



COVERSHEET

Minister	Hon Cameron Brewer	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Additional Economic Regulation for Tiaki Wai Limited	Date to be published	5 October 2026

List of documents that have been proactively released

Date	Title	Author
August 2026	Additional Economic Regulation for Tiaki Wai Limited	Office of the Minister of Commerce and Consumer Affairs
18 August 2026	Additional Economic Regulation for Tiaki Wai Limited EXP-26-MIN-0033 Minute	Cabinet Office
29 June 2026	Recommendation to impose further economic regulation on Tiaki Wai Limited	Commerce Commission
27 August 2026	Hon Cameron Brewer letter to Commerce Commission - expectations in relation to performance requirement regulation	Office of the Minister of Commerce and Consumer Affairs
24 September 2026	Commerce Commission response to Hon Cameron Brewer on performance requirements for Tiaki Wai Limited	Commerce Commission

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of privacy of natural persons and confidential advice to Government.

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.

Privacy of natural persons

John Small
Chair
29 / 6 / 2026

Hon Cameron Brewer
Minister of Commerce and Consumer Affairs
..... / / 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).

28 May 2026

Commerce Commission

Wellington

Via email: wai@comcom.govt.nz

Tēnā koutou katoa

Economic regulation of Tiaki Wai – Consultation on recommending performance requirement regulation

Water New Zealand (Water NZ) welcomes the opportunity to submit on the Commerce Commission's consultation on whether to recommend to the Minister of Commerce and Consumer Affairs that performance requirement regulation be imposed on Tiaki Wai.

Water NZ is a national not-for-profit organisation which promotes the sustainable management and development of New Zealand's three waters (drinking water, wastewater and stormwater). Water NZ is the country's largest water industry body, providing leadership and support through advocacy, collaboration, and professional development. Its ~3,400 members are drawn from across the water management industry, including council-controlled organisations, regional councils and territorial authorities, consultants, suppliers, government agencies, academia, and scientists.

Water NZ supports the objective of improving long-term sector performance through regulations and acknowledges that performance requirement is a regulatory tool that, in the right circumstances, can produce better outcomes for consumers than transparency and information disclosure alone. We recognise that the Commission has identified a credible and material risk profile for Tiaki Wai and that appropriately designed performance regulation can play an important role in providing incentives to invest in improving service delivery outcomes.

However, Water NZ recommends that the consultation would benefit from greater clarity regarding the potential scope, application, operation, and implications of the proposed performance requirements. Greater visibility of these matters would enable a more meaningful assessment of whether the eventual performance requirements will be fit for purpose, proportionate to the risks identified, and capable of achieving the outcomes that would justify their imposition.

While this consultation is directed at the risk profile identified for Tiaki Wai, the regulatory approach adopted here has the potential to establish patterns and precedents with

implications for the wider water sector. This consideration is central to Water NZ's submission position on the issues we raise.

This submission addresses the following issues:

- The process concern arising from the sequencing of consultation on whether to impose the regulatory power before the content of any requirements is known
- Insufficient visibility of the proposed performance requirement regime; and
- Cumulative compliance burden and the need for a holistic proportionality assessment.

Detailed feedback on each of these issues is set out below.

1. Insufficient visibility of the proposed performance requirement regime

The consultation paper is explicit that this consultation concerns whether performance requirement regulation should be imposed on Tiaki Wai, rather than the content of any future requirements. Water NZ acknowledges that sections 57G and 57H of the Commerce Act establish this two-step process. However, the statutory test the Commission must apply under section 57H(1)(a) is a comparative one of whether performance requirement regulation, in addition to information disclosure regulation, would better promote the purpose of Part 4 of the Commerce Act than information disclosure regulation alone. It is difficult to meaningfully undertake this comparative assessment without visibility of what the performance requirements would actually involve in practice.

The consultation paper recognises that performance requirement regulation is distinct from delivery reporting, and that setting delivery requirements in specific areas would create stronger incentives for Tiaki Wai to act than disclosure obligations alone. However, acknowledging that delivery requirements create stronger incentives than reporting does not, of itself, establish that the specific requirements likely to be imposed in this case would better promote the purpose of Part 4 of the Commerce Act. The comparative question requires some understanding of what those requirements would target, how they would be structured, and what outcomes they are intended to achieve, none of which are available in the consultation document.

While the Commerce Act sets out in schedule 7, clause 19(4) what a performance requirement may include, the consultation document does not indicate where within that broad scope the Commission intends to focus in the case of Tiaki Wai. The consultation paper provides a single illustrative example at paragraph, namely “*mandating delivery of a specific information system by a specified milestone date,*” but a single example does not substitute for guidance on the Commission's intended focus. The broad nature of the statutory definition makes visibility of the intended application of the power particularly important for interested parties to undertake the assessment.

Meaningful assessment of the proposed regime requires visibility of at least the broad parameters within which the power is likely to be exercised in this instance, the types of matters under consideration, the intended regulatory outcomes, and the anticipated scope of application. This information will allow interested parties to adequately assess proportionality, feasibility, compliance burden, cost impacts, implementation risks, or the potential for unintended consequences.

Recommendation

Water NZ recommends that the Commission provide indicative parameters regarding the categories of performance requirements likely to be considered should performance requirement regulation be recommended under section 57H. This need not involve exhaustive detail or binding commitments regarding future requirements. However, the consultation should provide sufficient visibility of the likely scope, operation, and practical implications of the regime to enable comparative statutory assessment to be properly conducted to support informed engagement by affected entities.

At minimum, the Commission should outline:

- the types of matters potentially contemplated for regulation;
- the intended regulatory outcomes;
- the anticipated approach to determining future requirements; and
- how future requirements would be developed, including the role of consultation, information disclosure, proportionality considerations, and interaction with existing regulatory frameworks.

2. Cumulative Compliance Burden and proportionality

Water NZ acknowledges the Commission's assessment that the compliance costs associated with performance requirement regulation are outweighed by the benefits of intervention. However, the consultation paper does not appear to assess those costs within the context of the cumulative regulatory obligations proposed for Tiaki Wai.

Within the first 18 months of establishment, Tiaki Wai will be subject to a substantial and overlapping set of regulatory requirements, including:

- enduring information disclosure regulation;
- Tiaki Wai-specific additional information disclosure requirements;
- performance dashboards and operations and maintenance reporting;
- quarterly fault metrics and delivery reporting;
- an asset management maturity and capability assessment;
- an asset management improvement plan subject to independent verification;
- capital and operating expenditure forecasts subject to independent verification;
- and

- performance requirement regulation, should the Minister accept the Commission's recommendation.

Water NZ is of the view that the cumulative regulatory package should be assessed as a whole, including whether the combined compliance burden, implementation complexity, and operational demands remain proportionate overall.

We note that in the additional ID consultation, the Commission carefully considered whether more extensive disclosure requirements would risk diverting resources away from core establishment and service delivery functions. Water NZ is of the view that the same proportionality lens applied to the ID package would be equally valuable when assessing the broader regulatory package proposed for Tiaki Wai as a whole.

Recommendation

Water NZ recommends that, in considering whether performance requirement regulation should be imposed on Tiaki Wai, the Commission assess the cumulative effect of the broader regulatory package proposed to apply to the entity, including aggregate compliance burden, implementation sequencing, governance and operational impacts, and overall proportionality relative to the identified risk profile.

Water NZ further recommends that the Commission set out, in its final recommendation to the Minister, how it has assessed the cumulative effect of the regulatory package as a whole, including whether the aggregate cost and operational impact on Tiaki Wai and its consumers is proportionate to, and outweighed by, the expected benefits of the combined interventions proposed.

3. Additional important considerations

In addition to the substantive issues addressed above, Water NZ notes that there are several other practical and regulatory considerations relevant to assessing whether performance requirement regulation should be imposed. These matters are important to understanding the likely implications of the proposed regime and should form part of the Commission's overall assessment.

a. Operational Autonomy and the Role of Governance

- Water NZ notes that performance requirement regulation represents a significant form of regulatory intervention within the Commission's broader regulatory toolkit. By enabling the imposition of mandatory performance obligations, the regime has the potential to reduce the operational flexibility available to an organisation to respond and adapt to changing delivery circumstances over time.

- This is a particularly important consideration for a newly established entity operating within a complex infrastructure environment where delivery outcomes may be influenced by factors outside the direct control of the organisation, including contractor availability, capability constraints, supply chain pressures, and broader market conditions. Water NZ notes that the Commission itself has recognised many of these factors as relevant to Tiaki Wai's delivery context in the additional information disclosure consultation document (paragraphs 3.13–3.15).
- Water NZ considers the degree of intervention represented by performance requirement regulation, and its potential implications for organisational flexibility in a complex and evolving operating environment, are relevant considerations in assessing whether this form of regulation is proportionate and appropriate at this stage.

b. Exit Pathway

- Water NZ notes that the consultation paper does not address the circumstances under which performance requirement regulation would be lifted once imposed, or what criteria Tiaki Wai would need to satisfy to demonstrate that the conditions justifying the regulation no longer apply.
- While the current consultation is focused on whether performance requirement regulation should be imposed, Water NZ is of the view that proportionality over time is also relevant to that assessment. In particular, consideration should be given to whether the regime includes appropriate mechanisms for review, reassessment, or removal where the underlying risks or circumstances supporting the intervention materially change.
- The absence of a clearly articulated pathway for reassessment or removal creates a risk that regulation introduced in response to establishment-phase risks may become entrenched beyond the period for which it is proportionate or warranted.

c. Compliance and enforcement

- The consultation paper also does not address how compliance with any future performance requirements would be monitored, assessed, or enforced in practice. These matters are all relevant to assessing the proportionality and workability of the proposed regime.
- This is particularly relevant given the Commission's acknowledgement in the additional information disclosure consultation that the costs associated with regulatory compliance are ultimately borne by consumers (paragraph 2.15.3). Water NZ therefore recommends that greater visibility of the likely compliance

and enforcement framework is relevant to assessing whether performance requirement regulation is appropriate and proportionate in this instance.

Concluding remarks

Water NZ supports the Commission's objective of promoting the long-term interests of consumers through well-designed economic regulation. We recognise the seriousness of the risk profile identified for Tiaki Wai and share the Commission's interest in seeing Tiaki Wai establish itself in a way that delivers improved outcomes for Wellington consumers over the long term.

Water NZ also notes that the approach taken in this process has implications beyond Tiaki Wai. As the first instance of performance requirement regulation being considered under the new water services economic regulation regime, the decisions made here are likely to inform how the regulatory toolkit is applied across the sector in future. Water NZ submits that establishing sound process and proportionality principles at this early stage is in the long-term interests of the sector, consumers, and the integrity of the regulatory framework itself.

Water NZ welcomes further engagement with the Commission on the issues raised in this submission and remains available to provide additional information or clarification as needed.



Gillian Blythe – Chief Executive
Water New Zealand

Submission to Commerce Commission on Proposed Economic Regulation of Tiaki Wai

Submitter: Bernard Jennings, [REDACTED] Date of draft: 23/05/2026

Section 1 — Introduction and scope

This is a submission by Bernard Jennings made as an interested person under the Commerce Act 1986. The submitter is not a regulated entity, a representative body, nor a lawyer. The submission responds to two linked Commerce Commission consultations on the economic regulation of Tiaki Wai, both closing 28 May 2026:

1. the proposed additional information disclosure requirements for Tiaki Wai, in the draft amendment determination and the draft economic regulation determination; and
2. the proposed recommendation to the Minister of Commerce and Consumer Affairs to impose performance requirement regulation on Tiaki Wai under section 57G.

