

Information Disclosure for Water Services

Regulatory Framework Paper

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Table of Contents

Scope of this regulatory framework paper	2
Purpose of this regulatory framework paper.....	2
The function of information disclosure regulation	3
The purpose of information disclosure regulation.....	4
<i>Key terms that form part of the information disclosure regulation purpose under s 53A.....</i>	<i>5</i>
Our role under information disclosure regulation	9
<i>We decide what information suppliers must disclose, and how they must disclose it</i>	<i>10</i>
<i>Other things an information disclosure determination may do</i>	<i>12</i>
<i>Our decision-making criteria for setting information disclosure requirements</i>	<i>14</i>
<i>We may ask a regulated supplier for more information</i>	<i>18</i>
<i>We may analyse if our information disclosure requirements are working effectively.....</i>	<i>18</i>
<i>Exemptions from information disclosure requirements</i>	<i>19</i>
<i>Section 53ZD – broader powers of the Commission under Part 4</i>	<i>19</i>
<i>Information sharing with other regulatory agencies</i>	<i>20</i>
Enforcement.....	21
Attachment A Glossary.....	23

Scope of this regulatory framework paper

Te whānuitanga o tēnei pepa anga whakarite

1. This regulatory framework paper explains our approach to setting and amending information disclosure (**ID**) requirements in respect of water services that are subject to ID regulation and suppliers of those services.
2. The scope of ID regulation at the onset of the economic regulation of water is limited to certain water services and suppliers of those services. This regulatory framework is intended to be enduring and sets out a consistent approach to setting and amending ID requirements, including if ID regulation covers additional services and suppliers over time.

Purpose of this regulatory framework paper

Te pūtake o tēnei pepa anga whakarite

3. The purpose of this paper is to set out the legal framework we apply when setting or amending our ID requirements. It explains:
 - 3.1 the function of ID regulation
 - 3.2 the purpose of ID regulation
 - 3.3 our role under ID regulation, and
 - 3.4 the decision-making criteria we apply when setting or amending our ID requirements.
4. ID regulation is one of the two types of regulation available from the onset of the regime to regulate water services and suppliers in respect of a regulated service—the other being revenue threshold regulation. In addition, although not described in legislation as a “type of regulation”, we may set requirements relating to the ‘ring-fencing’ of revenue. While ID regulation is the first focus of the new economic regulation regime, there are further types of regulation that we can recommend are imposed, such as performance requirement regulation, quality regulation and price-quality regulation.¹
5. Any future recommendation to introduce further forms of regulation, such as price-quality regulation, would generally be made in light of experience with our information disclosure regimes, and sector performance. Any decisions to introduce additional forms of regulation would be made by the Minister when required under the Commerce Act 1986 (the **Commerce Act**).

¹ Commerce Act 1986, s 57D(3).

The function of information disclosure regulation

Te mahinga a te ture whākinga pārongo

6. ID regulation is a type of economic regulation applied under Part 4 of the Commerce Act to regulate certain markets where there is little or no competition (and little prospect of future competition). This type of regulation promotes transparency by requiring regulated suppliers of regulated goods or services to publicly disclose information about their performance in accordance with requirements that we determine. We call these requirements ‘information disclosure requirements’ or ‘ID requirements’ and we set these out in a determination we make under section 52P of the Commerce Act, giving legal effect to our ID requirements (**ID determination**).
7. In the case of water, ID regulation applies to both water supply services and wastewater services if those services are supplied by a decision-making local government water service supplier. A decision-making local government water service supplier is, in respect of a service, a local government water service supplier that makes decisions about either or both of capital and operating expenditure or the level of charges or revenue recovery for those services.² This means that for water, regulated suppliers are local government water service suppliers that make decisions on these aspects of a regulated service and are therefore subject to ID regulation.
8. Where decision-making responsibilities for one or more of these aspects are shared or allocated across multiple entities within a service delivery arrangement, it follows that more than one entity may be subject to ID regulation in respect of the same regulated service. For example, a ‘parent’ council that makes decisions about revenue, alongside its water organisation responsible for making decisions on capital and operating expenditure, could both meet the criteria of being a regulated supplier. As such, both would be subject to ID regulation and be required by our ID requirements to disclose information. In such situations, our approach will aim to minimise duplication of reporting requirements.
9. We may also obtain information about regulated activities from parties that are not regulated suppliers if those other parties hold information about regulated activities.³ For example, we may obtain information from an entity that has ceased to be a regulated supplier part way through a disclosure year, so that we receive information that covers the full disclosure year.

² Commerce Act 1986, s 57D.

³ Commerce Act 1986, sch 7 cl 6(6).

10. The effect of being subject to ID regulation is set out in section 53B of the Commerce Act. Section 53B(1) provides:

Section 53B Effect of being subject to information disclosure regulation

(1) Every supplier of goods or services that are subject to information disclosure regulation must—

- (a) publicly disclose information in accordance with the information disclosure requirements set out in the relevant section 52P determination; and
- (b) supply to the Commission a copy of all information disclosed in accordance with the section 52P determination, within five working days after the information is first made publicly available; and
- (c) supply to the Commission, in accordance with a written notice by the Commission, any further statements, reports, agreements, particulars, or other information required for the purpose of monitoring the supplier's compliance with the section 52P determination.

