



COVERSHEET

Minister	Hon Cameron Brewer	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Commerce (Part 4 Regulation—Tiaki Wai Limited) Order 2026	Date to be published	5 October 2026

List of documents that have been proactively released

Date	Title	Author
September 2026	Commerce (Part 4 Regulation—Tiaki Wai Limited) Order 2026	Office of the Minister of Commerce and Consumer Affairs
24 September 2026	Commerce (Part 4 Regulation—Tiaki Wai Limited) Order 2026 LEG-26-MIN-0210 Minute	Cabinet Office

Information redacted

NO

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.

In Confidence

Office of the Minister of Commerce and Consumer Affairs

Chair, Cabinet Legislation Committee

Commerce (Part 4 Regulation—Tiaki Wai Limited) Order 2026

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Commerce (Part 4 Regulation—Tiaki Wai Limited) Order 2026 (**the Order**).

Background

- 2 Tiaki Wai, the new Wellington region water services organisation, has been subject to economic regulation under Part 4 of the Commerce Act 1986 since it took over service delivery from Wellington Water on 1 July 2026. It is subject to sector-wide information disclosure requirements for water supply and wastewater services, covering prices, asset values, revenue and expenditure, and infrastructure management plans.
- 3 On 12 August 2026, the Commerce Commission (**the Commission**) announced additional information disclosure requirements specifically for Tiaki Wai. These include accelerated and strengthened asset management disclosure requirements and independent expert verification of key plans and forecast expenditure. The Commission's focus on Tiaki Wai follows an assessment of its risk profile, including inheritance of poor asset information, weak planning processes and information systems, and high debt. The Commission identified material risks to Tiaki Wai's delivery of water services, in respect to asset management, delivery, financial sustainability, and non-financial performance.
- 4 In addition, on 29 June 2026, the Commission provided me with a recommendation that performance requirement regulation be imposed on Tiaki Wai in respect of its water supply and wastewater services. The Commission considered that information disclosure regulation alone would be insufficient to provide strong and timely incentives to address underperformance, especially during Tiaki Wai's establishment period, when it is rapidly increasing investment and establishing new operational capabilities, including customer billing.
- 5 On 27 July 2026, following consultation with the Minister of Local Government, I accepted the Commission's recommendation. On 18 August 2026, the Cabinet Expenditure and Regulatory Review Committee (**EXP**) authorised me to instruct the Parliamentary Counsel Office to draft an Order in Council imposing performance requirement regulation on Tiaki Wai [EXP-26-MIN-0033].

- 6 EXP also approved an increase to the *Regulation of Water Services* appropriation of \$420,000 in 2026/27 and outyears to cover the Commission's additional costs of performance requirements. These costs are fully recoverable from Tiaki Wai under the Commerce (Levy on Suppliers of Regulated Goods and Services) Regulations 2009.
- 7 Performance requirement regulation will allow the Commission to identify and target specific areas of underperformance. The objective is to ensure consumers receive value from the charges they pay and that infrastructure investment translates into measurable improvements in water services.
- 8 It is up to the Commission, as an independent Crown entity, to specify the focus, and the form, of any performance requirements. The Commission has indicated that its initial approach will target major projects that Tiaki Wai has already committed to delivering. The Commission will consult with interested parties on draft requirements as soon as practicable after the Order comes into force.

Crown Review Team report on the Moa Point failure

- 9 A Crown Review Team (**CRT**) was appointed to examine issues at Wellington City Council and Wellington Water (Tiaki Wai's predecessor) that may have contributed to the February 2026 Moa Point failure. In August 2026, the CRT recommended that the Minister of Local Government engage with the Minister of Commerce and Consumer Affairs on the interface between performance requirement regulation for Tiaki Wai and the CRT's other recommendations. The recommendations cover governance and accountability, resource consents, communication to the public, asset management, and risk management.
- 10 On 27 August 2026, I wrote to the Commission setting out the Government's expectation that it make full use of its regulatory toolkit to drive sustained improvements in Tiaki Wai's performance. This includes the Commission providing effective oversight to help ensure Tiaki Wai builds the capabilities and systems to support sound asset management and effective prioritisation of maintenance and new investment. The Commission's response is due by 30 September 2026.
- 11 I consider that my letter of expectations covers the areas of the CRT's recommendations that the Commission has oversight of (asset management and risk management). However, together with the Minister of Local Government, I intend to closely follow the Commission's progress with implementing performance requirement regulation for Tiaki Wai.