The submission supports the Commission's proposed package on both consultations and proposes a set of marginal additions to the disclosure requirements. Those additions are justified by a pattern identified in the published material (sections 3 to 6): that Tiaki Wai appears to be carrying forward major decisions inherited from Wellington Water without visible independent re-evaluation, and that this bears directly on the residual risks the Commission has identified and on the risk controls the Commission is relying on outside its own framework. The submission is confined to the two consultations above. It does not address price-quality regulation, which the Commission has not proposed to activate, and does not seek to bring storm-water into the Commission's regulatory scope. Where storm-water is mentioned, it is only to the extent that wastewater-network investment, a regulated service, is affected by unresolved questions about contamination sources.

The submission draws on Tiaki Wai's draft Water Services Strategy (March 2026) and supporting pricing documents, on the Commission's consultation papers and draft determinations, and on the submitter's earlier submission to Tiaki Wai on the draft strategy (21/04/2026). Where the submission describes what those documents say, it relies on the published versions. Where it reads a pattern from what the published material does not show, it says so and is explicit about the basis for that reading.

Section 2 — Summary

Recommendations are grouped by what they ask the Commission to do. Each is tied to the section that supports it.

Proposed additional ID requirements (supporting, with strengthening)

1. Confirm the proposal to require earlier disclosure of the SAMP, IDP and ADR without the transitional approach. (section 7)
2. Confirm the proposal to require an assessment of whether forecast operating and capital expenditure can be delivered alongside the forecast itself. (section 7)
3. Confirm the proposal to require an asset management maturity and capability assessment, and extend it to cover whether Tiaki Wai has independently re-evaluated inherited business cases and major decisions where re-evaluation is likely to change the answer. (sections 7 and 9)

4. Confirm the proposal to require independent verification of forecast capex/opex and the assessment of whether that expenditure can be delivered, and extend that verification to the business cases for programmes above a defined materiality threshold, as part of the published business case disclosure. (sections 7 and 9)
5. Confirm the proposal to require quarterly delivery reporting, and require that reporting to separate one-off establishment and transition costs from ongoing service delivery costs, with defined wind-down profiles and separate variance reporting for each cost category, building on the proposed opex-by-shareholding-council breakdown. (sections 7 and 9)
6. Confirm the proposal to continue quarterly fault metrics, data confidence grading, and operations and maintenance dashboards. (section 7)

Performance requirement regulation

7. Support the recommendation to the Minister to impose performance requirement regulation. The reasoning is set out in section 8 and rests on the structural argument developed in sections 3 to 6.

Additional disclosures not in the draft determinations

8. Require Tiaki Wai to publish, as part of its asset management maturity and capability assessment and business case disclosure for material programmes, the extent to which the underlying analysis is inherited from Wellington Water and what re-evaluation has been undertaken. (sections 4, 7 and 9)
9. Require published options analysis for material programmes above a defined materiality threshold, with a commercial sensitivity carve-out, and require independent verification of the published business case. This extends Rec. 4 by adding programme-level business-case verification as a new disclosure obligation alongside the strengthening of the Commission's existing verification proposal. (sections 4 and 9)
10. Require disclosure of related-party transactions with shareholding councils, including the basis on which the level of payment reflects services received by Tiaki Wai and is recoverable from consumers. (sections 5.1, 6 and 9)
11. Require disclosure of the board's assurance framework for material decisions involving inherited analysis, at the level of framework and scope rather than deliberation content. (sections 6 and 9)
12. Require disclosure of the conditions attached to forecast regulated waste-water investment, including the proportion dependent on unresolved questions of responsibility, standard, cost, or measurable benefit. (sections 5.3 and 9)

Scope and proportionality

13. The additional disclosures proposed in this submission should be assessed against three things together: the scale of the investment decisions they are intended to test, the opportunity cost of management and board attention during establishment, and the limited nature of the additions relative to the disclosures the Commission is already proposing. The per-item compliance burden is in section 9.7.

Section 3 — The pattern: adoption without re-evaluation

3.1 Rationale for a new entity

The argument for replacing Wellington Water with a new council-controlled organisation was that a separate entity, with its own board, expertise, and direct ownership of assets, would bring a more independent and rigorous approach to investment, prioritisation, and delivery than Wellington Water had been able to provide.

The Commerce Commission's assessment is consistent with that view. It states that Tiaki Wai will inherit significant weaknesses in asset management from Wellington Water, including limited asset condition information, immature planning approaches, and basic information systems, and that without a step change its investments are unlikely to provide value for money for consumers.

Some inherited analysis will need to be carried forward during establishment. A new entity cannot revisit every prior decision before commencement. Doing so would discard work that may be sound and delay delivery when the network is already in poor condition. The test proposed in this submission is threshold-based: where the scale of a decision justifies independent re-evaluation, that re-evaluation should be visible in the published record.

3.2 What the evidence suggests

This submission identifies a pattern in the published material. Internal re-evaluation may have occurred without being visible in public consultation documents. The submission's position is not that Tiaki Wai has failed to test inherited analysis. It is that the published record does not show independent testing of major inherited decisions, and that the Commission's disclosure framework should require that testing to be visible. For that reason, the remainder of this submission uses formulations such as "the published material does not present".

The draft Water Services Strategy released by Tiaki Wai for consultation in March 2026, and the supporting pricing documents, suggest a pattern. In several large and consequential items, the published material does not show that Tiaki Wai has independently re-evaluated decisions, business cases, or framings inherited from Wellington Water before adopting them.

The smart metering programme. The strategy identifies smart metering as the preferred solution, indicates a total programme cost in the range of 500 to 590 million, and acknowledges that the figure is indicative and that procurement still has to inform the final approach. The strategy does not present a published options analysis comparing smart metering against alternatives such as dumb meters, leased meters installed and owned by a third party, or a staged pilot ahead of full roll-out. The preference for smart, utility-owned meters appears consistent with the position developed under Wellington Water.

A similar pattern appears elsewhere in the strategy and pricing package. Rates on water assets paid to shareholding councils are forecast at over \$50 million in 2026/27, more than double the level in 2024/25, and are presented as costs that must be recovered through water service charges. The strategy does not set out an independent test of whether this level is appropriate, why it has risen so sharply, or how it compares with arrangements in comparable jurisdictions. The proposed pricing approach also follows existing council pricing mechanisms for 2026/27, while noting that these inherited mechanisms produce material differences across council boundaries.

In each case, the published record does not show independent re-evaluation of the inherited position, although the strategy itself acknowledges a limited evidence base, several assumptions, and areas requiring substantial further work to refine the plans, and that this first strategy is only for one year for that reason.

3.3 Implications for the Commission's risk assessment

The Commission has identified material risks in asset management, delivery, financial sustainability, and non-financial performance, and states that the residual risk after the proposed additional ID requirements remains significant. The Commission's assessment also relies on risk controls outside ID regulation, including the independent skills-based board, the Partners Committee, owner council oversight, and LGFA financial and non-financial reporting requirements.

The pattern of adoption without visible re-evaluation has three implications for that assessment.

First, it suggests the underlying risks identified by the Commission may not be mitigated at the rate assumed by the Commission's framework. If significant investment decisions are adopted from Wellington Water analysis without visible re-evaluation, the asset management maturity gap is not narrowing for those decisions; it is being committed past.

Second, it raises a question about how the risk controls the Commission relies on are operating. If the published record does not show the board, the Partners Committee, and the owner councils testing inherited positions, then whether those controls operate as the Commission's framework assumes is an empirical question rather than an assumption. This is addressed further in section 6.

Third, it changes what additional ID requirements need to do. Requirements aimed at improving disclosure of asset management maturity, whether forecast expenditure can be delivered, and forecast verification will only be effective where underlying decisions are the product of independent evaluation. Where they are not, additional ID requirements will still accurately disclose the maturity of a process that has been bypassed for the largest decisions.

Section 4 — Case study: the smart metering programme

4.1 The strategy

The draft Water Services Strategy identifies smart metering as the preferred metering solution across the Tiaki Wai service area. It states that full implementation may take five to seven years and that the indicative total programme cost is in the range of 500 to 590 million. It also states that the cost may change and that procurement still has to inform the final approach.

The Water Services Strategy is a transitional planning instrument. Inclusion of a programme in the strategy is not equivalent to final commitment; programmes typically proceed through business case, procurement, board approval, and financial close. This submission is not concerned with whether the metering programme has been finally committed at the strategy stage. It is concerned with the visibility of decision quality at each stage, including the strategy stage where consumer expectations and spending envelopes are being set.

4.2 What the strategy does not present

The strategy does not contain a published options analysis for the metering programme. There is no published comparison of:

- whether metering at the proposed scale is needed at all, and what specific problems it is intended to solve;
- demand-side alternatives to metering, including leak detection and repair programmes targeting network losses, pressure management, public information and behaviour change programmes, and targeted high-user interventions;
- universal residential metering compared with targeted metering of high users, large properties, or commercial connections only;
- smart meters compared with simpler (non-smart) meters that are read manually or periodically;
- utility ownership of meters compared with a leased model in which a third party installs, owns, and maintains the meters;
- private retailer or sub-metering models used in other jurisdictions, where the meter and customer relationship sit outside the network owner;

- full district-wide roll-out compared with a staged or piloted approach informed by early data, including the option of deferring full roll-out until billing systems and asset data have matured;
- alignment with the timing of other capital programmes, including whether metering should follow or precede major renewal investment so that data informs renewal prioritisation rather than the reverse;
- expected costs, benefits, and timing of each option in quantified form, including the avoided capital expenditure that metering is expected to defer.

The strategy presents a preferred solution and an indicative cost. It does not present the analysis that led to that preference being selected over the alternatives.

4.3 Inherited position

The preference for smart, utility-owned meters appears consistent with the position developed under Wellington Water. The strategy does not identify the analysis as inherited, and the published material does not show what independent re-evaluation Tiaki Wai has performed before adopting it.

4.4 Scale relative to rest of programme

A programme with an indicative cost of 500 to 590 million is material in absolute terms and relative to the scale of investment Tiaki Wai is being established to deliver. It is the type of decision the new entity was created to test independently. The cost of an independent re-evaluation is small compared with the cost of getting the decision wrong.

The threshold rationale developed in this submission is illustrated by metering but is not specific to metering. It would apply to any programme of similar scale, including future renewal programmes, treatment-plant investments, or other capital expenditure of comparable magnitude.

4.5 Implications under Part 4

The Part 4 purpose is to promote the long-term benefit of consumers by promoting outcomes consistent with those produced in competitive markets, so that suppliers have incentives to innovate and invest in replacement, upgraded, and new assets; to improve efficiency and provide services at a quality that reflects consumer demands; to share efficiency gains with consumers, including through lower prices; and to limit their ability to extract excessive profits.

A programme of this scale, presented to consumers as part of the basis for steep price increases but without published options analysis and without published evidence of independent re-evaluation of an inherited preferred solution, raises a question about whether the information available is sufficient for interested persons to assess whether the Part 4 purpose is being met. The strategy qualifies the figure as indicative; the qualification acknowledges that the analysis is not yet complete, but it also doesn't provide it.

4.6 Implications for Commission's proposals

Three implications for the Commission's draft determinations.

First, the proposed asset management maturity and capability assessment should explicitly cover how Tiaki Wai has approached business cases inherited from Wellington Water for material programmes. A maturity assessment that examines systems, processes, and capability without examining whether those systems have actually been applied to the largest inherited decisions will understate the residual risk.

Second, the proposed independent verification of forecast operating and capital expenditure should not rest at the level of headline forecasts. For programmes meeting the materiality threshold proposed in section 9, independent verification should reach the business case as published, including the options analysis and the basis for selecting the preferred option. This is a verification of what is disclosed, not a regulatory gate before financial commitment.

