

17 April 2025

Dave Chambers
Watercare Services Ltd.
73 Remuera Road
Newmarket
Auckland, 1050

Tēnā koe Dave,

Letter of Expectations from the Crown monitor to Watercare

1. I am writing to you to explain our role as Crown monitor of Watercare and to set out our expectations, including how we will engage with Watercare.

Context

2. The Local Government (Water Services Preliminary Arrangements) Act 2024 (**the Act**) came into force on 3 September 2024, and the Local Government (Water Services Preliminary Arrangements) (Watercare Charter) Order 2025 (**the Charter**) came into force on 1 April 2025.
3. Under Part 4 of the Act, the Minister of Local Government (**the Minister**) has appointed the Commerce Commission (**Commission**) as the Crown monitor (**we**) to Watercare. As you know, the Commission is an independent Crown entity established under section 8 of the Commerce Act 1986.
4. The term for the Crown monitor appointment started on 3 September 2024. The Charter period finishes on 30 June 2028. Following the end of the Charter period, Watercare will become subject to enduring price-quality regulation as set out in the Local Government (Water Services) Bill, with the Commission as the economic regulator.

The Crown monitor's role

5. The role of the Crown monitor, as defined by the Act, is to:
 - 5.1 monitor, and report on, Watercare's performance against the Charter; and
 - 5.2 take action to address any failure by Watercare to comply with the Charter.
6. Additionally, we must provide a quarterly report to the Minister, reporting on our performance of functions, duties or powers under the Act.

Our monitoring and reporting role

7. The Charter sets reporting and publishing requirements for Watercare, so that we have key information to perform our monitoring role, and to ensure Watercare's public accountability.
8. Our role to monitor Watercare's performance includes, as specified in section 86(2) of the Act, the performance of any service or network that Watercare manages through a contract with a third-party provider. This means our monitoring role includes the performance of the Papakura network, which Veolia operates under a franchise agreement with Watercare.
9. We expect to monitor how Watercare performs in relation to the:
 - 9.1 implementation of infrastructure growth charge (IGC) reform so that developers and existing customers pay for the right level of costs for growth;
 - 9.2 expected improvement in delivering its capital works, maintenance and operations;
 - 9.3 improved stewardship of its assets; and
 - 9.4 delivery of its commitment to reducing its operating cost base.
10. We acknowledge the open and constructive engagement that we have had with Watercare to this point. We look to continue to work in this manner through, for example, voluntary disclosure of information by Watercare at our request.
11. This year, Watercare is required to provide specified draft documents to us for feedback, and to then incorporate that feedback into the final documents. These documents are:
 - 11.1 a plan for IGC policy review and redesign - a commitment in Watercare's business plan;¹
 - 11.2 an operating cost efficiency improvement plan;
 - 11.3 an infrastructure delivery and asset management improvement plan; and

¹ Watercare, [Business Plan 2025 —2034](#).

- 11.4 a delivery reporting template to be used in quarterly reporting on Watercare's operating and capital expenditure plan.
12. The development of Watercare's plans and our feedback (as noted above) is likely to benefit from independent expert input. We have successfully used independent verification in other sectors. This is where an independent expert has a duty of care to both the regulated entity and the Commerce Commission. We are committed to exploring the use of independent verification on a voluntary basis with Watercare where both parties agree it would add value.
 13. Watercare is also required to prepare a number of progress reports, including on how Watercare's tracks against minimum service quality standards and performance requirements. Watercare must also demonstrate compliance with the Charter's revenue cap on tariff revenue and the lower limit on average IGC increases.
 14. Clause 31 of the Charter requires all forecasts and estimates used in Watercare's reports under the Charter to be demonstrably reasonable. Clause 32 requires a Watercare director to certify by statutory declaration the truth and accuracy of historical information provided and to certify that all forecasts and estimates used in the reports are demonstrably reasonable.
 15. Under s85 of the Act, we may, by notice in writing, require Watercare to provide additional information to enable us to perform or exercise our functions, duties, or powers under the Act. We may require Watercare to provide a certificate signed by a director, confirming that the information provided is true and accurate.
 16. We are required to report on Watercare's performance in an annual report, which must be provided to Auckland Council, the Minister of Local Government, and the Minister of Commerce and Consumer Affairs by 30 November each year for the Charter period. As soon as reasonably practicable, we must make the report available to the public.
 17. For the purpose of monitoring Watercare's performance, we are entitled to attend any Watercare Board meeting, if it is or may be necessary to perform or exercise our functions under the Act. So far, we have found attendance useful to accelerate our understanding of Watercare's business, and we will continue to attend the meetings as necessary.
 18. We may choose to publish any feedback or analysis related to our monitoring role.