11. The scope of application of ID regulation may change over time. Following a Ministerial decision, ID regulation on other water services (such as stormwater services) and other suppliers may be imposed via an Order in Council.⁴

The purpose of information disclosure regulation

Te pūtake o te ture whākinga pārongo

12. The purpose of ID regulation, which is set out in section 53A of the Commerce Act, is to ensure that sufficient information is readily available to interested persons to assess whether the purpose of Part 4 is being met.
13. The purpose of Part 4 is set out in section 52A(1) of the Commerce Act:

Section 52A Purpose of Part

(1) The purpose of this Part is to promote the long-term benefit of consumers in [regulated markets] by promoting outcomes that are consistent with outcomes produced in competitive markets such that suppliers of regulated goods or services—

- (a) have incentives to innovate and to invest, including in replacement, upgraded, and new assets; and
- (b) have incentives to improve efficiency and provide services at a quality that reflects consumer demands; and
- (c) share with consumers the benefits of efficiency gains in the supply of the regulated goods or services, including through lower prices; and
- (d) are limited in their ability to extract excessive profits.

⁴ Commerce Act 1986, s 57L.

14. When the purpose of ID regulation is achieved, it helps promote the purpose of Part 4. If sufficient information is readily available, it enables interested persons to assess whether the purpose of Part 4—particularly the long-term benefit of consumers in regulated markets—is being met. This transparency supports a better understanding of suppliers’ performance, helps assess whether they are operating efficiently and effectively, and encourages suppliers to improve performance over time for the long-term benefit of consumers.
15. The concept of ‘affordability’ is not expressly referred to in the purpose of Part 4 of the Commerce Act. However, the cost to consumers is linked to the efficiency and service quality outcomes that Part 4 expressly seeks to promote. Improvements in efficiency can reduce the cost of providing services and can in turn support more affordable outcomes for consumers of regulated services.
16. To meet the purpose of Part 4, a regulated supplier needs to have the ability to invest in necessary infrastructure and service improvements. This could be compromised if charges become too high and there is a risk of rising levels of non-payment or bad debts. While some regulated suppliers may be able to mitigate these impacts, if widespread enough, this may affect a regulated supplier’s ability to generate sufficient revenue to maintain service quality. Over time, this could also affect the financing cost and access to financing.

Key terms that form part of the information disclosure regulation purpose under s 53A

Ngā tino kupu ka noho hei wāhanga o te pūtake whākinga pārongo i raro i s 53A

17. The purpose of ID regulation guides the ID requirements we impose on suppliers of goods and services that are subject to ID regulation. Our interpretation of the key terms in section 53A of the Commerce Act—including what constitutes ‘sufficient information’, what makes it ‘readily available’, and who the ‘interested persons’ are—draws on our experience applying ID regulation across other sectors regulated under Part 4.
18. While the underlying purpose remains consistent, the specific approach to these key terms is tailored to reflect the characteristics and regulatory context of each sector. As a result, our approach to these key terms has differed in practice between sectors such as electricity distribution, gas pipelines and airports.
19. In the context of water, we set out our interpretation of the key terms in section 53A of the Commerce Act and our approach to reflect the characteristics of the water sector as well as the regulatory context in which regulated services and regulated suppliers operate.

‘Interested persons’

20. Interested persons are a diverse group and can vary across different sectors depending on priorities, perspectives and capacities. For instance, in other sectors we regulate, we considered that interested persons included regulated suppliers of services, their owners and end-users. These groups have different information needs and priorities, and also different capacities to assess information about whether the purpose of Part 4 is being met.
21. Similarly, in the context of water, interested persons represent a broad spectrum of stakeholders with differing roles and interests in assessing the performance of regulated suppliers in respect of a regulated service. To that end, we interpret ‘interested persons’ broadly to include persons who are or may be affected by the way in which regulated services are provided.
22. We therefore consider that interested persons include, but are not limited to:
 - 22.1 regulated suppliers
 - 22.2 ratepayer and consumer representative groups
 - 22.3 owners of regulated suppliers (including councils and consumer trusts)
 - 22.4 other regulatory agencies (such as the Water Services Authority—Taumata Arowai, the Auditor-General and regional councils)⁵
 - 22.5 consumers (current and future), including developers, commercial and industrial users and local communities
 - 22.6 tangata whenua
 - 22.7 central and local government
 - 22.8 lenders, financiers and their advisers
 - 22.9 insurers
 - 22.10 industry bodies, professional associations and their members
 - 22.11 businesses that supply products and services to regulated suppliers, and
 - 22.12 us (the Commerce Commission).

⁵ Other regulatory agencies include the Department of Internal Affairs, Ministry for the Environment, and the Ministry of Business, Innovation and Employment.