Third, the proposed quarterly delivery reporting should disclose, for material programmes, whether the underlying analysis was inherited, what re-evaluation has been performed, and what options were considered. Without this, delivery reporting will track delivery against a plan whose underlying analysis has not been tested.

Section 5 — Other indicators of the same pattern

The pattern is not confined to metering. Each indicator below follows the same form: what the strategy says, what is not presented, and why it is relevant for the Commission's assessment.

5.1 Rates on water assets

The strategy indicates that rates on water assets paid by Tiaki Wai to shareholding councils are forecast at over \$50 million in 2026/27, more than double the level in 2024/25, and that these rates must be recovered through water service charges. The accounting policy notes related-party transactions including rates paid by Tiaki Wai to councils, alongside billing and customer services provided by councils to Tiaki Wai.

The strategy does not present an independent test of:

- the basis on which the level of payment reflects services received by Tiaki Wai;
- why the level has risen so sharply between 2024/25 and 2026/27;
- whether the level is consistent with the basis on which equivalent costs are recovered from consumers in comparable jurisdictions;
- the controls applied to ensure that the level is set on an arm's-length or appropriately benchmarked basis.

First, financial sustainability is one of the four risk areas identified by the Commission, and the prudence of cost recovery from consumers turns on whether the underlying costs are justified. Second, transactions between Tiaki Wai and its shareholding councils have a structural feature that should be taken into account in the Commission's framework: the councils that own Tiaki Wai are also recipients of these payments. This is not an allegation of misconduct. It is a structural feature that increases the importance of independent disclosure and benchmarked justification.

5.2 Establishment and transition costs

The strategy and supporting financial statements describe higher operating costs in the early years of Tiaki Wai's operation, attributed to establishment of new corporate functions, treasury and regulatory capability, customer functions, and new technology systems. The documents refer to temporary council support for billing, customer contact, payroll, finance and other processing. Forecast financial statements show separate establishment costs.

The strategy does not present:

- a consolidated view of one-off establishment and transition costs, separated from ongoing service delivery costs;

- a defined end date for each category of transition cost;
- the basis on which transition costs will be wound down as new arrangements come into effect;
- the controls in place to prevent transition costs becoming a permanent layer of overhead.

The draft amendment determination requires Tiaki Wai's network operating expenditure to be disclosed by shareholding council. It does not require disaggregation of one-off and transitional costs from ongoing service costs. Without that further disaggregation, the Commission's proposed quarterly delivery reporting will compare actual operating and capital expenditure against budget in a way that obscures rather than reveals the underlying cost trajectory. It will not be possible for interested persons to assess whether transition costs are converging toward zero or whether they are being absorbed into the steady-state cost base.

5.3 Wastewater-network contamination contribution

The strategy states that storm-water quality is a relevant operational issue, that responsibility for storm-water quality is currently unclear, and that required investment linked to the proposed framework could be in the billions, though the amount is not yet confirmed. It also states that Tiaki Wai needs to clarify the extent to which contamination comes from its waste-water networks, so it does not over-invest in improvements that do not materially improve waterway quality.

Storm-water sits outside the Commission's current scope of regulated water services: water supply and waste-water. The relevant point for this consultation is: Tiaki Wai's waste-water network is a regulated service. The strategy acknowledges uncertainty about the proportion of contamination originating from the waste-water network. Waste-water investment programmes based on that proportion sit within the Commission's scope, and the conditions attached to them are therefore relevant to the prudence and efficiency of regulated-service expenditure.

The strategy does not present:

- the proportion of forecast waste-water investment that is conditional on resolving the contamination-source question;
- the basis on which any commitments made before that resolution are justified;
- the decision points at which that conditionality will be resolved.

The implication is not that no commitment should be made. The implication is that waste-water investment built on the contested contamination-source proportion should disclose the conditions on which it depends, so interested persons can assess whether regulated-service expenditure is prudent and efficient.

5.4 Inherited council charging mechanisms

The pricing policy indicates that for 2026/27 Tiaki Wai will generally use existing council pricing mechanisms while beginning the transition away from property-value charging. It notes that material differences across council boundaries will remain in the first year because of inherited council funding and rating approaches.

The strategy does not present:

- a published evaluation of whether the inherited charging mechanisms are appropriate for the new entity, or only convenient;
- the criteria against which alternative charging approaches have been or will be assessed;
- the time-line and decision points for moving away from inherited mechanisms;
- the basis on which the differences across council boundaries are acceptable in the first year and the conditions under which they will be removed.

This is the weakest of the four indicators; using inherited mechanisms in the first year is a reasonable transitional choice. It is included because, across all four areas, an inherited position is carried forward without published evidence of independent evaluation.

5.5 Summary

The four indicators in this section, together with the smart metering case study in section 4, indicate that the pattern of adoption without visible re-evaluation is not confined to a single programme. It appears across asset investment decisions, related-party cost recovery, transition cost structure, conditional waste-water commitments, and pricing mechanisms. The strategy itself supports this: it states that the evidence base is limited, that substantial further work is required, and that this is the reason for adopting a one-year strategy. The pattern is acknowledged in the strategy's framing. What is not acknowledged is the implication: committing to investment envelopes and cost recovery levels at this stage, on this evidence base, places the burden of underdeveloped analysis on consumers.

Section 6 — Governance and operation of risk controls

6.1 Commission's reliance on external risk controls

The Commission's proportionality assessment rests in part on the assumption that external risk controls: the independent skills-based board, the Partners Committee, the five owner councils, and the LGFA; are functioning alongside ID regulation.

6.2 What the sections 3 to 5 pattern implies for controls

The pattern set out in sections 3 to 5 has implications for each of the controls the Commission relies on.

The independent skills-based board is the control closest to the decisions. The board's role includes testing major investment proposals for consumers and the long-term interests of the entity. Where a programme of the scale of the metering programme is presented as the preferred solution with an indicative cost in the range of 500 to 590 million, without published options analysis and without published evidence of independent re-evaluation of the inherited preferred solution, a question arises about the form of challenge the board has applied. The published material does not show what challenge has been applied or what alternatives have been considered. This may reflect a disclosure choice rather than absence of challenge; that is why the Commission's framework needs to surface the question.

The Partners Committee brings together the five owner councils and mana whenua partners to set expectations for Tiaki Wai. Where the costs of inherited decisions are being passed through to consumers, and where related-party transactions with the owner councils are a material cost line, the Partners Committee sits in a structural position in which it is both the body setting expectations and a beneficiary of one of the cost lines under discussion. This is not an allegation of misconduct. It is a structural feature of the arrangement that the Commission's framework should take into account when assessing how much weight to place on Partners Committee oversight as a risk control.

The owner councils have an interest in the financial sustainability of Tiaki Wai and in the level of charges passed through to their residents. They are also recipients of rates on water assets and providers of transitional services. The same structural observation applies.

The Local Government Funding Agency lends to Tiaki Wai and applies its own financial and non-financial reporting requirements. LGFA oversight provides financial discipline, including on debt headroom, reporting quality, and sustainability of borrowing. That discipline is necessary but not sufficient for the consumer interest. A programme that is fully funded and within debt limits can still represent poor value for money for consumers if the underlying analysis has not been tested. LGFA oversight is part of a layered system, not a substitute for ID and economic regulation.

6.3 Implication for Commission's assessment

The Commission's proportionality reasoning, set out in Attachment C of the additional ID requirements consultation, is that more comprehensive disclosure requirements would impose unnecessary compliance costs and could divert resources from establishment and service delivery work. That holds only if the other controls in the system are operating effectively.

The pattern set out in sections 3 to 5 suggests the controls outside ID regulation may not yet be operating in a way the Commission's framework can rely on. The board has not, on the published record, demonstrated independent challenge to inherited decisions of the scale of the metering programme. The Partners Committee and owner councils sit in structural positions that limit their effectiveness as independent controls on cost recovery from consumers. LGFA's mandate provides financial discipline but does not extend to testing value for money in the consumer interest.

If the external controls are not yet operating as the framework assumes, the Commission's ID regulation carries more of the load than the original reasoning allows for. This does not imply the Commission has erred in its current proposals; it suggests the Commission should treat the operation of those controls as an empirical question rather than an assumption, and set its disclosure threshold accordingly.

Section 7 — Response to additional ID requirements consultation

This section follows the order of proposals in Chapter 4 of the consultation paper. Strengthening proposals are summarised here and set out in full in section 9.

7.1 Earlier disclosure of core planning documents (SAMP, IDP, ADR)

Proposal supported. Earlier disclosure will allow interested persons to make an earlier assessment of investment prioritisation, delivery, and performance expectations. Earlier disclosure is the minimum condition for testing whether the underlying analysis has been independently evaluated.

The proposed timing in the draft amendment determination is accepted as proportionate to Tiaki Wai's transition. Under that timing, the SAMP and IDP are to be disclosed within 30 days of the date a Water Services Strategy is adopted, and the first ADR is to be disclosed by 30 November 2028. No change is proposed to the timing.

7.2 Asset management maturity and capability assessment and improvement plans

Proposal supported. The maturity and capability assessment as proposed appears to focus on the state of asset management systems, processes, and capability. This is necessary but not sufficient. A maturity assessment that examines whether the systems exist, without examining whether those systems have been applied to the largest inherited investment decisions, will understate the residual risk. The assessment should also be required to cover, in addition to systems and processes, the extent to which inherited business cases and

major decisions from Wellington Water have been independently re-evaluated by Tiaki Wai before adoption, where re-evaluation is likely to change the answer. This applies to material decisions only; routine inherited operational arrangements are out of scope.

7.3 Can forecast expenditure be delivered

Proposal supported. No change proposed to scope as drafted, although the value of this assessment depends on the underlying expenditure forecasts themselves being credible. The strengthening proposed in 7.4 and in section 9 addresses that point.

7.4 Independent verification of forecast capex/opex, can it be delivered

Proposal supported. Two strengthening points proposed.

First, independent verification at the level of forecast totals is necessary but not sufficient. For programmes of material scale, verification at the headline forecast level will not test whether the underlying business case for the programme has been independently developed or independently re-evaluated. Verification should extend to the business cases for material programmes as published, including the options analysis and the basis for selecting the preferred option. This is verification of what is disclosed, not a pre-commitment regulatory gate.

Second, the materiality threshold for that extended verification should be set at a level that captures programmes of the scale of metering (500 to 590 million indicative) while excluding routine operational decisions. A threshold definition is proposed in section 9.

7.5 Quarterly delivery reporting

Proposal supported. One strengthening proposed.

The draft amendment determination already requires operating expenditure to be disclosed by shareholding council. This is helpful but doesn't address the difference between one-off and ongoing costs. Quarterly delivery reporting that compares actual against budget without disaggregating one-off establishment and transition costs from ongoing service delivery costs will not allow interested persons to assess whether transition costs are converging toward zero or being absorbed into the steady-state cost base. The pattern of inherited transitional arrangements described in section 5.2 makes this disaggregation more important than it would otherwise be. Quarterly delivery reporting should be required to present, alongside the breakdown by shareholding council, a further disaggregation of one-off establishment and transition costs from ongoing service delivery costs, with a defined end date or wind-down schedule for each category of transition cost.

The proposed definition of "material project or programme" in the draft amendment determination (having regard to expenditure value, strategic importance, risk, other relevant considerations, and Commission views) is supported as drafted. The materiality threshold proposed in section 9 for extended verification of business cases would operate alongside this definition rather than replacing it.

7.6 Network length disclosure

Proposal supported. The Commission proposes to require Tiaki Wai to disclose its waste-water network length and water supply network length annually by 30 November each year, beginning in 2026.

