



**Water Services
Legislation Bill –
Report to the Department of
Internal Affairs
February 2023**

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Purpose

This report summarises the analysis undertaken by Te Waihangā of the Water Services Legislation Bill.

The purpose of the report is to inform the next steps of water services policy and legislation development. Te Waihangā has looked at the Bill in terms of how it will facilitate the improved provision of water services and infrastructure and has focussed on some key points summarised below.

Summary

There is compelling evidence that New Zealand's water services are under-performing. Te Waihangā agrees that reform is necessary to enhance the performance of the three waters sector.

Overall, the Water Services Legislation Bill (the Bill) makes a positive contribution to implementing the reforms. However, we believe there are key aspects of the Bill that merit further consideration. Many of these suggestions arise from reviews we commissioned of international experiences with water markets, which are summarised in the main body of this report.

Delay the transfer of stormwater assets

The most important issue relates to whether it is wise to proceed with transferring stormwater assets to water services entities in the same timeframe as water and wastewater. There are significant interdependencies with roading, parks and other council assets that need to be properly addressed to achieve beneficial outcomes.

We recommend that the transition date for stormwater assets be deferred to beyond 1 July 2024, with the Bill amended to facilitate transitional service agreements between local councils and water services entities, where necessary.

Adopt more flexible pricing and charging provisions

Adopting as far as possible an enabling approach, rather than prescription, is key to lifting infrastructure productivity, reducing costs and improving the overall performance of the water sector. An enabling approach to the charging provisions in the Bill is essential. To that end we recommend that eleven highly prescriptive charging-related sections be deleted from the Bill. We also recommend specific amendments if these sections are retained.

Greater flexibility is particularly important to enable WSE's the ability to trial innovative and targeted programmes. In our view, there is no reason to adopt legislative provisions precluding water services entities using the best methods for the circumstances, provided appropriate checks and balances are in place.

We recommend allowing water services entities greater flexibility in setting Stormwater charges, including allowing them to charge councils rather than property owners. Although councils will on-charge to ratepayers, charging councils has a number of potential benefits, including incentivising them to manage their activities to reduce costs whilst also adhering to the Value for Money provisions of s.17A of the Local Government Act 2002.

Charges on unconnected parties need to be subject to suitable oversight

The Bill enables water services entities to levy charges on the owners of properties unconnected to water and wastewater networks provided the properties are within 100 metres of the network, the

network has sufficient capacity to service the property and the property could be connected to the network.

There are pros and cons for charging unconnected parties. Charging unconnected parties can increase the efficiency of the price signals for consumer's deciding whether to install a stand-alone water system rather than connect to the water network. However, these charges may also reduce incentives for network providers to minimise their costs (to keep their fees lower to attract consumers to connect to the network). They may also reduce the size of the market for the providers of stand-alone water facilities, reducing their ability to minimise costs and their incentives to innovate.

Overall, it is not clear the pros outweigh the cons under current arrangements. The impact on the performance of water services entities is also unclear as it depends on the objectives their boards and management pursue and the approach the Commerce Commission takes to incentivising performance.

Given these uncertainties, we recommend the water services entities that wish to charge unconnected parties are only allowed to do so if they have (a) an independent assessment undertaken by a suitably qualified party showing the charges promote efficiency and (b) the quality and reasonableness of that assessment is endorsed by the Commerce Commission. In our view, the Commission should be empowered to undertake the role in (b) prior to the introduction of price-quality regulation, which may not occur until 1 July 2030.

Other issues of particular concern

Other issues of particular concern include the ability of water services entities to geographically average prices for all consumers. In our view, geographic averaging should not be available to water services entities, but if it is to be made available it should be restricted to residential consumers or to consumers using water below a threshold level.

We note the Bill restricts the scope of any Government Policy Statement on geographic averaging to residential consumers, and recommend a similar restriction be placed on the price averaging decisions to be made by water services entities.

We are also concerned the Bill effectively grants water services entities unilateral power to change the prices and charging provisions of existing contracts. Great care is needed to distinguish 'sweetheart deals' from efficient price discrimination, and so there needs to be a suitable independent party to arbitrate when the water provider and consumer are unable to agree on new pricing and contract arrangements.

Finally, Part 13 of the Bill requires the Minister in charge of administering the Water Services Entities Act 2022 to commission an interim review after five years and a comprehensive review after nine years. We recommend both reviews include a robust and appropriately independent assessment of whether the goals of the reform are being achieved, having appropriate regard for the stage of the reforms.

Schedule of recommendations

Recommendation 1: To avoid prescriptive pricing approaches and provide flexibility for water services entities to adapt their charging approaches over time, delete sections:

- 321 Liability for water services charges in respect of property
- 329 Charging for volumetric use
- 330 Board may set certain charges
- 331 Charging principles
- 333 Chief executive of water services entity may discount charges
- 340(2) Requirements for charges for stormwater services
- 341(3) Liability for stormwater services
- 343 Basis on which water infrastructure contribution charges may be set
- 344 Principles for setting water infrastructure contribution charges
- 345 Board may set lower water infrastructure contribution charges in certain circumstances
- 475 Regulations: volumetric charging.

Recommendation 2: If s. 321 is not deleted it should be amended to allow water services entities to adopt alternative liability arrangements if approved by the Commerce Commission.

Recommendation 3: If s. 331 is not deleted it should either be amended by replacing subsection (1)(a) with "(1)(a) charges should promote efficiency" or new subsections should be inserted in s.331 to make it clear water services entities can, by agreement with consumers, charge time-of-use prices and charge prices above cost to ration demand during drought or other high demand / constrained availability periods, provided consumers also have the option of choosing standard contracts.

Recommendation 4: If s. 475 is not deleted it should be amended to add a requirement that the objective(s) of any regulations relating to volumetric charging are clearly stated and that an assessment is made to ensure that no other options would more effectively achieve the objective(s).

Recommendation 5: Amend section 340 by inserting "(3) Notwithstanding the requirements in subsection (2), the Board of a water services entity can adopt alternative approaches to charging for stormwater services provided–

- (a) it has a methodology documenting why and how it wishes to adopt alternative approaches to charging stormwater fees; and
- (b) an independent assessment of the methodology in subsection (a) has been undertaken by a suitably qualified party showing the alternative approaches are likely to be consistent with promoting efficiency; and
- (c) the Commerce Commission has affirmed the independent assessment in subsection (b) suitably considers all arguments, facts and evidence and makes reasonable conclusions based on that analysis; and
- (d) the Commerce Commission has affirmed the alternative approaches to charging for stormwater do not materially inhibit the effectiveness of the Commission's regulation of the water services entity."