‘Sufficient information’

23. The purpose of ID regulation under section 53A of the Commerce Act is to ensure that ‘sufficient’ information is readily available to interested persons to assess whether the purpose of Part 4 is being met. To understand whether the relevant outcomes consistent with workably competitive markets are being promoted, interested persons should have sufficient information to assess suppliers’ actual performance. Having ‘sufficient information’ will encompass both quantitative and qualitative information, with some information being sufficiently disaggregated to allow interested persons to understand what drives suppliers’ performance.
24. For water, information about asset condition and capital expenditure can help interested persons to understand the scale and nature of investment needs. Qualitative explanations (such as notes on asset condition) assist interested persons in interpreting quantitative information (such as financial data for capital expenditure). As such, regulated suppliers may be required to provide qualitative information such as explanatory notes to financial data and narrative information in asset management plans as both types of information may assist interested persons to understand investment needs.
25. In our approach to determining what constitutes ‘sufficient information’, we are also mindful of the broader regulatory environment in which regulated suppliers operate. This broader environment is shaped by other legislative and regulatory reporting obligations under which regulated suppliers produce other information.
26. Therefore, we may find it relevant to consider other information disclosed or reported elsewhere. This may include, for example, information reported under the Water Services Authority—Taumata Arowai’s network environmental performance measures, or information regulated suppliers are required to disclose in accountability documents such as water services annual reports and water service strategies.⁶
27. We may also consider voluntary disclosures in our assessment of whether there is ‘sufficient information’ for interested persons to assess the performance of regulated suppliers and whether the long-term benefit of consumers of regulated services is being promoted.

⁶ Sections 243-246 of the LGWS Act set out the requirement for regulated suppliers to prepare and adopt water services annual reports, while section 230 of the LGWS Act requires regulated suppliers to prepare and maintain a water services strategy at all times.

‘Readily available’

28. The manner and form in which information is disclosed affects interested persons’ ability to use that information to assess performance and whether the purpose of Part 4 is being met. We consider that relevant factors in ensuring information is ‘readily available’ are the extent to which information is:
- 28.1 consistent
 - 28.2 accessible, and
 - 28.3 comprehensible.
29. Consistent disclosure of data in a standardised form that can be compared over time and across suppliers can help interested persons to compare the performance of suppliers and to identify potential trends in their performance. A lack of consistency in the disclosure of information may mean that information is not ‘readily available’.
30. Accessibility of information refers to the ease with which the information can be accessed by interested persons (for example, on a website) and the format in which it is available (e.g., in a PDF report or an Excel spreadsheet). A lack of ease of access to disclosed information may mean that the information is not ‘readily available’.
31. Comprehensibility refers to the ease with which interested persons can navigate quantitative or qualitative information and get access to key insights relevant to them or of interest to them. Information may not be ‘readily available’ where disclosed information lacks comprehensibility such that it may hinder the ability of interested persons to engage meaningfully with the information for key insights.
32. How information is disclosed by regulated suppliers of regulated services should therefore be consistent, accessible and comprehensible. This helps interested persons use the disclosed information to assess the performance of regulated suppliers and whether the Part 4 purpose is being met. Without requirements ensuring consistency, the disclosed information may be harder to interpret, less useful for generating meaningful insights and may require time-consuming processes to make the information consistent.
33. To support accessibility and comprehensibility over time, for some ID requirements, we may initially require regulated suppliers to describe and explain key information in a narrative format and progressively move toward more structured and standardised reporting as systems and capabilities mature.
34. As we noted above, when assessing what constitutes ‘sufficient information’, we may consider a regulated supplier’s obligations to disclose or report information under other legislative or regulatory frameworks. To that end, in assessing whether sufficient information is ‘readily available’, we may consider these obligations and whether the information that is disclosed elsewhere in response to these other obligations is ‘sufficient information’ which is ‘readily available’ to interested persons.

35. For example, where regulated suppliers are required to disclose pricing methodologies that support the pricing and charging disclosures in their water services strategy, we may consider the extent to which that information is consistent, accessible and comprehensible to interested persons.⁷
36. We consider that the publication of our summary and analysis of the information disclosed by regulated suppliers in response to our ID requirements also contributes to information being ‘readily available’, to the extent that our summary and analysis also meets the relevant factors of being consistent, accessible and comprehensible.

Our role under information disclosure regulation

Te wāhi ki a mātou i raro i te ture whākinga pārongo

37. Our role under ID regulation has three main parts to it:
- 37.1 Deciding what information a regulated supplier must disclose to the public, and the manner and form in which it must disclose it. We do this by setting ID requirements in an ID determination.⁸
 - 37.2 Publishing a summary and analysis of any information a regulated supplier publicly discloses in response to our ID requirements.⁹ We do this to promote greater understanding of the performance of regulated suppliers including changes in performance over time.
 - 37.3 Monitoring and analysing information which is disclosed in accordance with our ID requirements.¹⁰
38. In addition to this, we also monitor and enforce compliance with ID determinations, and as part of this we may require that the regulated supplier provide further statements or additional information for the purpose of monitoring compliance.¹¹
39. We may also exercise any of our powers—including ID—where appropriate, to monitor compliance by regulated suppliers with a section 52P determination we have set relating to the ring-fencing of revenue.¹²

⁷ Local Government (Water Services) Act 2025, sch 3 cl 5(4)(b).

⁸ Commerce Act 1986, s 53C.

⁹ Commerce Act 1986, s 53B(2)(b).

¹⁰ Commerce Act 1986, s 53B(2)(a).

¹¹ Commerce Act 1986, s 53B(1)(c).

¹² Commerce Act 1986, sch 7 cl 5(4).

