including—
  - to whom reports must be made;
  - the timing of reports;
  - special reporting requirements in asset management plans, if Watercare fails to meet minimum service quality standards or performance targets; and
  - any other matters relating to reporting, including requirements for additional information;
- requirements that any disclosed information, or any information from which disclosed information is derived, be verified by statutory declaration or certified (in the form specified by the Secretary) as true and accurate;
- requirements to undertake cost-benefit analysis before Watercare begins any specified projects;
- requirements relating to consultation and engagement with consumers; or
- requirements based on comparative benchmarking of efficiency.

A requirement to ring-fence revenue may include a requirement not to spend the relevant funds without the approval of the Crown monitor.