Te Tāhuhu o te Mātauranga
Ministry of Education

Regulatory Impact Statement: Pathway for charter schools to revert back to State sector

Decision sought	This analysis is produced for the purpose of informing final Cabinet decisions on legislative changes that would provide a pathway for converted charter schools to revert and open as a new State school, should a sponsor terminate their contract by mutual agreement with the Charter School Agency or opt to not renew it.
Agency responsible	Ministry of Education
Proposing Ministers	Hon David Seymour, Associate Minister of Education
Date finalised	25 June 2025

This proposal makes legislative changes to the charter school model that would provide a pathway for converted charter schools to revert and open as a new State school, should a sponsor terminate their contract by mutual agreement with the Charter School Agency or opt to not renew it.

Summary: Problem definition and options

What is the policy problem?

- The charter school model was reintroduced into the New Zealand schooling system in 2024, with legislation enabling new charter schools to be established and for State schools to convert to charter schools. Charter schools provide educators with significant flexibility in areas such as governance, curriculum, employment and funding, in return for higher accountability for student outcomes. By increasing flexibility, innovation and choice, the model aims to lift student achievement.
- While legislation enables State schools to convert to charter schools, existing arrangements do not provide a pathway for converted charter schools to revert to the State system. Under current legislative settings, the Minister of Education has absolute discretion to establish State schools under section 190 of the Education and Training Act 2020 (the Act). Some State schools have expressed that a lack of assurance of being able to revert and re-open as a new State school is a barrier to them converting to a charter school.
- There may be future policy changes (e.g., limits on the current flexibilities of the model, such as workforce) which mean converted schools no longer wish to remain a charter school but without a pathway back to the State sector, there is a risk of disruption to students, staff and school communities.

What is the policy objective?

- The objective is to encourage innovation and choice in the education system by reducing a barrier to conversion for State schools, through the introduction of a

voluntary reversion pathway for converted charter schools, while maintaining the Minister of Education's ability to manage the schooling network.
What policy options have been considered, including any alternatives to regulation? Four options have been considered for this policy change. These are: • Option one – Strengthened communication of the current process for opening a new State school (non-legislative option). • Option two – Require the Minister of Education (the Minister) to consider establishing a new State school based on various criteria if a converted charter school voluntarily closes. • Option three – Require the Minister to establish a new State school if a converted charter school voluntarily closes unless specific criteria apply. **(Minister's preferred option)** • Option four – Require the Minister to establish a new State school if a converted charter school voluntarily closes.
What consultation has been undertaken? • The Charter School Agency (CSA), who communicate with prospective sponsors and schools interested in converting, have been consulted throughout policy development. • This proposal responds to concerns raised by State schools and sector representative groups, including large secondary schools, rural schools and networks of State-integrated schools. However, due to time constraints, there has been no public consultation when developing the proposal. There is an opportunity for interested people and groups to share their views in the Select Committee process.
Is the preferred option in the Cabinet paper the same as preferred option in the RIS? • Yes

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)
Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect) • The key costs of this policy option will fall onto the Minister of Education (the Minister) as regulator. The preferred policy option places a requirement on the Minister to establish a new State school when a converted charter school closes, unless specific criteria apply. • Should the Minister determine that opening a new State school is not in the best interest of the Crown, there are indirect impacts on the schooling network where students would need to move schools and staff would need to seek alternative employment. • Should the Minister establish a new State school, there will be minor financial implications for the Crown. The cost of a converted charter school to re-open as a State school would not need the same level of establishment resourcing as it would already have been operating as a school. Costs associated with closing the charter school (e.g., any redundancy costs or contract termination costs) would be the responsibility of the sponsor.
Benefits (Core information)

Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

- The key benefits of this policy option affect regulated groups such as State schools, charter schools, and sponsors. The preferred option would provide significantly more certainty to sponsors and State schools considering converting into charter schools that they will be able to revert to the State sector, if they terminate their contract by mutual agreement with the CSA or choose not to renew it.
- These impacts may be direct, where more State schools may choose to convert into charter schools.
- Other benefits impact students, staff, whānau and communities. By providing a pathway for converted charter schools to revert and reopen as a new State school (if none of the specified criteria apply), this lessens potential disruption for these groups.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

- The benefits of the preferred policy option outweigh the low cost of the change.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

- The proposal will be integrated into existing processes for the Ministry of Education and the Charter School Agency. The Charter School Agency manages the contract with sponsors and the Ministry of Education has existing processes for assessing applications for new State schools and opening new State schools.
- No implementation risks have been identified.