7.7 Fault metrics, data confidence grading, and operations and maintenance dashboards

Proposal supported.

Continuing data confidence grading is important. Where data is acknowledged by Tiaki Wai and the Commission as incomplete, transparent confidence grading is needed to interpret performance reporting built on it.

7.8 Reporting by council area

Proposal supported. The Commission's Chair's letter accompanying the consultation refers to ongoing reporting of key performance information by council area, including operating expenditure, number of faults, and time to resolution. The draft amendment determination already requires opex to be broken down by shareholding council, and the draft economic regulation determination already requires quarterly fault disclosure for each shareholding council.

To the extent that operations and maintenance dashboards and other performance reporting are not already required by council area, that extension should be made explicit. The five owner councils have different network conditions, different historical investment patterns, and different rates on water assets. Reporting consistently by council area across the disclosure regime would allow residents to assess whether investment is being prioritised in proportion to need and whether outcomes are improving in their area.

7.9 Alternative options considered by the Commission (Attachment C)

Attachment C of the consultation paper sets out the Commission's reasoning for not introducing more comprehensive ID requirements at this stage. The reasoning is that Tiaki Wai is undergoing a significant organisational transition; broader disclosure requirements could divert resources from establishment and service delivery; Tiaki Wai's information systems and reporting processes are still developing; more extensive requirements could impose unnecessary compliance costs; and Wellington Water's submission on the enduring ID regime noted it would struggle to meet some of the disclosure requirements.

This reasoning is addressed on its own terms, as it is the Commission's stated basis for the scope of its current proposals. The reasoning rests on a balance between the compliance and capacity cost of additional disclosure and, the benefit of additional disclosure to interested persons. Four observations:

First, the financial compliance cost of additional disclosure is small relative to the scale of investment decisions being made. The cost of preparing and publishing options analysis for a 500 to 590 million programme is a small fraction of one per cent of that programme.

Second, proportionality includes opportunity cost. Senior management and board attention during establishment is a real constraint, and additional disclosure draws on that attention. The proposed marginal disclosures in section 9 are designed to attach to work that should be happening in any event (options analysis for material programmes, assurance of inherited decisions, related-party justification) and to require disclosure of that work rather than additional work. Where any of the proposed disclosures would require new analysis rather than disclosure of existing work, that is itself an indicator that the work should have been happening, not an argument against the disclosure.

Third, the argument that more disclosure would divert resources from establishment work has weight only if the decisions being made during establishment are sound. Where the pattern identified in sections 3 to 5 suggests that significant decisions are being made on inherited analysis without visible re-evaluation, additional disclosure during establishment is more important, not less. The establishment period is when the decisions are being locked in.

Fourth, the reliance on the existence of other controls (board, Partners Committee, owner councils, LGFA) as part of the proportionality reasoning is addressed in section 6. Where those controls are not yet observed to be operating effectively in respect of major inherited decisions, the Commission's ID and performance requirement regulation carries more of the load than the proportionality reasoning assumes.

Section 8 — Response to performance requirement regulation consultation

This section responds to the Commission's consultation on its proposed recommendation to the Minister of Commerce and Consumer Affairs under section 57G of the Commerce Act 1986 to impose performance requirement regulation on Tiaki Wai.

8.1 Proposed recommendation

This submission addresses the proposed recommendation only, not the content of any future performance requirements.

8.2 Support for recommendation

Proposed recommendation supported.

8.3 ID regulation is not sufficient

Information disclosure regulation works through transparency. It assumes that disclosure to interested persons, including the Commission, the board, the owner councils, the Partners Committee, and consumers, creates accountability and incentives for behaviour change.

That mechanism depends on recipients acting on the information. The pattern in sections 3 to 5 suggests that those best placed to act on disclosed information about Tiaki Wai, including the board, the Partners Committee, and the owner councils, sit in structural positions that, as set out in section 6, may limit their independent challenge of inherited decisions and cost recovery from consumers.

Performance requirement regulation does not by itself address that problem. It doesn't improve the quality of upstream analysis, and it doesn't give the Commission independent verification of disclosures from constrained intermediary parties. Those are information-quality problems addressed by the verification proposals in section 9: independent verification of material business cases, disclosure of inherited-analysis re-evaluation, related-party benchmarking. Performance requirement regulation addresses a different problem. It gives the Commission a tool that operates on observable delivery and outcome failures, which are externally verifiable without relying on upstream analysis. A missed delivery milestone, a fault rate above a set standard, or a service-quality breach can be observed and acted on directly, regardless of whether the underlying business case was independently tested.

The two are complementary because they target different failure points. The section 9 verification proposals address whether the right decisions are being made and disclosed. Performance requirement regulation addresses whether the entity is delivering observable outcomes, and provides an enforcement lever that does not depend on intermediary parties acting on disclosed information. ID regulation alone provides neither upstream verification nor downstream enforcement.

8.4 Performance requirement regulation is proportionate

The Commission's framework requires regulatory intervention to be proportionate to identified risks. Two features of Tiaki Wai's starting position make performance requirement regulation proportionate now, rather than at some later point.

First, the decisions that will shape Tiaki Wai's investment trajectory over the next decade are being made now, during establishment. These include the metering programme, conditional waste-water investments, the cost recovery basis for related-party transactions with shareholding councils, and the structure of transition costs. A regulatory tool that can be activated only after these decisions are made will not influence them. The window in which performance requirement regulation can affect the trajectory is narrow.

Second, the scale of investment being committed is large and the scale of price increases being passed through to consumers is significant. The Commission's papers acknowledge that prices will rise as Tiaki Wai returns services to the level of quality that consumers demand. Where the scale of cost being recovered from consumers is at the level signalled in the draft Water Services Strategy, the proportionality threshold for activating additional regulatory tools is lower, not higher, because the consumer impact of unjustified or imprudent investment is correspondingly larger.

This submission proposes two timing tracks, not one, and they should be read together. The annual ID disclosures proposed in section 9 are designed for the next generation of decisions: they will produce usable information over the first and subsequent reporting cycles and will discipline the investment decisions that follow. For the current generation of decisions being made now, during the narrow window, two mechanisms apply: the pre-decision disclosure provision in section 9.1 for programmes already identified in the draft 2026 Water Services Strategy (including metering), and the activation of performance requirement regulation, which provides a Commission-enforced lever over delivery and outcomes from the date of activation. The apparent tension between the urgency argument and the annual structure of the ID proposals is resolved by recognising they address different decision cohorts.

8.5 Activation, not specification

The Commission's proposed recommendation is to activate the tool, not to specify its content. Activation now preserves the Commission's ability to impose specific performance requirements at a time and in a form that responds to what is actually disclosed under the strengthened ID regime. Activation later, after the disclosures have revealed problems, may be too late to influence the decisions that drive those problems.

Even where specifications will be developed later, activation now provides the Commission with a credible commitment device during the establishment decision window. Tiaki Wai will be making decisions in the knowledge that the Commission has the activated tool available, which shapes the discipline brought to those decisions. This is separate from the eventual content of any specifications and operates from the date of activation rather than the date of any subsequent specification.

The incremental cost of activation, relative to the cost of the ID regime already proposed, is limited. Activation does not impose any specific obligation; it makes the tool available. The cost of not activating the tool now, if activation later proves necessary, is the period between recognition of the need and the completion of the section 57H consultation and ministerial process. That period is likely to exceed twelve months. Tiaki Wai's investment decisions will not pause for that period.

8.6 Matters in Commerce Act section 57H(1)

The Commission is required to have regard to each of the matters in section 57H(1) before making a recommendation under section 57G. The consultation paper addresses each. This submission does not re-argue each matter individually. The Commission's assessment of those matters is accepted, and the analysis in sections 3 to 6 of this submission, particularly on the operation of risk controls outside the regulatory framework, supports rather than undermines the Commission's reasoning.

Section 9 — Additional disclosures Commission should require

Each proposal links to one of the four risk areas identified by the Commission: asset management, delivery, financial sustainability, and non-financial performance. The proposals are derived from those risk areas. Any gaps in current published material are noted only to show where the existing disclosure framework does not yet reach the risk. In summary: 9.1 (options analysis and verification) and 9.4 (board assurance framework) address asset management and delivery risk in respect of major inherited decisions; 9.2 (cost disaggregation) and 9.3 (related-party transactions) address financial sustainability risk; 9.5 (conditional waste-water investment) addresses asset management and financial sustainability risk in respect of contested-scope investment; and 9.6 (reporting by council area) supports non-financial performance assessment. Each item below states the risk it addresses, the proposed disclosure, the gap in current requirements, and the cross-reference to the supporting analysis.

Definitions used in this section:

- **Material decision or programme:** a single project, programme, or decision that meets the materiality threshold defined in 9.1, including aggregated related sub-programmes or phases.
- **Steady state:** the operating cost base of Tiaki Wai once one-off establishment costs and time-limited transition arrangements have been wound down.
- **Conditional investment:** forecast investment whose scope, scale, or justification depends on the resolution of an identified question of responsibility, standard, cost, or measurable benefit.

9.1 Published options analysis and independent verification for material programmes

Risk addressed: asset management and delivery, for major inherited investment decisions.

Materiality threshold. This submission does not propose a specific dollar figure. The Commission is better placed to set this. The threshold should capture programmes of the scale of the metering programme (500 to 590 million indicative) while not imposing the obligation on routine operational decisions. The threshold should be set as the lesser of a dollar figure (suggested range 50 to 100 million for a single programme) or a percentage of forecast annual capital expenditure (suggested range 10 to 20 per cent). Setting the threshold as the lesser of the two means a programme triggers the obligation if either test is met. An example: at 400 million forecast annual capital expenditure, a 10 per cent test gives 40 million, which is the binding lower floor; at 1 billion forecast annual capital expenditure, the 50 million figure is the binding lower floor. In both cases the lower figure governs, so scaling capex up does not raise the threshold or exclude programmes the requirement is intended to capture. This threshold applies to the extended verification in this section and operates alongside, not in place of, the "material project or programme" definition in the draft amendment determination supported in section 7.5.

Where a programme is structured as related sub-programmes or phases that together meet the threshold, the threshold applies to the aggregate, not individual sub-programmes. This prevents splitting below the threshold to avoid disclosure. Relatedness includes shared business case, procurement process, funding decision, or technology platform. If this is unclear in a given case, the Commission's existing "material project or programme" definition in the draft amendment determination applies.

Proposal — options analysis. For any project, programme, or decision above the materiality threshold, Tiaki Wai should publish, alongside the Water Services Strategy, the IDP, or the quarterly delivery reporting in which the programme is first identified as material:

- the problem the programme is intended to address, stated in measurable terms;
- the options considered, including do-nothing, demand-side alternatives, scope alternatives, technology alternatives, ownership and structural alternatives, timing and sequencing alternatives, and any others material to the decision;
- the costs, benefits, and risks of each option in quantified form, including the basis for quantification and the confidence in it;
- the basis on which the preferred option was selected over the alternatives;
- whether the underlying analysis is inherited from Wellington Water or developed before Tiaki Wai's establishment, and what re-evaluation Tiaki Wai has performed before adopting it.

Programmes already identified in the draft 2026 Water Services Strategy. For programmes already identified in the draft 2026 Water Services Strategy that meet the materiality threshold, including the smart metering programme described in section 4, the options analysis and the independent verification proposed below should be published before the relevant business case proceeds to financial commitment. This is the main mechanism for decisions made during the establishment window, where the annual disclosure cycle would otherwise arrive too late (see section 8.4). It ensures the disclosure rule is not applied only after the programmes that drove its design.

