

Regulatory Impact Statement: Reinstating a New Zealand model of charter schools

Purpose of Document	
Decision sought:	This analysis is produced for the purpose of informing final Cabinet policy decisions on reinstating a New Zealand model of charter schools and introducing a policy to allow State schools to convert to charter schools.
Advising agencies:	Ministry of Education
Proposing Minister:	Hon David Seymour, Associate Minister of Education (Partnership Schools)
Date finalised:	20 March 2024
Problem Definition	
<p>Although the New Zealand education system performs well for many, Programme for International Student Assessment (PISA) results for New Zealand show a downward trend in overall achievement over the last two decades. A key determinant of achievement is engagement and attendance. New Zealand experiences persistent issues with attendance and engagement and ranks low compared to other jurisdictions. Solutions to this issue are complex and wide-reaching.</p> <p>One part of the solution is to increase flexibility to stimulate innovation in the schooling sector and create more choice for students. Innovative approaches to learning that are tailored to the needs and preferences of students can improve engagement and have positive impacts on learning outcomes.¹</p> <p>Regulatory settings can limit schools' ability to operate flexibly and design innovative approaches. While New Zealand's schooling system is highly devolved, with each school operating as a largely self-managing Crown entity, many aspects of the system are tightly regulated, particularly in the areas of governance, teacher registration, funding, employment relations, curriculum student enrolment and length of school days. Increasing the level of flexibility, choice, and innovation in our education system presents an opportunity to improve outcomes for all learners, but particularly for those who are underachieving or disengaged from the current State system.</p> <p>Reintroducing a charter school model and allowing State schools to convert to charter schools would allow for a new governance and accountability model that will have freedom from some existing restrictions in return for stringent outcomes-based accountability for specified results. This may allow these schools to find new and innovative ways to provide education that will engage their students.</p>	
Executive Summary	
<p>The 2023 Coalition Agreement between the New Zealand National Party and ACT New Zealand agrees to reintroduce partnership schools and introduce a policy to allow State schools to become partnership schools.</p> <p>The Associate Minister of Education's (Partnership Schools) objectives are to:</p> <ul style="list-style-type: none">• provide educators with greater freedom (i.e. freedom from regulatory restriction);	

¹ Ministry of Education. (2020). He Whakaaro: What is the relationship between attendance and attainment?

- create diversity in New Zealand's education system (i.e. diversity in school type);
- raise overall educational achievement, especially for students who are underachieving or disengaged from the current system.

The options analysis is structured in two parts each providing a description of the options, an analysis table and key risks:

- Part one: sets out two options for achieving the Minister's objectives to increase flexibility for schools and choice for learners (and assesses these against the status quo).
- Part two: provides analysis of two pathways for introducing the preferred option identified in part one (charter schools). Either: opening new charter schools only; or opening new charter schools and allowing existing State schools and kura to convert to a charter school.

Part one: Increasing flexibility, innovation, and choice

The Ministry of Education (the Ministry) developed three options to achieve the Minister's objectives:

- Option 1: Status quo - Rely on the existing flexibility, innovation, and choice in the current State schooling system.
- Option 2: Enable more flexibility, innovation, and choice in the current State schooling system for all schools.
- Option 3: Create a high amount of flexibility, innovation, and choice for a specific group of schools (i.e. charter school model).

We recommend option three as it best achieves the policy objectives. It creates the most flexibility for a specific group of schools. The increase in flexibility particularly in governance, teacher registration, funding, employment relations, curriculum student enrolment and length of school days may help schools give better effect to their focus area and drive innovation. In the long-term this will increase choice for parents as there is an increased diversity in the type of schools. Evidence suggests that under the right settings, school choice policies can drive innovation, improve efficiencies in the system, and improve learner outcomes for students. This means, if done well, and if State schools have the option to become charter schools, this has the potential to benefit more students' learning achievement and outcomes. Additional funding will need be sought in order to ensure policy changes are implemented successfully.

Options analysis two: pathways to become a charter school

The policy to allow State schools to become charter schools is a key difference from the previous model (2014-2018). We developed two options to test this:

- Option 3(a): Reintroduce a similar regulatory framework as last time where only new schools and kura could become charter schools.
- Option 3(b): Allow both new schools and kura to open as charter schools, and existing State schools to convert to charter schools. Converted and new charter schools would be largely under the same regulatory framework.

We recommend option 3(b) as it enables a larger number of charter schools to be established over a shorter timeframe (with both new and converting schools). This means more students in the education system will be able to experience the benefits of the model earlier. State schools will be able to choose to become a charter school, removing regulatory restrictions for these schools to support innovative practice. A higher number of charter schools will increase the choice of school type and learning delivery for students and their whānau, helping more students have access to education that aligns with their needs and beliefs.

Risks

There is a potential risk that a charter school model will not add the expected benefits in the New Zealand education context compared to other jurisdictions, given our existing devolution. The evidence on the efficacy of school choice policies and the success of charter schools is mixed and relies on strong implementation and leadership.² A strong performance management framework with progression testing and auditing of schools/kura will help ensure high accountability and to evaluate the benefits of this model compared to the costs.

There are additional considerations and risks associated with allowing State schools convert to become a charter school, including impacts on the schooling network and including enrolment. Specifically, a high number of state schools converting to become a charter school decreases the number of State schools in the network which may make it challenging for the State schooling network to continue to provide reasonably convenient education in a specific area.

The Ministry will monitor the impacts of converting schools on the schooling network. If needed the Ministry will recommend investing in additional State school capacity in a particular area. The Authorisation Board will also be required to consider network impacts in their assessment of any conversion decision.

Te Tiriti provisions in the contracts and/or legislation

The flexibilities and enabling governance structure of this model could provide Māori with more agency and authority in the delivery of this type of provision. However, charter schools could also reinforce existing inequities experienced by ākonga Māori, particularly if a school's leadership lacks the skills needed to address Māori concerns and inequities. To better align with the Minister's objectives, we have provided ways to increase certainty of outcomes for ākonga Māori through specific provisions setting out how the Crown's Treaty obligations apply to the charter schools' institutional arrangements.

Performance management

Under the proposed charter schools | kura hourua model, the performance management framework will hold sponsors to account, based on a set of performance outcomes, with performance measures and targets being outlined in the contracts. Sponsors will be required to provide information as part of a self-audit that shows how they are meeting performance measures and targets. The Authorisation Board will provide strategic advice on the performance management approach and hold decision making powers on the use of interventions in the event a charter school fails to meet contractual and legislative requirements.

ERO's power under the Act would enable them to provide external review of charter schools as needed and report both successes and concerns to the Authorisation Board and Ministers. ERO proposes a bespoke approach to reviews of charter schools to complement information gathered as part of the contract performance management.

Limitations and Constraints on Analysis

There are some limitations and constraints to this analysis, including the Minister's preference for a specific option, the limited time available to complete the legislative work and the uncertainty in effectiveness of the policy solution.

The Minister's preference is to open charter schools from the beginning of 2025. This has meant we have mainly looked at this specific solution and not considered all policy options of increasing flexibility and choice in detail. This analysis, for example, does not look at a school voucher system.

Additionally, as the aim is to open the first charter schools in early 2025, there are limitations on the analysis due to the constrained timeframe available. The legislation to establish the new charter school model will need to be enacted by late September in order to provide

² OECD. (2019). Balancing School Choice and Equity: An International Perspective Based on Pisa.

successful new sponsors sufficient time to negotiate the contract with the agency³ and prepare to open. This requires a condensed legislative process with limited time to engage with impacted and interested people, including schools, communities, iwi, families, students, school boards, and staff. Although the policy development has not been informed by formal engagement, the analysis considers previous feedback from the sector and lessons learnt from when partnership schools operated between 2013 and 2018, to mitigate this constraint. Information about the previous model has been used within the development of the preferred option (setting up the charter school model), but also when analysing the other possible options.

Additionally, there is uncertainty on the impact that the charter school model in achieving the suggested objectives. This creates limitations to the cost-benefit analysis particularly relating to the effectiveness and efficiency of the model. Evidence from other jurisdictions show mixed results on whether model will benefit achievement and engagement. Any potential benefits are dependent on other factors such as leadership, implementation, and widespread uptake of the model.

During the evaluation, particular attention will be given to the impact of learner outcomes and if the model is actually achieving the Minister's objectives. The model also strongly focusses on accountability and intervening, if needed. These aspects of the model support a strong focus on improving learner outcomes.

Responsible Manager(s) (completed by relevant manager)

20 March 2024

Jennifer Fraser
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Te Pou Kaupapahere
Ministry of Education

Quality Assurance (completed by QA panel)

Reviewing Agency: Ministry of Education

Panel Assessment & Comment: The Ministry of Education's QA panel reviewed this statement and assessed it as **partially meeting** the Cabinet's quality assurance criteria for impact analysis. This assessment recognises the constraints on the options considered, the analysis of impacts, cost and benefits, and on obtaining stakeholder views imposed by the timeframe. Within these constraints, the statement provides clear and concise information to support decisions.

³ Depending on final decisions the agency will be a business unit within the Ministry of Education or a separate departmental agency.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem?

The Tomorrow's Schools reform has meant New Zealand has one of the most devolved systems of education in the world

1. New Zealand has one of the most devolved education systems in the world, but this has not always been the case. Prior to 1989 the New Zealand education system was centrally organised by the Department of Education who enacted the Government's education objectives and directed operations to schools.⁴
2. The devolution of New Zealand's education system emerged during the reforms of the 1980s. There was a view that centralised government systems were inefficient and outdated, and there was growing demand for increased community input.
3. The Government responded with Tomorrow's Schools reforms in the late 1980s which aimed to improve educational opportunities, meet Māori needs more effectively, give local knowledge real responsibility, and encourage flexibility and responsiveness.⁵
4. The reforms introduced a system where each school operated as a largely self-managing Crown entity with its own Board of Trustees being responsible for a wide range of administrative and governance functions, including staff employment and principal appointment, use of funding and staffing, school property management, and oversight of the education of all students.⁶ The parental elected school Board of Trustees were intended to bring parents' input to school governance and give them a way to influence their children's education.
5. The reforms also introduced more intense forms of managerialism and accountability to ensure objectives were met in the new devolved environment. This included an outcomes-based approach centred on targets and measurable results, accompanied by external monitoring from agencies such as the ERO.⁷

State schools are still required to comply with a range of regulatory requirements

6. Although New Zealand has a very devolved system of education, there are a range of legislative requirements and regulations that schools are required to follow. The Education and Training Act 2020 (the Act) and secondary legislation under the Act comprise the main legislation and establishes the legal framework for our education system.
7. These requirements provide schools with guidance on the operation of school boards, curriculum, requirements for teaching workforce, teacher staffing ratios, industrial relations and employment arrangements, remuneration, requirements on the use of staffing entitlement, and property. This legislation could be seen as a barrier for flexibility, choice and innovation.
8. Additionally, the current Government is moving towards more restrictions for State schools including:
 - Requiring primary and intermediate schools to teach an hour of reading, writing and maths per day.
 - Banning the use of cell phones by students in schools.

⁴ Cumming, I., & Cumming, A. (1978). History of State Education in New Zealand 1840-1975.

⁵ Wylie, C. (2009). Tomorrow's Schools after 20 years: Can a system of self managing schools live up to its initial aims. The New Zealand Annual Review of Education, 19, 5-29.

⁶ Wylie, C. (2009). Tomorrow's Schools after 20 years: Can a system of self managing schools live up to its initial aims. The New Zealand Annual Review of Education, 19, 5-29.

⁷ Barker, M. (2023). When Tomorrow Comes: contextualising the independent review of Tomorrow's Schools. Policy Quarterly, 19(3), 11-18.