We decide what information suppliers must disclose, and how they must disclose it

Ka riro mā mātou e whakatau i te pārongo me mātua whāki e ngā kaiwhakarato, me pēhea hoki e whāki ai

40. As previously discussed in this paper, the effect of suppliers being subject to ID regulation is that they must publicly disclose information in accordance with any ID requirements that apply to them.
41. For water, in deciding what information regulated suppliers must disclose and how they disclose it, we are able to have regard to the scale, complexity and risk profile of each regulated supplier (or a class of regulated suppliers). We are also able to consider the type of water services being provided by each supplier (or class of regulated supplier), that the determination will apply to. For example, we can require more or less information to be disclosed.¹³

Information that must be included in our information disclosure determination

42. Section 53C of the Commerce Act governs the content of any section 52P determination we make. Section 53C(1) provides that the ID determination must specify the following:
 - 42.1 the goods or services to which it applies
 - 42.2 the supplier to which it applies
 - 42.3 the information to be disclosed
 - 42.4 the manner in which the information is to be disclosed
 - 42.5 the form of disclosure
 - 42.6 when, and for how long, information must be disclosed
 - 42.7 the input methodologies that apply, and
 - 42.8 any other methodologies that are required in the preparation or compilation of the information.
43. Unlike some of our regulatory work in other sectors, for water we may make an ID determination without first determining input methodologies.¹⁴ However, this ability does not limit our ability to specify other methodologies for the preparation or compilation of information we require regulated suppliers to disclose in an ID determination.¹⁵

¹³ Commerce Act 1986, sch 7 cl 6(2).

¹⁴ Commerce Act 1986, s 57P. Input methodologies are the rules, requirements and processes that we may set upfront to help promote certainty about what rules, requirements and processes apply in regulating specific services under Part 4.

¹⁵ Commerce Act 1986, s 53C(1)(h).

44. The requirement to specify the ‘manner’ and ‘form’ by which information is disclosed means we can specify in an ID determination how a regulated supplier will be required to disclose information to the public. This can be important in circumstances where we consider certain information should be expressed in a particular way to ensure interested persons can understand it and access the key insights relevant to them.
45. For example, if we set an ID requirement that requires a supplier to publicly disclose all of its current prices, we could require that the disclosed pricing information must be expressed in a manner that enables consumers to determine which of those prices will apply to them. Similarly, we could require that the regulated supplier publicly disclose that pricing information by publishing it on their website, publishing it in a newspaper, making copies of the information available, providing written notice to each affected consumer, or providing the information to its consumers in a public forum.

Information that may be required to be disclosed

46. We have a wide discretion in determining the types of information that must be disclosed by regulated suppliers under ID requirements, and an ID determination may specify (without limitation) any of or all of the following types of information:¹⁶
- 46.1 financial statements (including projected financial statements)
 - 46.2 asset values and valuation reports
 - 46.3 prices, terms and conditions related to prices, and pricing methodologies
 - 46.4 contracts
 - 46.5 transactions with related parties
 - 46.6 financial and non-financial performance measures
 - 46.7 plans and forecasts, including (without limitation) plans and forecasts about demand, investments, prices, revenues, quality and service levels, capacity and spare capacity, and efficiency improvements
 - 46.8 asset management plans
 - 46.9 quality performance measures and statistics
 - 46.10 assumptions, policies, and methodologies used or applied in these or other areas, and
 - 46.11 consolidated information that includes information about unregulated goods or services.

¹⁶ Commerce Act 1986, s 53C(2).

47. In addition to this, an ID determination that we set may also require disclosure of the following:
- 47.1 Consolidated information that includes information about goods or services that are not subject to regulation under Part 4 (unregulated activities) as well as information about the financing of regulated suppliers that also includes information about unregulated activities.^{17,18} In both cases, we may require this additional information from the regulated supplier in order to monitor compliance with requirements to disclose information under Part 4 relating to water services, compliance with ring-fencing of revenue determinations,¹⁹ and the ongoing ability of the regulated supplier to raise finance for the supply of regulated services by assessing the supplier's overall financial position.²⁰
 - 47.2 Information about how a regulated supplier is supporting and enabling planning processes, growth, and housing and urban development and the regulated supplier's level of responsiveness in relation to these issues.²¹
 - 47.3 Information relating to consumer protection such as information about consumers' experience of the regulated services provided by their supplier. This includes information about complaints, such as complaint volumes, resolution timeframes and outcomes.²²

Other things an information disclosure determination may do

Ko ētahi atu mea ka hua mai i te whakatau whākinga pārongo

Impose assurance requirements

48. Section 53C(3)(a)-(b) of the Commerce Act provides that an ID determination that we set may also:
- 48.1 require disclosed information, or information from which disclosed information is derived (in whole or in part), to be verified by statutory declaration, and
 - 48.2 require independent audits of disclosed information.
49. In addition, Schedule 7, clause 6(4) of the Commerce Act explicitly provides that an ID determination may also require independent audits, assurance or other verification of disclosed information as well as impose requirements as to who may carry out such audit, assurance or verification.

¹⁷ Commerce Act 1986, sch 7 cl 6(3)(a).

¹⁸ Commerce Act 1986, sch 7 cl 6(3)(b).

¹⁹ Commerce Act 1986, sch 7 cl 7(1)(b).

²⁰ Commerce Act 1986, sch 7 cl 7(1)(c).

²¹ Commerce Act 1986, sch 7 cl 6(3)(c).

²² Commerce Act 1986, s 57ZA.