Commercial sensitivity carve-out. This proposal does not require disclosure of material that would prejudice live procurement, including specific supplier-level pricing, supplier identities before procurement award, or contracting structures under negotiation. Such material may be withheld from the published options analysis, with a brief explanation of what is withheld and why, and disclosed once the relevant procurement is complete. The options considered, the decision criteria, and the quantified comparison at the level needed to assess prudence should not normally be commercially sensitive.

Proposal — independent verification. For any project, programme, or decision above the materiality threshold, independent verification should be required of the published business case, including the options analysis and the basis for selecting the preferred option.

Verification should cover whether: the problem definition is supported by evidence; the options analysis is genuinely comparative rather than confirmatory; the quantification of costs and benefits is reasonable; the basis for selecting the preferred option follows from the analysis; and any inherited analysis has been re-evaluated to a standard consistent with the scale of the decision.

The verifier should be independent of Tiaki Wai and not currently engaged by Tiaki Wai or Wellington Water on the same programme. Where the available pool of qualified verifiers is limited, prior involvement in predecessor work should be disclosed alongside the verification report. The Commission can then determine whether residual independence is sufficient or whether additional safeguards are required. This preserves independent verification while recognising the practical reality of the New Zealand water consulting market.

Verification is of what is disclosed, not a pre-commitment regulatory gate. Accountability for the underlying decision remains with the Tiaki Wai board.

Gap addressed. The Commission's proposed independent verification of forecast capex/opex sits at the level of forecast totals and reporting cycles. It does not require options analysis to be published for individual programmes or independent verification at programme level. The metering programme in section 4 illustrates this point: a 500 to 590 million indicative programme presented as preferred at the strategy stage, before procurement, sits between the forecast level and the operational reporting cycle.

Supporting analysis. Sections 4 (smart metering), 7.4 (proposed strengthening of independent verification).

9.2 Disaggregation of one-off establishment and transition costs

Risk addressed: financial sustainability.

Proposal. Building on the draft amendment determination's requirement that opex be broken down by shareholding council, quarterly delivery reporting and annual financial disclosures should present:

- one-off establishment costs, with a defined wind-down profile and end date for each category;
- transition costs (including temporary support arrangements with shareholding councils and other transitional services), with a defined wind-down profile and end date for each category;
- ongoing service delivery costs at steady state.

Variance reporting against budget should be presented for each of the three categories separately, not in aggregate. During the transition period before steady state is reached, Tiaki Wai should disclose its working forecast of steady-state costs, together with the assumptions and time-line underlying that forecast.

Gap addressed. Quarterly delivery reporting as proposed by the Commission will compare actual operating and capital expenditure against board-approved budgets, broken down by shareholding council. The proposal does not require disaggregation of one-off and transitional costs from ongoing service delivery costs.

Without that disaggregation, it will not be possible for interested persons to assess whether transition costs are converging toward zero or being absorbed into the steady-state cost base.

Supporting analysis. Sections 5.2 (establishment and transition costs), 7.5 (proposed strengthening of quarterly delivery reporting).

9.3 Disclosure of related-party transactions with shareholding councils

Risk addressed: financial sustainability.

Proposal. Tiaki Wai should disclose each annual reporting cycle, for each category of transaction with a shareholding council:

- the gross amount and the basis on which it is calculated;
- the year-on-year change and the reasons for it;
- the basis on which the level of payment reflects services received by Tiaki Wai and is recoverable from consumers, with reference to market rates for equivalent services from unrelated providers where such comparators are available; where they are not available, the basis on which the level is set, and what would be required to market-test it;
- the conflict-of-interest controls applied by Tiaki Wai's board to the approval of these arrangements.

This applies to rates on water assets, billing and customer services provided by councils, payroll, finance and other processing services, and any other category of related-party transaction.

Gap addressed. The Commission's proposed disclosures do not address related-party transactions with shareholding councils as a specific category, given the structural feature in section 6 and the scale of these transactions (rates on water assets alone forecast at over \$50 million in 2026/27, more than double 2024/25). The proposal does not impose a "genuine net cost" test or require the Commission to enter local-government

rating policy. It requires standard related-party disclosure, plus a market-referenced benchmark or a stated basis where no market comparator exists, so the Commission has a benchmark to assess the explanation rather than only an internally coherent methodology statement.

Supporting analysis. Sections 5.1 (rates on water assets), 6 (governance and risk controls).

9.4 Disclosure of board's assurance framework for material inherited decisions

Risk addressed: asset management and delivery, through the operation of the board as a risk control.

Proposal. Tiaki Wai should be required to disclose, in each annual reporting cycle:

- the assurance framework the board applies to material decisions involving inherited analysis (the framework, not the content of individual deliberations);
- the scope of that framework, including the kinds of decision to which it applies and the kinds of inherited input it covers;
- where independent external advice has been commissioned to support board challenge of material inherited decisions, the existence of that advice, the matter on which it was sought, and the question the advice was asked to address (not the substance of the advice or its conclusions).

To avoid a bare policy statement satisfying the requirement, a qualifying framework disclosure must at minimum identify: the categories of decision to which the assurance process applies; the kinds of external input or independent advice the process uses to test inherited analysis; and the frequency of, or trigger for, applying the process. These minimum elements describe what the framework must cover, not what the board decided in any particular case, and so do not require disclosure of deliberation content.

This proposal does not require disclosure of board deliberation records, legal advice, deliberation content, or board self-assessment.

Gap addressed. The Commission's framework relies on the independent skills-based board as a risk control. The published material does not show whether the board's assurance framework over inherited decisions exists or what it covers. Without the minimum elements above, a disclosure could be satisfied by a bare statement that gives the Commission no basis to assess whether a meaningful process exists. The proposal attaches to inputs to the regulated information the Commission is already requiring (the SAMP, IDP, and business cases), not to board governance as such.

Supporting analysis. Section 6 (governance and risk controls).

9.5 Disclosure of conditional waste-water investment

Risk addressed: asset management and financial sustainability, for contested-scope investment.

Proposal. For any forecast waste-water investment conditional on unresolved questions of responsibility, standard, cost, or likely benefit (the wastewater-network contamination contribution described in section 5.3 as the clearest current example), Tiaki Wai should disclose the:

- proportion of forecast investment that is conditional, or a qualitative description of the conditional component where it cannot be reasonably estimated;
- specific unresolved questions on which the investment is conditional;
- basis for any commitments made before resolution;
- decision points at which conditionality will be resolved.

Where the boundary between waste-water-source and storm-water-source contamination is unresolved, disclosure should set out Tiaki Wai's working basis for allocating forecast investment between the two, and the conditions under which that allocation would be revised.

This proposal is confined to regulated waste-water services. It does not seek to bring storm-water into the Commission's regulatory scope.

Gap addressed. The Commission's proposed disclosures address forecast investment and whether that investment can be delivered, but do not require disclosure of the conditions attached to forecast regulated waste-water investment. Where Tiaki Wai's own strategy acknowledges that material questions affecting waste-water investment are unresolved, the conditionality of any forecast investment built on those questions should be disclosed.

Supporting analysis. Section 5.3 (wastewater-network contamination contribution).

9.6 Reporting by council area (extension where not already in draft determinations)

Risk addressed: non-financial performance.

Proposal. The draft amendment determination requires opex by shareholding council, and the draft economic regulation determination requires quarterly fault disclosure for each shareholding council. The submission supports those provisions. Where not already required, the same council-area breakdown should be applied to operations and maintenance dashboards and other performance reporting.

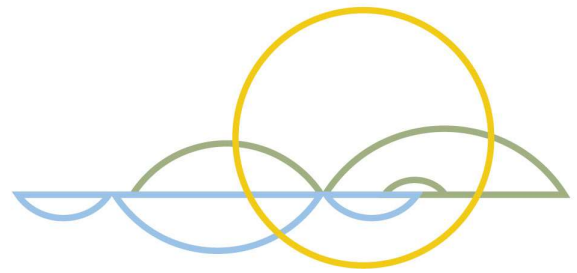
Supporting analysis. Section 7.8 (reporting by council area).

9.7 Summary of additional disclosures

The disclosures proposed in this section are aimed at three things: testing whether inherited decisions of material scale have been independently re-evaluated, and surfacing the governance and related-party arrangements that bear on them (9.1, 9.3, 9.4); making the cost structure transparent enough to assess prudence and convergence to steady state (9.2, 9.5); and aligning reporting with the geographic and governance structure of the service area (9.6).

The proposed disclosures are designed to attach to work that should be happening as part of prudent and efficient management of the assets and services Tiaki Wai is responsible for. Where the underlying work is already in hand, the compliance cost is limited to disclosure of existing work, plus the carve-out for genuinely procurement-sensitive material. Where the underlying work is not in hand, the proposals impose marginal additional analytical work and the cost of disclosure; in that case, the work itself is what was missing under the Commission's risk framework, and the disclosure simply makes its absence visible. The proportionality of the proposals follows from that two-case analysis: bounded compliance cost where the work exists, and a regulatory signal where it does not.

End of submission.



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Economic regulation of Tiaki Wai - Consultation on recommending performance requirement regulation: Submission by Tiaki Wai

Kia Ora,

This submission is a companion to Tiaki Wai's submission on the Commerce Commission's proposed additional requirements for information disclosure (ID).

This submission focuses on the separate proposal to apply performance requirement regulation to Tiaki Wai. It sets out our views on how that tool can best be used within the overall regulatory framework.

Overview of Tiaki Wai's position

Tiaki Wai supports the proposed access to performance requirement regulation, but as a credible backstop to further strengthen accountability and assurance

In principle, this tool can be important in strengthening the accountability of water services providers for delivery and improving their performance, particularly if transparency and governance mechanisms do not provide sufficient confidence that improvements are being made and outcomes are being delivered.

In this context, performance requirement regulation has clear value as a credible regulatory backstop. Just the availability of the tool itself can reinforce accountability and provide additional assurance to consumers and stakeholders that, where necessary, the Commerce Commission can intervene more directly to address persistent delivery or performance risks.

The primary platform for transparency and assurance should be information disclosure and governance oversight

The core platform for ensuring transparency and confidence in Tiaki Wai's delivery once it is established should continue to be enhanced information disclosure (independent verification and earlier reporting) together with oversight by the Board and Partners Committee.

Performance requirements should be applied only if after those other mechanisms have operated for a time they are found to be insufficient.

Performance requirement regulation should complement, not displace, the primary governance and accountability arrangements

While Tiaki Wai supports access to performance requirement regulation in its case, it believes this regulatory tool should be framed and applied in a way that reinforces, rather than replaces, the core governance and accountability settings for establishing Tiaki Wai.

The Commission should clarify when escalation to performance requirement might be triggered

Triggers could include persistent underperformance, unexplained material variances, unaddressed adverse verification findings, or a sustained deterioration in services without a credible pathway for remediating this.

Any move to apply performance requirements should be proportionate and based firmly in evidence, and be consistent with the principle that benefits should outweigh costs.

Any performance requirements should focus on outcomes, be proportionate, and preserve Tiaki Wai's operational flexibility

If performance requirements are progressed, they should be focussed on outcomes – that is, on Tiaki Wai's observable performance, rather than on anticipating risks.

Any requirements should also be proportionate, and should continue to allow Tiaki Wai sufficient flexibility in delivery (including a transparent mechanism for justified changes). In our view, performance requirement regulation should not prescribe specific implementation choices, as that could undermine effective and efficient delivery and also blur the roles of the regulator versus the Board and management.