The New Zealand charter school model 2013-2018

9. In 2013-2018, New Zealand piloted a model of charter schools called partnership schools | kura hourua (partnership schools). The model aimed to lift educational achievement within low socio-economic areas and disadvantaged communities by providing alternative and innovative education for students not served well by the State system.⁸
10. The schools were publicly funded but operated outside the State education system by body corporates. Key features included increased choice and flexibility in teaching, governance, hours and days of operation, and funding. This flexibility was balanced by partnership schools having a high level of accountability to the Minister of Education.
11. Eleven partnership schools operated between 2014 and 2018.⁹ A further six sponsors entered into partnership schools agreements with the Crown but did not open due to the model being disestablished. Each school had a distinct character that influenced instructional methods. There were schools that focussed on military instructional techniques, science technology, Kaupapa Māori, te ao Māori and Rudolf Steiner, Pasifika values, and Christian values.
12. There is evidence that partnership schools attracted a high proportion of “priority learners” (Māori, Pacific, students with learning support needs, and students from low socio-economic backgrounds), as was intended by the policy, including roughly double the proportion of students from a long-term benefit-dependent household, or those with an Oranga Tamariki notification, relative to State schools.¹⁰ However, it was unclear if the model had an impact on the academic achievement for these specific learner groups.¹¹
13. The schools were disestablished by the incoming Government in 2018. Key concerns of the model were the difference in funding levels compared with State schools, and the negative response from teacher unions as the model reduced certainty for teachers.
14. The disestablishment of partnership schools received some public criticism from groups concerned about the loss of choice and flexibility. This included an application to the Waitangi Tribunal (WAI 2770)¹² by Māori claimants over concerns about the disproportionate impacts of disestablishment on ākonga Māori and their whānau who represented a large proportion of students in partnership schools.¹³

Agreement to reintroduce a charter school model to increase choice, flexibility, and innovation

15. The 2023 Coalition Agreement between the New Zealand National Party and ACT New Zealand (the coalition agreement) agreed to reintroduce partnership schools and introduce a policy to allow State schools to become charter schools.
16. The Associate Minister of Education’s (Partnership Schools) objectives are to:
 - provide educators with greater freedom;
 - create diversity in New Zealand’s education system; and
17. raise overall educational achievement, especially for students who are underachieving or disengaged from the current system. The mechanisms for achieving this objective are:
 - removing regulatory restrictions for schools to support innovative practice (i.e. providing educators with greater freedom); and

⁸ Education Amendment Act 2013.

⁹ Te Kura Hourua ki Whangaruru had its contract terminated in late 2015 due to contractual breaches.

¹⁰ Ministry of Education. (March, 2019). Priority ākonga – close out report. Para 23.

¹¹ Ministry of Education. (March, 2019). Priority ākonga – close out report.

¹² It was decided that the WAI 2770 claim would be best heard in the context of the broad and in-depth kaupapa inquiry into education services (WAI 3310), rather than on its own as an urgent inquiry.

¹³ Waitangi Tribunal decision [Wai 2770](#)

- increasing choice of school type and learning delivery for students and their whānau (i.e. creating diversity in New Zealand's education system).
18. Charter schools will be publicly funded schools that operate independently of the State-run system. Charter schools are based on the idea that schools should be freed from the bureaucracy and regulations within the public-school system and initiated based on demand. If they have these freedoms and are held accountable, then they are likely to yield better results.

What is the policy problem or opportunity?

Overall educational achievement for children and young people in New Zealand is declining and is not equitable

19. New Zealand schools perform well for many of their students. In international studies, our children and young people continue to perform above the OECD average in mathematics, reading, and science, and we have a higher than average rate of top performers.¹⁴
20. However, results from PISA¹⁵ 2022 show a decrease in performance for New Zealand students over time. There has been a steady increase of students with low proficiency, and a decrease in students with high proficiency across reading, science and mathematics since 2000. This is more prominent in maths, with the proportion of low achievers having nearly doubled, and the proportion of high achievers halving since 2003.¹⁶
21. These results are more prominent for groups of students who have traditionally been underserved by the education system - namely, Māori, Pasifika, children with learning support needs, and children from low socio-economic areas.¹⁷ For example, in 2022, 82 per cent of all 18-year-olds attained NCEA Level 2 or above, but only 70.3 per cent of Māori and 77.6 per cent of Pasifika students did so.¹⁸ Similarly, achievement of NCEA Level 2 or above for students in Decile 1 and 2 schools (69.98 per cent) was 23.8 percentage points lower than students in Decile 9 and 10 schools (93.7 per cent).

Lack of engagement has contributed to poor achievement

22. There is a well-established relationship between attendance and achievement in English medium schools. Research indicates that each day of absence from school predicts a correlated drop in attainment.¹⁹
23. Comparisons with other jurisdictions with similar attendance definitions tell us that our attendance rates are low. They have also fallen significantly since 2015, a trend worsened by the impact of COVID-19.
24. In New Zealand, some student groups have been more impacted than others. Declines in attendance have been more pronounced among students who are in schools with more socioeconomic barriers to achievement, are Māori and Pacific and in primary schools. These inequities have been perpetuated further by the COVID-19 pandemic.²⁰
25. There are several drivers for declining regular attendance rates. The main driver for non-attendance continues to be short-term illness or other medical reasons, including COVID-19. Some drivers lie within the education system such as school culture and

¹⁴ OECD. (2023). PISA 2022 Results, Factsheets, New Zealand.

¹⁵ PISA allows us to know how well-prepared students are to meet real-life opportunities and challenges after they finish school and monitor progress towards equitable and excellent outcomes.

¹⁶ May, S., Medina, E. (2023). *PISA 2022 Aotearoa New Zealand Summary Report*. Ministry of Education.

¹⁷ Ministry of Education. (2023) Education Indication: 18-year-olds with NCEA Level 2 or above.

¹⁸ Ministry of Education. (2023). Education Indication: 18-year-olds with NCEA Level 2 or above.

¹⁹ Ministry of Education. (2020). He Whakaaro: What is the relationship between attendance and attainment?

²⁰ Ministry of Education. (2023). Students Attending School Regularly - Term 3 2023, Education Counts.

inclusiveness, having locally responsive curriculum, supporting wellbeing and mental health, and having strong relationships with students, whānau, iwi, hapū and community.

There are many different areas that regulation reduces flexibility

26. Traditional public education is often seen as a one-size-fits-all system and is unable to meet the diverse needs of all learners.²¹ Under the current system, schools are required to comply with a range of different regulations that impact the governance and operation of the school. These regulations are often in place based on the assumption that consistency is needed within specific areas to ensure, for example, safety and wellbeing of students, equitable outcomes and high quality of education.
27. Whilst these regulations are intended provide a nationally consistent approach to education, these regulations can limit schools' ability to design and operate innovative solutions that are tailored to the needs and learning preferences of students, limiting their ability to effectively respond to issues with engagement and achievement. It also decreases variation in the schooling system, creating less school choice for students and their family or whānau.
28. Examples of these regulations are:
 - **Governance:** Each school must be run by a Board of Trustees (Board) elected by parents of the school. This limits the level of agency and authority schools have over their governance structure. This can be seen particularly as an issue for schools affiliated with Te Rūnanga Nui o ngā Kura Kaupapa Māori o Aotearoa (Te Rūnanga Nui) and Ngā Kura ā Iwi o Aotearoa (Ngā Kura ā Iwi), and of other hapū and iwi affiliated kura.
 - **Teacher registration:** To teach in New Zealand, a teacher must be registered and hold a current practising certificate issued by the Teaching Council. Teachers with no qualifications (Limited Authority to Teach (LAT)) are only allowed to teach if there is need for a specialist skill or in skills that are in short supply.
 - **Funding:**
 - A part of the resourcing is provided to schools via teacher staffing entitlement which must be used for teachers' salary of registered teachers, meaning approximately 75 percent of school funding is not flexible in the way it is being spent.
 - Schools have limited influence on the type of services the Ministry provides to schools, including school transport, payroll, digital infrastructure, professional learning and development and other programmes.
 - **Student enrolment:** The Ministry can impose an enrolment scheme on a school to balance the provision of choice in the network against the cost of investment in and effectively utilising existing capacity.
 - **Curriculum:** The National Curriculum (The New Zealand Curriculum and Te Marautanga o Aotearoa) and national curriculum statements (learning areas) set out what knowledge, skills, and understandings students are expected to have and how the curriculum will be taught, learnt, and assessed.
 - **Employment relations:** The employment rights and obligations of principals, teachers and non-teaching staff in state schools are set out in the collective agreements negotiated with union representatives, creating less flexibility for schools.

²¹ DeAngelis, C. A., & Erickson, H. H. (2018). What leads to successful school choice programs: A review of the theories and evidence. *Cato J.*, 38, 247.

- **Length of school day:** Schools are required to be open for two half-days on every day of term and they can choose what time they have their half-days following community consultation.
- **Property:** While state schools have input into property changes, they are not the owner of property, and changes must be managed across the portfolio by the Ministry. This helps ensure ongoing compliance with the Building Act 2004 and the Health and Safety at Work Act 2015.

There is some evidence that choice and flexibility can drive innovation and improve outcomes for students

29. According to the OECD, the rationale for school choice is that increasing autonomy, diversity, and competition in an education system could create stronger incentives for innovation and improve school efficiency.²² Evidence suggests school choice programmes diminish monopoly power held by traditional public-school leaders and, therefore, lead to increased overall quality levels and lower costs.²³
30. It gives families the ability to choose their children’s educational institution, which allows for a better match between schools and students. Since all children and young people have unique interests, abilities, desires, and learning styles, an improved student–school match can lead to better student outcomes.²⁴
31. OECD data shows more than two-thirds of OECD countries have increased school-choice opportunities for students since the 1980s.²⁵ School choice programmes come in many forms, with examples including voucher systems, tax credits, charter schools, magnet schools, and home schooling.
32. Overall, the evidence suggests that under the right settings (such as good leadership, implementation, and a widespread uptake of the model) school choice policies can drive innovation, improve efficiencies in the system, and improve outcomes for students. Introducing and expanding school choice requires well-thought out policies that ensure that benefits are maximised while risks are minimised.²⁶ When market mechanisms are introduced or expanded in education systems, the most productive role of public policy shifts from overseeing the quality and efficiency of public schools to ensuring that oversight and accountability arrangements are in place to guarantee that every child benefits from accessible, high-quality education.²⁷
33. It is important to emphasise that increased flexibility and choice will not improve learner outcomes alone. There is a complex range of school and external factors that act as barriers to engagement and achievement. External factors include broader societal issues such as housing affordability and security, family violence and poverty, as well as parental motivation and decisions. School factors include the quality of leadership and teaching as well as engaging and relevant curriculum design. These issues require collective effort at a local level to connect learners and their whānau with the support they need.

²² OECD. (2017). School choice and school vouchers: An OECD perspective.

²³ Friedman, M., & Friedman, R. D., (1990). Free to choose. Free to Choose Enterprise.

²⁴ DeAngelis, C. A., & Erickson, H. H. (2018). What leads to successful school choice programs: A review of the theories and evidence. *Cato J.*, 38, 247.

²⁵ OECD. (2019). Balancing School Choice and Equity: An International Perspective Based on Pisa.

²⁶ OECD. (2017). School choice and school vouchers: An OECD perspective.

²⁷ OECD. (2019). Balancing School Choice and Equity: An International Perspective Based on Pisa.

Section 2: Deciding on an option to address the policy problem

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

34. The Ministry has assessed the options based on the following criteria and compared them against the status quo. These criteria are developed to assess whether the policy solutions will achieve the overall objective of improving learner outcomes in a feasible and cost-efficient way.

Criteria	Description
Flexibility	Extent to which the option enables schools to exercise flexibility in how they operate.
Choice	Extent to which the option increases choice over school type and learning delivery for students and their families and whānau.
Accountability	Extent to which the option provides accountability to the government and the public for learning outcomes and value for money.
Equity	Extent to which the policy proposal increases equity in learning outcomes/achievement in the education system.
Implementation	Includes ease of implementation and time needed to implement.
Cost	The fiscal cost of implementing the option.
Te Tiriti	Extent to which the option gives effect to Te Tiriti o Waitangi / The Treaty of Waitangi (Te Tiriti). ²⁸

What scope will options be considered within?

35. This analysis focusses on options to increase academic achievement by increasing school choice for learners and enabling innovation by increasing flexibility for schools. Other mechanisms to increase student achievement are out of scope.
36. Part one sets out two options for achieving the Minister's objectives to increase flexibility for schools and choice for learners (and assesses these against the status quo). Part two provides analysis of two pathways for introducing the preferred option identified in part one (charter schools). Either: opening new charter schools only; or opening new charter schools and allowing existing State schools and kura to convert to a charter school.
37. As the coalition agreement specifically agreed to developing a charter school model, this has been one of the key options the Ministry has looked at. Alternative school choice models (e.g. school vouchers) are out of scope. The Government has agreed to explore further options to increase school choice in the coalition agreement. Separate work is being undertaken by the Ministry on this.