Limitations and Constraints on Analysis

- This analysis focusses solely on one barrier raised by some State schools and sector representative groups as a deterrent to conversion – the lack of a clear pathway for reversion to the State sector. Other barriers raised are outside of the scope of this analysis (property funding settings, union member concerns about loss of collective coverage, and the ten-year length of the fixed-term contract being seen as too short).
- This barrier was identified by the sector; however, due to time constraints, there has not been public consultation when developing proposals. It is difficult to determine if the recommended changes will significantly impact the number of applications to convert. There is an opportunity for interested people and groups to share their views in the Select Committee process.
- The scope of options was shaped by Ministerial direction to explore a voluntary reversion pathway for converted charter schools within the existing legislative framework. These decisions included:
  - All options for voluntary reversion exclude provisions for transfer of staff, assets and liabilities. The charter school will close and, if a new State school is to open in its place, it will open as a new State school.
  - The proposal is to apply to converted schools only, not new charter schools.
  - The proposal is only to apply where a sponsor terminates their contract by mutual agreement with the CSA or does not renew it.
- Reversion pathways for converted charter schools are not common internationally. Comparable processes were identified in five states in the United States of America (USA). Due to differences between the New Zealand and USA model of education, these examples are not strong comparisons.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:

Jordan Na'ama
Acting Senior Policy Manager
25 June 2025

Quality Assurance Statement	
Reviewing Agency: The Ministry of Education	**QA rating:** Partially meets
Panel Comment: The Ministry of Education's Quality Assurance Panel has reviewed the Regulatory Impact Statement produced by the Ministry of Education . The panel considers that the constraints imposed on consultation by the timeframe for developing proposals and the consequent lack of consultation to inform the policy development process affects the assessment of viable implementation of the proposals and precludes the consideration of other barriers that may prove more impactful to address means that this RIS can only be assessed as partially meeting the Quality Assurance criteria. The RIS provides useful and clear analysis of some options for improving innovation and choice in the education system by reducing barriers for State schools considering converting to Charter schools. The potential impacts, risks, and limitations of the proposed approach are well illustrated.	

Section 1: Diagnosing the policy problem

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

The Education and Training Act 2024 reintroduced charter schools in New Zealand

1. The Education and Training Amendment Act 2024 (the Act) reintroduced charter schools (previously known as partnership schools) in New Zealand and introduced a policy to allow all State schools (except specialist schools) to become charter schools. The first tranche of charter schools opened in term 1 2025.

2. The charter school model is intended to increase school choice, flexibility and innovation, with the aim of lifting student achievement. Charter school sponsors are provided greater flexibility of governance, teacher registration, funding, employment relations, curriculum, student enrolment and length of school days with the intent to give better effect to their focus areas and drive innovation. In the long-term this will help increase choice for parents as there is an increased diversity in the type of schools available. In exchange for greater flexibility, sponsors are subject to a high-level of accountability through a stringent performance management framework.

3. The Act establishes a framework in which a State school may convert to being a charter school. The school board or a member of the school community can apply to convert, with the support of a proposed sponsor. Section 212I specifies the criteria the Authorisation Board must take account of when considering an application. This includes the capability of the sponsor, the standard of tuition, financial implications, network implications, and the level of support from the community, staff and students. Schedule 1 of the Act includes provisions for the transfer of employees to the charter school and the transfer of rights, assets and liabilities (including board-owned property) to the Minister, on the conversion date.

There is a clear and robust framework for managing charter school performance

4. The flexibility of the charter school model is balanced against a greater level of accountability for performance and outcomes. Sponsors of charter schools are subject to increased oversight and accountability through the performance management framework. The framework is intended to enable intervention when charter schools are not performing well, while also supporting high-performing charter schools to grow and share good practice.

5. The performance management framework includes the following (which are detailed in the contract between the sponsor and the CSA, as required under section 212L of the Act):

    a. Outcome areas, including student attendance, student achievement, financial performance and standard minimum compliance areas;

    b. Performance measures and the tools used to track performance;

    c. Performance targets for charter schools to achieve against each measure, which include a standardised target and a minimum performance threshold based on the

school's Equity Index number (which indicates the degree of socioeconomic barriers faced by the school's students);

d. Requirements around frequency of reporting (e.g., termly, six-monthly or annually); and

e. Interventions that may be used if a school does not meet its targets or minimum standard compliance areas.