Tiaki Wai notes that additional regulatory layers are often drawn to larger and more visible entities in contrast to smaller peers, irrespective of actual performance. This approach risks perversely penalising scale, which directly works against achieving the very economies of scale and efficiency gains that the broader water sector delivery model is designed to unlock. At worst, bespoke regulatory frameworks could erode the benefits, resulting in a net negative result for consumers.

Context and relationship to Tiaki Wai's information disclosure submission

Tiaki Wai provides this submission alongside our submission on the Commerce Commission's proposed additional information disclosure (ID) requirements.

In that companion submission, Tiaki Wai expresses support for the proposed enhanced and accelerated ID package, including the use of independent verification and earlier reporting, as the primary mechanism for strengthening transparency, accountability, and confidence in delivery by Tiaki Wai. This submission focuses on the Commission's separate proposal to recommend to the Minister of Commerce and Consumer Affairs that performance requirement regulation be applied to Tiaki Wai. Here we set out our views on how that tool can best be used within the overall regulatory framework.

Positioning performance requirement regulation as a backstop

Performance requirements should be a contingent mechanism for escalation

For Tiaki Wai, a strong foundation for transparency, accountability, and performance improvement is already intended through a combination of enhanced information disclosure requirements (including independent verification and earlier reporting), strengthened governance and oversight through the Board and Partners Committee, and existing sector and financial oversight mechanisms.

These mechanisms are specifically designed to provide better visibility of performance and delivery risk, enable emerging issues to be identified early on, and support early intervention through governance and oversight channels.

Within this framework, our view is that performance requirement regulation should be seen as a contingent mechanism for escalation, to be applied where there is clear evidence either that performance is not improving as expected, or that delivery risks are not being adequately managed, or that the existing transparency and governance arrangements are not providing sufficient confidence in outcomes.

The context in which Tiaki Wai is established has major implications for improving performance

As set out in our draft Water Services Strategy, Tiaki Wai will begin operations inheriting assets, information, and systems that reflect decades of underinvestment and ageing infrastructure. Many critical assets are in poor condition, service performance is variable, and compliance challenges persist, as evidenced by high leakage, wastewater overflows, limited capacity, and stormwater impacts.

At the same time, Tiaki Wai is also starting from a foundation of incomplete information, and asset management systems that are not yet fit for purpose for a modern water services organisation. Those problems make it more difficult to prioritise and deliver on investments.

This starting point has direct implications for how quickly and efficiently performance can be improved. The Water Services Strategy is explicit that improvement will require sustained investment over time and cannot be delivered all at once. The sequencing will be shaped by affordability, borrowing capacity, and market constraints on delivery.

In this context, any performance requirements (if progressed) should be proportionate and focussed on outcomes. They should also be flexible enough to accommodate any appropriate re-sequencing as the evidence base and our systems and investment planning capability are progressively improved.

How and when performance requirements should be applied

Triggers for intervention should be based on observed performance

Tiaki Wai believes it is important for the Commerce Commission to signal the types of circumstances that would lead it to impose performance requirements.

These could include persistent underperformance against disclosed delivery or improvement plans, material and unexplained variance between planned and delivered outcomes, adverse findings from independent verification that are not being adequately addressed, or sustained deterioration in service performance without a credible pathway to remediate it.

Providing that clarity about triggers would support predictability and transparency and reinforce incentives for proactive management. It would also ensure that any escalation is clearly linked to observed performance rather than anticipated risk.

The benefits of intervening must exceed the costs

The Commerce Commission has been clear that additional regulatory tools should only be applied where there are risks or potential harms to consumers and the benefits of addressing these would outweigh the costs. Tiaki Wai supports that approach, and we believe it reinforces the importance of the Commission taking a proportionate, evidence-based approach to any performance requirements.

This would include providing clarity on the circumstances in which escalation would be justified and how compliance costs and unintended consequences will be managed.

Before performance requirements are imposed, Tiaki Wai should be given the opportunity to respond to the proposed requirements. It should be able to present evidence on activities it already has underway to address or improve its performance, and to present its view of the costs and benefits of additional regulation.

Enhanced information disclosure and governance arrangements should be allowed to do their work first

Consistent with principles of proportionality, any performance requirement regulation should follow an initial period in which enhanced information disclosure and governance arrangements have been allowed to operate. Performance requirements should be informed by evidence generated through that framework, including disclosed information and independent assurance processes.

That staged approach would ensure that performance requirement regulation is applied at the point where it adds the most value, rather than pre-emptively.

Ensuring performance requirements focus on outcomes, not implementation choices

Performance requirement regulation should not interfere with governance

In its 7 May 2026 media release on proposed additional regulation for Tiaki Wai, the Commerce Commission emphasised the importance of strengthening scrutiny “without interfering with existing governance arrangements or lender oversight”.

Tiaki Wai agrees with that approach, and believes it will be important for performance requirement regulation to be determined in a way that is consistent with this underlying intent.

Prescribing specific implementation choices could create unintended governance consequences and blur key roles

Prescriptive performance requirements that directed Tiaki Wai to make particular implementation choices could effectively place the Commerce Commission in a position of influencing or directing operational decisions. This could create ambiguity in who is accountable for delivery outcomes, and undermine the governance model established under the Local Government (Water Services) Act.

That model places accountability clearly with the Board in its governance role, while the Commission’s role is to hold Tiaki Wai to account for delivery and performance outcomes and ensure those outcomes are consistent with the long-term interests of consumers.

Decisions relating to asset management approaches, system design and implementation, and sequencing of investment and uplifts in capability fall within the core responsibilities of the Board and management. Further, as the Commission is aware, the timing and sequencing of investments in core systems, data quality, and processes involve significant and complex trade-offs.

Any performance requirements that extended into prescribing choices in those areas would risk shifting the Commission’s role away from economic regulator and towards de facto governance or management, which is not the intent of the legislation.

Performance requirements should support flexibility and effective delivery

If the Commission applies performance requirements to Tiaki Wai, our view is that the requirements should be designed in a way that preserves appropriate operational flexibility while still holding Tiaki Wai firmly accountable for outcomes.

During the establishment phase, Tiaki Wai will need to make decisions in an environment of evolving information, changing constraints, and significant delivery interdependencies. It will be critical for Tiaki Wai to have sufficient flexibility to achieve efficient delivery and avoid unintended consequences, which could include perverse incentives to prioritise regulatory compliance over better delivery sequencing and risk management.

In practice, this means requirements should:

- focus on outcomes and measurable delivery milestones rather than prescribing specific implementation choices
- be framed around materiality and risk, recognising that some variation will be both inevitable and efficient, and
- include a transparent mechanism for managing justified changes (for example, where new information or external constraints materially affect timing, scope or sequencing).

Next steps

Tiaki Wai is committed to continuing to engage regularly with the Commerce Commission on how best to strengthen transparency and confidence in its delivery during the establishment phase, including through enhanced information disclosure, that support accountability while keeping roles clear.

Kind regards



Mike Brewster
Chief Executive
Tiaki Wai Limited

Submission to the Commerce Commission on Economic Regulation for Tiaki Wai - Consultation on Recommending Performance Requirement Regulation

Thank you for the opportunity to comment on the Commerce Commission's consultation on whether to recommend performance requirement regulation for Tiaki Wai. This is an individual submission and does not contain any confidential information.

This submission supports the Commission taking additional regulatory action in light of the scale and urgency of the risks facing water service delivery to customers in the Wellington metropolitan area.

The current level of risk to service delivery, asset management performance, and consumer outcomes appears to justify additional regulation. On the available information, the risks associated with delay are likely to outweigh the costs of additional regulation. In that context, the Commission is right to seek a regulatory response that improves accountability, strengthens incentives, and drives timely improvement. However, it is not clear whether performance regulation has been shown to be the best available regulatory tool to promote the Part 4 purpose at this stage.

Performance requirement regulation has not yet been demonstrated to be the best option

A price-quality path framework would have the advantage of integrating expenditure, service quality, and accountability within a single regulatory structure while also driving improvements in asset management as is being implemented for Watercare. If paired with a limited transitional safe-harbour mechanism, it could reduce concern about immediate penalties while still requiring progress in critical areas to be made visible and open to scrutiny. That approach may better accelerate improvements in systems, processes, and decision-making capability, while also providing earlier benefits to consumers. It also means that improvements would be selected by Taiki Wai, rather than being chosen by the Commission.

Stakeholders may consider the Commission appears to be justifying a preselected outcome rather than making a risk and benefit based decision.

The Commission should be cautious about specifying inputs rather than outcomes

If the Commission recommends performance requirements in a determination, it should be confident not only that the required actions are reasonable in theory, but also that they are likely to improve outcomes in practice. That is an important distinction. Requiring completion of an action, system, or capability uplift is not the same as demonstrating that the change has improved service performance, asset management quality, or long-term value for consumers.

This is similar to the difference between simply commissioning a project as complete and realising the benefits that justified the investment in the first place. A new asset information system, for example, is only valuable if it is used effectively, supports better decision-making, and improves prioritisation, delivery, and service outcomes. Regulation requirement setting should therefore focus on whether real improvement is occurring, not merely whether a nominated action has been completed.

This matters particularly because water sector improvement depends on organisational capability, leadership, incentives, and disciplined decision-making as much as, or more than, information systems or reporting artefacts.

There is a risk in performance regulation that the regulator is considered by stakeholders to be effectively picking winners by prescribing particular performance requirements before there is sufficient evidence that those inputs are the most effective way to improve outcomes. A regulator would also need to clearly demonstrate that there is not a principal-agent issue in any choice of performance requirements i.e. it improves matters for the regulator over any benefits for consumers.

Accountability and evidence of effectiveness are essential

Performance regulation is still a relatively new tool in this context, and there is limited information available about Tiaki Wai's systems, operational maturity, and likely behavioural response to incentives. That creates a risk that requirements could be set around matters that are necessary but not sufficient to deliver outcomes consistent with the Part 4 purpose. Consumers should be able to have confidence not only that the Commission's chosen performance requirement is theoretically sound and fully justified, but that it can deliver measurable improvement in practice. And that there is a mechanism to identify and correct for any failure to deliver outcomes for consumers.

For that reason, any additional regulation should address the asset management system as a functioning whole rather than considering isolated components. Improvements in data, systems, reporting, or assurance should not be treated as ends in themselves. They should be assessed according to whether they improve

prioritisation, delivery capability, prudent expenditure, service quality, and long-term consumer value.

Implementation timing should be clear and prompt

While not legally required, any consultation paper would also benefit from greater clarity on timing. At present, it is not sufficiently clear when any determination would take effect following the Minister's decision, and that uncertainty risks delay at a time when the issues identified by the Commission require timely action. The Commission should commit to a clear implementation timetable, for example by indicating that the determination process will be completed within a defined period after the Minister's decision rather than allowing disbenefits to accrue through lack of delivery.

28 May 2026

Commerce Commission

wai@comcom.govt.nz



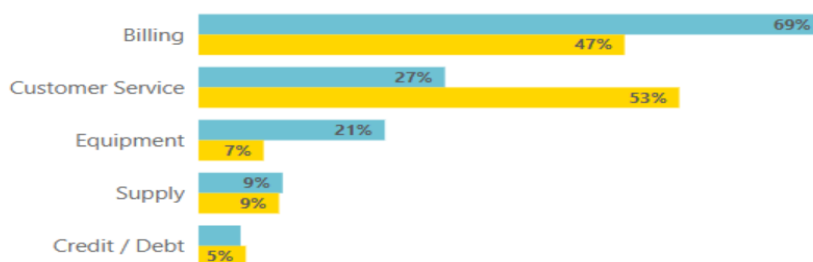
Re: Performance Regulation and Information Disclosure for Tiaki Wai

Utilities Disputes Limited | Tautohetohe Whaipainga (UDL) welcomes the opportunity to comment on the Commerce Commission's (Com Com) papers about performance regulation and information disclosure for Tiaki Wai.¹ Tiaki Wai will be the water services provider for the Wellington region from 1 July 2026.²

Utilities Disputes is New Zealand's leading provider of independent dispute resolution services for consumers and providers in utilities. We deliver dispute resolution schemes covering electricity, gas, water, and telecommunications.³ There is no charge to a consumer for making a complaint across any of our schemes.