²⁸ Criterion reflects the Ministry's obligations under section 4(d) of the Education and Training Act 2020.

Part 1: Increasing flexibility, innovation, and choice

What options are being considered?

38. This part sets out options for achieving the Minister's objectives by increasing flexibility for schools and choice for learners. Our options are:
- Option 1: Status quo - Rely on the existing flexibility, innovation, and choice in the current State schooling system.
 - Option 2: Enable more flexibility, innovation, and choice in the current State schooling system for all schools.
 - Option 3: Create a high amount of flexibility, innovation, and choice for a specific group of schools (i.e. charter school model).
39. These options compare providing a limited amount of flexibility to all State schools (option 2) and a high amount of flexibility for a specific group of schools (i.e. charter school model) (option 3) with the status quo (option 1).
40. We have used the assessment criteria to determine if the policy proposal to reintroduce a charter school model (option 3) is more effective at achieving the objectives compared to potential alternative interventions or the status quo (options 1 and 2).
41. Both option 2 and 3 have many different variables and trade-offs within the policy development. For option 2, the Ministry developed an option in which all schools receive an increase in flexibility. For option 3, the Ministry developed a model which contained the Minister's preferred key components. A complete analysis of the options, including trade-offs, and risk and mitigations are at the end of this section.

Option 1: Status quo - Rely on the existing flexibility, innovation, and choice in the current State schooling system.

42. Within the problem definition (section 1), we have outlined different regulatory settings that reduce flexibility in the State school system. While there are many potential improvements in flexibility, the current schooling system does support some flexibility, innovation, and choice via specific and targeted policies.

Network

43. The current schooling system is made up of State, State-integrated and private schools, each with their own characteristics:
- State schools (83 percent of schools): These schools are Government-owned, fully state funded and teach the national curriculum.
 - State-integrated schools (13 percent of schools): These schools teach the National Curriculum but keep their own special character (usually a philosophical or religious belief) as part of their school programme.
 - Private schools (4 percent of schools): These schools are non-government owned, must meet certain standards to be registered and can charge fees. Private schools have limited legal obligations and receive limited funding from the Government.
44. Within the current State schooling system, there are some additional school types²⁹. Examples of these additional school types are:
- Designated Character schools: Schools with their own unique character with their own set of aims, purposes and objectives reflecting their own values. They may have a commitment to a particular philosophy or culture that is distinctly different to a State school including Ngā Kura ā Iwi o Aotearoa and Kura Motuhake (unaffiliated kura).

²⁹ These can be further categorised by the Year-range of the school or kura, for example full-primary, contributing, primary, intermediate, composite, secondary, wharekura etc.

- Kura Kaupapa Māori: State schools where the teaching is in te reo Māori and is based on Māori culture and values. These schools are under the umbrella of Te Aho Matua and follow this curriculum for Māori-medium teaching, learning and assessment.
 - Rumaki reo rua: Māori-medium education can also be accessed through English medium schools with rumaki reo rua.
 - Te Aho o Te Kura Pounamu: State-funded distance education provider. This provides an education avenue for students that may not be able to attend in-person schooling, for example, if they are geographically remote, move often, or are living overseas. This school provides dual tuition enrolment and at-risk provision.
 - Specialist schools: Schools that provide education for children with particular needs, arising from special talents, health or disability needs, learning or behavioural issues.
45. These school types increase choice for some students so they choose a school that best aligns with their values or preferences for delivery of learning. However, the majority of students currently go to a 'standard' state school as there are only a limited number of other types of schools available in the country. This means school choice is limited for students in particular areas of New Zealand, for example, rural areas. Additionally, in many densely populated areas, students are not able to choose due to enrolment zones.

Governance

46. School boards are Crown entities and self-governing which is intended to promote localised decision making. However, many of the flexibilities need to be approved by the Minister of Education or have strict parameters within the Act.
47. Board flexibilities under the current regulatory settings include:
- Boards can decide on the strategic objectives of the school or kura in consultation with the local community. However, they must align section 127 of the Act which states the overall objectives of boards when governing the school.
 - A board can change the number of its parent-elected representatives from the default of five to any number between three and seven.
 - A board can have an alternative constitution to give a school or kura more flexibility and strengthen governance capability. However, the alternative constitutions must be approved by the Minister.
 - Boards of two or more schools or kura can choose to combine, subject to community consultation. However, the combined board must be approved by the Minister.
 - Planning and Reporting Regulations are flexible, for example, boards associated with Te Rūnanga Nui and Ngā Kura ā Iwi, and of other hapū and iwi affiliated kura are not required to set out full strategies for meeting their Te Tiriti obligations and instead can provide a general statement about how the kaupapa of the kura reflects Te Tiriti.

Teacher registration

48. To teach in New Zealand, a teacher must be registered and hold a current practising certificate issued by the Teaching Council of Aotearoa New Zealand (the Teaching Council). An exception to this requirement is permitted through the issuing of a Limited Authority to Teach (LAT) which enables under very specific criteria people without a teaching qualification to teach in positions when there is need for specialist skills or skills are in short supply.³⁰ This gives limited flexibility to schools and kura to employ LATs.

³⁰ LATs are not a type of practising certificate and are not for registered teachers or permanent employment. The need must be demonstrated by the employer. LAT holders are expected to attest to the Code of Professional Responsibility | Ngā Tikanga Matatika for the teaching profession and are subject to the Teaching Council's disciplinary procedures in relation to conduct.

Funding

49. Boards have the flexibility to spend operational resourcing (made up of operational grant funding and staffing entitlement) in a way that best meets the needs of their students. In practice, most operational grant funding does not have any conditions attached to it so boards have autonomy over how it is used. However, the vast majority of school resourcing is staffing entitlement (approximately 75 percent at a system level), which is limited to the use of teachers' salary. Schools and kura are required by law to produce an annual report and have their accounts audited, allowing Ministers, the Ministry and the wider public to review the year's performance.

Curriculum

50. All State schools must teach the National Curriculum which set out what knowledge, skills, and understanding students are expected to have and how the curriculum will be taught, learnt, and assessed.
51. Using the national curricula, schools and kura have the flexibility to develop and implement a curriculum that meets the needs of their students and community, including Māori. However, given concerns about student outcomes, the national curricula now have clearer requirements, for example, mandated teaching times for mathematics, reading and writing. In other curriculum areas, such as the science learning area, schools continue to have flexibility and can innovate.
52. Students may decide to attend a specific local school or kura of choice based on the curriculum focus. For example, state-integrated schools may develop their curriculum based on a particular religion, philosophy or set of values.
53. State schools can choose any internationally recognised qualification, meaning there is no requirement for the qualification to be approved by the New Zealand Qualifications Authority (NZQA).

Option 2: Enable more flexibility, innovation, and choice for all State schools

54. Despite these examples of choice and flexibility, regulatory restrictions act as a barrier for schools to innovate. Schools and kura are required to comply with regulations that impact the governance, requirements for teachers, spending funding, employment relations, curriculum, student enrolment and length of school days.
55. Option 2 presents a way to achieve the Minister's objectives of increased flexibility, choice and innovation. This option provides a reduction in regulatory restrictions and an increase in flexibility for all State school to enable an increase in innovation and student choice. There is a choice about the degree to which current regulation is relaxed and which regulatory constraints are reduced or removed. Different combinations are possible and this option only provides examples of possible regulation changes.
56. The barriers to implementing any of these possible changes across the system alone, or in combination are significant. Each would constitute a significant system reform. Due to the challenges relating to costs of implementing and the difficulty of increasing accountability for all schools, flexibility will be limited in most areas. Therefore, this option will not be able to have the in-depth flexibility as option three would provide. Additionally, many of the features would require changes to Collective Agreements, changes to legislation and generally accepted practice. It would require significant work in consultation to achieve the desired outcomes across the breadth of the system.

There are possible ways to increase choice, flexibility, and innovation

57. Within this option, changes in flexibility could be made in specific areas to enable innovation and establish a higher degree of choice for students across all schools.

58. These could include for example:

- **Network:** expanding to the existing school types in the system, for example, through roll growth or increasing the provision of schools and kura that are not ordinary State schools to provide more choice.³¹
- **Governance:** enabling alternative governance structures or increasing constitutional flexibility.
- **Teacher registration:** consider a broader range of people as teachers
- **Funding:**
 - replacing staffing entitlements in full or in part with equivalent cash funding to enable greater flexibility in how it best meets the needs of their students.
 - replacing services that do not offer significant advantages when centrally procured, with cash for schools and kura and guidance for schools.
 - simplifying the structure of operational grant funding and reduce the need to engage with the Ministry to access or adjust some minor components.
- **Student enrolment:** reducing enrolment setting to increase settings, however, any changes will require additional investment and reduce the effective use of existing capacity within the State school network.

In some areas there is limited scope for increased choice, flexibility, and innovation

59. However, there are other areas where flexibility is not recommended for all schools due to high risk and low implementation feasibility within the time constraints, for example:

- **Curriculum:** Allowing all State schools to have full flexibility and choice over what is being taught and how is not feasible as it does not provide accountability for learner outcomes and goes against the Government's recent changes to the national curricula to have clearer requirements.
- **Employment relations:** Employment settings for remuneration, hours of work and leave are largely set by collective agreement provisions. Changes to these settings could only occur by agreement with the applicable unions who are generally only supportive of change that improves existing benefits.
- **Length of school day:** Changing length of school day has significant implementation impacts including on school staffing and resourcing systems, collective agreements, school roll returns, and students and their families and whānau.
- **Property:** Changing property policy for State schools would pose a significant financial risk to the Crown by making it more difficult to make longer-term asset management decisions, and balance needs across the Crown property portfolio. It would also increase the burden on schools and school boards, and shift focus away from student progress and achievement.

Option 3: Create a high amount of flexibility, innovation, and choice for a specific group of schools (i.e. charter school model).

60. Option 3 looks at creating a high amount of flexibility for a specific group of schools to increase innovation and choice for students. The Minister has indicated a preference to reintroduce a charter school model with similar features to last time including changes to reflect learnings from the previous model.

³¹ If choice was a key consideration this could be achieved though it could reduce the efficiency of the network.

This option provides increased flexibility to charter schools

61. These specific schools will receive significant flexibility in specific areas to enable innovation within education and establish a higher degree of choice for students:

- **Governance:** Sponsors have no mandatory governance structure or requirement for parental/community representation.
- **Teacher registration:** Charter schools can employ teachers without a practising certificate in accordance with any contract restrictions, but only if they are LAT holders. LAT holders would not need to demonstrate they have a specialist skill or a skill that is in short supply and would be able to be employed for any length of time. They will still need to undergo a safety check aligned with the current policy.
- **Funding:** Charter schools will be State funded at a broadly equivalent level to State schools. 9(2)(f)(iv) [REDACTED]. Charter schools can operate either for-profit or not-for-profit but cannot charge tuition fees for domestic students.
- **Curriculum:** Charter schools can use their own curriculum, provided the tuition standards are at least equivalent to other State schools and meets contracted performance standards. A sponsor must have regard to any Statement of NELP issued by the Minister when operating the school.
- **Employment relations:** The sponsor will employ staff and negotiate their terms and conditions 9(2)(f)(iv) [REDACTED].
- **Student enrolment:** Charter schools will not be subject to enrolment schemes as part of the overall network.
- **Length of school day:** Charter schools can set their own length of school day/year.
- **Property:** 9(2)(f)(iv) [REDACTED]. They will be responsible for ensuring premises and equipment are suitable for their schools.

62. There are some policy settings that charter schools will be the same as State schools. These are listed in Appendix 3 of the Cabinet paper and include requirements for stand downs, suspensions, expulsions and exclusions, student safety, and enrolment of international students.

To manage the increased flexibility, schools will have an increase in accountability

63. A key element of this option is that, in order to provide a much higher degree of flexibility, these schools will also have increased accountability to ensure outcomes are being achieved. The contract between the sponsor and the Crown will set out the key objectives of the charter school. This will include to ensure all students can attain their highest possible standard in academic achievement.
64. This option will contain a performance management framework, which holds sponsors accountable to contractually agreed performance outcomes. The legislation will provide for performance outcomes, with the specific measures and targets outlined in contracts. Sponsors will be required to provide information that shows how they are meeting performance measures and targets.
65. The performance management framework will be supported by a graduated intervention framework that is set out in legislation. The most serious intervention is closing a charter school. Interventions may be imposed if:
- regular reporting against performance outcomes or the sponsor's annual self-audit raise concerns about how they are managing the school
 - there are reasonable grounds to believe that sponsors are not meeting or have breached their legislative requirements.

