



COVERSHEET

Minister	Hon Andrew Bayly	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	100-day Plan: Repeal of the Water Services Economic Efficiency and Consumer Protection Act 2023	Date to be published	15 March 2024

List of documents that have been proactively released		
Date	Title	Author
December 2023	100-day Plan: Repeal of the Water Services Economic Efficiency and Consumer Protection Act 2023	Office of the Minister of Commerce and Consumer Affairs
11 December 2023	100-day Plan: Repeal of the Water Services Economic Efficiency and Consumer Protection Act 2023 CAB-23-MIN-0481 Minute	Cabinet Office

Information redacted

YES / NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of confidential advice to Government.

In Confidence

Office of the Minister of Commerce and Consumer Affairs

Cabinet

100-day Plan: Repeal of the Water Services Economic Efficiency and Consumer Protection Act 2023

Proposal

- 1 This paper seeks agreement to repeal the Water Services Economic Efficiency and Consumer Protection Act 2023 (**WSEECF Act**).

Relation to government priorities

- 2 The Coalition Government's 100-day Plan includes a commitment to introduce legislation that ends the 10-entity model for water services, ensures the ownership of water assets and responsibility for delivery of water services stays with local councils, and make the necessary changes in the approach to economic regulation [CAB-23-MIN-0468].

Background

- 3 The Water Services Entities Act 2022 (**Entities Act**) provides for the establishment of the 10 water services entities to deliver drinking water, wastewater and stormwater services and sits in the Local Government portfolio.
- 4 The WSEECF Act is part of a package of Three Waters legislation and establishes sector-specific economic regulation and consumer protection for water services, based on the 10 water services entities model, with oversight from the Commerce Commission (**the Commission**).
- 5 The Minister of Local Government has recommended that Cabinet agree to repeal the Entities Act. This would restore powers and responsibilities relating to water service delivery to local authorities.

I recommend repealing the WSEECF Act

- 6 Subject to Cabinet agreement to repeal the Entities Act, I recommend that the repeal of the WSEECF Act should occur by the time the Entities Act is repealed. This is to avoid retaining legislation that gives the Commission functions it will not be able to perform and a requirement to regulate entities that do not exist.
- 7 There are no advantages in retaining the WSEECF Act, even if the Government decides to put in place a replacement economic regulation regime for water services. This is because extensive amendments would be required to make the WSEECF Act workable under a council owned and responsible model.

- 8 I will work with the Minister of Local Government on this. If appropriate, the WSEEC Act and Entities Act could be repealed with the same repeal bill.
- 9 I will also work with officials to explore options for a replacement economic regulation regime, tailored to a council owned and responsible model.

Cost-of-living Implications

- 10 No direct implications have been identified.

Financial Implications

- 11 No direct implications have been identified.

Legislative Implications

- 12 I am seeking agreement to issue drafting instructions to the Parliamentary Counsel Office to prepare a bill to repeal the WSEEC Act, by the time the Entities Act is repealed, subject to Cabinet agreement to repeal the Entities Act.

Impact Analysis

Regulatory Impact Statement

- 13 Cabinet has decided to suspend the requirement for Regulatory Impact Statements for decisions relating to 100-day Plan proposals (taken within the 100 Days), which solely involve the repeal of legislation.

Climate Implications of Policy Assessment

- 14 No direct implications have been identified.

Population Implications

- 15 The approach outlined in this paper is intended to benefit all New Zealanders.

Use of External Resources

- 16 External resources have not been used to prepare this paper or the underlying policy.

Consultation

- 17 This paper has not been formally consulted on as it implements part of the Coalition Government's 100-day Plan.

Communications

- 18 I will coordinate communications with the Minister of Local Government.

Proactive Release

- 19 I intend to proactively release this paper and the Cabinet minute, subject to any necessary redactions, within 30 business days of Cabinet's decisions.

Recommendations

The Minister of Commerce and Consumer Affairs recommends that the Cabinet:

- 1 **note** the Coalition Government's 100-day Plan, which includes a commitment to introduce legislation that ends the 10-entity model for water services, ensures the ownership of water assets and responsibility for delivery of water services stays with local councils, and make the necessary changes in the approach to economic regulation [CAB-23-MIN-0468];
- 2 **note** that the Minister of Local Government has recommended that Cabinet agree to repeal the Water Services Entities Act 2022, which would restore powers and responsibilities relating to water service delivery to local authorities;
- 3 **note** that the Water Services Economic Efficiency and Consumer Protection Act 2023 is part of a package of Three Waters legislation and establishes sector-specific economic regulation and consumer protection for water services, based on the 10 water services entities model, with oversight from the Commerce Commission;
- 4 **note** that if Cabinet agrees to repeal the repeal Water Services Entities Act 2022, there are no advantages in retaining the Water Services Economic Efficiency and Consumer Protection Act 2023 Act because extensive amendments would be required to make it workable under a council owned and responsible model;
- 5 **agree** to repeal the Water Services Economic Efficiency and Consumer Protection Act 2023 by the time the Water Services Entities Act 2022 is repealed, subject to Cabinet agreement to repeal the Water Services Entities Act 2022;
- 6 **invite** the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to prepare a bill in accordance with the decisions above;
- 7 **note** that a place will be sought Confidential advice to Government [REDACTED];
- 8 **authorise** the Minister of Commerce and Consumer Affairs to approve minor policy and technical matters that may arise during the course of drafting and that may be required to align with the decisions in this paper
- 9 **authorise** the Minister of Commerce and Consumer Affairs to start work on a replacement economic regulation regime for water services that is appropriate for the new structure.

IN CONFIDENCE

Authorised for lodgement

Hon Andrew Bayly

Minister of Commerce and Consumer Affairs

IN CONFIDENCE