Recommendation 6: Amend s. 341 by inserting "(2) Notwithstanding the requirements in subsection (1), the Board of a water services entity can adopt alternative liability arrangements for stormwater services provided–

- (a) it has a methodology documenting why and how it wishes to charge stormwater fees on non-property owners; and
- (b) an independent assessment of the methodology in subsection (a) has been undertaken by a suitably qualified party showing the alternative liability arrangements are likely to be consistent with promoting efficiency; and
- (c) the Commerce Commission has affirmed the independent assessment in subsection (b) suitably considers all arguments, facts and evidence and makes reasonable conclusions based on that analysis; and
- (d) the Commerce Commission has affirmed the alternative approaches to charging for stormwater do not materially inhibit the effectiveness of the Commission's regulation of the water services entity."

Recommendation 7: The transition date for stormwater assets be deferred to beyond 1 July 2024, with the Bill amended to facilitate transitional service agreements between local councils and water services entities, where necessary. Integrating stormwater with resource management reforms will assist the delivery of optimal social, cultural, ecological and economic benefits than transference of any stormwater-related assets.

Recommendation 8: Amend section 339 by inserting "(5) Subsections (2) and (3) only apply if–

- (a) the water services entity has a methodology documenting how and why it wishes to charge persons owning property not connected to the water services entity's water supply or wastewater network; and
- (b) the water services entity has obtained an independent assessment by a suitably qualified party showing the methodology for charging unconnected properties is consistent with promoting efficiency; and
- (c) the Commerce Commission has affirmed the independent assessment has suitably considered all arguments, facts and evidence and makes reasonable conclusions based on that analysis; and
- (d) the Commerce Commission has affirmed that charging unconnected properties in accordance with the methodology will not materially inhibit the effectiveness of the Commission's regulation of the water services entity."

Recommendation 9: Consider adding provision for a regulation under s474 which would require private property owners to monitor and maintain private laterals.

Recommendation 10: If geographic averaging is to be retained, amend section 334 to prohibit geographic averaging for non-residential consumers or for consumers using water above a threshold level. For example, section 334(1)(a) could be amended by inserting after "prices" the words "to residential consumers" and deleting "for the water services" and in section 334(1)(b) deleting "and different classes of consumers".

Recommendation 11: Amend section 335(3) by replacing "the contract expires" with "a mutually-agreed independent arbitrator must be appointed to determine whether the proposed prices and charges are consistent with promoting efficiency".

[Recommendation 12](#): Amend section 335 to provide for the cancellation of pricing and charging agreements where these have been notated on property titles.

[Recommendation 13](#): Amend sections 455 and 456 to require a robust and appropriately independent assessment of whether the goals of the reform are being achieved, having appropriate regard for the stage of the reforms.

1. Introduction

Although some councils have in recent years taken the tough decisions to improve their performance, there is compelling evidence that many others are under-performing. Te Waihangā agrees that reform is necessary to enhance the performance of three waters services.

The stated purpose of the government's reform programme is to **improve the safety, quality, resilience, accessibility, and performance of the three waters services**. We support all aspects of this purpose, however our report focuses on matters directly related to infrastructure and efficiency.

Te Waihangā was established in 2019, with a requirement to develop and publish a 30-year infrastructure strategy for New Zealand. This was achieved with the publication of Rautaki Hanganga o Aotearoa – the New Zealand Infrastructure Strategy (the Strategy). The Strategy was tabled in Parliament on 2 May 2022 and the Government expects it to inform policy initiatives across all infrastructure sectors, including in the three waters sector. The following box highlights provisions in the Strategy which relate specifically to the water sector.

Rautaki Hanganga o Aotearoa – the New Zealand Infrastructure Strategy

Specific provisions relating to New Zealand's water infrastructure include:

Good incentives are needed to provide quality water infrastructure at an affordable cost (p.84).

Water and wastewater metering and water conservation can reduce water use and wastage (p. 84).

Improve water infrastructure pricing and provision in cities (Rec 12).

Reduce pressure on water infrastructure through better water management and conservation (Rec 13)

The Strategy emphasises the critical importance of improving the efficiency and productivity of our infrastructure sectors. Infrastructure projects, including those in the three waters sector, are amongst the biggest investments New Zealand can make. These high price tags mean that future generations often pay for decisions made in the past.

Adopting as far as possible an enabling approach, rather than prescription, is key to lifting infrastructure productivity, reducing costs and improving the overall performance of the water sector. An enabling approach is essential for the charging provisions in the Bill, with of course suitable oversight from the economic regulator. The freedom to set prices flexibly is key to achieving the Government's expectations for improved sector performance.

With the above framework in mind, we believe there are key aspects of the Bill that merit further consideration, particularly regarding charges on unconnected properties and whether the stormwater charging provisions, and the charging provisions in general, need to be so prescriptive. We discuss these issues after providing further context for our report, followed by other issues of particular concern to Te Waihangā.

2. Context for our report

Positive features of the reform

The Water Services Legislation Bill amends the Waters Services Entities Act 2022 to insert further detail about the functions and powers of the entities. Given the scale and complexity of the reforms, the deferral of the more technical and administrative issues to this Bill has assisted us to provide focused feedback.

Although this report recommends a less prescriptive approach to the charging provisions in the Bill, it is important to appreciate the overall positive benefits we expect to arise from establishing the four water services entities with independent revenue streams. We concur with the Productivity Commission that revenue independence is essential for establishing independent and professional governance of water providers, as it allows them to make their own investment, financing and pricing decisions.¹

Revenue independence also makes it feasible to adopt independent regulatory oversight of the entities' costs and charges. The absence of this oversight currently provides weak disciplines and incentives on council-led water suppliers to make timely and cost-effective investments and improve affordability by making the tough decisions needed to improve efficiency over time. We believe Commerce Commission scrutiny of these matters will be highly beneficial, once fully implemented.

The Bill allows water metering and volumetric charging, which need to be adopted as soon as possible by all four entities. These arrangements are already in place in Auckland, Tauranga, the Kapiti Coast and many other districts. The evidence suggests these arrangements result in significantly lower water losses, significantly reduced peak water usage and more timely investment decisions. The end results are lower costs and better environmental outcomes.

Finally, we expect the aggregation of local water providers into the water services entities should facilitate the development of the capacity and expertise needed for operating more strategically and innovatively. This expectation is based on a 2017 report by Castalia, for the Department of Internal Affairs, which stated:

"We found two examples of large, urban service providers with disparate AM [asset management] systems, practices and processes [that] have been brought together and standardised. This has created economies of scale and improvements in analysis, data collection, and procurement.