50. Where the regulated supplier is a public entity for which an ID determination imposing these assurance requirements applies, the Auditor-General is the auditor.²³

Require the retention of data

51. Section 53C(3)(c) of the Commerce Act provides that an ID determination that we set may also require the retention of data on which disclosed information is based, including associated documentation.
52. Retention of data and documentation enables consistency over time, assists in future disclosures and supports external assurance or compliance monitoring processes. We may, where appropriate, specify retention requirements to suit the type of information disclosed and the purpose of ID regulation while balancing any compliance burden on regulated suppliers.

Provide for exemptions

53. Section 53C(3)(d) of the Commerce Act provides that an ID determination may also exempt any person or class of persons, or provide for exemptions, from any requirements of the determination, and provide for the revocation of exemptions. This ability to exempt or provide for exemptions is also discussed in paragraphs 83 to 87 of this paper.

Provide for transitional provisions

54. Section 53C(3)(e) of the Commerce Act provides that an ID determination may also provide for transitional matters. This enables us to incorporate transitional arrangements or mechanisms that facilitate a smooth implementation of a new or amended disclosure requirement, allowing regulated suppliers time to adapt systems or phase in compliance obligations for instance.

Provide for anything else necessary or desirable

55. Section 53C(3)(f) of the Commerce Act provides that we can set any other requirement in an ID determination that we consider is “necessary or desirable” to ensure that sufficient information is readily available to interested persons to assess whether the Part 4 purpose is being met. For example, we may require that a regulated supplier take certain actions in the event it identifies that it has disclosed information that contains an error. This could include ensuring that the original public disclosure that is kept available to the public includes information that addresses the error such as the reason the error occurred, and which information from the original disclosure was affected by the error.

²³ Commerce Act 1986, sch 7 cl 6(5).

Other things an information disclosure determination may do—specify disclosure in accountability documents

56. An ID determination may specify that certain information be disclosed in accountability documents such as water services annual budgets, water services annual reports and water services strategies.²⁴ This supports alignment where possible between our ID requirements and information regulated suppliers are obligated to disclose in some of these accountability documents. This operates to minimise any regulatory burden and reduce duplication.

Our decision-making criteria for setting information disclosure requirements

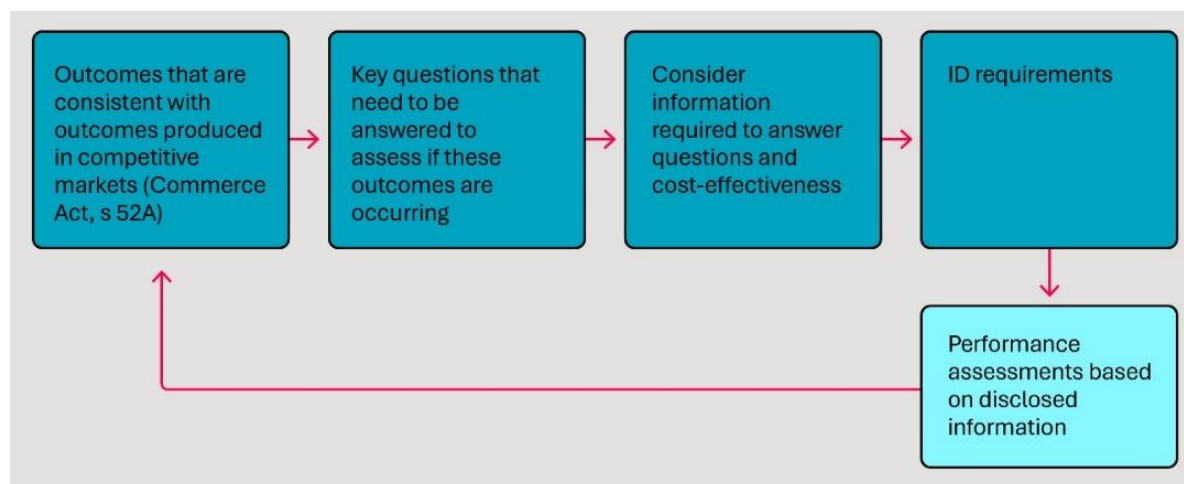
Ā mātou paearu whakaoti-whakatau mō ngā herenga whākinga pārongo

57. Our key consideration in setting or amending ID requirements is to require the disclosure of information that will ensure that interested persons have sufficient information readily available to assess whether the Part 4 purpose is being met.
58. In other words, we must consider the information that will allow an interested person to assess whether the performance of a regulated supplier is consistent with the performance outcomes one would expect to find in a workably competitive market.
59. In particular, we consider the information that would be sufficient to answer certain key questions related to regulated supplier's historical, current and future performance, for example:
- 59.1 is the regulated supplier operating and investing in their assets efficiently? (section 52A(1)(a)-(b) of the Commerce Act)
 - 59.2 is the regulated supplier innovating where appropriate? (section 52A(1)(a) of the Commerce Act)
 - 59.3 is the regulated supplier providing services at a quality that reflects consumer demands? (section 52A(1)(b) of the Commerce Act)
 - 59.4 is the regulated supplier sharing the benefits of efficiency gains with consumers, including through lower prices? (section 52A(1)(c) of the Commerce Act)
 - 59.5 do the prices set by the regulated supplier promote efficiency? (section 52A(1)(a)-(b) of the Commerce Act), and
 - 59.6 is the regulated supplier earning an appropriate economic return over time? (section 52A(1)(d) of the Commerce Act).

