

Economic regulation for Tiaki Wai

Consultation on recommending
performance requirement regulation

7 May 2026



Associated documents

Publication date	Reference	Title
12 February 2025	ISBN 978-1-99-133225-7	Economic Regulation of Water Services - Information Disclosure – Discussion Paper
12 February 2025	ISBN 978-1-99-133228-8	Economic Regulation of Water Services – Information Disclosure – Technical Working Paper on the Accounting Basis for Regulatory Reporting
28 May 2025	ISBN 978-1-99-133251-6	Economic Regulation of Water Services – Information Disclosure – Discussion Paper – Summary of Responses
12 August 2025	ISBN 978-1-99-133286-8	Wellington Water Foundational Information Disclosure – Final Decision
12 August 2025	ISSN: 1178-2560	Wellington Water Foundational Information Disclosure Determination 2025
11 September 2025	ISBN 978-1-99-133298-1	Information Disclosure for Water Services – Draft Decision Summary
24 February 2026	2026 NZCC 3	Water Services Information Disclosure Determination 2026
24 February 2026	ISBN 978-1-99-133299-8	Information Disclosure for Water Services – Regulatory Framework Paper
24 February 2026	ISBN 978-1-991414-64-9	Information Disclosure for Water Services – Final Decision Summary Paper
7 May 2026	ISBN 978-1-997321-06-4	Economic regulation for Tiaki Wai – Consultation on additional information disclosure requirements
7 May 2026	ISBN 978-1-997321-05-7	Draft Tiaki Wai Economic Regulation Determination 2026
7 May 2026	ISBN 978-1-997321-04-0	Draft Water Services Information Disclosure (Tiaki Wai) Amendment Determination 2026

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Chapter 1 Introduction

Kupu whakataki

Purpose of this paper

Te pūtake o tēnei pepa

- 1.1 The purpose of this paper is to consult on our proposed recommendation to the Minister of Commerce and Consumer Affairs (**the Minister**) to impose performance requirement regulation under s 57G of the Commerce Act 1986 (**Commerce Act**) on Tiaki Wai in respect of its water supply services and wastewater services¹. Section 57H sets out that consultation is required.
- 1.2 Tiaki Wai is subject to enduring information disclosure (**ID**) regulation for these services.² This paper forms part of a broader set of regulatory interventions being considered in relation to Tiaki Wai. Alongside this paper, we are separately consulting on our proposed additional ID requirements for Tiaki Wai.³
- 1.3 This consultation package reflects our assessment of material risks in relation to Tiaki Wai's delivery of water supply and wastewater services, and the appropriate regulatory response to those risks. Chapter 3 of the consultation paper on additional ID requirements provides a summary of our assessment, and important relevant context for our proposal to recommend to the Minister to impose performance requirement regulation.⁴
- 1.4 ID regulation aims to ensure that sufficient information is readily available for interested persons to assess whether the purpose of Part 4 of the Commerce Act (**Part 4 purpose**) is being met.⁵ Whilst transparency and oversight are expected to influence significant change, in some instances additional regulatory interventions may be warranted.
- 1.5 We are consulting on whether to recommend to the Minister that the Commerce Commission can apply a regulatory tool called performance requirements to Tiaki Wai. Performance requirement regulation can include setting clear delivery requirements that are expected to create stronger incentives.

¹ Commerce Act, s 57D(1) and (2).

² Commerce Commission [Water Services Information Disclosure Determination 2026](#)

³ Commerce Commission 'Economic regulation for Tiaki Wai – Consultation paper on additional information disclosure requirements'.

⁴ Commerce Commission 'Economic regulation for Tiaki Wai – Consultation paper on additional information disclosure requirements'.

⁵ Commerce Act, s 53A.

- 1.6 Performance requirement regulation is a tool which regulates the performance (other than in relation to prices) of water services supplied by regulated suppliers.⁶ If performance requirement regulation were imposed this would allow us to, for example, impose specific delivery requirements on Tiaki Wai, where doing so would better promote the Part 4 purpose.⁷
- 1.7 This paper focuses only on our proposed recommendation to the Minister (whether performance requirement regulation should be imposed), rather than the specific content of any performance requirements. If the Minister decides to impose performance requirement regulation, the Commission will consult separately on the detailed specifications of any proposed performance requirements, and when and how they might apply to Tiaki Wai.

How to have your say

Mō te tuku kōrero mai

- 1.8 We want your feedback on our proposal to recommend to the Minister that performance requirement regulation should be imposed on Tiaki Wai.
- 1.9 Submissions are due by **5pm on Thursday 28 May 2026**. [Attachment B](#) sets out how to make a submission including how to send your submission, how we handle confidential submissions, our preferred file format and where to find our submission template. There will be no opportunity for cross-submissions as part of this consultation process.