6. Section 212ZF(1) sets out the interventions that can be used by the Authorisation Board, if a sponsor is not meeting their contractual and/or legislative requirements:

a. Require the Chief Review Officer to review the governance and management of the charter school by the sponsor;

b. Require a sponsor to provide the Authorisation Board with specified information or an analysis of specific information;

c. Require the sponsor to carry out a specified action, and/or provide the chief executive of the CSA with a report on the action taken;

d. Terminate the contract with a sponsor; or

e. Terminate the contract with a sponsor and replace the sponsor.

7. The Authorisation Board can choose to apply the intervention they consider appropriate, taking into account the performance intervention provided to them and additional requirements under section 212ZF(2) when terminating a contract.

The contract provides five mechanisms for termination of a contract

8. Under the current contract between the CSA and a charter school sponsor, a contract can be terminated as a result of a termination intervention, as described above. The contract provides four other mechanisms for termination:

a. Termination for convenience by sponsor

b. Mutual agreement

c. Force majeure event

d. Termination of School Lease (in which the Authorisation Board may terminate the Agreement if the Sponsor is a party to a School Lease and the School Lease is terminated in accordance with its terms or otherwise for any reason whatsoever)

The Minister of Education has absolute discretion over establishing a new State school under current legislative settings

9. The Minister of Education has absolute discretion over establishing a new State school under current legislative settings set out in section 190(2) of the Act. The Minister does not need to consider any specific criteria, however section 209 does require the Minister to consult with Boards of all the State schools whose rolls might, in the Minister's opinion, be affected before establishing a State school.

10. Schedule 6 (2) of the Act outlines the procedure for establishing State integrated schools. This section sets out, without limiting the factors that the Minister may consider, that the Minister must, in considering an application, consider the nature, character, and capacity of the existing network of schools. It is in the Minister's absolute discretion to accept an application to enter negotiations for integration. The Minister also has absolute discretion after giving any notice to the public that the Minister thinks fit, decide not to consider applications from particular areas.

11. This means that if a sponsor's contract is terminated or not renewed, then the charter school must close down and the Minister may decide whether or not to establish a new State school. This school may be of a different type or character than existed prior to conversion, particularly if the needs or demographics of the community have changed.

What is the policy problem or opportunity?

12. The existing arrangements do not provide a pathway for charter schools to revert to the State system. Under current legislative settings, the Minister of Education has absolute discretion to establish State schools under section 190 of the Education and Training Act 2020 (the Act).

13. We have received feedback on barriers to converting to charter schools from some State schools directly, as well as some sector representative groups. These include large urban secondary schools, networks of State-integrated schools, and rural schools. They have expressed three key barriers to conversion: property funding settings, the inability to revert back into the State schooling system, and union member concerns about loss of collective coverage. Some feedback has also raised the ten-year length of the fixed-term contract held by sponsors as being seen by some as too short and not worth the investment.

14. This policy seeks to address the second of these barriers. Feedback from the sector has cited that a lack of assurance of being able to re-open as a new State school is a barrier to them converting to a charter school. This may arise, for example, if there is a future policy change (e.g., flexibilities in the model are reduced, such as flexibility around curriculum or employment), or a future government reduces support and funding for the charter school model, as occurred in 2017 when the previous partnership model was disestablished. In these events, the school's community may no longer wish for the school to remain a charter school.

15. In this situation, the sponsor of a converted school would seek to terminate their contract by mutual agreement with the CSA. While there is a clear process provided in legislation to convert, there is no pathway to revert back to the State system. This creates the possibility of disruption for students and staff, in the event that the charter school closes, and a new State school is not established.

16. The lack of assurance and potential for disruption in learning and employment may lessen support for conversion. This may then mean that schools that would benefit from the flexibilities of the charter school model are not willing or able to convert.

What objectives are sought in relation to the policy problem?

17. The overarching objective is to encourage innovation and choice in the education system by minimising barriers to conversion for schools and communities that consider they

would benefit from the flexibilities of the charter school model. By enabling greater responsiveness to student needs, this may lead to improved student outcomes.

18. The specific objectives of this proposal are to:

    a. address concerns that the lack of a clear pathway to revert to the State system acts as a deterrent to State schools considering converting to a charter school;

    b. provide greater certainty to school boards and communities, thereby supporting informed, student-centred decision-making;

    c. minimise disruption for students, staff and school communities; and

    d. ensure the Minister of Education maintains the ability to manage the State network

What consultation has been undertaken?