²⁴ Local Government (Water Services) Act 2025, ss 234(1)(b), 241(1)(b), and 246(1)(b).

60. Alongside the information that is required to answer these questions, we also consider the cost-effectiveness of our requirements as we are mindful of the cost to regulated suppliers that is ultimately paid for by consumers. Figure 1.1 sets out the process we follow.

Figure 1.1 Process for developing ID requirements



61. We consider that interested persons need a package of different types of information (both quantitative and qualitative) to answer these key performance questions. This may include how the network is being managed and how the regulated supplier plans to manage the network in the future, especially given changes in the environment the network is operating in. The necessary information may also include expenditure on different activities (both actual and forecast), quality outcomes and pricing.
62. In terms of how we decide what is ‘sufficient information’, as we discussed earlier in this paper, having ‘sufficient’ information requires interested persons having both quantitative and qualitative information. It also requires certain disclosed information be sufficiently disaggregated to allow interested persons to understand what is driving regulated supplier’s performance and whether the purpose of Part 4 is being met.
63. For instance, we could require some information at a whole of organisation level and some information at a disaggregated level such as by water supply and wastewater service.
64. ID regulation sits within a broader regulatory and policy landscape that includes other legislative requirements for regulated suppliers and policy objectives and roles held by different regulatory agencies. In setting and applying ID regulation to regulated services, section 57S of the Commerce Act requires that we must take account of the existing obligations that regulated suppliers have under other legislation, instruments, or under any Treaty settlement obligations. This includes taking account of a regulated supplier’s obligations to report on and publish information under other legislation that could inform our decision on whether sufficient information is readily available to assess whether the purpose of Part 4 is being met.

65. Some information relevant for those purposes may already be publicly disclosed in documents such as water services strategies,²⁵ and water services annual reports.²⁶
66. We may also consider the efficient use of water resources in relation to water services when setting ID requirements, including reuse, conservation and demand management.²⁷ Where relevant, this may inform the design of any ID requirements that provide insights into how suppliers manage water demand, water losses or other aspects of water resource use related to water services.
67. Our functions do not extend to regulating the safety of drinking water, which is a function that is carried out by the Water Services Authority—Taumata Arowai under separate legislation.²⁸ While ID requirements will not be set for the purpose of regulating drinking water safety, we consider that there are areas in our ID requirements (and economic regulation more generally) that are relevant to drinking water safety. For example, ID requirements relating to asset management and investment may relate to (but not regulate) drinking water safety.

Our approach to ensuring information disclosure requirements are cost-effective

68. In setting ID requirements that enable stakeholders to assess the performance of regulated suppliers, we are required to give effect to the purpose of ID in section 53A of the Commerce Act.
69. As noted above, we recognise that the information we require regulated suppliers to disclose comes at a cost to regulated suppliers, and these costs are ultimately borne by consumers.
70. We will therefore seek to balance the benefits from greater transparency that more comprehensive and detailed ID requirements would provide, against the costs of complying with the ID requirements we set. In particular, we intend to:
 - 70.1 take account of regulated suppliers' existing practices and capability
 - 70.2 consider tailoring ID requirements based on the scale, complexity and risk profile of regulated suppliers
 - 70.3 seek technical input from water sector stakeholders
 - 70.4 provide templates, guidance and worked examples
 - 70.5 focus on information that will have the biggest benefit for understanding and influencing performance of regulated suppliers
 - 70.6 consider aligning ID requirements with other parts of Part 4 as well as Part 4A where appropriate²⁹

²⁵ Local Government (Water Services) Act 2025, s 234.

²⁶ Local Government (Water Services) Act 2025, s 246.

²⁷ Commerce Act 1986, s 57R.

²⁸ Commerce Act 1986, s 57T.

²⁹ Commerce Act 1986, Part 4A makes provisions for consumer protection by suppliers and improvements to service quality for consumers.

- 70.7 consider relevant obligations imposed on regulated suppliers by other agencies, and
 - 70.8 evolve the requirements over time.
71. We recognise that the context for ID requirements can change over time, in which case there may be a need to reconsider the balance between benefits and costs. This may result in us amending, updating, simplifying, or removing existing requirements.

We summarise and analyse the information regulated suppliers disclose

72. We are required, as soon as practicable after any information is publicly disclosed, to publish a summary and analysis of the disclosed information to promote a greater understanding of how regulated suppliers perform compared to each other and how their performance changes over time.³⁰
73. This requirement confers an ongoing, active role on us in respect of the information disclosure regime after the ID requirements have been set. As information is disclosed and analysed over the years, it provides an ongoing source of information so that performance trends can be identified and monitored over time.
74. The summary and analysis we produce and publish assists interested persons in assessing whether the purpose of Part 4 is being met by helping them to better understand the performance of regulated suppliers, as well as the information that is publicly disclosed by regulated suppliers.
75. Our analysis role under ID is not simply to explain the information disclosed under ID, but more essentially to promote greater understanding of a regulated supplier's performance. This means that the scope of the analysis we undertake of information that a regulated supplier discloses can be broad. For example, if we are analysing the information regulated suppliers have publicly disclosed under ID, part of our analysis may extend to considering what factors (internal and external to them) are impacting their performance.
76. Our ability to summarise and analyse information is not limited to information disclosed in response to ID requirements. In performing our functions in relation to water services—including summary and analysis—we may also:³¹
- 76.1 consider, summarise, analyse and use any information that we consider relevant, including for instance information that is obtained through monitoring or gathered via engagement with stakeholders
 - 76.2 provide information to the public about any of the activities we carry out in relation to considering, summarising, analysing or using any of the information we consider relevant, or

³⁰ Commerce Act 1986, s 53B(2)(b).