Next steps following consultation

Te ara ka whāia ā muri i te whakawhiti kōrero

- 1.10 The table below sets out key steps following consultation on our proposal. The timeline is indicative and is dependent on the Minister's process including the time it takes for the Minister to complete the steps in the legislation.

⁶ Commerce Act, schedule 7, c 17.

⁷ Commerce Act, schedule 7, c 19(4) which sets out what a performance requirement may include.

Table 1.1 Next steps

Step	Indicative timing
Consultation closes	28 May 2026
Subject to considering consultation submissions, the Commission would make a recommendation to the Minister	June 2026
If the Commission decides to make a recommendation, the Minister must publish the Commission’s recommendation (cl 57G(3))	Minister’s decision
If the Minister decides to impose further regulation, we would consult on the specifics of any performance requirement regulation	Following the Minister’s decision

Structure of this paper

Te takoto o tēnei pepa

1.11 This paper is organised into the following chapters:

- 1.11.1 **Chapter 2 Regulatory framework**—outlines the statutory framework for the Commission to recommend further regulation be imposed by the Minister under the Commerce Act.
- 1.11.2 **Chapter 3 Performance requirement regulation**—explains why the Commission considers we should recommend performance requirement regulation be imposed on Tiaki Wai in respect of its water supply services and wastewater services.

Chapter 2 Our framework for decision making

Tō mātou anga whakaoti whakatau

- 2.1 While ID regulation is the initial focus of the new economic regulation regime, there are also additional forms of regulation that we may recommend the Minister impose. These include performance requirement regulation, quality regulation and price quality regulation.⁸
- 2.2 Section 57G of the Commerce Act sets out that the Commission may recommend to the Minister that regulation should be imposed (or removed) as follows in respect of one or more suppliers:⁹
- 2.2.1 water supply services, wastewater services, or both, should (or should no longer) be subject to one or more of the following types of regulation:
- 2.2.1.1 information disclosure regulation;
 - 2.2.1.2 revenue threshold regulation;
 - 2.2.1.3 quality regulation;
 - 2.2.1.4 performance requirement regulation;
 - 2.2.1.5 price-quality regulation.
- 2.2.2 stormwater services should (or should no longer) be subject to one or more of the following types of regulation:
- 2.2.2.1 information disclosure regulation;
 - 2.2.2.2 revenue threshold regulation;
 - 2.2.2.3 quality regulation;
 - 2.2.2.4 performance requirement regulation;
 - 2.2.2.5 price-quality regulation.
- 2.3 Before making a recommendation under s 57G, the Commission must consider certain matters set out in s 57H. Specifically:¹⁰

⁸ For further information on the Commission's regulatory toolkit, Refer to [Introducing Economic Regulation and Consumer Protection for Water Services in Aotearoa New Zealand \(September 2025\)](#).

⁹ Commerce Act, s 57D. The Commission already has the ability to apply information disclosure or revenue threshold regulation to regulated providers.

¹⁰ Commerce Act, s 57H.

- 2.3.1 whether imposing (or removing suppliers from) the regulation would better promote the purpose of this Part;
 - 2.3.2 the nature of the water services delivery structure (to the extent that the Commission considers relevant);
 - 2.3.3 whether revenue threshold regulation applies to the relevant water services and, if so, the extent of regulated suppliers' performance against each revenue threshold that applies;
 - 2.3.4 any other matters the Commission considers relevant.
- 2.4 The Commission must also consult interested persons.¹¹
- 2.5 Section 57H(2) also sets out that the nature of the water services delivery structure may include any of the following (to the extent the Commission considers relevant):
- 2.5.1 the types of water services being supplied;
 - 2.5.2 the location of the suppliers;
 - 2.5.3 the size of the suppliers;
 - 2.5.4 the governance arrangements of the suppliers;
 - 2.5.5 the type of delivery model adopted under subpart 1 of Part 2 of the Local Government (Water Services) Act 2025.
- 2.6 If the Commission recommends to the Minister that one or more suppliers be subject to one or more types of regulation, the recommendation must:¹²
- 2.6.1 describe each supplier that is the subject of the recommendation;
 - 2.6.2 describe the water services provided by the supplier that the Commission considers should be regulated; and
 - 2.6.3 specify the one or more types of regulation that the Commission considers the supplier should be subject to and when the relevant s 52 P determinations should apply.
- 2.7 Any decision to introduce additional forms of regulation would be made by the Minister, following the requirements set out in ss 57J to 57L of the Commerce Act.¹³

¹¹ Commerce Act, s 57H.

¹² Commerce Act, s 57H.

¹³ Commerce Act, ss 5J to 57L.

2.8 Finally, when applying the Commerce Act to water services, s 57S requires the Commission to take account of the existing obligations that regulated suppliers have under other legislation, instruments, or under any Treaty settlement obligations.

