

Regarding the Commerce Commission Draft Determination Information Disclosure for Water Services

Submission to the Commerce Commission

October 2025



Taituarā — Local Government Professionals Aotearoa ('Taituarā') thanks the Commerce Commission ('the Commission') for the opportunity to respond to the Commission's draft determination setting out a proposed information disclosure regime ('the determination').

Taituarā is Aotearoa New Zealand's leading membership network for professionals working in and for local government. We have a membership base of 1,010 members drawn from local authority Chief Executives, managers, and staff across all 78 local authorities.

Taituarā strengthens the local government sector as a whole by leveraging our members' insights and experience to inform the public policy debate. We encourage thought leadership by enabling our members to step back from the day-to-day agenda, taking time to share wisdom, create value, and build knowledge.

Taituarā supports an information disclosure regime 'in principle'.

Water services are an example of a natural monopoly, as each is a service where there are high barriers to entry or start-up costs that prevent others from readily entering the sector. Water services require an infrastructure of treatment, distribution, and disposal facilities, which come with substantial initial capital costs and ongoing life-cycle costs.

The purpose of economic regulation is "to protect consumers from the problems that can occur in markets with little or no competition." These problems are described as the three evils of monopoly: higher prices or excess profits, lower quantities than those that are economically efficient, or lower-quality service.

Economic regulation protects consumers in one of two ways:

- requiring the regulated providers to disclose certain information about their performance and operations, providing transparency to consumers and thus enabling them to detect differences in performance between providers and hold them accountable for these (For example, allowing the customers to ask questions such as "why is the price I'm paying for this service different from that in the next town?")
- directly controlling the price and/or quality of services.

Any reform of water services is likely to founder if there is any suggestion that water users are being 'overcharged' for this service, or that the funds raised are not being spent 'appropriately.' Taituarā has therefore been an active supporter of the need for economic regulation of water services.

There are several features of the water services industry that may bear directly on the design of an information disclosure regime:

- fragmentation of delivery – historically, the water services industry has been characterised by a large number of small providers (when judged against some of the other sectors subject to economic regulation). The Mackenzie District Council’s decision to pursue in-house delivery would result in revenues of around \$5 million; in contrast, the Hurunui/Kaikoura joint CCO would have a starting revenue base of around \$17 million.^{1,2} The present water reforms were intended to encourage and support structural reform rather than requiring it – economic regulation should not be onerous as to drive amalgamation.
- Water services have historically fallen to local authorities to deliver. The nation’s largest provider of water services is prohibited from distributing any surplus by statute. Other providers may, but as the Select Committee report notes, the distribution of a surplus over the next 10-15 years is unlikely, given historic underinvestment. Public expectation will also act as a significant practical limit, especially for those services that remain in-house
- the inability to purchase elsewhere - users of water services will not generally have the ability to switch providers (as is the case with some other regulated services).

The information disclosure regime should therefore be designed around the needs of users, equipping them with the right questions to ask and serving as evidence of any need for further regulatory intervention.

Information disclosure should be based on a rigorous set of principles.

In 2024, we prepared a conversation starter. *A Practical Approach to Economic Regulation*, which set out our thoughts on the information that the Commission should collect as part of an information disclosure regime. That can be found [here](#).

That conversation starter was based on the following principles (these have also been used in the remainder of the response:

- *Customer-focused* – the purpose of economic regulation is to promote the interests of the customer/user of water services
- *Sustainability of service* - the economic regulator must achieve the above purpose in a way that encourages and supports providers to manage their assets sustainably over the long-term and in accordance with their other legal obligations (for example, compliance with the Water Services (Drinking Water Services for New Zealand) Regulations 2022)
- *Support for the role of water services in promoting urban growth and strategic planning objectives* - water services are not provided for their own sake, but to

¹ By comparison Spark reported some \$3.7 billion in operating revenues in the year to 30 June 2025, Meridian Energy some \$4.8 billion

² Many of the water services CCOs will deliver water and wastewater only, the parent local authorities will retain stormwater.

support the development of our communities, especially of our metropolitan areas. Poorly designed economic regulation could disincentivise investments to support investment in growth-supporting infrastructure

- *Efficiency* – economic regulation of water services should encourage and support providers to seek efficiency gains, innovate and look for productivity improvements
- *Simplicity* – a regulatory regime should require the collection and disclosure of only that information necessary to fulfil the purpose of the regulations. Wherever possible, the economic regulator and other agencies (such as Taumata Arowai) should coordinate the contents and timing of their requests
- *Transparency* – the regulator should provide evidence that the regulatory regime is achieving the intended purpose, water service providers should therefore expect that their data will be publicly available *at the provider level*
- *Consistency and certainty* – the regulator must clearly set out definitions and methodologies to be followed by providers in supplying the information (the repealed legislation referred to these as input methodologies)

The Commission could have outlined its intended pathway for incorporating stormwater.

Taituarā supports the economic regulation of stormwater. Stormwater services share many of the same characteristics of natural monopoly as other water services. Additionally, stormwater services do not generally lend themselves well to user charging.