³¹ Commerce Act 1986, sch 7 cl 38.

- 76.3 make comments on any information which is provided publicly by regulated suppliers or the Water Services Authority—Taumata Arowai.

We may ask a regulated supplier for more information

Tērā ka tono pārongo anō mātou i te kaiwhakarato whaimana

77. The active nature of our role under ID is also supported by section 53B(2)(a) of the Commerce Act, which allows us to “monitor and analyse” all information that a regulated supplier discloses under ID regulation.
78. If we have questions regarding the information a regulated supplier has publicly disclosed, or if our analysis of the information a regulated supplier has publicly disclosed raises concerns regarding that regulated supplier’s compliance with our ID determination, we may decide we need further engagement with that supplier and ask that supplier for more information.
79. Part of that further engagement may involve us issuing a regulated supplier with a notice under section 53B(1)(c) of the Commerce Act to supply us with additional information (such as further statements, reports, agreements, particulars or other information), for the purpose of monitoring that supplier’s compliance with our ID requirements.
80. We may also gather information about regulated activities from any party holding that information. This may be, for example, a contracted party or a previously regulated supplier.³²

We may analyse if our information disclosure requirements are working effectively

Tērā ka tātaringia kia mōhio mēnā e tika ana te mahi a ngā herenga whākinga pārongo

81. When we analyse the information that regulated suppliers have disclosed, we may, as part of that analysis, assess whether the existing ID requirements imposed on those regulated suppliers are working effectively to promote the purpose of ID, and the overall purpose of Part 4.³³ If we assess that our ID requirements are not effective, we may decide different requirements (or changes to existing requirements) are necessary.
82. The more effective our ID requirements are in promoting the purpose of ID, the more likely it is that those requirements are promoting the overall purpose of Part 4.

³² Commerce Act 1986, sch 7 cl 6(6).

³³ Commerce Act 1986, s 53B(3).

Exemptions from information disclosure requirements

Ngā whakakāhoretanga mai i ngā herenga whākinga pārongo

83. We have the power to exempt any person or class of persons from any requirements of a section 52P ID determination, or to provide for exemptions in an ID determination, under section 53C(3)(d) of the Commerce Act.
84. After we set an ID determination, we also have the power under section 53ZG of the Commerce Act, upon application of a regulated supplier who is required to disclose information publicly, to exempt the public disclosure of information if we consider such information to be commercially sensitive. While we have the discretion to exercise such power to exempt the public disclosure of information under this provision, we consider that section 53C(3)(f) of the Commerce Act allows us to require disclosure of any such information to us on a Commission-only basis if we consider that such disclosure is necessary or desirable to promote the purpose of ID regulation, including for the purposes of monitoring compliance with our ID requirements.
85. In addition to these powers, we may on application or on our own initiative, make a determination that exempts a local authority from complying with ID in respect of one or more water services, where we are satisfied that:³⁴
- 85.1 the costs of compliance outweigh the benefits, and
 - 85.2 the extent of the exemption is not broader than is reasonably necessary to address the matters that gave rise to the exemption.
86. Any such exemption is granted subject to the terms and conditions determined by us and our reasons for granting the exemption is published alongside the determination.³⁵
87. We will assess exemption applications on a case-by-case basis under the Commerce Act. In considering whether to grant an exemption under any of our powers, we will consider whether the exemption is consistent with the purpose of ID under section 53A of the Commerce Act, which is to ensure that sufficient information is readily available to interested persons to assess whether the purpose of Part 4 is being met.

Section 53ZD – broader powers of the Commission under Part 4

Tekiona 53ZD – te mana whānui o te Kōmihana i raro i te Wāhanga 4

88. Section 53ZD of the Commerce Act sets out powers for the Commission “for the purpose of carrying out its functions and exercising its powers” under Part 4 more broadly (for example, requesting information from regulated suppliers for the purposes of helping us to determine whether or not to propose additional ID requirements).

³⁴ Commerce Act 1986, s 57U(1).

³⁵ Commerce Act 1986, s 57U(3).

89. We can also use our powers under section 53ZD to investigate compliance with the Commerce Act. For example, if our ID analysis raised concerns that a supplier was not complying with the ID requirements, we may investigate further, and may under section 53ZD, require the supplier to:
- 89.1 prepare and produce forecasts, forward plans, or other information
 - 89.2 apply any methodology specified by us in the preparation of forecasts, forward plans, or other information
 - 89.3 produce “documents and information in relation to the goods or services, or the prices or operations of the person in respect of the goods or services”, in circumstances where we are conducting an investigation, audit, or inquiry, and “to answer any questions about any matter that the Commission has reason to believe may be relevant to the investigation, audit, or inquiry”, and
 - 89.4 provide us with an expert opinion in relation to that matter.