Chapter 3 Our proposal to recommend performance requirement regulation

Tō mātou tūtohunga mō te waeture herenga tutukitanga

3.1 This chapter sets out why we propose recommending to the Minister that performance requirement regulation be imposed on Tiaki Wai.

How performance requirement regulation better promotes the purpose of Part 4

He pēhea e whakatairanga ai tēnei herenga tutukitanga i te pūtake o Wehenga 4

3.2 Before making a recommendation under s 57G of the Commerce Act, the Commission must have regard to each of the matters set out in s 57H(1) of the Commerce Act.

3.3 In coming to our proposed recommendation, we have assessed the material risks that we identified for Tiaki Wai.¹⁴ We identified risks in relation to asset management, delivery, financial sustainability, and non-financial performance.

3.4 We address each of the matters set out in section 57H(1) of the Commerce Act, below.

Whether imposing performance requirement regulation would better promote the Part 4 purpose

3.5 We consider that performance requirement regulation would better promote the Part 4 purpose than ID regulation alone. The amendments to ID that we are also consulting on are separate from the process, for activating the use of additional regulatory tools. In our assessment we considered which of the following would better promote the Part 4 purpose:

3.5.1 performance requirement regulation *in addition* to ID regulation (with the proposed additional ID requirements for Tiaki Wai implemented); or

3.5.2 ID regulation (with the proposed additional ID requirements for Tiaki Wai implemented).

¹⁴ For further information on our assessment of Tiaki Wai's risk profile, and our ID requirement change proposal refer to 'Economic regulation for Tiaki Wai – Consultation on additional information disclosure requirements'.

- 3.6 The purpose of performance requirement regulation is to regulate the performance (other than in relation to prices) of water services supplied by regulated suppliers. In this context, we consider that the imposition of performance requirements would likely strengthen incentives for Tiaki Wai to invest efficiently, prioritise delivery in high-risk areas, and improve service outcomes over the long term, consistent with the long-term benefit of consumers.
- 3.7 In the context of Tiaki Wai, our view is that the key benefit of performance requirement regulation is that it is expected to create stronger incentives for Tiaki Wai to deliver. By setting delivery requirements in specific areas, it is more likely that Tiaki Wai will make necessary investments than if it is subject to only delivery *reporting*.
- 3.8 For example, we could set a performance requirement for Tiaki Wai to deliver a new information system that produces business critical information, by a specified milestone date. Investing in a capable information system is a critical input to Tiaki Wai implementing a much-needed step change in its asset management maturity. Tiaki Wai is already planning to invest in an information system, and we could set disclosure requirements about its progress in delivering that system. However, making the delivery of the information system a performance requirement, would:
- 3.8.1 further increase accountability by encouraging Tiaki Wai to take timely action in key areas; and
 - 3.8.2 reduce the likelihood that competing operational pressures delay delivery of a critical system.
- 3.9 Given the importance of the project in this example to enable efficient investment, and to support Tiaki Wai to provide services at a quality that reflects consumer demands, we consider that performance requirement regulation would be expected to better promote the Part 4 purpose, than ID regulation alone.
- 3.10 We recognise that if the Minister were to impose performance requirement regulation on Tiaki Wai that complying with such regulation would create costs, including additional compliance costs. However, our view is that due to the nature and quantum of risk for Tiaki Wai when it starts operating, the imposition of performance requirement regulation would better promote the Part 4 purpose.

The nature of the water service delivery structure

- 3.11 In coming to a view to consult on our recommendation to the Minister, we have had regard to the nature of Tiaki Wai's water services delivery structure, to the extent that we consider it relevant. Tiaki Wai will be responsible for delivering water services across the Wellington metropolitan area, operates at scale, and has governance arrangements typical of a council-controlled organisation.

- 3.12 We consider that the size and scope of Tiaki Wai’s operations, combined with the potential consequences for consumers if risks are not addressed in a timely manner, support the use of performance requirement regulation. These characteristics increase the importance of timely improvement progress and delivery by Tiaki Wai. Given the nature of Tiaki Wai’s delivery structure, in our view performance requirement regulation in addition to ID regulation will better promote the Part 4 purpose.

Whether revenue threshold regulation applies, and performance against it

- 3.13 Revenue threshold regulation does not currently apply to Tiaki Wai’s water supply or wastewater services. As a result, there is no performance against revenue thresholds to assess for the purposes of this analysis.