- ERO recommends a need for an intervention.

66. ERO will provide external reviews of charter schools as needed using existing powers in the Act. ERO will also do a prior to opening check to ensure a new school has an adequate child protection policy, staff have been safety checked and has policies in place to ensure the health and safety of staff and students.

Specific terms will be set the contract between the Crown and the sponsor

67. A sponsor has a fixed term contract of ten years with the Crown to operate a charter school. The legislation will have the key settings and the contracts will have specific terms for individual schools. All fixed-term periods are conditional on the school continuing to meet the terms of their contract.

68. 9(2)(f)(iv) [REDACTED]
 [REDACTED] The Authorisation Board will have the ability to make key decisions on matters such as:

- the approval of sponsors for new charter schools
- oversight of the performance management system
- the use of the performance interventions,
- providing strategic advice to the Minister of Education on policy settings.

69. The legislation would set out mandatory factors that the Authorisation Board must consider when deciding to approve a sponsor and require the Authorisation Board to consult with impacted and interested parties prior to making a decision.

70. An agency will be responsible for the implementation and operation of charter schools. They will (on behalf of the Crown) negotiate, sign and manage the contracts. This option also includes establishing a support entity to support applicants through the process and provide ongoing governance and establishment support.

Mixed evidence on the success of this model

71. This option provides significantly higher levels of flexibility for a targeted number of schools, meaning that only a small number of students will receive the benefits of the innovation and choice it provides.

72. A significant number of charter schools will need to be opened to increase choice for all learners. The impact of this option will be strongly dependent on the location of the charter school and how many other schools are in this area. One charter school within an area on its own will not necessarily create more choice for students.

73. Evidence on the success of these types of schools is mixed. Scholars have found instances of these types of schools lifting achievement rates for particular groups of students, such as certain year levels in the England and Sweden or students not served well by the State system in the United States of America.³³ However, there has been little evidence to suggest long-term improvement in educational achievement. Ultimately, the success of these schools appears to be dependent on leadership and operation of individual schools and kura.³⁴

³² 9(2)(f)(iv) [REDACTED]

³³ Raymond, M. E., Woodworth, J. L., Lee, W. F., Bachofer, S., Cotter Mazzola, M. E., Snow, W. D., & Sabkova, T. (2023). As a matter of fact: The national charter school study III 2023. Center for Research on Education Outcomes; Jason, Z. (2017). The battle over charter schools. Harvard Graduate School of Education; Harris, D., & Feng, C. (2023). *The Bigger Picture of Charter School Results*. Education Next.; Bohmark, A., & Lindahl, M. (2007). The impact of school choice on pupil achievement, segregation and costs: Swedish evidence.; Julius, J., Hillary, J., & Veruete-McKay, L. (2021). Free Schools: The Formative First Ten Years. An Analysis of the Impact of Free Schools since 2010. National Foundation for Educational Research.

³⁴ OECD. (2017). School choice and school vouchers: An OECD perspective.

How do the options compare to the status quo?

Key	++	Much better than the status quo	+	Better than the status quo	0	About the same as the status quo	-	Worse than the status quo	--	Much worse than the status quo
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Scoring: The overall assessment of options has been determined through averaging the ratings across the criteria. The maximum score possible is ++ and the minimum score possible is --

	Option 1: Rely on the existing flexibility, innovation, and choice in the current State system	Option 2: Increase flexibility, innovation, and choice for all state schools	Option 3 (preferred option): Create flexibility, innovation, and choice for a specific group of schools (i.e. charter school model).
Flexibility	<p>0</p> <p>The State schooling system is flexible including:</p> <ul style="list-style-type: none"> School governance: autonomous school boards with regulatory flexibilities such as alternative constitutions and combined boards. Curriculum: using the national curricula, schools have the flexibility to develop and implement a curriculum that meets the needs of their students and community, including Māori. Qualifications: State schools can choose any internationally recognised qualification. School policies: school boards can develop a range of other school specific decisions such as term time, uniforms and how to specifically implement particular regulations. Funding: Schools have the flexibility to spend their funding as they best see fit. 	<p>+</p> <p>Option 2 would increase flexibility compared to the status quo, particularly around teacher registration and funding. It would also enable flexible governance structures for kura associated with Te Rūnanga Nui and Ngā Kura ā Iwi, and of other hapū and iwi-affiliated kura.</p> <p>Unlike option 3, these flexibilities will be available to all students in the State schooling system. However, these schools would still be classified under the State schooling system and would have more regulatory restrictions than charter schools such as school and kura boards, property, employment agreements, and curriculum.</p>	<p>++</p> <p>Option 3 would increase flexibility significantly for charter schools compared to the status quo. Particularly regarding governance, funding, employment agreements, and property.</p> <p>However, these flexibilities are only available to charter schools. The charter school model would need to be widespread for these benefits to be realised and have sustained and meaningful impacts on many students.</p> <p>Charter schools will still need to comply with non-educational regulations such as Health and Safety in Employment Act 1992 and Privacy Act 2020.</p>
Choice	<p>0</p> <p>Within the current schooling system, there are a range of school types. These can be categorised by the structure of the school or kura, for example full-primary, contributing, primary, intermediate, composite, secondary and wharekura. There are State, State-Integrated and private schools. There are also Designated Character schools and Kura Kaupapa Māori which have a philosophy or approach that is distinct from ordinary State schools. This creates more choice in the system by enabling students and their whānau to choose a school or kura that aligns with their values or preferences for delivery of learning.</p>	<p>+</p> <p>Option 2 would increase choice compared to the status quo by expanding the number of schools with different character, and by supporting roll growth in these schools. This would increase access to a more diverse range of schools with unique values and approaches to learning. However, schools will have limited flexibility within their curriculum, due to Government's proposals to increase regulations, for example, one hour a day for reading, writing, and maths. Therefore, the changes only have small impact on the increased choice.</p>	<p>++</p> <p>Option 3 would increase choice compared to the status quo as it adds an additional type of school to the education system. Due to the increase in flexibility in curriculum and other areas, charter schools can give better effect to a special focus (e.g. military, Kaupapa Māori, Pasifika, Christian). The unique features of this model could drive innovative approaches to delivering learning which can impact diversity of school focus which will increase the choice for students and their families and whānau in choosing what school is best for them.</p> <p>However, this option will only increase choice in specific areas where the specific schools are established. A significant number of charter schools will need to be opened to increase choice for all learners.</p>
Accountability	<p>0</p> <p>State schools are held accountable for student safety and outcomes through a range of mechanisms including:</p> <ul style="list-style-type: none"> board's responsibility to monitor performance against strategic planning documents and provide annual reports financial reporting ERO reviews <p>There are interventions available to the Secretary or Minister of Education to ensure a school or kura is meeting its obligations to students. These are provided in Section 171 of the Act.</p>	<p>0</p> <p>Option 2 has the same level of accountability as the status quo because all schools and kura would be classified as State schools meaning they are subject to the same accountability mechanisms and intervention framework. An increase in accountability will be challenging as these changes will be applicable for all schools. The costs will be significant to monitor all schools.</p>	<p>++</p> <p>Charter schools will have fewer regulations to follow compared to State schools, however, this is exchanged for an increase in accountability and monitoring. The idea is to measure outcomes of learners at charter schools to measure the impact it has on learning outcomes. The Authorisation Board can intervene if low performance is signalled. The most serious intervention is to close a school (and terminate a contract with the sponsor) which would be disruptive for students.</p>
Equity	<p>0</p> <p>The State schooling system supports equitable outcomes for students through a range of mechanisms, including:</p> <ul style="list-style-type: none"> Equity index and equity funding 	<p>0</p> <p>Option 2 would enable Māori and Pasifika to create governance structures that work better for students and could help to address long-standing equity issues. However, this wouldn't impact equitable</p>	<p>0</p> <p>Option 3 could support equitable learning outcomes by providing diversity of choice so students can select a school with an approach that suits their needs. It could enable Māori and Pasifika to create</p>

	<ul style="list-style-type: none"> Alternative schooling provision such as Kura Kaupapa Māori, Designated Character and Specialist Schools Funding for language programmes Learning support Targeted programmes, for example, Positive Behaviour for Learning 	<p>outcomes for ākonga Māori, Pasifika or other specific groups in English medium settings who experience inequity in outcomes.</p> <p>Increasing funding and other flexibility for schools could improve equity if more, for example, funds are directed towards students with the highest need. However, this would be subject to the schools' choice over how they use the flexibility.</p>	<p>governance structures that work better for students and could help to address long-standing equity issues.</p> <p>However, equitable outcomes are not guaranteed as it will depend on the leadership of the school, how they make use of the model's flexibility, and whether they develop innovative approaches which deliver better outcomes relative to the State network.</p>
Implementation	0	--	-
	Business as usual.	Option 2 would be challenging to implement within the timeframe available as it impacts all schools and it includes many different changes. There will be high need for strong engagement with the entire sector. We anticipate sector unions would have significant interest in any proposals that affect staff working conditions, and this could pose challenges to implementing some specific elements of alternative settings. System changes will also be needed to make the changes operational.	Option 3 requires significant policy work and new legislation, and it is subject to funding being approved through budget 2024. There will be complex operational changes to make, for example, managing the impact on the schooling network, particularly for conversion (see section 2.2) and developing an effective performance management system and data approach. However, the legislation will be progressed urgently and should be enacted in time for new charter schools to open in early 2025.
Cost	0	-	-
	Business as usual.	Option 2 will cost more than the status quo. There would be costs associated with facilitating engagements, developing policy, implementation and changing legislation.	Option 3 will cost more than the status quo. Although charter schools will be funded at equivalent rate as State schools, there are costs associated with setting up an Authorisation Board, Ministry system changes, and establishing and administering charter schools. Additionally, we expect charter schools to be relatively small, and the costs of small schools are higher than large schools. We have put limits on the number of charter schools over the first four years to provide more certainty over cost. This is in addition to the costs associated with facilitating engagements, developing policy, and changing legislation.
Te Tiriti	0	+	0
	<p>The current State schooling system aims to give effect to the Crown's Te Tiriti obligations in the education system through the following provisions and initiatives:</p> <ul style="list-style-type: none"> Section 4(d) records one of the Act's purposes as being "to establish and regulate an education system that honours Te Tiriti". Section 9 details the main provisions of the Act that "recognise and respect the Crown's responsibility to give effect to Te Tiriti". Ka Hikitia – Ka Hāpaitia: The Māori education strategy. Tau Mai Te Reo: the Māori Language in Education Strategy for all students. NELP to instil in each child and young person an appreciation of the importance of Te Tiriti and te reo Māori. A primary objective of school boards is to give effect to Te Tiriti under section 127(d) of the Act. Kaupapa Māori and Māori Medium pathways, and designation of schools that allow a kaupapa Māori approach to learning delivery. Initiatives and programmes such as Kāhui Ako. 	<p>All current legislation and policies will continue to be in place within option 2. Additionally, option 2 would give better effect to Te Tiriti compared to the status quo by enabling Māori to have increased agency over their governance structure, funding, and use of unregistered teachers. It also reflects good governance by supporting growth of kaupapa Māori and Māori medium pathways which we know deliver better for ākonga Māori. This relates to ōritetanga as we could expect positive impacts on learning outcomes for Māori in these schools.</p>	<p>Option 3 would provide Māori to have increased agency over their governance structure, curriculum, funding, and use of unregistered teachers.</p> <p>9(2)(h)</p> <p>The legislation changes include some specific Te Tiriti provision and guidance for charter schools. However, it is not clear in all areas how section 4(d) applies, potentially creating uncertainty and inconsistency relating to how sponsors of charter schools and relevant decision makers give effect to Te Tiriti.</p>
Overall	0	0	+4
<p>On balance, option 3 is the preferred option. Option 3 scores higher on the Minister's core objectives to increase choice and flexibility, while increasing accountability. Option 3 creates more flexibility for charter schools, while option 2 provides a smaller amount of flexibility for all schools. The increase in flexibility in option 3 particularly in governance, teacher registration, funding, employment relations, curriculum student enrolment and length of school days will help schools give better effect to a focus area of choice and drive innovation. In the long-term this will increase choice for students and whānau as there will be increased diversity in the type of schools available. Evidence suggests that school choice policies can drive innovation, improve efficiencies in the system, and improve learner outcomes for students. Additional funding will need to be sought to ensure policy changes are implemented successfully. Option 2 will be difficult to implement within the available timeframe. Additional funding will need to be sought to ensure policy changes are implemented successfully. If there is not a specific Te Tiriti provision or the ability to issue guidance, there is likely to be uncertainty and inconsistency relating to how charter schools and other relevant decision makers give effect to the Crown's obligations under Te Tiriti.</p>			

