

Briefing

To: Hon Cameron Brewer, Minister of Commerce
and Consumer Affairs

cc: Hon Simon Watts, Minister for Local
Government

Date: 29 June 2026

Classification: In-Confidence

Subject: Recommendation to impose further economic regulation on Tiaki
Wai Limited

Purpose

This briefing recommends that performance requirement regulation be imposed on Tiaki Wai Limited (**Tiaki Wai**).

Recommendations

The Commerce Commission (**Commission**) recommends that you:

1. **Note** that, between 7 May and 28 May 2026, we consulted on our intent to recommend that performance requirement regulation be imposed on Tiaki Wai.
2. **Note** that submitters' views were mixed – some agreed with our proposal, while others preferred waiting until existing controls have been tested before introducing additional regulation.
3. **Agree** that performance requirement regulation be imposed on Tiaki Wai in respect of its water supply and wastewater services, via Order in Council.
Agree / Disagree
4. **Note** our view that any determination specifying how performance requirement regulation should apply to Tiaki Wai should be made as soon as practicable following an Order in Council.
5. **Note** that, in considering our recommendation, you are required to consult with the Minister for Local Government, and may request further information or advice from us.

John Small

Chair

29 / 6 / 2026

Hon Cameron Brewer

Minister of Commerce and Consumer Affairs

29 / 6 / 2026

Background

1. Tiaki Wai is a council-owned water organisation jointly owned by the four metropolitan Wellington councils and established under the Local Government (Water Services) Act 2025.
2. From 1 July 2026, Tiaki Wai will assume responsibility for delivering water services in the Wellington metropolitan area. It faces material risks, for example relating to asset management, delivery, financial sustainability, and non-financial performance. Tiaki Wai's size and scope of operations mean that these risks could have serious consequences for consumers.
3. From 1 July 2026, Tiaki Wai will be subject to information disclosure (ID) regulation for its water supply and wastewater services. ID regulation promotes transparency and external scrutiny.¹ However, in some cases it may not provide sufficiently strong or timely incentives to address material risks or drive improvements in delivery.
4. On 7 May 2026, we published a consultation paper setting out our draft decision to recommend that performance requirement regulation be imposed under s 57L of the Commerce Act 1986 (**the Act**). It explained why we consider performance requirement regulation better promotes the purpose of Part 4 of the Act - the long term interests of consumers - than ID,² the nature of the water services delivery structure, whether revenue threshold regulation should be applied, and other relevant matters.³
5. Performance requirement regulation allows us to regulate the performance (other than in relation to price) of water services supplied by regulated suppliers by setting specific obligations for delivery. For example, we could consult on a performance requirement for Tiaki Wai to deliver a new information system that produces business critical information.⁴ If you agree with our recommendation, we will consult stakeholders on the first performance requirement(s) we intend to impose.
6. Our draft decision formed part of a broader package of regulatory interventions, including our proposal to set additional ID requirements. We consulted on these simultaneously⁵ and we expect to publish our final decision on additional ID requirements for Tiaki Wai soon.

¹ Commerce Act, s 53A sets out the purpose of information disclosure regulation.

² Commerce Act, s 52A sets out the purpose of Part 4 of the Act.

³ Commerce Commission "[Economic regulation for Tiaki Wai – Consultation on recommending performance requirement regulation](#)" (7 May 2026).

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

⁵ Commerce Commission "[Economic regulation for Tiaki Wai – Consultation on additional information disclosure requirements](#)" (7 May 2026).

Summary of submissions

7. We received five submissions on our draft decision. These were from Tiaki Wai, sector groups, and individuals. The submissions are attached as **Appendix A**.
8. Submissions were mixed on both the need for, and timing of, performance requirement regulation. Some submissions supported the intent of strengthening regulatory oversight and improving accountability of service delivery. Others raised concerns about whether performance requirement regulation is appropriate at this stage. In particular, some submitters:
 - 8.1 considered there was insufficient detail on the scope, design, and timing of the proposal to assess its suitability; and
 - 8.2 preferred that existing controls, including ID regulation and governance arrangements, be allowed to operate and be proven to be insufficient, before introducing additional regulatory tools.
9. Some submitters also emphasised the importance of ensuring that any intervention is proportionate and does not create an unnecessary regulatory burden, particularly when combined with ID requirements.

Our assessment and recommendation

10. Having considered submissions, and before recommending that you impose further regulation, the Act requires us to have regard to several matters. In summary, those are:
 - 10.1 **whether imposing the regulation would better promote the purpose of this Part**—We consider that performance requirement regulation, alongside ID, would better promote the purpose of Part 4 of the Act than ID alone.
 - 10.2 **the nature of the water services delivery structure**—Tiaki Wai operates at scale across the Wellington metropolitan area, which increases the importance of timely risk mitigation and supports the use of performance requirement regulation.
 - 10.3 **whether revenue threshold regulation applies to the relevant water services**—This does not currently apply to Tiaki Wai.
 - 10.4 **any other matters the Commission considers relevant**—We have considered other relevant matters, including Tiaki Wai’s statutory and broader obligations, such as those under the Local Government (Water Services) Act 2025 and associated instruments (for example, requirements to develop a Water Services Strategy).
11. These matters are set out and discussed in further detail in our consultation paper. After considering submissions, our position is unchanged from that outlined in our consultation paper.

12. While we acknowledge concerns raised by submitters regarding timing and regulatory burden, we consider that performance requirements provide a better targeted and more directly enforceable mechanism to address the material risks facing Tiaki Wai.
13. Performance requirement regulation would enable us to set clear expectations in priority areas, which would create stronger incentives to deliver critical improvements efficiently and on time, focus on high-risk areas, and improve service outcomes.
14. Performance requirement regulation is intended to strengthen Tiaki Wai's accountability for delivering critical outcomes – for example, by specifying delivery milestones for key investments. If we set requirements like this, we consider that it is less likely that competing operational pressures would delay essential improvements. We also consider that it will give consumers and the owner councils greater confidence in delivery.
15. While performance requirement regulation will impose some additional compliance costs, we consider these are justified given the nature and scale of the risks facing Tiaki Wai as it begins operating. These costs are also justified by the benefits of stronger and more immediate incentives for performance improvement. In the future, we will amend the performance requirements we set, or revoke them, if this is the long-term interest of consumers.

Next steps

16. You are required to consult with the Minister for Local Government before making a decision on our recommendation, and you may request further information or advice from us. The Act requires you to publish our recommendation, in whatever way you consider appropriate.⁶
17. If you agree with our recommendation:
 - 17.1 the decision to impose performance requirement regulation is implemented by Order in Council;⁷
 - 17.2 as soon as practicable following the Order in Council, we will consult on our draft determination specifying how performance requirement regulation initially applies to Tiaki Wai;⁸ and
 - 17.3 The Ministry of Business, Innovation and Employment (**MBIE**) will provide a recommendation to you relating to the Water Regulation appropriation and levy, as envisaged by the overall funding framework.

⁶ Commerce Act, ss 57J(2) and 57G(3).

⁷ Commerce Act, s 57L.

⁸ Commerce Act, sch 7, cl 35(1).

18. The Order in Council imposing regulation must include an expiry date, which must be a date not later than 20 years after the date of its commencement.⁹ We consider a 10-year expiry timeframe would be appropriate. This would provide regulatory predictability, while allowing performance requirement regulation to be reviewed and adjusted over time in response to changing risks and circumstances.

Appendices:

- **Appendix A:** Submissions on our draft decision to recommend imposing performance requirement regulation.

⁹ Commerce Act, s 57L(5).