Any other relevant matters

- 3.14 We have also considered other matters that we consider relevant, including duties owed by Tiaki Wai and other legislation or instruments, or under Treaty settlement obligations.¹⁵
- 3.15 A range of broader legislative and policy frameworks also apply to Tiaki Wai as a regulated supplier. This includes, for example, obligations arising under the Local Government (Water Services) Act 2025 and associated instruments, such as the development of a Water Services Strategy.
- 3.16 At this time, we are not aware of any other relevant matters that could be inconsistent with the imposition of performance requirement regulation. If stakeholders consider there are, we ask you to bring these to our attention in your response to this consultation paper (or, if the Minister decides to impose this regulation, as part of our consultation on implementation).
- 3.17 Finally, these frameworks impose a range of requirements on Tiaki Wai. We consider that there are residual risks that are unlikely to be sufficiently mitigated through those obligations and ID regulation alone. In relation to ID, we consider that transparency may not create sufficiently strong incentives to prioritise timely action.

Proposed recommendation

Tūtohunga

- 3.18 For the reasons set out above, we propose to recommend to the Minister that performance requirement regulation be imposed on Tiaki Wai under section 57G of the Commerce Act.
- 3.19 Our recommendation to the Minister must

¹⁵ Commerce Act, s 57S.

- 3.19.1 Describe the supplier subject to the recommendation: Tiaki Wai;
- 3.19.2 describe the water services that the CC considers should be regulated: water supply and wastewater;
- 3.19.3 Specify the type of regulation and when the relevant s 52P determination would apply: performance requirement regulation.
- 3.20 As per Table 1.1, subject to considering consultation submissions, we intend to make a recommendation to impose performance requirement regulation in respect of water and wastewater supply the Minister in June and specify a proposed timing. If the Commission decides to make a recommendation, the Minister must publish the Commission's recommendation and the timing.
- 3.21 Following submissions on this paper, we will come to a final decision on any recommendation to the Minister in accordance with s 57 G of the Commerce Act. If we do propose the imposition of further regulations, the Minister will decide whether to impose such regulation.¹⁶ Subject to the Minister's decision on our final recommendation, we would consult on the specific requirements to be imposed. The indicative timing and key steps for this process are set out in [Table 1.1](#) in Chapter 1.

¹⁶ Commerce Act, ss 57J to 57L.

Attachment A Glossary

Term/Abbreviation	Definition
Commerce Act	Commerce Act 1986
Commission	The Commerce Commission
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
Network	Means the infrastructure and processes used to provide the regulated services
OIA	Official Information Act 1982
Part 4 purpose	Means the purpose statement of Part 4 of the Commerce Act 1986 set out in section 52A
Regulated water services	Under the Commerce Act 1986, only regulated water services are subject to economic regulation. Currently, regulated water services are water supply and wastewater services supplied by a decision-making local government water service supplier
The Minister	The Minister of Commerce and Consumer Affairs
Tiaki Wai	Means Tiaki Wai Limited, a council-controlled organisation jointly owned by the metropolitan Wellington councils, established under the Local Government (Water Services) Act 2025.

Attachment B Submission process

How you can provide feedback

- B.1 Responses must be emailed to wai@comcom.govt.nz with 'Economic regulation of Tiaki Wai – Consultation on recommending performance requirement regulation' in the subject line. Please clearly state in your email that you consent to your submission being made public or if not – why not (see the section below).
- B.2 Please state whether you are submitting as an individual or on behalf of an organisation.
- B.3 To ensure we can consider your feedback, please provide this to us by **5pm on 28 May 2026**.
- B.4 We prefer submissions in both a format suitable for word processing (such as a Microsoft Word document) as well as a 'locked' format such as PDF for publication on our website. Please ensure that any submitted documents are not password protected.

Confidential submissions

- B.5 We intend to publish your feedback on our website to ensure our process is transparent. However, it is important not to publish information that is confidential information which could be commercially sensitive or personal. We understand that publishing confidential information could cause harm to the provider of the information or a third party.
- B.6 If your feedback includes confidential information, we request that you provide us with a confidential and a public version. We propose publishing the public versions of your feedback on our website.
- B.7 We note that responsibility for excluding confidential information from the public version rests on the party providing the feedback.
- B.8 Where confidential information is included in feedback:
 - B.8.1 the information should be clearly marked and highlighted in yellow, and
 - B.8.2 both confidential and public versions of feedback should be provided by the due date.
- B.9 All information we receive is subject to the principle of availability under the Official Information Act 1982 (**OIA**). There are several reasons that we may withhold information requested under the OIA from disclosure. This could be in the event that:

- B.9.1 release would unreasonably prejudice the commercial position of the supplier or subject of the information
 - B.9.2 withholding the information is necessary to protect the privacy of natural persons, and
 - B.9.3 we received the information under an obligation of confidence, and if we were to make that information available it would prejudice the supply of similar information to us (by any person) where it is in the public interest that such information continues to be supplied to us.
- B.10 We will not disclose any confidential or commercially sensitive information in a media statement, public report, or in response to a request, unless there is a countervailing public interest in doing so in a particular case. Such cases are likely to be rare and would be discussed with you in advance of any publication.