Comparing water and energy complaint issues
2025-26

● Water ● Energy



We are best known for operating the government mandated Energy Complaints Scheme which last year considered a new high of 12,505 complaints and 12,413 queries. In water we offer a voluntary scheme, Wellington Water and Watercare are members.⁴

We believe much can be learned from the history and practices of the electricity industry in how the Local Water Done Well reforms will transform water complaint handling.⁵ Already across our electricity and water schemes many complaint issues are similar. Once water service providers (WSPs) start billing for water separately we predict the number of billing complaints will increase and WSPs will require robust processes to address the needs of vulnerable consumers.

¹ Legal name Tiaki Wai Metro Water Ltd. Provisional name was Metro Water.

² *Economic Regulation of Tiaki Wai* (Additional Disclosure), 7 May 2026, x.1, 2.1-2.7.

³ In telecommunications we deliver the government mandated dispute resolution scheme for the laying of fibre on shared property, and we also operate an independent and voluntary telecommunications scheme. Our voluntary telecommunications scheme is not an industry dispute resolution scheme under part 7 of the Telecommunications Act 2001.

⁴ Milford Sound Infrastructure is also a member.

⁵ Utilities Disputes, *Economic Regulation of Water Services – Information Disclosure (Draft Decision)*, 30 October 2025, 13- 18, [Sub](#).

Our core submissions are:

- We support the proposals of Com Com, and acknowledge the work begun by Tiaki Wai. The *Metropolitan Wellington Water Services Delivery Plan (Water Services Delivery Plan)* sets out the difficult starting point for Tiaki Wai, but signals Tiaki Wai is up for the challenge:

Levels of service and performance are variable and reflect known issues with water leaks, frequent wastewater overflows and flooding. Frequent and increasing numbers of asset failures are occurring due to deterioration and historic insufficient investment in renewals.

The regulatory compliance status reflects mixed performance across wastewater, stormwater, and water supply activities. This underscores the need for enhanced operational management, targeted investment in asset upgrades, and stronger alignment with regulatory expectations to ensure long-term environmental and public health outcomes.⁶

- Our submissions arise from our role as a complaint handler for water. It may be tempting to delay many of our proposals until much of the water infrastructure work is underway. However informing consumers and communities about their water supply and integrating their insights into business planning will be crucial to growing public trust in Tiaki Wai.
- We see the Local Government (Water Services) Act 2005 (the Act) as having a consumer and community orientation, coupled with a business focus in operations. These elements are not in competition, successful businesses know their consumers and communities, and are receptive to their insights through outreach, complaint analysis, and reporting on systemic issues.
- We support the introduction of performance regulation for Tiaki Wai. Tiaki Wai has already noted that Com Com has a role in benchmarking, and such performance regulation will encourage and support Tiaki Wai in its own goal setting. Com Com's example that it might monitor the development of Tiaki Wai's new information system illustrates how Tiaki Wai can be helped to achieve the deliverables it has planned.⁷
- We support making the operations plan more accessible to the public through definitions and explanations. This was a requirement of Wellington Water's information disclosure requirements. Such reports will help consumers understand how Tiaki Wai is performing. Distinguishing between complaints, customer service issues and leaks will ensure consumers can readily understand the report. Com Com is asked to revise the determination clause mandating such definitions and explanations by making it more prescriptive.

⁶ *Water Services Delivery Plan*, 4.

⁷ See *ibid*, 38. As we have noted previously Louise Dudley, CEO of Urban Utilities Queensland (2012-2022), advised water providers that, if she could rewind the clock, she would at the beginning of her term as CEO have brought online a new data management system. She encouraged the new WSPs to think about this in their planning. Louise Dudley, "Sharing my Lived Experience as CEO from Urban Utilities Queensland," 29 September 2025, Christchurch, 10th IWA Aspire Conference and Water New Zealand Conference and Expo (Pre-Conference).

- We were concerned that the consumer focused clauses in the *Water Services Information Disclosure Determination* were delayed. Therefore, we welcome making what is known as C7 mandatory for Tiaki Wai. C7 forms a charter for complaint handling and requires:
 - a. identification of particular consumer groups.
 - b. assessment of the impact of consumer groups on the network.
 - c. performance indicators to measure consumer satisfaction.
 - d. disclosure of how consumer satisfaction data and complaint data will inform operations.
 - e. disclosure of complaint management processes.
 - f. disclosure of call centre services.
 - g. approaches to new connections and connection upgrades, and how common issues are addressed.
 - h. disclosure of what information is provided to new consumers.
- We ask Com Com to introduce some additional disclosure requirements. We think there is benefit in asking Tiaki Wai to set out its processes for identifying systemic issues arising from complaints and for disclosure on complaint data points, such as:
 - a. the definition of a complaint.
 - b. definitions for complaint categories.
 - c. reporting of complaint resolution times.
 - d. reporting of complaint outcomes and customer satisfaction with outcomes.
 - e. number of staff assigned to complaints.
- Tiaki Wai is aware of many of the issues that will give rise to complaints. The *Water Services Delivery Plan* notes: consumer concerns about water meters;⁸ that there will be a large increase in water charges even when a conservative model is adopted;⁹ issues of affordability;¹⁰ and the need to assist vulnerable consumers. The price increases predicted in the *Water Services Delivery Plan* will hit consumers hard:

Average residential charges are forecast to rise from approximately \$2,100 per connection today to between \$5,700 (based on the target financial strategy of this WSDP) and \$4,800 (based on the lower-end financial scenario) by 2034.¹¹

We encourage Tiaki Wai to continue to embed its affordability and hardship programme noted in the *Water Services Delivery Plan*.¹² Monitoring by and/or disclosure of this plan to Com Com appears appropriate. We note the positive steps Tiaki Wai has taken in its Customer Charter to address these issues and the needs of vulnerable consumers.¹³

⁸ See *Water Services Delivery Plan*, 14.

⁹ Ibid, 70 (indicative).

¹⁰ Ibid., 70-72.

¹¹ Ibid., 4.

¹² Ibid., 72.

¹³ See Tiaki Wai "Customer Charter," <https://haveyoursay.tiakiwai.co.nz/customer-charter>

Information Disclosure

Com Com issued two papers, the first suggests imposing performance requirements on Tiaki Wai as an additional regulatory tool. If performance regulation is approved, there would be a further consultation on its content. Performance regulation is defined this way:

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.¹⁴

The second paper proposes amending the enduring information disclosure requirements for Tiaki Wai.¹⁵ Enduring information disclosure is Com Com's core tool for assessing the performance of WSPs. Com Com proposes Tiaki Wai:¹⁶

Obligations in addition to enduring ID requirements

- provide fault disclosure reporting about the time and number of faults it receives for water supply and wastewater so that this information is provided for each quarter.
- provide the fault information with a data confidence grading and a director's certificate.
- disclose the operations report that is tabled at each Tiaki Wai Partners Committee and in a way that supports public understanding and interpretation.

Amendments to enduring ID requirements

- on or before 31 July 2027 disclose its:
 - a) strategic asset management plan.
 - b) investment and delivery plan.
- on or before 30 November 2028 disclose its annual delivery report.
- on or before 30 November 2026 and each year after, disclose its wastewater network length and water supply network length.
- on or before 30 November 2026 disclose its actual network operating expenditure for the past financial year on each planned and unplanned maintenance of assets.
- on or before 31 July 2027 in addition to providing the yearly forecast information about operating expenditure and capital expenditure provide;
 - a) information on any variances from the water services strategy;
 - b) any risks to deliverability;
 - c) a verification report from an independent expert assessing the forecast information.

¹⁴ *Economic Regulation of Tiaki Wai (Performance Regulation)*, 7 May 2026, 3.6.

¹⁵ See *Information Disclosure for Water Service, Final Decision Summary Paper*, 24 February 2026.

¹⁶ The summary of some of the core elements of the proposals is to give context to the submission and aid the reader. For any other purpose an analysis of the draft determinations and explanatory materials will be necessary. The summary is based on the *Water Service Information Disclosure (Tiaki Wai) Amendment Determination 2026* (draft), *Tiaki Wai Economic Regulation Determination 2026* (Draft); & *Water Service Information Disclosure Determination 2026*.

- after 30 September 2026 disclose each quarter a report which:
 - a) disclose its progress in delivering the operating expenditures and capital expenditure; including any projects started or completed,
 - b) any significant changes to the risks in delivering the operating and capital expenditure.
 - c) its progress in delivering projects and programmes.
 - on or before 31 March 2027 and then again on or before 31 March 2029 publish an asset management maturity and capability assessment. This plan must include various elements including:
 - a) the criteria for any assessment.
 - b) whether it was conducted internally or externally.
 - c) the level of asset management practice measure, and whether it was achieved.
 - d) how outcomes have been included in the asset management plan and improvement plan.
 - on or before 31 July 2027 disclose an asset management improvement plan informed by the asset management assessment, which is verified by an independent expert. This plan must include various elements including:
 - a) a list of each improvement with details describing the improvement.
 - b) how the improvements have been prioritized.
 - c) after each quarter Tiaki Wai must assess its performance in carrying out the plan.
 - on or before 31 July 2027 disclose a plan specifying consumers or groups of consumers of water supply and wastewater services that sets out (summary of *Water Service Information Disclosure Determination 2026, C.7*):
 - a) the key characteristics of the consumers, how they interact with services, and what impact the consumers have on network operations, asset management objectives, and revenue.
 - b) the methodological assumptions used to determine the connections in each network, and the total number of consumers who receive the water services.
 - c) how consumer expectations are identified, and how expectations have shaped planning.
 - d) identifies any gaps in providing water services, and how those gaps will be addressed.
 - e) how consumer satisfaction is measured.
 - f) how consumer satisfaction and complaint data are used to inform operational management practices.
 - g) customer service practices including call centre services and the approach to planning and managing customer complaint resolution.
 - h) specifies the practices for one-off connections and connections for new developments.
 - i) sets how commonly encountered connection problems are addressed.
 - j) how consumer requests for alterations to existing connections are addressed.
 - k) describes the approach to minimising costs for new connections and altered connections.
 - l) the approach to planning and managing communication with consumers regarding new, altered or one of connections.
 - m) advises consumers about current or future constraints that may affect connection timing or feasibility,
-

Support for the Proposals

Utilities Disputes is supportive of the disclosure proposals. We make our comments as a provider of water dispute resolution services. We note the extensive work undertaken by Tiaki Wai, particularly in preparing the *Metropolitan Wellington Water Services Delivery Plan, August 2025 (Water Services Delivery Plan)*. The plan sets out the difficult starting point for Tiaki Wai, but in doing so acknowledges the issues to be addressed:

Levels of service and performance are variable and reflect known issues with water leaks, frequent wastewater overflows and flooding. Frequent and increasing numbers of asset failures are occurring due to deterioration and historic insufficient investment in renewals.