Small service providers typically have one or two individuals responsible for multiple asset classes, whereas larger organisations have teams of up to 400 individuals. This allows people to focus on niche areas and tasks, allowing for deeper analysis and a more thorough understanding of the asset base. It also allows larger service providers to 'look above the day-to-day firefighting' by hiring individuals to consider long-term strategy, the potential roles of new technologies, and advancing innovative practices."²

We would also expect aggregation to improve the effectiveness of rigorous oversight from Taumata Arowai and the Commerce Commission.

International trends and experience

It is important to understand international trends and experiences to inform New Zealand's regulatory arrangements for the sector. The emergence of water retail markets and contestability initiatives, discussed below, have relevance to New Zealand's reform agenda.

¹ Productivity Commission. 2019. *Local Government Funding and Financing: Final Report*. p294. Available at https://www.productivity.govt.nz/assets/Documents/a40d80048d/Final-report_Local-government-funding-and-financing.pdf.

² Castalia. 2017. *Three Waters Asset Management Maturity in New Zealand*. Report to Department of Internal Affairs. piii. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-documents/\\$file/Castalia-ThreeWaters-Asset-Management-Maturity-in-NZ-\(final-report\)-Oct-2017.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-documents/$file/Castalia-ThreeWaters-Asset-Management-Maturity-in-NZ-(final-report)-Oct-2017.pdf)

The wholesale segment of the water industry accounts for about 90% of the final water bill in England, and so in that respect contestability in the wholesale market may be more important than introducing retail water markets. However, retailer choice may assist with creating pressure for wholesale market innovation.

- **Retail water markets**

Retail water markets work in a similar way to retail markets for gas and electricity. Consumers choose which retailer to buy services from, and can switch at any time, for any reason and without penalty (unless they have agreed a fixed term contract). A market code and market operator are needed to coordinate consumer switching and ensure other processes run smoothly. A market regulator is needed to enforce and evolve the code.

At this stage, only Scotland and England have introduced competitive retail water markets, and *only for business consumers*. We engaged Capital Strategic Advisors Limited (CSA) to investigate the applicability of retail water markets to the New Zealand context and prepare a brief report.³

The key findings from CSA's report include:

- Retail water markets could be adopted in New Zealand once the initial phase of the three water reforms have been completed. These markets work best when the retail functions of the water services entities operate at arm's length from the wholesale side of those businesses. The aggregation and corporatisation of the sector makes retail separation more feasible than under current arrangements.
- Market operators and regulators are already in place for the gas and electricity sectors and could easily be extended for the water sector.
- Introducing retailer choice for business customers could provide value for New Zealand, even though it would be a small market. The Scottish retail market is small and yet it appears to be outperforming the English market.

- **Contestability initiatives in the English wholesale water market**

The economic regulator for the English and Welsh water industries, the Office of Water (Ofwat), has been introducing competitive discipline to all aspects of the wholesale side of the industry. We engaged CSA to prepare a report summarising those initiatives and discuss whether they are beneficial for English water consumers.⁴

The monopoly entities undertaking wholesale activities are called *wholesalers* in the CSA paper. Their activities mostly involve sourcing water, treating and transporting it to consumers, removing and treating wastewater from consumer premises, and metering water volumes.

Water sourcing

Ofwat has been encouraging the development of a water bidding market, a bilateral market and a water trading market.

In the water bidding market, third-party providers submit bids to water wholesalers to provide solutions to help them meet their future water needs. Solutions can either be on the supply side (eg,

³ *Overview of retail water markets in the UK*, prepared by Capital Strategic Advisors Limited for Te Waihangā, 15 July 2022. Available at <https://www.tewaihangā.govt.nz/policy/reports/>

⁴ *Overview of contestability initiatives in the English wholesale water market*, prepared by Capital Strategic Advisors Limited for Te Waihangā, 4 August 2022. Available at <https://www.tewaihangā.govt.nz/policy/reports/>

new water sources) or on the demand side (eg, water efficiency schemes to reduce the use of water). To date, not much new third-party activity has occurred since the water bidding market was initiated.

The bilateral market goes a step further than water bidding. It is where a third-party owner or operator of a water source can leapfrog over the existing wholesaler and contract directly with a business user of water or with the retailer serving business users. Both parties then seek to reach an agreement with the wholesaler for the conveyance of the water from its source to its use. This policy is not yet fully developed, and so bilateral competition has not commenced.

Water trading refers to the physical transfer of large volumes of raw or treated water from one wholesaler to another, typically through the physical interconnection of the water networks. Most water trading agreements were implemented before England's water wholesalers were privatised in 1989, and since then the volume of traded water has remained at about 4% to 5% of total volumes. The flat trading volumes have occurred despite Ofwat introducing targeted incentives in 2014 to encourage more water trading. Ofwat has committed to retaining the incentives until 2025 as it views water trading as a long-term project.

Transporting and treating water and wastewater

Ofwat is pursuing two contestability initiatives, called direct procurement for customers (DPC) and new appointments and variations (NAVs).

Wholesalers were already tendering out a lot of their construction work. DPC goes a step further than this, as it sets a process for wholesalers to competitively tender for a third party to design, build, finance, operate and maintain infrastructure. If the tender delivers better value for money when compared with the wholesaler retaining operation and maintenance responsibilities, then the monopoly wholesaler has to outsource the work as a design-build-operate contract.

NAVs arise where new water assets need to be installed in an area within a wholesaler's service area, such as where a large housing estate property is being developed. These assets are often called an embedded network, as they are embedded within a larger network.

Prior to the NAV regime, the property developer could choose an accredited party to lay their pipes etc. but if it did that it had to transfer the ownership and operation of the embedded assets to the monopoly wholesaler for the area. These transfers can be administratively costly for both parties as they involve complex issues around how to value the assets due to variations in maintenance and views about the intended useful life.

Under the NAV regime, the developer has the choice of having a new appointee undertake the installation, ownership, operation and maintenance of embedded assets. NAV numbers are growing extremely quickly, with new NAV licences last year accounting for about 20% of all new homes built last year.

Managing and disposing of wastewater sludge

Ofwat refers to a bioresources market, which relates to the transporting, treating, recycling and disposing of wastewater sludge. Ofwat believes this market is potentially significant, as sludge can be used as an agricultural or forestry fertiliser, provide methane for electricity generation, or used in producing other products.