Information sharing with other regulatory agencies

Te tuari pārongo me ētahi atu hinonga whakature

90. Reciprocal information sharing allows for a coordinated regulatory approach, reduces duplication of effort and minimises regulatory burden on regulated suppliers.
91. To this end, we have the power to share information we hold in relation to performing or exercising our functions, duties or powers under the Commerce Act (including for ID regulation) with another regulatory agency.³⁶ This can occur where we consider that such information may assist the regulatory agency in carrying out its own powers, duties and functions in relation to water services.
92. Similarly, other regulatory agencies may also provide us with information they hold in relation to performing or exercising their own functions, duties and powers. This may occur where they consider it may assist us in the performance and exercise of our functions, duties and powers under the Commerce Act in relation to water services.³⁷

³⁶ Commerce Act 1986, sch 7 cl 37(1).

³⁷ Commerce Act 1986, sch 7 cl 37(2).

Enforcement

Te whakauruhi

We may take enforcement action against contraventions of information disclosure requirements

93. Under Part 6 of the Commerce Act, we may take enforcement action in response to any contraventions of ID requirements. Section 86 provides that we can apply to the court for a pecuniary penalty against any person who has contravened any ID requirement. The maximum pecuniary penalty is \$500,000 for an individual or \$5 million in any other case.³⁸
94. In addition, section 86B(1) of the Commerce Act establishes an offence where a person “knowing that particular goods or services are subject to information disclosure regulation, intentionally contravenes any information disclosure requirement relating to those goods or services”. The maximum fine for a conviction under section 86B(1) for an individual is \$200,000 and for any other case is \$1 million.^{39,40}
95. Contravention of an ID requirement includes:⁴¹
- 95.1 failing to disclose information required to be disclosed
 - 95.2 failing to disclose information in the form specified
 - 95.3 failing to disclose information within the time required, or
 - 95.4 disclosing information under an ID requirement that is false or misleading.
96. Where we identify non-compliance with our ID requirements, we may take enforcement action against any person involved, including individuals and entities. Persistent non-compliance with disclosure requirements, particularly those relating to financial and asset management information, will be treated seriously and may require stronger enforcement response.

³⁸ Commerce Act 1986, s 86(1)(a)-(b). Section 86(1)(c)-(f) sets out a range of other conduct for which a Court may (on application by the Commission) order a pecuniary penalty. These include (c) where the Court is satisfied a person has aided, abetted, counselled, or procured any other person to contravene an ID requirement; or (d) has induced, or attempted to induce, any other person, whether by threats or promises or otherwise, to contravene any such requirement; or (e) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by any other person of any such requirement; or (f) has conspired with any other person to contravene any such requirement.

³⁹ Commerce Act 1986, s 86B(2).

⁴⁰ A person also commits an offence if the person is subject to an order from the court to comply with an information disclosure requirement and fails to comply with that order by the time specified (Commerce Act 1986, s 86B(1)(b)).

⁴¹ Commerce Act 1986, s 86(2).

97. Our enforcement response will reflect a Commission-wide approach to promoting compliance with our regulatory requirements including for ID regulation. This approach is set out in our Enforcement Response Guidelines, which guide how we respond to non-compliance, including under ID regulation.⁴² In taking enforcement action, we have a range of enforcement tools available to us and in deciding what action to take, we consider the extent of harm, the seriousness of the conduct and public interest. We aim to be proportionate and consistent in our enforcement decisions with the goal of encouraging future compliance and maintaining confidence in the regime.

⁴² Commerce Commission “[Enforcement Response Guidelines](#)” (July 2024).

Attachment A Glossary

Kupu taka

Term/Abbreviation	Definition
Accountability documents	Means a water services strategy, water services annual budget and water services annual report required under Subpart 1 and Subpart 2 of Part 4 of the LGWS Act
Commerce Act	Commerce Act 1986
Commission	Commerce Commission
Commission-only disclosure	Refers to information that regulated suppliers would be required to disclose to the Commission only and are not required to publicly disclose
Economic regulation	Refers to a way of influencing the performance of suppliers in certain sectors (such as the water sector) which are important to people's lives, and where issues such as market power (including monopolies) may otherwise lead to outcomes that do not reflect the long-term interests of consumers, including in relation to the price and quality of products and services supplied
ID	Information disclosure
Local government water service supplier	Has the meaning as in Schedule 7, clause 2(1) of the Commerce Act
LGWS Act	Local Government (Water Services) Act 2025
Network	Means the infrastructure and processes used to provide the regulated services
Regulated suppliers	Has the meaning as in section 57D of the Commerce Act
Regulated services	Has the meaning as in section 57D of the Commerce Act
Split decision-making model	Means an arrangement for providing water services where a local government water service supplier makes one or more, but not all, decisions about capital and operating expenditure on a regulated water service or the level of charges or revenue recovery for a regulated water service, as defined under Schedule 7, clause 2(1) of the Commerce Act
Treaty settlement obligations	Has the meaning as in section 4 of the LGWS Act
Water organisation	Has the meaning as in section 4 of the LGWS Act
Water services	Services provided to consumers by water service providers including drinking water, stormwater and wastewater services as defined under section 4 of the LGWS Act
Water services annual budget	Has the meaning as in section 220 of the LGWS Act
Water services annual report	Has the meaning as in section 220 of the LGWS Act
Water Services Authority—Taumata Arowai	Means the Water Services Authority—Taumata Arowai, established under the Water Services Authority—Taumata Arowai Act 2020
Water services strategy	Has the meaning as in section 220 of the LGWS Act