19. This proposal responds to concerns raised by State schools interested in converting to charter schools. However, due to time constraints, public consultation on the proposal has not been undertaken. There is an opportunity for interested people and groups to share their views in the Select Committee process.

20. A draft Cabinet paper was shared with the Treasury, Department of Prime Minister and Cabinet, Ministry for Regulations, Te Kawa Mataaho Public Service Commission, Education Review Office, New Zealand Qualifications Authority, Social Investment Agency and the Charter School Agency. The Charter School Agency, who communicate with prospective sponsors and schools interested in converting, have been consulted throughout the development of this policy.

Section 2: Assessing options to address the policy problem

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

21. The Ministry assessed the options on the following criteria:

Criteria	Description
Certainty	The degree of certainty provided for prospective sponsors and converting charter schools
Disruption	The level of disruption it creates for the schooling network, students, and staff
Network Management	The Minister's ability to manage the schooling network
Costs	Potential costs involved
Efficiency	Impact on current systems and processes, including additional administrative complexity

What scope will options be considered within?

22. This analysis focusses solely on one barrier raised by some State schools and sector representative groups as a deterrent to conversion – the lack of a clear pathway for reversion to the State sector. The other main barriers raised are outside of the scope of this policy option (property funding settings, union member concerns about loss of

collective coverage, and the ten-year length of the fixed-term contract being seen as too short). There is also work underway to increase the length of the contract.

23. The scope of options was shaped by Ministerial direction to explore a voluntary reversion pathway for charter schools within the existing legislative framework. These decisions included:

    a. **All options for voluntary reversion exclude provisions to transfer staff, assets and liabilities:** The proposal only considers options which involve the closure of the converted charter school and subsequent opening of a new State school in its place, i.e., same physical location, intended to serve the same local community and maintaining same characteristics. Legislative provisions to transfer staff, assets and liabilities from the sponsor to the Crown (similar to those that exist for conversion) were ruled out early due to potential costs and complexity, such as different employment terms and conditions across reverting State schools.

       Under all options, the charter school will close and the sponsor will bear responsibility for all costs associated with the closure, such as staff redundancies or contract termination. The sponsor's contract will detail what is to happen to any assets transferred from the Ministry to the sponsor at conversion, upon termination of the contract. Key drivers for providing a transfer process in legislation at conversion were to protect State school employees, support sponsors and reduce potential costs to the Crown (e.g., redundancy costs). As part of this, sponsors assume responsibility for ongoing costs. Under this proposal, sponsors will have an ability to revert back to the State sector but they will be responsible and accountable for any costs associated with that, not the Crown.

    b. **Converted charter schools only:** Limiting these arrangements for converted charter schools only. New charter schools are out of scope for this work, as this policy option is not intended to be a pathway for new charter schools to then become a State school.

    c. **Only applicable where the sponsor has terminated their contract by mutual agreement or chosen not renew:** This proposal is limited to converted schools whose sponsor terminates their contract by mutual agreement with the CSA or does not renew it. It does not apply to the other termination mechanisms in the contract, including termination by intervention.

       This proposal is not intended to address poor performance, or create a pathway back to the State sector for underperforming charter schools where accountability is lower. We consider the current legislative framework and specific elements of the proposal mitigate the risk that this may inadvertently occur. The performance management framework provides clear performance metrics and sponsors are required to report regularly. It also provides a suite of interventions which the Authorisation Board can use where there are performance issues.

    d. **Proposed criteria to be set out in legislation to provide the Minister with the ability to continue managing the schooling network (options 2 and 3)**: For options 2 and 3, where the Minister's absolute discretion in managing the schooling network is impacted, we propose three criteria to be included in legislation that would allow the Minister to retain the ability to manage the network. This includes under circumstances where:

- Establishing a new State school would pose significant financial implications for the Crown that the Minister believes to be unjustifiable;
- Establishing a new State school would not benefit the network of State schools to allow every student to access quality schooling and provides choice about the types of education they receive; and
- There is insufficient community support for the Minister to justify establishing the proposed State school.