Our enforcement role

19. We are responsible for enforcing the Charter. To effect this, we will be monitoring Watercare's compliance with the Charter, investigating any potential non-compliance, and taking enforcement action where appropriate.
20. If Watercare has any concerns about complying with the Charter, we encourage Watercare to advise us as early as possible. While we have no ability under the regulatory regime to extend timeframes for compliance or to grant exemptions, we may take into account any proactive communication from Watercare about any potential non-compliance when exercising our enforcement discretion.

21. If we consider a breach has likely occurred, we will investigate and apply our Enforcement Criteria to decide on an appropriate enforcement response.² We work carefully to balance the use of education and enforcement to help protect consumers, prevent and stop unlawful conduct, deter future breaches and remedy any harm.
22. There are a range of enforcement responses, from compliance advice through to court action, based on the extent of the harm, seriousness of the conduct and the public interest. Our Enforcement Response Guidelines provide more information about our approach to enforcement.³
23. We consider that our engagement with Watercare will help to ensure that it understands its obligations and support compliance. We aim to minimise possible harm to consumers by engaging where possible before breaches occur.

Commercial sensitivity

24. We recognise that a subset of the information we will receive from Watercare may be considered commercially sensitive. We take the protection of commercially sensitive information seriously and have robust systems and processes in place for receiving and handling this information.
25. We take steps to preserve the confidentiality of such information and to provide the appropriate protections against disclosure unless we are required to do so by law.
26. All information held by the Commission is subject to the Official Information Act (OIA). Under the OIA, all information is to be made available unless good reasons exist to withhold it. Reasons to withhold disclosure include where release would unreasonably prejudice the commercial position of the supplier or subject of the information, although this must be balanced against the public interest in disclosing the information. When the Commission receives a request for information which covers confidential or commercially sensitive material, we generally consult with the parties that provided, or are the subject of, the information
27. We intend to engage with Watercare to develop a suitable process for managing commercially sensitive information prior to publication.

Our engagement with Watercare

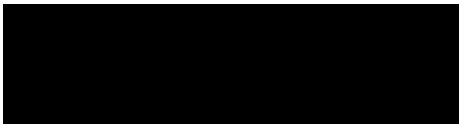
28. To support the Commission's role as Crown monitor, the Commission has a small team of dedicated staff.
29. As the Charter requires a significant programme of work at Watercare, our Crown monitor team and Watercare staff intend to meet regularly to facilitate work planning and the meeting of our expectations.

² Our Enforcement Criteria are explained on our website at: <https://comcom.govt.nz/about-us/our-policies-and-guidelines/investigations-and-enforcement/enforcement-criteria>.

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30. We intend to engage openly and constructively with Watercare. As we are the economic regulator our engagement is not legal advice.
31. The Commission holds additional responsibilities outside of Part 4 of the Act, for example the development of foundational information disclosure under Part 2 of the Act and our expected role as the enduring economic regulator as set out in the Local Government (Water Services) Bill.
32. Any matters arising related to the Commission's water functions outside of the Charter (e.g. enduring regulation) can be raised with our Crown monitor team, and the team will ensure that the relevant staff at the Commission are informed.
33. While we intend to engage with Auckland Council and other interested parties, this engagement is not a substitute for any of Watercare's own engagement responsibilities or requirements.
34. If Watercare has any queries about this letter or matters related to the Charter work more generally, please contact crown.monitor@comcom.govt.nz.
35. I am copying this letter to Auckland Council, the Department of Internal Affairs, Ministry of Business, Innovation and Employment and Water Services Authority - Taumata Arowai and am placing it on our website.

Nāku noa, nā



Andy Burgess
General Manager, Infrastructure Regulation
Commerce Commission, Te Komihana Tauhokohoko