Timing and 28-day rule

- 12 I am seeking a waiver to the 28-day rule requirement to enable the Order to come into force the day after it is notified in the New Zealand Gazette (i.e. on 2 October 2026). I consider the waiver to be appropriate as:

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- 12.1 performance requirement regulation is expected to confer significant benefits to Wellingtonians through improved scrutiny, delivery and performance; and
- 12.2 the impact is limited to allowing the Commission to consult on its draft performance requirements more quickly.

Compliance

- 13 The Order complies with each of the following:
 - 13.1 the principles of the Treaty of Waitangi;
 - 13.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 13.3 the principles and guidelines set out in the Privacy Act 2020;
 - 13.4 relevant international standards and obligations;
 - 13.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 14 I do not consider there to be grounds under Standing Order 327 (2) for the Regulations Review Committee to draw this Order to the attention of the House of Representatives.

Certification by Parliamentary Counsel

- 15 The Order has been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Regulatory Analysis

- 16 The Ministry of Business, Innovation and Employment (**MBIE**) has determined that this proposal is exempt from the requirement to provide a Regulatory Analysis Summary due to having minor social, economic or environmental impacts.

Consistency with principles of responsible regulation

- 17 MBIE has prepared a Consistency Accountability Statement (**Annex One**) and Summary of Underpinning Analysis (**Annex Two**) to accompany the Order. No inconsistencies with the principles of responsible regulation were identified.

Publicity

- 18 The Order will be notified in the Gazette. The Commission will communicate the approval of the Order to the sector.

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Proactive release

- 19 I intend to proactively release this paper in whole.

Consultation

- 20 In accordance with section 57H(1)(b) of the Commerce Act, in May 2026 the Commission consulted with interested parties on its draft recommendation that performance requirement regulation be applied to Tiaki Wai. Once the Order is in place, the Commission will also be required to consult interested parties on any specific requirements that it intends to set, in accordance with Schedule 7, clause 35 of the Commerce Act.
- 21 The following agencies were consulted on this paper and the draft Order: Ministry for Cities, Environment, Regions and Transport, Ministry for Regulation, Parliamentary Counsel Office, and the Commerce Commission. The Department of Prime Minister and Cabinet was informed.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 18 August 2026, the Cabinet Expenditure and Regulatory Review Committee [EXP-MIN-0033]:
 - 1.1 noted that the Minister of Commerce and Consumer Affairs had accepted the Commerce Commission's recommendation that performance requirement regulation under Part 4 of the Commerce Act 1986 be imposed on Tiaki Wai in respect of its water supply and wastewater services;
 - 1.2 authorised the Minister of Commerce and Consumer Affairs to instruct the Parliamentary Counsel Office to draft an Order in Council to that effect;
- 2 **note** that the Commerce (Part 4 Regulation—Tiaki Wai Limited) Order 2026 will give effect to the decisions referred to in paragraph 1 above;
- 3 **note** that a waiver of the 28-day rule is sought:
 - 3.1 so that the Commerce (Part 4 Regulation—Tiaki Wai Limited) Order 2026 can come into force as soon as possible;
 - 3.2 on the grounds that performance requirement regulation will confer significant benefits to Wellingtonians and the impact is limited to allowing the Commission to consult on its draft determination more quickly;
- 4 **agree** to waive the 28-day rule so that the Commerce (Part 4 Regulation—Tiaki Wai Limited) Order 2026 can come into force on 2 October 2026; and

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- 5 **authorise** the submission to the Executive Council of the Commerce (Part 4 Regulation—Tiaki Wai Limited) Order 2026.

Authorised for lodgement

Hon Cameron Brewer

Minister of Commerce and Consumer Affairs

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