Ofwat expects wholesalers to think about their bioresources as a separate market from their other wastewater functions of sewage collection and treatment. To encourage this approach, Ofwat has

introduced requirements for companies to separately price their bioresources and to disclose information about their commercial arrangements to improve incentives and create greater transparency.

In its 2021 market monitoring report, Ofwat stated that the trading of bioresources is very low and falling and that companies continue to report barriers to competition. Ofwat is currently considering additional initiatives to address these issues.

Should New Zealand pursue similar wholesale initiatives?

CSA states that the Ofwat initiatives are promising, but notes that only the NAV initiative appears to be bearing fruit at this stage. If New Zealand were to consider similar wholesale initiatives, it will be important to gather more evidence to form a considered view on whether to pursue them.

Ofwat emphasises the environmental benefits of these initiatives and works closely with the Environment Agency on many of them. The contestability for embedded networks is widely viewed as very positive for adapting to climate change because having them installing and operating embedded networks often leads to better approaches to managing heavy rainfall than when the monopoly water companies undertake those activities. According to Ofwat, the new parties are often more flexible than the water companies, attracting the support of Environment Agency officials.

In many respects, Ofwat has been clearing a new path, with many of its wholesale initiatives requiring significant ongoing development and refinement. In discussions with David Black, the Chief Executive of Ofwat, about the key lessons for New Zealand, he stated that:

“... the most important thing is for the New Zealand regulator to have discretion to develop fit-for-purpose pro-competition initiatives. Too little discretion makes it difficult for the regulator to implement the right kind of initiatives to promote competition and results in long delays until legislative change can be made.”⁵

We have therefore recommended that the WSL Bill provide sufficient flexibility for the Commerce Commission to adapt its regulatory approaches over time.

⁵ Op. cit., p12.

3. Flexibility is important for improving water sector performance

We submit that the charging provisions (Part 11) are far more prescriptive than necessary, especially when compared with the approach in the Water Industry Act 1991 that governs water charging in England and Wales.⁶ Under that Act, water companies can charge water users directly and the Act leaves the economic regulator with total freedom to adopt pricing principles and regulate pricing practices it believes are consistent with its statutory objective. We believe a similar approach should be adopted in the Bill.

The lack of pricing flexibility in the Bill increases the risk of unintended consequences and risks precluding innovative approaches that would better incentivise water users. This is likely to constrain water services entities and the economic regulator from adapting pricing arrangements as the entities mature and as technology evolves. This is likely to materially reduce the efficiency improvements the Government is expecting to achieve with the reforms.

Recommendation 1: To provide as much flexibility as possible for water services entities to adapt their charging approaches over time, delete sections:

- 321 Liability for water services charges in respect of property
- 329 Charging for volumetric use
- 330 Board may set certain charges
- 331 Charging principles
- 333 Chief executive of water services entity may discount charges
- 340(2) Requirements for charges for stormwater services
- 341(3) Liability for stormwater services
- 343 Basis on which water infrastructure contribution charges may be set
- 344 Principles for setting water infrastructure contribution charges
- 345 Board may set lower water infrastructure contribution charges in certain circumstances
- 475 Regulations: volumetric charging.

If specific charging provisions in the Bill are retained, many of them should be made more permissive. For example:

s.321 Liability for water services charges in respect of property

With two exceptions, section 321 requires that water services entities charge property owners rather than water consumers. The first exception is that water services entities can charge lease holders with lease agreements exceeding 10 years. The second exception relates to Maori freehold land, which is covered in section 322.

In our view it is particularly important to leave water services entities with the option of charging water users directly, as occurs in England and Wales. The presumption should be that water services entities charge water users directly where that is administratively feasible and efficient. This approach may also avoid complications in section 322 arising from charging parties owning or controlling Maori freehold land.

Our primary concern with charging property owners is that it leaves it in their hands to decide how to charge their tenants, which in many cases weakens linkages between water services entities and water consumers. As metering technology advances, water services entities will need to consider new approaches to charging consumers, especially large non-residential

⁶ The charging provisions in the Water Industry Act 1991 are at <https://www.legislation.gov.uk/ukpga/1991/56/part/V/chapter/I#commentary-c13220441>

water users. Locking-in current arrangements is unnecessary and likely to create unintended consequences.

Charging property owners may be the most practicable approach for multi-tenant properties with a single revenue-grade meter. We note a similar approach is adopted for gas and electricity services in these cases, but most single-tenant properties have revenue-grade meters and so gas and electricity suppliers charge the consumer, not the property owner.

Water consumers should be charged directly wherever this is administratively feasible as this is likely to encourage better water and wastewater decisions, for example by making sure the entity's tariff structure is not diluted or perverted by the property owner's approach to passing on charges to its tenants. This is especially the case for large business users of water and producers of wastewater. A direct billing relationship will make it easier for water services entities to adopt more sophisticated pricing and contractual approaches as they seek efficiency improvements.

As reported in our Section 2, Ofwat has been introducing initiatives to encourage third-parties, including large water users with surplus entitlements to water or with water efficiency opportunities, to submit offers to water supply companies. Ofwat is also encouraging wholesalers to adopt more sophisticated contracts with wastewater producers for bioresources. In both cases, directly contracting with large business consumers is important for facilitating these arrangements.

Moreover, directly charging residential and small business consumers will assist water services entities to establish a closer relationship with them, which is likely to prove helpful for dealing with customer enquiries and complaints and for communicating about conservation, quality and health issues.

[*Recommendation 2:*](#) If s. 321 is not deleted it should be amended to allow water services entities to adopt alternative liability arrangements if approved by the Commerce Commission.

s.331 Charging principles

Section 331 requires charges to reflect the cost-of-service provision, which appears to preclude water services entities using prices to ration demand. In severe drought situations, setting business charges above cost would be consistent with promoting resource efficiency.

We note that s.333 allows water services entities to offer discounts to any class of consumers that take measures to reduce their burden on water services, however, there are practical issues with the discount approach that can limit its applicability, making it important water services entities can use prices more generally to encourage reduced water demand, provided the consumer voluntarily agrees to such arrangements.

Many business customers, for example, may be willing to adopt contracts that subject them to higher prices during droughts in return for paying lower prices outside of drought periods. However, water services entities may be challenged by parties arguing that such charges are not consistent with charges reflecting the cost-of-service provision in (1)(a). They may also argue that such charges are not consistent with the requirement in (1)(a)(ii) as the group facing price-rationing charges will be receiving the same level and type of service as groups paying "standard" cost-reflective charges and the network's cost of providing services to the two groups is the same.