Key risks

74. The following risks and mitigations have been identified for the preferred option 3 – Create flexibility, innovation, and choice for a specific group of schools (i.e. charter school model):

If...	Then...	Mitigation
If there is negative public perception about a charter school model	The model will lack the growth it needs to achieve scale and see benefits realised for students and their families and whānau.	A strong communication plan and engagement with the sector would help to mitigate this risk.
If sponsors of a charter school do not have the relevant experience or skills to run a school/kura	There could be negative impacts on student wellbeing and learning outcomes.	The Authorisation Board is required to consider the suitability of sponsors prior to making a decision to approve them.
If there are inadequate measures of student outcomes in charter schools	The potential benefits of this model will not be able to be measured and this may impact the case for further investment and growth of the model.	Work with the Social Wellbeing Agency, Stats New Zealand, and other data agencies to develop a robust data collection approach. Make sure we are measuring progression and value add testing; including against a “virtual child” through use of the IDI, and against appropriate and internationally accepted standards.
There is low interest from sponsors	There will be a limited number of schools receiving flexibilities that create innovation and choice in the schooling system.	The Ministry will focus more on promotion and support for potential sponsors that may be interested in setting up a charter school.
The flexibility does not create more innovation and has limited impact on learner outcomes.	The charter schools will likely not have limited benefits compared to state schools.	We ensure a good application process including how schools are wanting to innovate within the education they provide.
The cost of setting up the charter school model is higher than expected.	The Government will not be able to approve as many charter schools as planned.	Additional funding could be sought via the budget process at a later stage.
There is insufficient oversight of charter school property	There could be risks to student wellbeing, health and safety	The Ministry using its power, due to charter schools being recognised in legislation as registered schools, to enter and inspect charter schools’ property on an ongoing basis for compliance with relevant property legislation and provisions within the contract. Charter schools must also comply with all relevant legislation and regulations including the Building Act 2004 and the Health and Safety at Work Act 2015.

Part 2: Pathways to become a charter school

What options are being considered?

75. This part provides a separate options analysis of the Minister's proposal to allow a State school to be eligible to convert to a charter school. It is a sub analysis of Option 3 to create flexibility, innovation, and choice for a specific group of schools (i.e. charter school model). Our options are:
- Option 3(a): new charter schools and kura only - Reintroduce a similar regulatory framework as last time where only new schools and kura could become a charter school.
 - Option 3(b): both new charter schools and converted charter schools - Allow both new schools and kura to open as a charter school, and existing State schools to convert to charter schools. Converted and new charter schools would be largely under the same regulatory framework.

The previous model only allowed new schools and kura to become a charter school

76. Under the previous model, there was only one pathway to becoming a charter school – opening a new school or kura. Allowing schools and kura to convert was not considered in detail last time even though it was initially proposed. This was because the model was only a pilot to test whether increased flexibility would impact student achievement. Due to the lack of progress data and the termination of the model, it is unclear whether these partnership schools achieved this objective.

Converted schools and kura would largely operate in the same charter school framework as new ones

77. The Minister's preference is to add an additional pathway to becoming a charter school by allowing State schools to convert. This is intended to increase school and kura choice by enabling the model to achieve larger scale compared to last time. Converted and new charter schools would still largely be under the same regulatory framework.
78. All State schools would be eligible to convert including State-integrated, Kura Kaupapa Māori, Designated Character Schools, and Te Kura. This includes former partnership schools operating under another State model and schools and kura that meet the criteria. private schools will not be permitted to apply but could close and apply to become a charter school.
79. Under option 3(b), two key processes are required:
- Conversion: This includes determining eligibility (or priority); consultation, assessment and advice; and Ministerial approval.
 - Transition: Once approval has been given, a kura or school's governing body's legal status will change from being a Crown Entity to another legal entity with a contract with the Crown. This will primarily impact its governance and management, community representation, employment of staff, use of and obligations for any property, and its assets and liabilities. Consideration of these impacts is provided for below.

The Minister may direct a school to convert

80. The Minister of Education would also be able to direct a State school to enter into the conversion process according to Government priorities or based on State school performance. This would require the agency, working with the Ministry, to identify and assess the suitability of potential schools for conversion, engage with potential sponsors for these schools, and direct schools into the application process. The full application process and assessment by the Authorisation Board would still apply to these applications, including the mandatory criteria the Authorisation Board must consider.

81. However, this direction process would exclude State-integrated schools, specialist schools, distance schools, Kura Kaupapa Māori, and designated character schools (including Ngā Kura ā Iwi, and other Kaupapa Māori) and Māori medium provision due to their distinct settings (including in governance, property, and establishment).

Authorisation Board must consult affected parties on proposal to convert

82. The legislation will require the Authorisation Board to consult with affected communities, and others who might have an interest in the conversion before making a decision to approve an application to convert a State school. Impacted parties could include students, staff, families, other schools, iwi, landowners where the school land is leased, or any other body with a property interest.

83. These consultation requirements are similar to section 209 of the Act in which the Minister must consult the board concerned and the boards of all State schools whose rolls might be affected by establishing, closing, or changing the features of a State school.

9(2)(f)(iv) [Redacted]

84. 9(2)(f)(iv) [Redacted]

85. 9(2)(f)(iv) [Redacted]

86. 9(2)(f)(iv) [Redacted]

87. 9(2)(f)(iv) [Redacted]

88. 9(2)(f)(iv) [Redacted]

89. 9(2)(f)(iv) [Redacted]

Property agreements, including leasing arrangements with Post-Governance Settlement Entities

90. The Crown has numerous obligations for school and kura land and buildings it owns and leases. Conversion will impact these obligations and require adjustments to existing arrangements. Any ongoing arrangement with sponsors will need to establish ongoing

property responsibilities and requirements for both parties, as well as transition arrangements if a sponsor's circumstances change.

91. 9(2)(f)(iv) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] The Ministry as the asset owner and landlord will need to ensure compliance with relevant legislation and regulations including the Health and Safety and Work Act 2015 and Building Act 2001. This is most applicable to converted charter schools.
92. For leased sites, changing the user or use or re-assigning the lease will require the approval of the landlord. The most common instance is where land is leased from a Post-Settlement Governance Entity (PSGE) as education land is commonly used as commercial redress in the Crown's Treaty settlement process, through sale-and-leaseback arrangements. There are 195 school sites with existing lease arrangements and approximately another 72 sites that are committed.³⁵ Each is an independent commercial arrangement between the Ministry and the PSGE. Some PSGEs may see conversion as fundamentally changing the nature of the relationship and commercial arrangement which could lead to relational risk and risk of redress.

Conversion will have an impact on the schooling network in specific areas

93. Conversions will impact the State schooling network. Conversion decisions would need to consider network implications, including the effects of conversion on the rights of students to access free, secular education and a reasonably convenient school. The Authorisation Board will be obliged to protect the enrolment rights of existing students when approving an application to convert a school, and the enrolment rights of other people if there is an enrolment zone for the existing schools. It will also be required to consider network impacts in their assessment of any conversion decision.
94. Enrolment schemes are a tool the Crown uses to balance the provision of choice in the network against utilising existing capacity and the cost of further investment. Charter schools will have to accept all eligible domestic students who apply for entry, regardless of background or ability, unless oversubscribed, which is defined as the school's physical capacity.
95. There is a risk to access to a reasonably convenient State school or kura if charter schools are oversubscribed, and nearby enrolment schemes are not adjusted to maintain access, or neighbouring schools and kura are also at or near capacity due to shifts in the network. We expect that this will not be an issue at the point of transition. However, the issue may arise in future as the population and therefore demand for schooling grows and shifts, for example as urban areas densify or rural areas' demographics change. This may have flow on impacts to investment requirements in school capacity and could mean underutilisation of some parts of the network.

³⁵ Committed means there are in deeds of settlement, but the legislation has not been enacted. There are additional sites that are part of current settlement negotiations.

How do the options compare to the status quo?

Key	++	Much better than the status quo	+	Better than the status quo	0	About the same as the status quo	-	Worse than the status quo	--	Much worse than the status quo
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Scoring: The overall assessment of options has been determined through averaging the ratings across the criteria. The maximum score possible is ++ and the minimum score possible is --

	Option 3(a): only new schools and kura can become a charter school	Option 3(b): new schools and kura and existing State schools and kura can convert to charter schools
Flexibility	+	++
	Option 3(a) would increase flexibility but this is limited as only new schools or kura will be able to benefit from the flexibilities of the model.	Allowing State schools to convert to charter schools (as well as enabling new schools to open), will enable the charter school model to achieve scale. More charter schools will increase the level of flexibility in the system, for example, in funding, property, curriculum and governance.
Choice	+	++
	Option 3(a) increases choice for students and their families and whānau as the new school type added to the schooling network will likely enable new approaches to delivery of learning and increase innovation. However, the number of students benefiting will be limited as the number of charter schools will be small. Therefore, a low number of students will have this additional choice due to location.	Option 3(b) does increase choice in curriculum and/or ideological focus as charter schools will have more flexibility in the type of education they provide. If more State schools in different areas choose to become a charter school, students and their whānau will be able to choose the right school based on their curriculum. Additionally, converting schools are not subject to an enrolment scheme which may provide additional choice to students who are at other schools, subject to any capacity constraints and legacy enrolment conditions. However, it does not increase choice in the type of school (State, state-integrated, charter or private school). Converting an existing state school in an area will decrease the number of state schools.
Accountability	++	++
	Option 3(a) and 3(b) score equally as the accountability mechanisms are the same under both pathways. The charter school model offers increased flexibility in exchange for high accountability. Sponsors are held accountable for student outcomes and safety through a performance management system. If a charter school is not performing, there are a range of interventions that the Authorisation Board can use, including closure of the school.	
Equity	0	0
	Option 3(a) and 3(b) both could increase equity depending on the way charter schools decide to use their flexibility. School choice may increase better outcomes for all students as education is better aligned for different groups of students. However, it is difficult to know if this will actually happen as charter schools have full flexibility over their curriculum and delivery of learning.	
Implementation	-	--
	Option 3(a) requires significant policy work and legislative change to implement. Charter schools will have a separate agency and authority dedicated to the implementation and improvement of the model, which will help mitigate implementation issues. The implementation will consist of many system and process changes.	Option 3(b) requires the same type of implementation as option 3(a), however, will also have additional implementation steps for converting State schools (such as formal consultation).
Cost	-	--
	Option 3(a) will cost less than option 3(b) as it will limit charter school applications to new schools and kura only.	Option 3(b) will cost more compared to option 3(a) as process costs associated in establishing charter schools will correspondingly increase with the volume of conversion applications. Option 3(b) may also require consequential changes to the State school network including investment in capacity if choice about schools distributes the population differently than in a managed network. This may decrease the efficiency of the schooling network as there will be a higher number of schools with a lower number of students.
Te Tiriti	-	0
	Option 3(a) will not allow existing Kaupapa Māori and Māori Medium kura to transition to become a charter school. This limits access to the flexibility over governance and the potential corresponding improvements to student outcomes that the new model provides (kāwanatanga, rangatiratanga, oritetanga).	Conversion allows existing Kaupapa Māori and Māori Medium kura to have access to the flexibilities offered by the charter school model. Noting that the Te Tiriti analysis has shown a lack of certainty of benefits for ākonga Māori. Depending on the sponsors commitment to developing a learning design that meets the needs of ākonga Māori.
Overall	+	+2
	Option 3(b) is our recommended option as it enables a larger number of schools and kura to transition and become charter schools, meaning more schools and kura in the education system will be able to experience the benefits of the model. Removing regulatory restrictions for these schools could support innovative practice. A higher number of charter schools will increase the choice of school type and learning delivery for students and their families and whānau, helping more students to access to education that aligns with their needs and beliefs. Evidence suggests that school choice policies can drive innovation, improve efficiencies in the system, and improve learner outcomes for students ³⁶ . This means, if done well, if State schools have the option to become charter schools more students may benefit from better learning achievement and outcomes. The implementation of option 3(b) is complex as there will need to be a process to convert schools, in particular the impact it has on the transition of staff, property and boards assets, liabilities and contracts. The long-term cost could be higher due to a decrease in State schools in the network, which may impact the access of school choice in specific areas.	