Any broader changes to the charter school model or to the Minister of Education's network management powers were out of scope for this analysis.

e. **A new State school will maintain the pervious school's character:** If a new State school is to open, any special character will be maintained (which is also maintained at conversion, where the State school was a designated character school, Kura Kaupapa Māori, or a State-integrated school, as per section 212K(1)(b)). In effect, this maintains the same character of school from prior to conversion. We consider that this reduces the disruption for learners, parents, and the community. Should the community wish to change the character of the school, there are existing provisions in place to do so.

Aligned with this, for State-integrated schools, the Minister will offer similar terms as the previous integration agreement. This is to provide some assurance to State-integrated schools considering conversion, but gives the Minister the ability to re-negotiate some aspects of the agreement, such as maximum roll size

f. **Preferential status for existing employees:** Legislative amendments will provide preferential status for existing charter school staff to apply for roles at the new State school. In practice, this would give existing staff priority for employment, however not all staff may transfer to the new State school as the staffing entitlement may be reduced or the existing teachers may not be registered teachers. This reduces disruption by providing continuity of employment for staff, and learning for students, as well as reducing redundancy costs for sponsors.

24. Options to support the charter school to remain open as a charter school are out of scope for this analysis. A series of non-regulatory steps have been identified and these will be progressed before any reversion pathway is triggered (e.g., the Charter School Agency identifying a replacement sponsor). As these steps occur prior to and separately from the reversion pathway, they are out of scope.

25. Existing reversion arrangements in other international jurisdictions were considered when developing the scope for our options. However, converted charter schools reverting to State schools appears to be uncommon internationally. We identified five states in the United States of America that featured a similar process for converted charter schools to have a pathway back to being a State school. However, we consider that these examples may not reflect a reliable comparison due to the differences between the education systems. For example, where local Boards of Education in the USA continued to have oversight over charter schools and impact on their degree of flexibility.

What options are being considered?

Status Quo / Counterfactual

26. The Minister has absolute discretion in decisions relating to the establishment of new State schools in the network. This includes whether or not to establish a school, where one is being established, and what type of school (e.g., year levels, single sex or co-educational, and whether it will offer education of a special character etc.).

27. Under section 209 of the Act, before establishing a State school the Minister must first consult the boards of all the State schools whose roll might be affected. In practice, the Ministry also provides the Minister with advice which includes the network impacts, population projections, location, property and financial implications. However, the Minister is not obligated to consider any specific criteria and has full decision-making authority, although in general decisions are based upon network needs (current and future), cost and community preferences.

28. Under the status quo, should the sponsor of a converted charter school terminate its contract by mutual agreement with the CSA or not renew it, there is no certainty that a new State school will be established in its place. If a decision is made to establish a new State school, it could be of a different type and/or character to the previous school, largely reflecting if there were demographic shifts in the network.

29. Following the termination of the charter school contract and closure of the school, if no new school is established then students would need to change schools. Staff would be made redundant at the cost of the sponsor and would need to find alternative employment. In the event that a new State school is established in the converted charter school's place, all positions at the new State school would be publicly advertised and allocated based on merit.

Option 1: Strengthened communication on the current process (non-legislative option)

30. This is a non-legislative option which would involve strengthened communication of the existing arrangements and what will occur if a charter school closes. This would highlight that, in practice, decisions are made based on network needs, cost, and community preferences. Therefore, if a converted charter school's closure left a gap in the network, there was no significant cost associated with establishing a new State school, and the community was supportive, there would be a reasonable likelihood of a new State school being established.

Comment

31. Schools and groups that have identified this barrier appear to already be well aware of the current process and the factors that are, in practice, taken into account. It is the Minister's absolute discretion under section 190(2), a key feature of the current system, which creates the uncertainty. As this power is absolute, no certainty that a new State school will be established can be provided through a non-legislative option.

32. We do not consider that this option provides any significant improvement over the status quo.

Option 2: Require the Minister to consider establishing a new State school based on various criteria if a converted charter school closes by mutual agreement with the CSA (legislative option)

33. This option would require legislative change to specify the criteria that the Minister must consider when determining whether to establish a new State school when the sponsor of a converted charter school terminates its contract by mutual agreement with the CSA or does not renew it.

34. The criteria to be set out in legislation in this option include:

    a. The financial implications for the Crown if the proposed State school is established. In practice, this would include financial implications such as property, establishment funding, school transport implications, and governance costs.

    b. Whether the proposed State school's establishment achieves the purpose of section 32(e) of the Act, which is establishing and managing a network of State schools and charter schools that allow every student to access quality schooling and provides choices about the types if education they receive.

    c. The level of support for the proposed State school from the community in which it is proposed to be established.