The regulatory compliance status reflects mixed performance across wastewater, stormwater, and water supply activities. This underscores the need for enhanced operational management, targeted investment in asset upgrades, and stronger alignment with regulatory expectations to ensure long-term environmental and public health outcomes.¹⁷

The Consumer and Community Orientation

We make our comments against the background of the consumer and community orientation of the Local Water Done Well reforms. This orientation is seen throughout the Act.¹⁸ Information relating to revenue, charging, expenditure, and levels of service, is to be transparent to consumers and their communities.”¹⁹ WSPs are also to:

- a. share efficiency gains with consumers, including when setting charges for water services.
- b. to act in the best interests of current and future consumers.
- c. provide water services that that are of a quality that meets consumer expectations.²⁰

Each water organisation is also to have an engagement policy whose purpose is to: “....enable the organisation, its shareholders, its consumers, and its communities to identify the degree of significance attached to particular issues, proposals, water services infrastructure, decisions, and activities.”²¹

The *Water Delivery Plan* expresses the collaborative and community approach throughout and concludes the establishment of Tiaki Wai: “...will depend on a partnership between councils and mana whenua, together with effective collaboration among councils, stakeholders, and the community to create a sustainable and efficient water service delivery model that meets the

¹⁷ *Water Services Delivery Plan*, 4.

¹⁸ Com Com has described the consumer viewpoint this way: “Another important aspect of asset management is whether—and if so, how—consumer perspectives are incorporated into decision-making processes, including how engagement activities and complaints analysis inform asset management practices and help address competing interests.” Com Com, *Information Disclosure for Water Service, Explanatory Paper*, 11 September 2025, para 2.81

¹⁹ The Act, s 2.

²⁰ See the Act, s 17 (objective summary not exhaustive); see also 232 re Water Services Strategy, and s 243 re Annual Report. Note one of the purposes of the Annual Report is to “to enable the water organisation’s shareholders and the public to make an informed assessment of the water organisation’s performance.”

²¹ The Act s 35.

needs of all users.”²² We note the partnering relationship with Ngāti Toa Rangatira and Taranaki Whānui ki Te Upoko o Te Ika and the expectation mana whenua will have: “...an active role at all levels of water services planning and delivery – from long-term planning, governance, operations/management through to engagement with communities.”²³

Business focus -Performance Regulation

The Act also mandates WSPs are to act “...in accordance with sound business practice.”²⁴ The community and consumer orientation is not in conflict with this business focus. Successful businesses understand their consumers and the communities they serve.

We see Com Com’s proposal to make performance regulation as an extension of the business practice requirement under the Act. As an example of performance regulation Com Com notes that it could set disclosure requirements about Tiaki Wai’s progress in delivering a new asset management system. This example illustrates how performance regulation can encourage important business steps, even when as in this case Tiaki Wai is aware of how crucial a new information system is to its success.²⁵ Therefore performance regulation by Com Com will encourage delivery of some of the more crucial projects, while Tiaki Wai will also be able to set additional performance aims arising from its own analysis. The *Water Services Delivery Plan* also appears to foreshadow this form of oversight in its acknowledgment that Com Com will have a role in benchmarking.²⁶

Disclosure of the Operations Report

The operations report is a required element of information disclosure for Wellington Water. Taking up proposals offered by Utilities Disputes and Delta Economics,²⁷ Com Com directed Wellington Water to include definitions for key terms and measures in the operation report. Com Com thought this proposal is cost effective and would help “....interested persons interpret the information provided in the operations report, further supporting their assessment of

²² *Water Services Delivery Plan*, 89.

²³ *Ibid*, 8.

²⁴ See the Act s 17.

²⁵ See *Water Services Delivery Plan*, 38. As we have noted previously Louise Dudley, CEO of Urban Utilities Queensland (2012-2022) advised water providers that, if she could rewind the clock, she would at the beginning of her term as CEO have brought online a new data management system. She encouraged the new WSPs to think about this in their planning. Louise Dudley, “Sharing my Lived Experience as CEO from Urban Utilities Queensland,” 29 September 2025, Christchurch, *10th IWA Aspire Conference and Water New Zealand Conference and Expo (Pre-Conference)*.

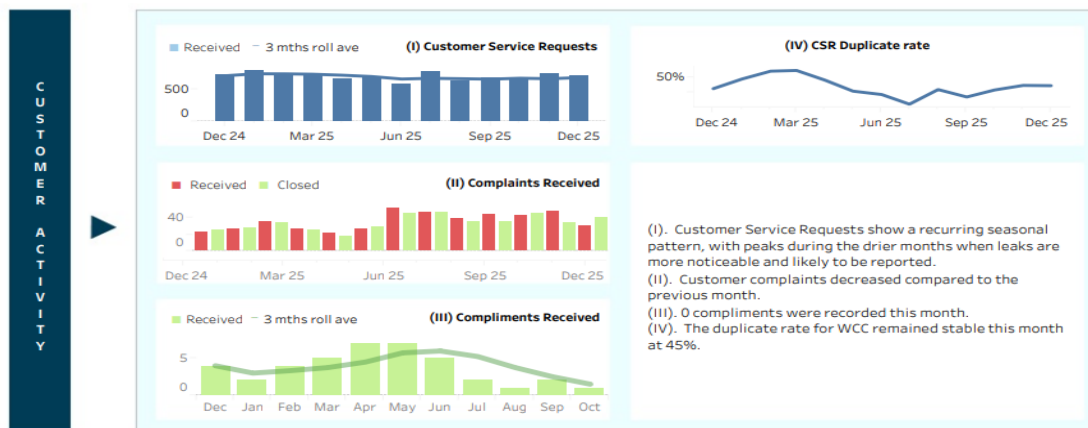
²⁶ See *Water Services Delivery Plan*, 73. See also press release “Tiaki Wai Welcomes Commerce Commission Consultation,” 7 May 2026.

²⁷ “The inclusion of definitions will also assist with interpretation of the report. For example, it is unclear when an interaction with Wellington Water makes a matter a complaint or a service request. Service requests are the greater category, while complaints are low. There are also panels for items such as leak repairs, and it is unclear if these matters if reported by a member of the public would also be included in the complaint or service statistics.” Utilities Disputes, *Foundational Information Disclosure for Wellington Water*, 27 June 2025, 4, [Sub.](#)

whether value for money is improving or not.”²⁸ However, the clause addressing definitions in the Wellington Water disclosure determination is broad:

Wellington Water must make reasonable efforts to ensure that each operations report that is publicly disclosed under clause 2.7.1 is, to the best of its ability, presented in a manner that supports public understanding and interpretation of the information provided.²⁹

The new Tiaki Wai draft determination, repeats this clause.³⁰ Wellington Water’s operations report for quarter 2 2025/2026 has the following panel:³¹



Comparing the panel with the panels before mandatory information disclosure it appears further work could have been done to take up Com Com’s invitation to make the report consumer friendly. Com Com is then invited to be more specific and directive in the Tiaki Wai Determination about what changes to the operations report are needed. Tiaki Wai, while starting its processes anew, has the opportunity to set the standard for uniform data management. Common and accurate data collection, accompanied by accessible explanations will enable consumers to assess the performance of Tiaki Wai and compare it with other WSPs.

Complaint Information

We took the view in our submission on the *Water Services information Disclosure Determination* that the complaint focused disclosure requirements needed to be brought in early. We noted the importance of C7, which addresses complaint handling.³² Proper complaint handling will assist a WSP to act in accord with sound business practices. As the Australian Commonwealth Ombudsman (ACO) observes complaints are a: “...valuable source of intelligence and offer agencies a unique perspective on what is and what is not working within their programs and services.”³³

²⁸ *Wellington Water Information Foundational Disclosure*, 12 August 2025, 4.8.

²⁹ *Wellington Water Foundational Information Disclosure Determination 2025*, 12 August 2025, 2.7.2 (emphasis not included).

³⁰ *Economic Regulation Determination 2026 (Draft)*, 2.3.2.

³¹ Wellington Water, *Operations Report*, 11 February 2026, [Sub.](#)

³² See *ibid.*, 8-9.

³³ See Commonwealth Ombudsman, *Lessons in Good Complaint Handling, Findings from the 2010 Complaint Assurance Project*, Feb 2020, 22.

We therefore support C7 applying to Tiaki Wai, especially as C7 is a charter for complaint handling and ensures the consumer viewpoint is heard and integrated into the WSP's business processes. In summary C7 requires:

- a. identification of particular consumer groups.
- b. assessment of the impact of consumer groups on the network.
- c. performance indicators to measure consumer satisfaction.
- d. disclosure of how consumer satisfaction data and complaint data will inform operations.
- e. disclosure of complaint management processes.
- f. disclosure of call centre services.
- g. approaches to new connections and connection upgrades, and how common issues are addressed.
- h. disclosure of what information is provided to new consumers.

Data Analysis

Data analysis rests on data collection, and that discrete data points are identified. We have recommended previously that WSPs have a common complaint framework for the following data points:³⁴

- a. the definition of a complaint.
- b. definitions for complaint categories.
- c. reporting of complaint resolution times.
- d. reporting of complaint outcomes and customer satisfaction with outcomes
- e. number of staff assigned to complaints.

We request Com Com consider supplementing the requirements of C7 and mandate some additional disclosure for Tiaki Wai regarding these data points and their processes for identifying systematic issues arising from complaints. We also note the importance of good record keeping especially for water restrictions as this will help with resolving a complaint about these issues.

Monitoring Hardship

Tiaki Wai has begun to send out communications about separate billing, and the formatting of bills.³⁵ The *Water Services Delivery Plan* notes: consumer concerns about water meters,³⁶ increasing water charges even when a conservative model is adopted,³⁷ issues of affordability,³⁸ and assisting vulnerable consumers. All of these issues, as seen in electricity, will give rise to complaints.

The price increase predicted for water consumption will hit consumers particularly hard: "Average residential charges are forecast to rise from approximately \$2,100 per connection

³⁴ See Utilities Disputes, *Foundational Information Disclosure for Wellington*, 2-3.

³⁵ Tiaki Wai, "About Your Water Service Bill," <https://www.tiakiwai.co.nz/billing> See also other information: <https://www.tiakiwai.co.nz/updates>.

³⁶ See *Water Services Delivery Plan*, 14.

³⁷ Ibid, 70 (indicative).

³⁸ Ibid., 70-72.

today to between \$5,700 (based on the target financial strategy of this WSDP) and \$4,800 (based on the lower-end financial scenario) by 2034.”³⁹

We therefore encourage Tiaki Wai to continue to embed its affordability and hardship programme noted in the *Water Services Delivery Plan*. Monitoring by and/or disclosure of this plan to Com Com appears appropriate:

In New Zealand, Auckland Council and Watercare offer hardship support mechanisms, including tailored payment plans and targeted utility relief.

It is expected that Metro Water will consider formalised affordability and hardship frameworks as part of a broader pricing and revenue strategy, including investigation of:

- tiered or concessionary tariffs for low-income households
- flexible payment plans, including smoothing and hardship write-offs
- targeted grants or credits, particularly during pricing transitions.

Further consideration of options will be undertaken by Metro Water once established.⁴⁰

We note the positive steps Tiaki Wai has taken in its Customer Charter to set up processes addressing hardship and the needs of vulnerable consumers.⁴¹

Next Steps

We support Com Com’s other proposals which will also inform consumers and help with the task of reforming water supply in the Wellington metropolitan area. The issues we raise here arise principally from our role as a complaint handler for water. It may be tempting to delay their implementation until much of the work around water infrastructure is underway. However informing consumers and communities, about their water supply, and integrating their insights into business planning will be crucial in growing public trust in Tiaki Wai.

If you have any questions, please at the first instance contact me at: 



Paul Byers
Legal and Policy Officer

³⁹ Ibid., 4.

⁴⁰ Ibid., 72.

⁴¹ See Tiaki Wai “Customer Charter,” <https://haveyoursay.tiakiwai.co.nz/customer-charter>