We are also concerned subsection 331(1)(a)(ii) may preclude time-of-use pricing, which is where consumers are charged different prices at different times of the day, and potentially different prices at different days of the week and different seasons, reflecting variations in the cost of pumping water, for example due to variations in costs such as wholesale electricity prices. Time-of-use pricing looks to be precluded by the combination of (ii)(A) and (B) because the levels and types of services and the entity's cost of providing services would be the same for the group of consumers that chose time-of-use pricing versus those that didn't.

[Recommendation 3:](#) If s. 331 is not deleted it should either be amended by replacing subsection (1)(a) with "(1)(a) charges should promote efficiency" or new subsections should be inserted in s.331 to make it clear water services entities can, by agreement with consumers, charge time-of-use prices and charge prices above cost to ration demand during drought or other high demand / constrained availability periods, provided consumers also have the option of choosing standard contracts.

S.475 Regulations: volumetric charging

As discussed in section 2 of this paper, it is essential water services entities have sufficient flexibility to develop a charging system appropriate to their community's needs, subject to oversight of the economic regulator. We are therefore concerned by limits to the use of volumetric charging proposed in s475. This section specifically provides an ability to prohibit or limit the use of variable volumetric charging and to set the maximum proportion of total revenues that water services entities can recover from residential customers.

Our understanding is that this section has been included due to a concern that volumetric charging may disadvantage vulnerable consumers. There are other mechanisms that can be used to provide financial relief for consumers, such as discounts targeted to vulnerable consumers.

We suggest that before regulations limiting volumetric charges are introduced, consideration should be given to (a) the objective of the regulations; (b) whether alternative options are available to achieve that objective; and (c) whether regulation is the most effective way of achieving the objective.

[Recommendation 4:](#) If s. 475 is not deleted it should be amended to add a requirement that the objective(s) of any regulations relating to volumetric charging are clearly stated and that an assessment is made to ensure that no other options would more effectively achieve the objective(s).

4. The arrangements for stormwater need careful consideration

The characteristics of stormwater services are very different from drinking water and wastewater. The primary beneficiaries of drinking water and wastewater are the users, who can be charged on the basis of their usage. A variety of pricing mechanisms can incentivise efficient resource use (such as volumetric charging to reduce demand or trade waste charges to moderate the quality of effluent), and the ownership of infrastructure is relatively easily defined.

In contrast, stormwater services are a public good, comprised of both green and grey infrastructure requiring maintenance not easily recovered via user fees. The causers of adverse stormwater impacts are often difficult to define and the downstream beneficiaries of stormwater systems are often not physically connected to reticulated stormwater networks. The success of these networks relies on assets in third party ownership, including roads as secondary flow paths, parks and reserves used for high flow detention and waterways held by a variety of owners. In the absence of a pricing system that directly connects stormwater services to their users, rates and other levies such as impervious area charges are effective and readily administered.

We engaged Sapere Research Group, an economics consulting firm, to consider the complexities with charging for stormwater services, how they are addressed in other comparable jurisdictions and present options for funding and pricing stormwater infrastructure services.⁷

Flexibility for charging stormwater fees is important (refer ss340 & 341)

Sapere's report assesses alternative pricing approaches according to efficiency, fairness, ability to provide full cost recovery, and administrative criteria (transparency, simplicity, and practicality). They find that current funding approaches in New Zealand score well on administrative criteria but provide little to no incentive for improved stormwater outcomes.

Key findings from their review of international experience include:

- The perceived fairness of stormwater charges has been a critical consideration in the design of stormwater fee structures, particularly in the United States, leading to efforts to align charges with estimates of runoff, consistent with the polluter pays principle.
- For efficiency reasons, some international jurisdictions have structured their stormwater fees to align with each property's contribution to stormwater impacts. These include measures of property area, imperviousness (at neighbourhood or property level) and other hydrological factors.
- The available international evidence suggests such fee structures have had a limited impact on behaviour and stormwater outcomes, as property owners have infrequent opportunities to make decisions that affect runoff and the variation in stormwater fees are small in comparison to the cost of new on-site stormwater infrastructure (e.g. permeable paving, rain gardens, rain tanks). Administration costs associated with measuring change are also an issue with those approaches.
- To minimise administration costs, targeted programmes such as fee credits to target specific activities funded from fees appear to be preferable.

The Sapere report reviews the potential challenges with the transition to water services entities, which arise in large part from the complexity of existing arrangements. Sapere recommends:

- Water services entities be given flexibility to choose how they set stormwater fees and incentives (including discounts or direct payments) to landowners, or other entities responsible for stormwater assets. Flexibility is important because there is not a clearly preferred pricing structure. As such, trialing innovative and targeted programmes is important.

⁷ Murray, K., Tooth, R., Ira, S., and Z. Hartmann. 2023. *Stormwater pricing study: A report for the New Zealand Infrastructure Commission/Te Waihanga – Final*. 2 February 2023. Available at <https://www.tewaihanga.govt.nz/policy/reports/>

- Although stormwater services share some connection to the other water services, the interdependencies are insufficient to require co-development with the pricing of water and wastewater services.
- Stormwater fees should not be harmonised within each water services entity. Rather they should consist of a component specific to each local council and an entity-wide component that reflects cross-entity costs. The local component is important because:
 - Urban areas require more costly grey infrastructure to manage stormwater, price harmonisation would generally lead smaller, rural areas subsidising urban centres. In this instance price harmonisation would contradict the affordability outcomes for smaller and poorer communities motivating the Government's interest in three waters reform⁸.
 - Local councils will continue to have significant influence over the costs that water services entities will incur for their council area through the specification of development standards, land-use and building consents, design and maintenance of roads and reserves etc. Charging a local component will encourage councils to work with them to achieve better outcomes.
- Water services entities should have the flexibility to charge councils rather than property owners directly for stormwater services.
 - This would simplify the transition, by enabling the water services entities to leverage the councils' billing systems, which councils need to use in any case to charge ratepayers for any residual stormwater services they provide.
 - Stormwater services are predominantly a public good and similar to other council services (such as community infrastructure) provided to ratepayers. Allowing water services entities to charge councils for stormwater services would reduce the risk water services entities are seen as imposing a tax on ratepayers.
 - Councils will continue to have significant influence/control over the water services entities costs. Although councils will on-charge to ratepayers, charging them directly should further encourage them to manage their activities to reduce costs whilst also adhering to the Value for Money provisions of s.17A of the Local Government Act 2002.
 - A concern with charging to councils is that it could undo the benefits of balance sheet separation with the WSEs. It is not clear if this is a significant concern and there appears no reason to restrict the WSEs and councils adopting alternative arrangements if they are mutually beneficial.
- The Crown and other entities should pay their way.