35. The converted charter school would close and, if the Minister approves the establishment of a new State school, a new State school would open in its place. The sponsor would be responsible for any costs associated with the school's closure. Staff at the charter school would be given preferential status to apply for roles at the new State school, though not all existing staff are guaranteed a position where requirements of who can be employed in State schools (including holders of a Limited Authority to Teach) would apply, or the State school's staffing entitlement may be lower than the number of existing staff who apply.

Comment

36. This option offers slightly more certainty around the pathway back to being a State school for prospective converting charter schools and sponsors. This option shifts the Minister from having absolute discretion in the opening of a new State school to making it mandatory to consider specific criteria. The criteria that would be specified in legislation are those generally considered in decision making, although currently this is not a legislative requirement.

37. This option is unlikely to have a significant impact on the administrative complexity and efficiency of current network processes. While the Minister must consult with relevant schools in the network when establishing a new State school, there are no specific criteria that the Minister must consider. However, in practice the Minister is likely to consider and is advised by the Ministry of financial implications, school network needs and community support. Therefore, this option formalises the de facto process.

Option 3: Require the Minister to establish a new State school if a converted charter school closes by mutual agreement with the CSA unless specific criteria apply (legislative option)

38. This option would require legislative changes so that the Minister must establish a clear rationale, aligned with specific criteria, to decide not to establish a new State school after

a converted charter school terminates its contract by mutual agreement with the CSA or does not renew it.

39. The criteria to be set out in legislation in this option include:

    a. When establishing the proposed State school, there are significant financial implications for the Crown that the Minister believes to be unjustifiable.

    b. Establishing the proposed State school does not benefit the network of State schools to allow every student to access quality schooling and provides choices about the types of education they receive.

    c. There is insufficient community support for the Minister to justify establishing the proposed State school.

40. As in option 2, the sponsor would be responsible for any costs associated with the school's closure. Staff at the charter school would be given preferential status to apply for roles at the new State school with not all existing staff guaranteed a position in the State school.

Comment

41. This option offers converted charter schools greater certainty about the pathway back to being a State school. In effect, this option starts from the assumption that a new State school will open in the closed charter school's place, unless one of the specified criteria apply. The criteria are, in effect, the same as those in option 2 (and are currently considered in the decision-making process) but the starting point for decision-making is different.

42. While this option does provide more certainty for converted charter schools than option 2, it also shifts further away from the Minister having absolute discretion in the opening of a new State school. However, as noted above, the criteria to be set out in legislation would enable the Minister to decide not to open a new State school if this would be of significant cost to the Crown, if it did not benefit the schooling network, or if the community did not support the establishment of the school.

43. We do not consider there to be any difference in impact on the administrative complexity and efficiency of current network processes as for option 2. This is primarily due to the criteria described above which are currently already considered in practice.

Option 4: Require the Minister to establish a new State school if a converted charter school closes by mutual agreement with the CSA, with no specific criteria (legislative option)

44. This option would require legislative change to provide complete certainty that a new State school will be established following a converted charter school terminating its contract by mutual agreement with the CSA or not renewing it.

45. As in option 2 and 3, the sponsor would be responsible for any costs associated with the school's closure. Staff at the charter school would be given preferential status to apply for roles at the new State school with not all existing staff guaranteed a position in the State school.

Comment

46. This option would restricts the Minister's absolute discretion in managing the State schooling network as it binds the Minister to establishing a new State school which may no longer be needed within the schooling network (e.g., if there have been demographic shifts). This also creates unnecessary costs to the Crown due to the costs associated with establishing the State school and its ongoing operations. Likewise, there may no longer be sufficient community support for the school.