³⁶ OECD. (2017). School choice and school vouchers: An OECD perspective.

Key risks

96. The following risks and mitigations have been identified for the preferred option 3(b) - new schools and existing State schools and kura can convert to charter schools:

If...	Then...	Mitigation
State schools convert to a charter school	9(2)(f)(iv)	9(2)(f)(iv)
9(2)(f)(iv)		
9(2)(f)(iv)		
A high number of state schools convert to become a charter school.	This decreases the number of state schools in the network which may make it challenging for the state schooling network to continue to provide free, secular and reasonably convenient	The Ministry will monitor the impacts converting schools has on the schooling network. If needed the Ministry will recommend investing in additional state school capacity in a particular area. Funding for growth will be subject to Budget decisions and

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	education in a specific area. Depending on specific enrolment settings of charter and state schools there could also be inefficient use of existing capacity in the State school network as charter school enrolments are not centrally managed.	priorities across the overall network. State school enrolment schemes may need to be amended should issues of access to schooling arise. The Authorisation Board is required to consider network impacts in its decision making.
The post government settlement entity perceive the proposal to allow State schools to convert to charter schools as fundamentally changing the nature of the relationship and commercial arrangement.	This could lead to relational risk and risk of redress.	Effective communication plan and early engagement with these entities prior to any conversion that impact them.
Teachers disagree with the conversion of their school.	Then the sector may lose a sufficient number of teachers 9(2)(h)	All conditions for teachers will be the same. Clear communication around the impact of the conversion process is key.
Charter schools will have to accept all eligible domestic students who apply for entry, regardless of background or ability, unless oversubscribed, which is defined as the school's physical capacity	There is a risk to access to a reasonably convenient State school or kura if charter schools are oversubscribed, and nearby enrolment schemes are not adjusted to maintain access, or neighbouring schools and kura are also at or near capacity due to shifts in the network.	The Authorisation Board will be obliged to protect the enrolment rights of existing students when approving an application to convert a school, and the enrolment rights of other people if there is an enrolment zone for the existing schools. It will also be required to consider network impacts in their assessment of any conversion decision.

What are the marginal costs and benefits of the option?

97. We assume the following rate of rollout of charter schools:

Numbers of charter schools	2024/25	2025/26	2026/27	2027/28	4-yr total
New charter schools	9(2)(f)(iv)				
Reverting charter schools					
Newly converting charter schools					
Total					

98. Based on our experience of partnership schools, we assume that most charter school delivery will be in secondary or composite schools. 9(2)(f)(iv)

99. It is challenging to estimate the value of the charter school model based on how students' life outcomes compare to those of similar students in State schools. The sample is small, and few students spend a significant part of their schooling in partnership schools. Additionally, charter schools will differ in key respects, reducing the relevance of the previous experience. Therefore, the value of the benefits per student is considered based on the estimated maximum benefit.

100. A study of the efficiency of schooling investment in 24 European countries estimates efficiency scores from 0.63 to 1 using one method and 0.76 to 1 using another method.³⁷ This gives some indication of the variation in efficiency that different systems can realistically achieve. The standard deviations are 0.129 and 0.082. There is evidence that New Zealand schools are at least as efficient as the average jurisdictions in the study: New Zealand scores around the middle of the OECD in PISA results (see above), spends less than the average on primary schooling and spends about the average at secondary levels³⁸. New Zealand schools are already relatively independent, which limits the degree of improvement a further increase in independence can realistically achieve.
101. Based on these factors we consider it unlikely that changing to a charter school model could improve efficiency by more than about 10 percent. Spending per student varies greatly by school roll and other characteristics, but at secondary level is somewhere around \$12,000 to \$13,000 across the system. This implies a maximum potential benefit of around \$1,250 per student per year. This provides a rough indication of how likely it is that charter schools will provide a net economic benefit, once the costs of charter schools (especially new schools) are taken into account.

Summary of net marginal benefits

102. The initiative is ultimately aimed at improving outcomes for students. If sponsors can significantly improve (compared to State schools) the rate at which they convert the Crown's investment in schooling into positive student outcomes, and sustain this improvement over several years, there will be a net benefit to New Zealand.

103. 9(2)(f)(iv)

[Redacted]

104. 9(2)(f)(iv)

[Redacted] sponsors are able to deliver materially better educational outcomes. Among new schools, the greatest net benefits may be achieved when:

- the model is applied to effective Māori Medium and Kura Kaupapa Māori delivery, which has had difficulty expanding using current models
- the school is located where it will reduce the need to establish or expand a State school.

³⁷ Agasisti T; Hippe R; Munda G. [JRC Publications Repository - Efficiency of investment in compulsory education: empirical analyses in Europe \(europa.eu\)](#), EUR 28607 EN. Luxembourg (Luxembourg): Publications Office of the European Union; 2017. JRC106678.

³⁸ Ministry of Education: [How does New Zealand's education system compare? OECD's Education at a Glance 2023 | Education Counts](#).

Costs and benefits of the preferred option

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups			
Boards of trustees of converting State schools / Sponsors of charter schools	We expect the costs of operating charter to schools to be very similar to the funding. The funding is therefore the best indicator available of likely costs for sponsors. Although sponsors may operate charter schools 'for profit', based on the pilot we expect very little profit to be taken. There will be establishment costs, and ongoing operating costs, for school property, staffing, learning resources, and administration. These are expected to be similar to those for State schools of similar size and year range. Converting schools will see relatively little change in funding and costs, but new schools will cost more due to the fixed costs associated with running a school. 9(2)(f)(iv)	9(2)(f)(iv)	Medium - 9(2)(f)(iv) Actual uptake uncertain, and a Budget bid to fund further growth is possible.
Teachers and other staff	9(2)(f)(iv)	Low-medium - 9(2)(f)(iv)	Low - It is unclear how employment agreement and remuneration will progress for charter school staff.
Regulators			
Ministry of Education ³⁹	The Ministry expects that it will be funded for most, if not all, of the costs identified above, through Budget 2024. 9(2)(f)(iv)	9(2)(f)(iv) The Ministry will need to lead the complexity of advising on and delivering a parallel model of schooling.	High - Based on budget costings.
Establishment and Authorisation Board	New boards to advise on charter school implementation (2024/25 only), and to approve applications to establish or convert charter schools and oversee other matters such as monitoring and interventions (ongoing).	9(2)(f)(iv)	High - Based on budget costings.
ERO	ERO will incur additional costs for pre-opening checks of new schools - costs for this are included in the Budget bid. ERO's will also undertake regular reviews of charter schools after opening, these costs will be met within existing funding.	9(2)(f)(iv) and evaluation (\$0.500m), assuming these are undertaken by ERO.	High - Based on budget costings.
NZQA	Operates on a cost recovery basis	9(2)(f)(iv)	High
The Teaching Council	Within the charter school model, teachers without a practising certificate can be employed under a new Limited Authority to Teach (LAT) category, with greater role flexibility. This will impact the Teaching Council as they are responsible for registering teachers.	9(2)(f)(iv)	Low - It is unclear if charter schools will employ many staff under the new LAT

³⁹ There is a proposal for a departmental agency hosted by the Ministry of Education or a business unit within the Ministry of Education to implement and operate charter schools. The form of entity is still being decided and further advice will be provided to Cabinet on this. Either option would incur additional costs.

		9(2)(f)(iv)	category. In the previous model only one school employed LATs.
Other agencies	Different government agencies such as Ministry of Health and Oranga Tamariki that interact with schools will be impacted by the changes.	9(2)(f)(iv)	Low – Further analysis needed to determine impact.
Others			
Students, whānau and Communities	Some whānau of converting schools may see the removal of elected school boards as a (non-monetary) cost. This may be balanced for some whānau by increased influence through their choice of school. Some students and their families and whānau may will be opposed of their school being converted into charters school.	Low – In most communities there will be alternative schools for students to go to. When converting the school will need to consult the community before becoming a charter school, which will reduce the risk for students and their whānau and community.	Low – we have no data on if there will be students or their whānau opposed to the idea.
Charter schools support entity	A new organisation to provide advisory support to prospective and current sponsors. Costs of leadership, administration, analysis, communication/engagement.	9(2)(f)(iv)	High - Based on budget costings.
Schools neighbouring new charter schools	Schools neighbouring new charter schools could see a reduction in their rolls. Base funding and property funding are designed to ensure that smaller State schools remain viable, but it could be more difficult to justify property investments in such schools, and very small schools could fall below a viable roll. Private schools seeing a roll reduction do not have the same level of support and, if they increase fees to cover fixed costs, their rolls could fall further.	Medium. If new charter schools are placed near existing schools, especially private schools, they could be at financial risk.	Low – we do not know where new charter schools will be placed, or how attractive they will be to students.
Total monetised costs	9(2)(f)(iv)		Medium – costings based on funding model.
Non-monetised costs	Low – The non-monetised costs on all involved parties are limited as consultation is key when becoming a charter school. The aim of the model is to increase choice for learners and whānau, meaning they can decide to go to more different schools. Schools that see the costs of being a charter school higher than the benefits do not need to become a charter school and teachers will stay on their current agreement when schools convert.		Low – Analysis is done based on 2018 model. The exact impact is unclear.
Additional benefits of the preferred option compared to taking no action			
Regulated groups			
Boards of converting State schools / Sponsors of charter schools	The model aims to increase flexibility for those who operate publicly funded schools by reducing regulatory controls. Sponsors will be permitted to operate 'for profit' or 'not for profit', but previous experience suggests most seek non-monetised, value-based benefits.	Medium – The main benefits are non-monetary including more flexibility in the way these schools choose to operate, aiming to give them the opportunity to be more innovative in the way they teach.	Medium
Teachers and other staff	The ability to teach without meeting full registration requirements; sponsors have the flexibility to give staff opportunities to earn higher rewards through good performance.	Medium – For some teachers it could beneficial as they have more choice in the type of school they teach.	Medium
Regulators			
Ministry of Education ³⁹	The Ministry has a limited role in establishing and supporting charter schools. The Authorisation Board and the charter school support agency will have roles. If a high number of schools convert it could decrease the pressure on the state school system.	Low. The Ministry will be funded to meet the financial cost of delivering charter schools. Beyond this, the main benefit the Ministry will gain is insight into alternative ways of resourcing and otherwise supporting schooling. Some of these lessons learned may be used in the State schooling system.	Medium
Other agencies	Assumed funding equal to the budgeted costs identified above, through Budget 2024.	Low - possible lessons learned from alternative models of schooling.	High – Based on costings
Others			
Students, whānau and communities	The primary benefit sought from this change is an improvement in the efficiency and effectiveness of schooling, delivering better educational outcomes, which in turn should deliver better post-school outcomes – such as higher employment rates, income levels, and social capital. There is also a possibility that it will be easier to open new Māori medium and Kura Kaupapa Māori schools with this model, and there is evidence of these types of schools having good outcomes for learners.	High – Evidence suggests that school choice policies can drive innovation, improve efficiencies in the system, and improve outcomes for students. International studies show that charter school models can help to improve outcomes due to it increasing learner innovation and choice for students. There is some evidence that charter schools and Māori Medium and Kaupapa Māori can improve outcomes. We estimate an indicative maximum benefit of \$1,250 per student per year in a charter school. This assumes State schools are averagely efficient and sponsors will be 10% more efficient. Long-term benefits could be greater. Both assumptions are speculative, but the estimate highlights that it will be much more difficult to achieve a net benefit from new charter schools, which have significant "per school" establishment and operating costs, than from converting schools.	Low - It is uncertain how transferable international research is and depends strongly on the implementation of the policy.
Total monetised benefits	Indicative maximum benefit of \$1,250 per student per year in a charter school		Medium.
Non-monetised benefits	High - Charter schools will increase the choice of school type and learning delivery for students and their whānau, helping more students have access to education that aligns with their needs and beliefs. Evidence suggests that under the right settings, school choice policies can drive innovation, improve efficiencies in the system, and improve learner outcomes for students.		Low – Evidence is mixed if this model will achieve this.