⁸ New Zealand Government (2022) "Transforming the System for Delivering Three Waters Services: Summary of Proposals." Te Tari Taiwhenua - Internal Affairs. p24. [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme-2022/\\$file/Three-waters-reform-case-for-change-and-summary-of-proposals-15-June-2022.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme-2022/$file/Three-waters-reform-case-for-change-and-summary-of-proposals-15-June-2022.pdf).

- Most Crown land is currently exempt from rates that are currently used to fund stormwater services (this includes land occupied by schools, universities and hospitals).
- Consistent with Productivity Commission recommendations that central government should pay rates on its properties, we consider it appropriate that the Crown and other exempt entities should contribute to stormwater development contributions and fees. This is also consistent with the Crown's obligations to safeguard safety and the public good.
- The WSEs should also have flexibility in its financial arrangements with these entities to incentivise improvements in stormwater management.

s. 340 (Requirements for charges for stormwater services) requires water services entities to apportion stormwater costs for an area based on the capital value of a property and s.341 (Liability for stormwater services) specifies property owners as liable for stormwater charges.

In our view, there is no reason to adopt legislative provisions precluding water services entities using the best methods for the circumstances, provided appropriate checks and balances are in place, such as those in Recommendations 5 and 6 below.

Flexibility is important as technology is changing rapidly, making it easier to alter stormwater charges on impervious surface areas. For example, Jacksonville, a city in Texas, has recently adopted artificial intelligence (AI) and aerial mapping technology to more accurately assess land changes to determine landowner obligations under its impervious area charge (IAC) program. The approach can accurately distinguish between more than 20 types of land cover, and it seamlessly updates the IAC fees when landowners change their properties.⁹

Recommendation 5: Amend section 340 by inserting "(3) Notwithstanding the requirements in subsection (2), the Board of a water services entity can adopt alternative approaches to charging for stormwater services provided—

- (e) it has a methodology documenting why and how it wishes to adopt alternative approaches to charging stormwater fees; and
- (f) an independent assessment of the methodology in subsection (a) has been undertaken by a suitably qualified party showing the alternative approaches are likely to be consistent with promoting efficiency; and
- (g) the Commerce Commission has affirmed the independent assessment in subsection (b) suitably considers all arguments, facts and evidence and makes reasonable conclusions based on that analysis; and
- (h) the Commerce Commission has affirmed the alternative approaches to charging for stormwater do not materially inhibit the effectiveness of the Commission's regulation of the water services entity."

⁹ Jacques, Justin. 2023. "Jacksonville Takes AI Approach to Stormwater Fee Assessment." Stormwater Report. February 1, 2023. <https://stormwater.wef.org/2023/02/jacksonville-takes-ai-approach-to-stormwater-fee-assessment/>.

Recommendation 6: Amend s. 341 by inserting “(2) Notwithstanding the requirements in subsection (1), the Board of a water services entity can adopt alternative liability arrangements for stormwater services provided–

- (e) it has a methodology documenting why and how it wishes to charge stormwater fees on non-property owners; and
- (f) an independent assessment of the methodology in subsection (a) has been undertaken by a suitably qualified party showing the alternative liability arrangements are likely to be consistent with promoting efficiency; and
- (g) the Commerce Commission has affirmed the independent assessment in subsection (b) suitably considers all arguments, facts and evidence and makes reasonable conclusions based on that analysis; and
- (h) the Commerce Commission has affirmed the alternative approaches to charging for stormwater do not materially inhibit the effectiveness of the Commission’s regulation of the water services entity.”

We have suggested corresponding amendments to the Water Services Economic Efficiency and Consumer Protection Bill to empower the Commerce Commission to undertake the above roles.

The transfer of stormwater assets should be delayed

More generally, the transfer of responsibility for three waters services is scheduled to occur on 1 July 2024. This is a very tight timeframe, with a significant amount of work required if this date is to be achieved. The Stormwater Technical Working Group (STWG) released a Transition Plan Report on 25 August 2021, highlighting the complexity of transitioning stormwater arrangements to the water services entities and sets out a range of actions required during the transition phase. The report notes that the required timeframe to transition these arrangements is 3+ years – considerably more time than will be available to the water services entities if the transition is required to be undertaken by 1 July 2024.

The STWG report provides an extensive list of further work required during the transition and implementation phases. Te Waihangā has not undertaken any analysis on whether the benefits of including stormwater in the first phase of reforms outweigh the risks, however we are concerned the 1 July 2024 operational deadline may be compromised if the special issues posed by stormwater distract the National Transition Unit’s attention from potable water and wastewater services. Similarly, if the 1 July 2024 commencement date is retained, we have concerns that the quality of decisions made will be compromised to meet the deadlines.

Recommendation 7: The transition date for stormwater assets be deferred to beyond 1 July 2024, with the Bill amended to facilitate service agreements between local councils and water services entities.

5. Charges on unconnected properties require stronger checks and balances

Section 339 enables water services entities to levy charges on the owners of properties unconnected to water and wastewater networks provided the properties are within 100 metres of the network, the network has sufficient capacity to service the property and the property could be connected to the network. The section prohibits water services entities charging unconnected Maori freehold land and non-rateable land.

There are pros and cons for charging unconnected parties

One rationale for charging unconnected parties is that water networks, in planning their spare capacity, cater for situations where unconnected parties, using their own stand-alone water supply and wastewater systems, subsequently want to connect to the network. This tends to occur when unconnected households have a septic tank failure, and they decide connecting to the wastewater system is a better option than repairing or replacing their stand-alone system. It also tends to occur when households run low on their water supply during dry periods.

Moreover, when a network is extended to undeveloped land, landowners close to the new facility benefit from any resulting appreciation in land prices. Appreciation is likely to occur if proximity to a water network is a valuable option for future potential landowners even if an existing landowner places little value on that option. Charging unconnected consumers close to a water network is consistent with the benefit-pay (or value-uplift) pricing principle for infrastructure.

Charging unconnected parties can also improve bypass efficiency. This occurs when the charges increase the efficiency of the price signals for consumer's deciding whether to connect to the water network versus installing their own stand-alone water system (effectively bypassing the network). Improving these price signals requires having network charges that encourage consumers to compare the costs of connecting to the network with the cost of a stand-alone system.