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

	Option 1: Strengthen communication on the current process (non-legislative option)	Option 2: Require the Minister to consider establishing a new State school based on specific criteria	Option 3: Require the Minister to establish a new State school unless specific criteria apply	Option 4: Require the Minister to establish a new State school
Certainty	**0** The current process does not provide schools with confidence that a new State school will be established. Schools that are aware of the current process have raised this as a barrier so strengthening communications is unlikely to make a difference.	**+** Provides some confidence to sponsors that a new State school will be established.	**++** Provides a significant amount of certainty to sponsors. Establishing a new State school is a requirement unless specific criteria apply.	**+++** Provides a guarantee that a new State school would be established.
Disruption	**0** May cause disruption to students and staff if the Minister decides not to establish a new State school. In this case, students would move to another school in the network and staff would seek alternative employment.	**0** May cause disruption to students and staff if the Minister decides not to establish a new State school. In this case, students would move to another school in the network and staff would seek alternative employment.	**+** Less risk of disruption for students and staff than under option 2. However, if the specific criteria were met and no new school established, students would move to another school and staff would seek employment elsewhere.	**++** Least risk of disruption for students as this option guarantees that a similar school is established. This is the least disruptive option for staff as they could apply for positions at new school.
Network management	**0** The Minister's power to manage the schooling network is unchanged. The Minister retains absolute discretion to establish new State schools.	**-** Slightly reduces the Minister's power to manage the schooling network. This is currently an absolute power but this option introduces mandatory criteria for the Minister to consider. If a new State school is not established, the schools in the same area as the charter school would need to take on the students.	**-** Places a requirement on the Minister to establish a new State school which currently does not exist. However, the Minister would have the ability to opt not to open a new school if it would not benefit the network. This criterion acts to preserve the Minister's ability to manage the network.	**--** Significantly reduces the Minister's power to manage the school network. Over time with population and demographic shifts, this option could lead to an oversupply of schools in the local network.
Costs	**0** Current processes for considering new State schools would continue.	**0** Limited as the Minister would be required to consider the financial	**0** Limited as the Minister could decide not to establish the proposed school	**--**

	There are no additional costs under this option.	implications for the Crown in establishing a new school. If a new school is established, there would be financial implications for the Crown by way of establishment funding to support the school in becoming operational, and ongoing operating costs. We expect the establishment funding costs to be significantly lower as the school is already operational.	based on the financial implications for the Crown of doing so. As for option 2, if a new school is established, there would be financial implications for the Crown by way of establishment funding to support the school in becoming operational, and ongoing operating costs. We expect the establishment funding costs to be significantly lower as the school is already operational.	There may be significant financial implications for the Crown as a new State school must be established. As noted in options 2 and 3, there would be financial implications for the Crown by way of establishment funding to support the school in becoming operational, and ongoing operating costs. We expect the establishment funding costs to be significantly lower as the school is already operational. However, there may be more significant ongoing operating costs where, for example, if the school has a smaller roll, the per-pupil costs would be higher under the State system.
Efficiency	**0** This option does not change current processes and therefore would be straightforward to implement. The Ministry has ongoing communication with State and charter schools, which can be used to clarify existing arrangements.	**0** This option does not affect the efficiency or administrative complexity of our current network processes. While the Minister must consult with relevant schools in the network when establishing a new State school, there are no specific criteria that the Minister must consider. However, in practice the Minister is likely to consider the nature, character and capacity of the existing network of schools. Therefore, this option formalises this process.	**0** This option does not affect the efficiency or administrative complexity of our current network processes. While the Minister must consult with relevant schools in the network when establishing a new State school, there are no specific criteria that the Minister must consider. However, in practice the Minister is likely to consider the nature, character and capacity of the existing network of schools. Therefore, this option formalises this process.	**-** This option may impact the efficiency and administrative complexity of our current network processes. This is due to the potential ongoing network management challenges that may occur if there is an oversupply of schools and its impacts on workforce supply.
Overall assessment	**0**	**0**	**2**	**0**

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

47. Option 3, where the Minister must establish a new State school if a converted charter school voluntarily closes unless specific criteria apply, best addresses the policy problem and meets the objectives.

48. This option creates a clear pathway for converted charter schools to revert to the State system, thereby addressing sector concerns by giving a degree of certainty that State schools considering conversion will be able to revert back to the State schooling system and minimise disruption for students, staff and communities.