The size and scale of future investments in stormwater services are less well quantified, which may lend itself to greater user demand for transparency, indicating a preference for economic regulation of stormwater services.

Stormwater networks tend to be more complex than other water systems. Most consist of a piped stormwater network as well as above-ground watercourses, secondary, and overland flow paths. Currently, there are significant gaps in stormwater flood risk information and its development, as well as variations in the levels of service, design standards, and policies related to flooding and protection among councils.

Stormwater disposal is often provided in conjunction with other non-water services. For example, the curbing and channelling that runs alongside streets in many urban areas. The regulator must take care that any regulation of stormwater disposal does not impose reporting (or other) obligations in respect of non-water services.

The Water Services Act 2025, quite sensibly, allowed for the Commission to bring stormwater services within the ambit of the regulations at a later time. It's unclear when that might be, or what criteria or processes the Commission might use to determine when it might bring in stormwater services. While not a subject for the determination itself, the decision summary and or the explanatory paper should have provided more detail on the Commission's intended timeframes.

Aspects of the Commission's determination are exceptionally detailed and not intuitive in how they fit together.

At para 3.10, the Commission comments that *"Many of our proposed ID requirements give broad coverage rather than deep detail and prescription"*. We disagree. The level of disaggregation for expenditure and revenue data is lower than what local authorities typically report.

For example, local authorities have been classifying all capital expenditure by driver (growth, changes in service levels, and renewals) since 2010.³ The classification of drivers for network assets, as described in Schedule B4, further disaggregates each category. For example, the 'growth' category is separated into 'capacity upgrades', 'network expansions', 'new connections' and 'other'. The levels of service categories are split into six sub-categories, and renewals are divided into 12 asset classes. This categorisation of capital expenses applies from 1 July 2027.

We examine the items in Schedules B2, B3, and B1 (to a lesser extent) and share similar concerns – although most of these items are flagged for later inclusion. To take some examples;

- Most current providers would be treating any expenditures on communications relating to water services, and more general engagement and education and water services as a single item within activity budgets
- items B1(d) – B(1)(f) categorises maintenance in planned, predictive/just in time and unplanned maintenance. We suspect that many smaller providers categorise their services into two categories (loosely speaking, 'planned' and 'unplanned') or even a single category. We agree that the sector is moving towards approaches to maintenance that draw more on predictive approaches, but this is far from universal

³ The Local Government Act requirements allow local authorities to classify their capital expenditure by primary driver or to allocate capex across drivers. We suspect that the Commission intends classification by primary driver, the greater the level of disaggregation the more problematic this becomes.

Complying with these requirements will mean that providers must report at lower levels of aggregation. To support these requirements, local authorities may need to revisit basic elements of their financial system, such as the chart of accounts. Some may even need to consider upgrading their ERP. That is to say that there will be a substantial amount of investment of time and money to comply, especially in setting up the processes and systems, much of which will be fixed-cost in nature.

The intent of gathering the items in Schedule B3 is unclear.

Schedule B3 sets out five 'components' that require disclosure. It's unclear exactly how the Commission intends to use much of this information. Some appear to duplicate other items from schedule B2, at least in part.

Direct billing (item B3(a)) includes customer call centres. Not all customer calls and the resources necessary to manage these will be related to billing matters. Call centres will also manage complaints, service requests, and inquiries about service connections, among other issues. Is the Commission applying some form of de minimis principle, not expecting an allocation of the call centre cost here and elsewhere?

On face value, it appears that item B3(b) duplicates, at least in part, the items in B2(B)(v). The former calls for expenditure on salaries, consultants, and professional services, which seeks expenditures on what might loosely be termed the procurement of professional services. It is not clear how this is distinguished from the less closely specified 'consulting services' of B2(b)(v).

In a similar vein, item B3e 'cybersecurity' appears to be a subset of B2(h) expenditure on information technology. The former is a necessary support for, and protector of, the expenses incurred by the provider on its stock of the latter.

We are unclear what item B3(d) 'consequential operating expenditure driven by capital expenditure' is intended to capture. The determinations define this item as "expenditure relating to new assets forecast to be commissioned in the future that would otherwise be avoidable". We do not understand why expenditure on a new asset is not regarded as capital expenditure, or indeed what expenditure would be captured. The title of this category suggests it's looking for the operating echoes of capital expenditure, such as maintenance.

A phased approach to implementation is sensible.

This is an adjunct to the point made previously.

The Commission's update of 9 October has shifted the understanding many in the sector had of the Commission's draft proposal. We have understood that the Commission intends to stage the disclosures, with several more detailed or lower aggregations of data (shaded grey) to follow at some point after 1 July 2027.

The update suggests that the default presumption is actually that all items will be required from 1 July 2027, and the Commission seeks feedback on which of these items should be deferred. We suggest that the disclosure of these items should be deferred for at least 18 months from the initial disclosure, allowing providers time to establish their initial operations and develop the necessary financial and other information systems to generate the detailed information required for compliance.