An important argument against allowing water services entities to charge unconnected parties is that it reduces the network's incentives to compete for customers potentially serviceable from their network (as they can choose to install a stand-alone system). The water services entities are monopoly-type businesses, making it potentially important to preserve at least some incentives for service innovation and performance. A related argument is that unconnected parties facilitate a broader market for suppliers of stand-alone systems, potentially increasing their incentives to innovate. In principle, these effects should improve efficiency and sector productivity.

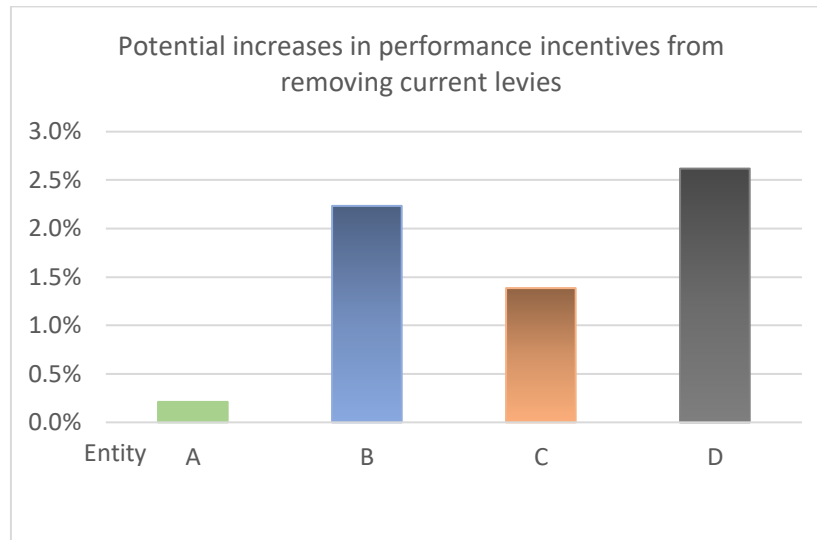
The evidence about the pros and cons is mixed

Whether these charges can be considered to improve efficiency requires a weighing of the evidence about the pros and cons and on implementation practicalities. We engaged Capital Strategic Advisors Limited (CSA) to examine what occurs currently and consider the efficiency arguments for and against such charges.

CSA notes that charges on unconnected consumers are effectively a levy, as the parties paying them do not receive a service. The key findings from the CSA report include:

- Based on data from 51 out of 67 councils, only 30 imposed levies in 2019.
- Levied households are a small proportion of total households billed (*the levy incidence*). Across the 30 councils, less than 14,000 households paid a levy in 2019.
 - This amounts to a 3.3% levy incidence, however, the incidence exceeds 10% for two councils.
 - Mapped to the four water services entities, the Southern Water Services Entity would have the highest incidence, at 1.7%.
- Wastewater levies are typically equal to 50% of household wastewater charges.
- Water supply levies vary significantly across councils, as some of them charge volumetric fees and a *standard fee* to cover their fixed costs and others charge a single *annual fee*:

- Eight councils set their levy at 100% of their standard fee.
- Most other councils set their levy at 50% of their annual fee.
- The current levies are likely to significantly reduce performance incentives for some water networks. However, removing the current levies may have little impact on the performance incentives of water services entities, as the impact depends on the objectives pursued by their boards and the approach the Commerce Commission takes to incentivising performance.
- The following chart is relevant for water services entities that adopt geographic price averaging. It shows that removing the levies may strengthen their performance incentives by less than 3% (this is sensitive to assumptions).¹⁰



- The above results are far smaller than for the individual networks because large increases in the performance incentive of some networks within a water services entity are “smothered” by the nil or small increases in performance incentives of the other networks in the entity.
- The design of the Commission’s performance incentive scheme also matters. If it is focused on the overall performance of each water services entity, then it will reinforce the effects of geographic price averaging. However, if it is calibrated on the performance of each network within each water services entity, it could counteract the adverse impact that retaining the levies have on performance incentives.
- The other argument for removing the levy is that it could increase innovation by suppliers of stand-alone water systems. In principle, this could be very beneficial because innovation is a dynamic process, and so the beneficial impact grows over time. In practice, however, removing the levy would increase the stand-alone market by 5-15%, which is too small to affect innovation.

Charges on unconnected parties need to be subject to suitable oversight

CSA concludes that water services entities should be prohibited from charging unconnected parties unless they have an independent assessment undertaken by a suitably qualified party showing the

¹⁰ Entity A refers to the Northern WSE, Entity B refers to the Western-Central WSE, Entity C refers to the Eastern Central WSE and Entity D refers to the Southern WSE, as defined in Schedule 2 of the Water Services Entities Act 2022.

charges promote efficiency and the quality and reasonableness of that assessment is endorsed by the Commerce Commission. This is because:

- The water services entities have stronger incentives than councils to set the levy too high and apply it more broadly than justified. The incentives on local authorities were checked by their proximity to the affected communities and by their accountability to electors.
- The case for retaining the levies depends on whether the benefits of greater bypass efficiency exceed the costs of weaker performance incentives. This trade-off depends on the design of the Commission's regulatory incentive scheme, which the Commission is best placed to consider.
- Moreover, the levy affects network performance through its effect on consumer choice and competition from suppliers of stand-alone facilities. Consumer choice and competition are matters the Commission has considerable expertise and experience evaluating and addressing.

Recommendation 8: Amend section 339 by inserting "(5) Subsections (2) and (3) only apply if–

- (a) the water services entity has a methodology documenting how and why it wishes to charge persons owning property not connected to the water services entity's water supply or wastewater network; and
- (b) the water services entity has obtained an independent assessment by a suitably qualified party showing the methodology for charging unconnected properties is consistent with promoting efficiency; and
- (c) the Commerce Commission has affirmed the independent assessment has suitably considered all arguments, facts and evidence and makes reasonable conclusions based on that analysis; and
- (d) the Commerce Commission has affirmed that charging unconnected properties in accordance with the methodology will not materially inhibit the effectiveness of the Commission's regulation of the water services entity."

We have also suggested corresponding amendments to the Water Services Economic Efficiency and Consumer Protection Bill to empower the Commerce Commission to undertake the above roles.

6. Other issues of particular concern

s.220 Maintenance of water services infrastructure

Greater than fifty percent of wet weather wastewater overflows, such as the recent discharges from the Moa Point treatment plant¹¹, occur due to leaking laterals on private property¹². The inflow and infiltration of stormwater into sewer lines also adds cost to users,

¹¹ Tom Hunt. "Swimmers out in Force despite 38,000 Litres of Wastewater Discharged off Wellington's South Coast." *Stuff*, January 15, 2023, sec. Dominion Post. <https://www.stuff.co.nz/dominion-post/wellington/130977249/swimmers-out-in-force-despite-38000-litres-of-wastewater-discharged-off-wellingtons-south-coast>.