49. While there is a pathway to for converted charter schools to revert, the Minister retains the ability to manage the schooling network with clear criteria to decline to establish a State school in circumstances where there is no network benefit, a significant cost to the Crown, or lack of community support.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

50. Yes

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Additional costs of the preferred option compared to taking no action			
Regulated groups: State schools, charter schools, sponsors, teachers and staff	There are no expected costs for these groups.		
Regulators: Minister of Education Ministry of Education	The preferred option would require the Minister to establish a new State school, unless they have a clear rationale aligned with specific criteria. This is an ongoing restriction to the Minister's current absolute discretion to establish a new State school. To date, no schools have converted and there is no available information about how many may revert.	Low – This would have minor financial implications for the Crown. We expect these costs to be lower than when a new State school is established as the school is already operational. This would impact a small number of schools but may increase over time if the number of converting schools increases.	Low
Others: Students, whānau and communities	There are no expected costs for these groups.		
Total monetised costs		N/A	N/A
Non-monetised costs		Low	Low
Additional benefits of the preferred option compared to taking no action			
Regulated groups: State schools, charter schools, sponsors, teachers and staff	Provides a significant amount of certainty to sponsors and State schools which are considering converting into charter schools. It would be difficult to attribute the preferred policy option to a State school's decision to convert to a charter school.	Medium – This may lead to more State schools converting to charter schools, resulting in increased innovation and contributing to improved student outcomes.	Low
Regulators: Minister of Education Ministry of Education	There is a large body of international evidence which suggests that school choice policies can drive innovation and efficiencies in the system.	Medium – more charter schools within the schooling network provides greater choice for students and whānau. This may support lifting educational outcomes for students.	Medium
Others: Students, whānau and communities	This option is less disruptive to students and the community if a charter school closes. The Minister must	Medium – Students at the converted charter school are likely to continue learning at the same school, unless there is strong	Medium

	establish a new State school unless specific criteria apply.	rationale for not establishing a new State school.	
Total monetised benefits		N/A	N/A
Non-monetised benefits		Medium	Low/Medium

Section 3: Delivering an option

How will the proposal be implemented?

Other legislative changes to support enabling a reversion pathway

51. There are a series of additional legislative amendments proposed to support the reversion pathway, which were noted in the "What scope will options be considered within?" section above:

    a. **Maintain the previous charter school's character:** If a new State school is to open, any special character of the previous charter school will be maintained. This also occurs at conversion where, if the State school was a designated character school, Kura Kaupapa Māori, or a State-integrated school, they must maintain their special character under section 212K(1)(b). Under section 212K(1)(c), an ordinary State school cannot provide education with a special character after converting to a charter school. In effect, this maintains the same character of school from prior to conversion (including if there was no special character).

    b. **Offering similar integration agreement terms as previous integration agreements:** If a similar State-integrated school is to open, the Minister must offer similar terms as the previous integration agreement.

    c. **Preferential status for existing employees:** Preferential status for existing charter school staff to apply for roles at the new State school. In practice, this would give existing staff priority for employment, however not all staff may transfer to the new State school as the staffing entitlement may be reduced or the existing teachers were not registered teachers. We consider that this reduces disruption by providing continuity of employment for staff, and learning for students, as well as reducing redundancy costs for sponsors.

Legislative amendments progressing through the Education and Training (System Reform Part 1) Amendment Bill

52. Legislative changes required to enable a pathway for converted charter schools to revert back to the State sector will be progressed via the Education and Training (System Reform Part 1) Amendment Bill.

53. Once the Bill is passed, the reversion pathway will be integrated into existing processes for the Ministry of Education and Charter School Agency, relating to contract management and establishment of new State schools.

Operational process to support enabling a reversion pathway

54. The Charter School Agency negotiates and manages the contract with sponsors of charter schools, including where a contract is to be terminated. The Ministry and Charter Schools Agency will develop a process so that:

    a. Non-regulatory steps to support the school to remain open as a charter school (e.g., identifying a replacement sponsor) are investigated first by the Charter School Agency.

    b. If these steps are not successful, the reversion process will be triggered.

55. Once the reversion process is triggered, this will transition into the Ministry's process for providing the Minister of Education with advice on new State schools, specifically taking into account the network impacts, financial implications and community support. Existing processes for opening a new State school will also apply.

56. The sponsor of the converted school will be responsible for any necessary closure procedures and be liable for any staff redundancy costs (e.g., if they do not wish to apply for roles in the new State school or if staffing needs have changed) or termination payments payable under their contract.

How will the proposal be monitored, evaluated, and reviewed?

57. It is difficult to directly monitor the impact of the preferred policy option on a prospective sponsor and State school's decision to convert to a charter school. While it is possible that the preferred policy option may provide assurance for some State schools to convert to a charter school, we cannot determine how much of their decision was driven by the greater certainty offered by the preferred option.

58. A detailed evaluation of the charter school model will be developed by the end of 2025. This evaluation process will review the effectiveness of the charter school model and could provide insights into the process of charter schools closing.

59. 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.