Consultation

105. We reviewed feedback on the previous partnership school model (2014-2018) to inform our advice on reintroducing a charter schools model. This included reviewing communications, contracts, and advice available on the Ministry's 'Charter school information releases' webpage.⁴⁰ We also reviewed the close-out reports⁴¹ which were prepared by the Ministry when partnerships schools were dis-established and summarised feedback from the sector, key learnings and identified areas for improvement. We reviewed an application to the Waitangi Tribunal (WAI 2770) by Māori claimants over concerns about the impacts of disestablishment on ākonga Māori.⁴²
106. A draft of the Cabinet paper was shared with the Treasury, Department of Prime Minister and Cabinet, Te Kawa Mataaho Public Service Commission, the Ministry of Business, Innovation and Employment, Education Review Office, New Zealand Qualifications Authority, Te Puni Kōkiri, Te Ara Whiti, the Ministry of Pacific Peoples, the Ministry of Social Development, Oranga Tamariki, Statistics New Zealand Whaikaha Ministry of Disabled People, Ministry of Youth Development, Ministry of Justice, Office of the Auditor-General, and Ombudsman New Zealand.
107. The Ministry has begun initial, informal engagement with former opened and unopened charter schools, principals' groups, Māori education organisations, Pacific groups, learning support and disability groups, and education experts as it develops advice on a charter school model that works best for New Zealand. We will continue working with interested parties on the guidance and supports they will find most effective.
108. We expect high public interest in charter schools and will be working with stakeholder groups throughout the development and implementation of the model to deliver clear messages through targeted channels. There will be likely be opposition from unions to the model as the negotiation of employment conditions will be led by the sponsor. Further engagement will provide a better idea of the public opinion.

Te Tiriti o Waitangi Analysis

109. As a partner to Te Tiriti, the Crown has a duty to actively promote and protect Tiriti rights and interests and to develop education settings in a way that supports Māori-Crown relationships. This duty is recognised in section 4(d) of the Act which records one of the education system's purposes as being "to establish and regulate an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships". Te Tiriti analysis supports the Crown to uphold our obligations to Māori by actively considering how a charter school model might impact Māori.

Summary of analysis

110. The State schooling system was designed using Western understandings of education. Although there have been incremental shifts in Māori succeeding in education, significant equitable education outcome gaps still exist between Māori and the total population. In response to this, the Waitangi Tribunal has recently commenced 'The Education Services and Outcomes Kaupapa Inquiry' (Wai 3310).
111. Charter schools have the potential to provide excellent outcomes for ākonga Māori. The flexibilities and enabling governance structure of this model could provide Māori with more agency and authority in the delivery of this type of provision. However, charter schools could also reinforce existing inequities experienced by ākonga Māori.

⁴⁰ [Charter school information releases](#)

⁴¹ [Charter school information releases – Close out reports](#)

⁴² Waitangi Tribunal decision [Wai 2770](#)

112. The interests of Māori are considered specifically in the following areas within the model:

- in appointing the members of the Authorisation Board, the Minister responsible for charter schools must have regard to the collective skills, experience and knowledge needed for the Authorisation Board, including the ability to engage with a range of stakeholders in the community, including Māori and Pasifika.
- an adjusted process for the conversion of any Kura Kaupapa Māori, Ngā Kura ā Iwi, and Kura Motuhake will be needed. The Ministry will need to work with Te Rūnanga Nui o ngā Kura Kaupapa Māori o Aotearoa and Ngā Kura ā Iwi, and with unaffiliated kura as relevant, around their priorities for their specific networks.
- the Minister of Education would be able to direct a State school to enter into the conversion process according to Government priorities or based on State school performance. However, this process would exclude Kura Kaupapa Māori, and designated character schools including Ngā Kura ā Iwi, and other Kaupapa Māori and Māori Medium provision due to their distinct settings.
- the duty of the sponsor to have regard to any statement of NELP issued by the Minister when operating the school and developing and delivering the curriculum. The current NELP encourages all places of learning to incorporate te reo Māori and tikanga Māori into everyday activities.
- the additional funding for charter schools providing Māori Medium and Kura Kaupapa Māori delivery is broadly equivalent to the State school resourcing.

113. However, in areas where there is no specific consideration of Māori interests, section 4(d) will apply and a decision maker under the Act, including in the exercise of statutory powers relating to charter schools, would be assessed by the courts by reference to section 4(d). It is unclear how section 4(d) will apply, potentially creating uncertainty and inconsistency relating to how charter schools and relevant decision makers give effect to Te Tiriti. This creates risk for where a school's leadership lacks the skills needed to address Māori concerns and inequities.

114. To further clarify how Te Tiriti would apply to charter schools in a practical way, other specific provisions in the legislation could have strengthened the policy, such as:

- requiring the Authorisation Board to consider how a conversion would affect the interests of Māori students at the existing State school;
- requiring the Authorisation Board and the applicant to consult with affected ākonga Māori and their whānau, hapū and iwi when a State school applies to convert and there are Māori interests in the conversion; and
- requiring the Authorisation Board and agency to consider wellbeing impacts and higher learning outcomes for ākonga Māori and their whānau as part of the performance management system for charter schools.

Note, the first two points above are currently included in legislation but are recommended to be strengthened by adding specificity in the consideration given to Māori interests.

115. To understand how this model could better serve Māori and give effect to Te Tiriti, there needs to be extensive and meaningful Crown engagement with Māori. In the absence of this, we have informed our analysis on themes from what Māori have told us in the past, including from the previous charter school model and Kōrero Mātauranga.

116. A detailed Te Tiriti analysis is provided in the table below. Our approach builds on guidance produced by Te Arawhiti⁴³ in conjunction with the Cabinet Office Circular CO(19)5. While the courts and previous Government guidance has developed and focussed on the principles of Te Tiriti, this analysis takes the texts of Te Tiriti as its focus.

⁴³ Te Arawhiti. (2022). Providing for the Treaty of Waitangi in legislation and supporting policy design –questions for policy-makers.

Te Tiriti o Waitangi Analysis

Key: Each option is ranked based on the following criteria.	Poor	Limited	Fair	Excellent
	<p>Little or no consideration of the article, principle, or outcome domain.</p> <p>Little or no evidence can be provided to answer questions.</p> <p>Significantly more consideration of the article, principle, or outcome domain is needed.</p>	<p>Limited consideration of the article, principle, or outcome domain.</p> <p>Limited evidence can be provided to answer questions.</p> <p>More consideration of the article, principle or outcome domain is needed.</p>	<p>A fair amount of consideration of the article, principle, or outcome domain.</p> <p>Sufficient evidence can be provided to answer questions but there are gaps.</p> <p>More could be done to ensure consideration is excellent.</p>	<p>In depth consideration of the article, principle, or outcome domain.</p> <p>Sufficient evidence is provided to answer all questions with no gaps.</p> <p>Still potential for more development.</p>
	Preamble	Article 1: Kāwanatanga	Article 2: Tino Rangatiratanga	Article 3: Ōritetanga
Interpretation	The Preamble sets out the purpose of the Treaty: to protect Māori rights and taonga, keep peace and order, and establish government.	The Crown has the right to govern (kāwanatanga). Good governance must protect Māori interests and ensure equitable Māori engagement and/or leadership in priorities and decisions.	Provides Māori with tino rangatiratanga or absolute sovereignty over all their whenua, kāinga and taonga.	Promises to Māori the benefits of royal protection and full citizenship. This text emphasises the rights of Māori to live as Māori in a manner consistent with whānau, hapū and/or iwi values and traditions.
Options analysis one: Increasing flexibility, innovation, and choice				
Option 1: ⁴⁴ Status quo - Rely on the existing flexibility, innovation, and choice in the current State schooling system.	<p>FAIR</p> <p>Fair because Te Tiriti provisions and obligations are included throughout the Act that regulates the education system, however, Māori have not been co-designers of the public education system.</p> <p><i>Purpose of the Act section 4(d)</i></p> <p>Section 4(d) of the Act states one of the purposes of the Act is to establish an education system that honours Te Tiriti and supports Māori-Crown relationships. This recognises the importance of Te Tiriti and sets out the Crown's commitment. It provides transparency and greater clarity on the functions, duties and powers of organisations and officers in relation to Te Tiriti. Section 9 sets out the main provisions of the Act that recognise and respect the Crown's responsibility to give effect to Te Tiriti.</p> <p><i>School board Te Tiriti obligations</i></p> <p>Section 127(d) of the Act provides, that one of the primary objectives for school boards is to give effect to Te Tiriti by:</p> <ul style="list-style-type: none"> working to ensure their plans, policies and local curriculum reflect local tikanga Māori, mātauranga Māori and te ao Māori taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori and achieving equitable outcomes for ākonga Māori. <p>Specifying Te Tiriti obligations for boards strengthens and clarifies board obligations and reflects Te Tiriti as central. However, there is limited oversight over how school boards meet these obligations in schools' day to day.</p>	<p>FAIR</p> <p>Fair because Māori interests are considered in education policy and legislation. The Ministry engages with Māori peak bodies and independent boards with Māori leadership who help protect these interests. However, Māori are still required to operate under a governance structure that was determined by the Crown. There is also limited evidence in relation to how school boards give effect to this obligation in schools' day to day activities/operations.</p> <p><i>Ka Hikitia and Tau Mai Te Reo</i></p> <p>Ka Hikitia demonstrates good governance for schools by setting out how education agencies will work with education services to achieve system shifts in education and support ākonga Māori and their whānau, hapū and iwi to achieve excellent and equitable outcomes and provides an organising framework for the actions the Ministry will take. Tau Mai te Reo does this by setting out a framework for coordinating our programmes and services that support Māori language in Māori medium and English medium education.</p> <p><i>Planning and Reporting Regulations</i></p> <p>The Education (School Planning and Reporting) Regulations 2023 take into consideration the specific settings of kura boards that currently report on their school's performance using targets and measures relevant to Te Aho Matua and local tikanga. This supports good governance by providing whānau and communities with reporting information that is relevant to their kura.</p>	<p>LIMITED</p> <p>Limited because the Crown has ultimate agency and authority over the system which Māori must operate under. However, under our democratic system, the Crown works with Māori in partnership on aspects of governance, design, delivery, and monitoring of the provision of compulsory education. There is also limited evidence in relation to how school boards give effect to this in schools' day to day activities/operations.</p> <p><i>Protection of taonga</i></p> <p>The requirement for school boards to take all reasonable steps to provide instruction in te reo Māori and tikanga Māori is intended to give effect to the Crown's duty of active protection of taonga.</p> <p><i>Treaty of Waitangi curriculum principle</i></p> <p>One of eight principles in The New Zealand Curriculum that provide a foundation for schools' decision making. This calls for schools and teachers to deliver a curriculum that acknowledges Te Tiriti principles and our nation's bicultural foundations which will enables students to acquire knowledge of te reo Māori and tikanga Māori.</p> <p><i>Kaupapa Māori and Māori medium</i></p> <p>Kura Kaupapa Māori are designated State schools where the teaching is in te reo Māori and is based on Māori culture and values. These schools are under the umbrella of Te Aho Mātua and follow the curriculum for Māori-medium teaching, learning and assessment, Te Marautanga o Aotearoa. There are also designated character schools that have Māori character. Some fall under the umbrella of Ngā Kura ā Iwi, others are hapū and iwi affiliated kura</p>	<p>LIMITED</p> <p>Limited because there are persistent inequities in education outcomes for ākonga Māori in English medium settings.</p> <p>There is limited evidence available on how English medium schools give effect to ōritetanga at an individual school level.</p> <p><i>Kaupapa Māori and Māori medium pathways</i></p> <p>Ākonga Māori achieve better wellbeing and learning outcomes in kaupapa Māori and Māori medium education settings compared to their peers in English medium settings.</p> <p>A work programme to grow pathways is being developed in conjunction with an independent Māori Education Oversight Group, Te Pae Roa. It aims for a target of 30 percent of ākonga Māori participating in Māori medium and kaupapa Māori schools and early learning services by 2040, and to grow the kaupapa Māori workforce. This will reconnect more Māori tamariki with their language and culture.</p> <p>However, more work is required to improve equity of outcomes for the 88% of ākonga Māori in English medium settings. Sustained effort is also required on behalf of the Crown to address the issues raised in WAI 1718 about resourcing of Kura Kaupapa Māori and recognition of agency.</p>

⁴⁴ While an analysis of the status quo is provided, it is important to note the devolved nature of the New Zealand education system. This means that there is little evidence on how individual schools may be giving effect to their obligations under Te Tiriti, specifically in English medium schools. It also means there is likely significant variation in approaches that are taken.