¹² See for example: Robert Le and Steve Carne. "The Water New Zealand Infiltration and Inflow Control Manual, 2nd Edition." Wellington: Water New Zealand, September 1, 2015. https://www.waternz.org.nz/Resources/Attachment?Action=Download&Attachment_id=355.

as it means that pipes, pumps and treatment facilities must be constructed to cope with larger volumes than should be necessary. However, because the full range of tools available to councils to address these problems, such as bylaws and planning ordinances, will not be available to water services entities, the Bill will arguably make the situation more difficult to resolve.

Current approaches to this problem include smoke tests (which identify illicit stormwater connections) or identifying unusually high wet weather flows and attempting to track them back to source. Video cameras can also be used to survey the condition of individual laterals.

In some jurisdictions, particularly in the United States, water entities have introduced a requirement for landowners to intermittently check the condition of their laterals, particularly in sensitive catchments. This is normally achieved through local ordinances (bylaws or planning provisions) which will not be available to water services entities. It is often linked to the sale and purchase of a property.

We recommend that options to ensure that private laterals are regularly inspected and maintained be considered.

[Recommendation 9](#): Consider adding provision for a regulation under s474 which would require private property owners to monitor and maintain private laterals.

s.334 Charges for water services may be averaged geographically

Section 334 states:

- (1) The board of a water services entity may—
 - (a) charge geographically averaged prices for the water services;
 - (b) geographically average prices at different scales for different service types and different classes of consumers.
- (2) However, the board of a water services entity may decide not to charge a geographically averaged price if—
 - (a) communities receive—
 - (i) a higher level of service than is generally provided elsewhere within those boundaries; or
 - (ii) a lower level of service than is generally provided elsewhere within those boundaries;
 - (b) a levy is in place within those boundaries under the Infrastructure Funding and Financing Act 2020;
 - (c) a water services entity has taken over a failed drinking water supplier;
 - (d) a water supply charge has a volumetric component and the difference in charges reflects a difference in that component.
- (3) This section does not apply to water infrastructure contributions.

We are particularly concerned about the breadth of subsection (1). For resource efficiency, it is very important significant business consumers of water, at least, face the economic costs of using water at their locations and have efficient incentives for investment. Allowing water services entities to geographically average prices in these circumstances is likely to harm productivity in water-intensive sectors.

In our view, geographic averaging should not be available to water services entities, but if it is to be made available it should be restricted to residential consumers or to consumers using

water below a threshold level. We note the amendment to section 133 (Purpose and content of Government policy statement) restricts geographic averaging to residential consumers.

Recommendation 10: If geographic averaging is to be retained, amend section 334 to prohibit geographic averaging for non-residential consumers or for consumers using water above a threshold level. For example, section 334(1)(a) could be amended by inserting after “prices” the words “to residential consumers” and deleting “for the water services” and in section 334(1)(b) deleting “and different classes of consumers”.

s.335 Chief executive of water services entity may enter into negotiations to change certain provisions in certain contracts

Section 335 enables chief executives of water services entities to enter into negotiations to change the pricing and charging provisions in certain commercial contracts transferred from a local authority to a water services entity. Under section 335(3), the contract expires on 1 July 2029 if the parties fail to vary the contract by that date. In effect, this gives the water services entities unilateral power to change the prices and charging provisions of those contracts.

Our understanding the rationale for this provision is a concern that some territorial authorities may have offered large commercial water users ‘sweetheart deals’ with low prices for water services, as hidden incentives to locate in their districts.

Great care is needed to distinguish ‘sweetheart deals’ from efficient price discrimination. Although s. 335 requires WSEs to give written notice and consider any relevant matters raised by the counterparty, there is no mention of efficiency. Contracts should not be considered ‘sweetheart deals’ where discounted prices are consistent with efficiency, for example in prudent discount situations. However, where parties have contracts at inefficient prices, for example at prices below the incremental cost of serving the customer, then there is an efficiency argument for interfering in the contract because it deters parties from pursuing inefficient prices in the future.

Care is also needed to distinguish ‘sweetheart deals’ to attract new businesses to the community from historical cases in which water charges were discounted or waived as recompense for allowing the water provider to install their pipes under the consumer’s property and to provide for ongoing access to them.

There are numerous examples where historic agreements have been entered into to allow water pipes to cross private property based on an ongoing commitment to allow the property owner to draw water at a reduced (or nil) cost in perpetuity. Where the original property has later been subdivided the successors in title have often inherited these benefits, particularly when they are recorded against the property title. We have a view that normalising these historic agreements would be beneficial and would encourage the provisions of Section 321 be explicitly extended to include them. In some cases these arrangements may be included on property titles, which should also be amended.

In both cases, there needs to be a suitable independent party to arbitrate when the water services entity and consumer are unable to agree on new pricing and contract arrangements. This is necessary as water services entities are monopoly suppliers and their infrastructure is largely irreversible, making it too costly to move the physical structures to alternative locations.

Recommendation 11: Amend section 335(3) by replacing “the contract expires” with “a mutually-agreed independent arbitrator must be appointed to determine whether the proposed prices and charges are consistent with promoting efficiency”.

[*Recommendation 12:*](#) Amend section 335 to provide for the cancellation of pricing and charging agreements where these have been notated on property titles.

s.455/6 Ministerial reviews

Section 455 requires that the Minister commission a review of the governance and accountability arrangements of the WSEs after five years and section 456 requires that the Minister commission a comprehensive review of water services legislation after nine years.

Transferring water services from 68 councils to four water services entities is a massive undertaking, which is compounded by the introduction of consumer protection from 1 July 2024, information disclosure regulation by 1 July 2027 and price-quality regulation by 1 July 2030 for at least three of the four water services entities. As such, a full picture of the outcomes of the reforms will not be obvious for some time.

Nonetheless, it would be possible for a nuanced review to gauge the general direction of the reforms and come to a view on whether the objectives are likely to be achieved, or not. This would have the added advantage of allowing amendments to be made during the transition phase on any matters that are not working as intended.

We note that considerations of the comprehensive review do not include any assessment of whether the reform objectives have been achieved. We suggest this should be included.

[*Recommendation 13:*](#) Amend sections 455 and 456 to require a robust and appropriately independent assessment of whether the goals of the reform are being achieved, having appropriate regard for the stage of the reforms.