Some of those working on joint water services CCOs have expressed concerns about the timing of the first disclosures of information, due on 30 November 2027 for the financial year ending 30 June 2027. Each participating council is a 'regulated supplier' (each being a 'decision-making local government water supplier) in terms of the Commerce Act. This means that the councils – not the joint WS-CCO – must make the initial disclosure of actual financial information for the 2026/27 period, as specified in Part 6 of the draft determination.

The Commerce Commission should waive this disclosure requirement for those Councils that are proposing to have their joint CCOs fully operational from 1 July 2027 (the date when the transfer agreements for assets and responsibilities become effective).

These disclosures will have little value for the joint WS-CCO, which will need to provide such a disclosure for 2027/28 and subsequent years. They will also have little value for the Commerce Commission, as they will have no apparent continuity with that 2027/28 disclosure from the joint WS-CCO. And they will be a substantial distraction to the work by the Councils in preparing the water services strategy for the joint WS-CCO, along with the draft Strategic Asset Management Plan, Asset Management Plan and Investment and Delivery Plan – all required by 30 June 2027 – as well as the Forecast financial information also due at that time.

The Commission should be more explicit about its plans to assist the water services industry to comply.

The Commission should be under no illusions about the size of the task that even the initial disclosures will be. Although local authorities are accustomed to disclosing a greater level of financial and asset data, few have experience of working in an environment subject to economic regulation.

On page 58, we read that the Commission intends to develop a voluntary Excel template "over the next year". We agree that such a template is simple, practical and serves the purpose of the regulator and the regulated. An indicative template would have been helpful to submitters new to economic regulation, providing some insight into the total regulatory burden.

However, a template is merely a device for presenting information. A template is only as good as the guidance that supports it. The Commission should support any template with standard definitions and other advice based on the experiences of those in different sectors.

The Commission should specify an acceptable methodology and methodologies for: cost allocation; inflating and deflating financial data; and (especially) calculating estimated charges as a percentage of household income.

The Commission is responsible for monitoring and enforcing the so-called financial ringfencing requirements outlined in the Water Services Act 2025. These requirements apply regardless of whether the chosen delivery model is an in-house business unit or a water services CCO.

The Commission has required some relatively detailed disclosures regarding related party transactions. For example, the supply of support services by a local authority to a water services CCO must be disclosed, including the consideration and an explanation as to why the terms are 'market terms'.

The other aspect of ring-fencing is the treatment of costs shared between water providers and local authorities. We agree with the Commission that:

"This is important, especially in areas where there might be assets (such as vehicles or buildings) that are acquired and used to provide more than just a regulated service. For example, an office building may house both water staff and those from the wider council. This cost allocation information should help stakeholders to assess whether customers of the regulated services are only paying their fair share of shared costs."

The Commission further observes that.

“At this stage, we are not prescribing a particular methodology for allocating costs to regulated services; we are simply interested in how regulated suppliers are allocating costs currently. However, we may revise this approach in future and introduce prescribed cost allocation methodologies.”

Decisions about cost allocation methodologies are complex and foundational, directly impacting one of the primary purposes of information disclosure. Different cost allocation methodologies can generate significantly different results, which affects the user’s ability to draw meaningful comparisons or insights from the information.

The Commission’s decision paper implies that it might get around to prescribing a cost allocation methodology in future. At the same time, we can appreciate that the statutorily set deadline left the Commission with little ‘runway’, we observe that later prescription will see some providers having to ‘redevelop’ systems and processes to comply with further cost implications.

Our interactions with the sector have revealed that ring-fencing and cost allocation, and getting this ‘right’, is one of the sector’s most significant concerns with economic regulation.

Clause 3.1(4) required the regulated entities to publish both forecasted nominal amounts and those amounts in constant prices (i.e. ‘inflated’ and ‘uninflated’). There is some value in knowing the underlying value of the investment and how cost changes (construction cost inflation) have influenced it. Local authorities currently grapple with this decision in the preparation of their long-term plans (especially their infrastructure strategies). Adjusting plans for cost change has been an expectation since 2006 and the first (audited) LTPs.

Part of the purpose of information disclosure is to enable consumers to make informed judgements about the performance of ‘their’ provider vis-à-vis others. This extends to the prospective performance of the providers – indeed, knowing what lies behind what users will or are expected to pay can be more important than knowing what they did pay.

The Commission should investigate whether it needs to standardise the methodology for inflating/deflating cost estimates. Even the choice of an inflator or several inflators would be helpful to both the regulated providers and users of water services. Of course, the inflator needs to be based on the costs of infrastructure provision, such as the Capital Goods Price Index or the Producer Price Index, rather than the Consumer Price Index.

Similarly, the Commission has signalled a long-term intention that water services providers should disclose a prospective measure of affordability (in effect, water service charges by household income). Providers should be explicit in their measuring and consideration of affordability. However, these measures are both susceptible to the methodology and assumptions, and of intense public interest, e.g., what methodology is used to forecast future incomes, and how the numerator is calculated given the range of charging methods open to providers.



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