	<p><i>National Education and Learning Priorities</i></p> <p>Section 5 of the Act provides that any NELP Statement issued by the Minister must be consistent with objectives for education and learning that include instilling in each child and young person an appreciation of the importance of Te Tiriti and te reo Māori.</p>	<p><i>Boards must give effect to Te Tiriti</i></p> <p>Demonstrates good governance as boards are required to ensure their plans, policies and local curriculum reflect local tikanga Māori, mātauranga Māori and te ao Māori, as well as offer instruction available in tikanga Māori and te reo Māori. This helps to protect Māori interests.</p>	<p>However, these kura are all classified as State schools. This limits the level of agency and authority over their governance structure because they are subject to board requirements which may align with their preferred governance approach.</p>	
<p>Option 2: Enable more flexibility, innovation, and choice in the current State schooling system for all schools.</p>	<p>FAIR</p> <p>Fair because this option could enable kura associated with Te Rūnanga Nui and Ngā Kura ā Iwi, and of other hapū and iwi to develop their own governance structures.</p> <p>Te Tiriti provisions and obligations in the Act that regulates the education system will stay in place, however, the system itself has not been designed and led by Māori.</p>	<p>FAIR</p> <p>Fair because kura could be given flexibility to develop their own governance structures whilst still receiving same supports offered by the State system. However, there is more to be done to ensure excellent governance, such as ensuring consistent meaningful engagement with Māori to ensure their rights and interests are reflected in all policy development and plans.</p>	<p>FAIR</p> <p>Fair because kura could be given flexibility to develop their own governance structures whilst still receiving same supports offered by the State system. This could enable kura to have more agency over their governance. Not rated excellent as the Crown has ultimate agency and authority over the State schooling system which kura operate under.</p>	<p>LIMITED</p> <p>Could improve outcomes for ākonga Māori by supporting growth of kaupapa Māori and Māori medium education pathways which we know do better for ākonga Māori. However, the impact on ākonga Māori in English medium settings is limited and would depend on the leadership of a school and decisions on how they use their increased flexibility in funding and use of LATs.</p>
<p>Option 3: Create a high amount of flexibility, innovation, and choice for a specific group of schools (i.e. charter school model).</p>	<p>FAIR</p> <p>Fair as section 4(d) of the Act would still apply to charter schools. The Ministry suggests additional specific provisions and guidance relating to how charter schools will give better effect to Te Tiriti. There is likely to be uncertainty and inconsistency relating to how charter schools and relevant decision makers give effect to Te Tiriti.</p> <p>The extent to which charter schools give effect to Te Tiriti will be dependent on the school sponsors' understanding of their Tiriti obligations, unless and until challenged in the courts. This is unlikely to negatively impact ākonga Māori in kaupapa Māori settings as these kura already operate in a te ao Māori context. However, we cannot ensure this will not negatively impact ākonga Māori who are in English medium charter schools.</p> <p><i>Te Tiriti provisions in Act apply</i></p> <p>How the Crown's Te Tiriti obligations apply to charter schools would be clearer if there were more specific and directive provisions. In the absence of specific and directive provisions, section 4(d) will apply, including in the exercise of statutory powers relating to charter schools. However, section 4(d) is more general so it is not clear exactly how it will apply.</p>	<p>LIMITED</p> <p>Limited because although section 4(d) of the Act applies to charter schools, the framework lacks specific and actionable ways for these schools to give effect to Te Tiriti. This is different to the State schooling system, where specific provisions are provided in section 9 of the Act. There is likely to be uncertainty and inconsistency relating to how charter schools and relevant decision makers give effect to Te Tiriti.</p> <p>The extent to which schools give effect to Te Tiriti will be dependent on the school sponsors' understanding of their Tiriti obligations (unless and until challenged in the courts). This is unlikely to negatively impact ākonga Māori in kaupapa Māori settings as these schools already operate in a te ao Māori context. However, we cannot ensure this will not impact ākonga Māori who are in English medium charter schools.</p> <p><i>An enabling governance framework</i></p> <p>A charter school model could enable good governance and protect Māori education interests by enabling Māori to determine their own governance arrangements.</p> <p>The realisation of these benefits for ākonga Māori is dependent on if a charter school has strong Māori leadership or commitment to representing Māori interests (for example, through relationships with local iwi and hapū, or through Māori representation in decision making).</p> <p>There is a risk that Māori are not involved in the governance structure if the sponsor does not deem it to be important.</p>	<p>FAIR</p> <p>Fair because kura are given flexibility to develop their own governance structures whilst still receiving the same supports offered by the State system. This enables kura to have more agency over their governance. This increases agency to Māori within kura. However, sponsors of schools and kura are still accountable to the Crown which limits total agency.</p> <p><i>Increased flexibility</i></p> <p>The flexibility of the charter school model could support increased agency and authority of schools to operate in ways that are meaningful to whānau, hapū and iwi.</p> <p>However, it could be further strengthened by further Te Tiriti provisions in the Act. Currently, there will be no formal requirement to ensure charter schools' plans, policies and local curriculum reflect local tikanga Māori, mātauranga Māori and te ao Māori, as well as offer instruction available in tikanga Māori and te reo Māori.</p> <p>The realisation of these benefits for ākonga Māori is dependent on if a charter school has strong Māori leadership skills or commitment to representing Māori interests.</p> <p><i>Support entity</i></p> <p>There would be a support entity established to support applicants through the process and provide ongoing governance and establishment support. This will help ensure sponsors have the support they need to make use of the increased agency.</p>	<p>LIMITED</p> <p>Limited because the ability for the choice and flexibilities offered by this model to address inequities for Māori is dependent on the priorities of the sponsor.</p> <p><i>Improved learning pathways for ākonga Māori</i></p> <p>The proposed legislative changes support more pathways for students and whānau to access schools with the freedom to adopt a kaupapa Māori approach to teaching and learning practices. These practices could strengthen a sense of identity and culture for students at charter schools. This could lead to associated wellbeing impacts and higher learning outcomes for ākonga Māori. It could also lead to a growth in te reo Māori and mātauranga Māori. However, this is dependent on if a charter school has strong Māori leadership or commitment to representing Māori interests (for example, through relationships with local iwi and hapū, or through Māori representation in decision making).</p> <p><i>Broad focus could reinforce inequities</i></p> <p>Unlike the previous model, this model of charter schools does not target priority learner groups. This broad focus on lifting achievement for all students could reinforce equity issues for ākonga Māori in English medium settings.</p> <p><i>No obligation to reflect tikanga and te reo</i></p> <p>Although schools and kura could ensure charter schools' plans, policies and local curriculum reflect local tikanga Māori, mātauranga Māori and te ao Māori, as well as offer instruction available in tikanga Māori and te reo Māori, this will not be a formal requirement. This could have negative impacts on learning outcomes, particularly for ākonga Māori in English medium charter schools.</p>

Options analysis two: Pathways to become a charter school				
	Preamble	Article 1: Kāwanatanga	Article 2: Tino Rangatiratanga	Article 3: Ōritetanga
Option 3(a): new charter schools and kura only	FAIR	LIMITED	LIMITED	LIMITED
	The pathways to become a charter school do not impact the fair rating for option 3 above.	If the charter school model is limited to new schools only, this would limit access to the flexible governance arrangements offered in a charter school model. It would also result in different regulatory settings for groups of kura operating under Te Aho Matua or Ngā Kura ā Iwi. However, this option protects against potential risks associated with conversion such as loss of representation and lack of input into governance structures.	Option 3(a) limits access for existing kura to the increased flexibility and agency of a charter school model. However, this option protects against potential risks associated with conversion such as loss of representation and lack of input into governance structures.	The pathways to become a charter school do not impact the limited rating for option 3 above.
Option 3(b): both new charter schools and converted charter schools	FAIR	LIMITED	FAIR	LIMITED
	The pathways to become a charter school do not impact the fair rating for option 3 above.	Although allowing schools to convert would provide access to all schools and kura, there are other kāwanatanga considerations that mean option 3(b) is limited. Currently, schools with rumaki reo rua share the same governance. If a school choose to convert, the rumaki reo rua would also have to convert. The board would need to consult prior to conversion. However, the converted school can ultimately determine their own governance arrangements. Without specific Te Tiriti provisions and guidance, this could negatively impact Māori if they are not mutually agreed on. There is risk in losing community representation and Māori voice from converting schools who already have representation.	Option 3(b) allows all schools and kura to access the increased flexibility and agency of a charter school model. But there are risks associated with conversion if there are no specific Te Tiriti provisions or guidance relating to charter schools.	The pathways to become a charter school do not impact the limited rating for option 3 above.

Section 3.0: Delivering an option

How will the new arrangements be implemented?

117. The Minister's preference to open charter schools at the beginning of 2025 has informed the implementation approach of 'scaling up' over time. 9(2)(f)(iv)
118. An Establishment Board will initially provide advice to the Associate Minister of Education (Partnership Schools) and the Minister of Education on the development and implementation of the model. Once the Bill is introduced, an Authorisation Board will be established to make key decisions on approving new charter schools and provide oversight and strategic advice to both Ministers on the charter school model.
119. The application process for new charter schools will start after the Bill is introduced. This will involve a communications strategy to inform interested parties of the process for applying. This will need to occur around July 2024 to allow sufficient time for the application and approval process and for new schools to prepare to open.
120. Once the first round of sponsors is selected, the focus will shift to working with those sponsors on establishment and preparation for opening. Operational policy, procedures, business processes and guidance targeted at specific audiences will all be developed to support implementation for this first round and ongoing, working with ERO and the relevant stakeholders as needed.
121. Implementation will be supported by strong communications and engagement activities with communities, the sector, iwi, hapū, Pacific stakeholders, disability advocates and peak bodies. Engagement will also include other education organisations, to ensure they are able to adapt their policies and procedures for services delivered to schools.
122. The performance management framework and other obligations both in the legislation and contracts will apply to new charter schools once they are open with new schools having a year to meet contractual requirements for performance. There will be a transition process for converting schools. This will be outlined in the legislation and detailed in contracts. To minimise disruption for students, families/whānau, and school staff, implementation activities will be tied as far as possible to the existing school calendar.

Milestone/Activity	Timeframe (estimated)
Establishment Group starts	April 2024 until when the Authorisation Board is established
Bill introduced	June/July 2024
Authorisation Board starts (as an advisory body only)	After the Bill is introduced
Application and approval process for first round of new and converting charter schools	July until about October 2024
Bill passed	Mid to late September

Authorisation Board changes to become a statutory board with full responsibilities as stated in the Act	When the Bill is passed
Contracts negotiated with successful applicants	October 2024
Successful applicants prepare to open schools and transition measures are put in place	October 2024 to January 2025
New and converting charter schools open	From January 2025

123. A budget bid has been developed to fund the implementation of the charter school model. It includes funding for the establishment of new schools and funding for departmental and other delivery costs.

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

124. Sponsors will be held accountable through the performance management framework, which is supported by an intervention framework. These are detailed in section 2 above.

Ongoing ERO review

125. Under the proposed model of charter schools, ERO's power under the Act would enable them to provide external review of charter schools as needed and report back to the Authorisation Board and Ministers.
126. ERO proposes a bespoke approach to reviews of charter schools to complement information gathered as part of the contract performance management.
- ERO will be required to check new charter schools before they open to ensure the school has: an adequate child protection policy
 - policies, procedures, and planning that are sufficiently established to ensure the health and safety of staff and students undertaken a safety check on staff who will have regular contact with students

Evaluation of the model

127. A detailed evaluation will be developed in the upcoming year. Funding for this evaluation is being sought through the budget process. An evaluation process will start with reviewing the process of choosing and establishing charter schools, looking to see how these can be improved.
128. As the model matures, the number of charter schools will increase which will create more opportunities for feedback and insights, which can be used to adapt the model over time to better meet the needs of different communities and their specific educational needs. There will be ongoing engagement activities with various stakeholders to hear their views on the current model.
129. The impact of the charter school model on learner outcomes will be evaluated after several years of having the model in place. External evaluation of the current model could also be completed after an appropriate bedding in period.